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ENGROSSED SUBSTITUTE SENATE BILL 5628

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State of Washington

67th Legislature

2022 Regular Session

By Senate Law & Justice (originally sponsored by Senators Dhingra, Frockt, Kuderer, Stanford, Trudeau, Wellman, and C. Wilson)

READ FIRST TIME 01/21/22.

1 AN ACT Relating to cyber harassment, addressing concerns in the  
2 case of Rynearson v. Ferguson, and adding a crime of cyberstalking;  
3 amending RCW 9.61.260, 9A.90.030, 40.24.030, 7.77.170, 7.92.020,  
4 7.105.010, 7.105.310, 9.94A.030, 9A.46.060, 9A.46.060, 26.50.060, and  
5 26.50.070; reenacting and amending RCW 9.94A.030; adding new sections  
6 to chapter 9A.90 RCW; recodifying RCW 9.61.260; prescribing  
7 penalties; providing an effective date; and providing an expiration  
8 date.

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

10 **Sec. 1.** RCW 9.61.260 and 2004 c 94 s 1 are each amended to read  
11 as follows:

12 (1) A person is guilty of ~~((cyberstalking))~~ cyber harassment if  
13 ~~((he or she))~~ the person, with intent to harass~~((r))~~ or intimidate~~((r~~  
14 ~~torment, or embarrass))~~ any other person, and under circumstances not  
15 constituting telephone harassment, makes an electronic communication  
16 to ~~((such other))~~ that person or a third party and the communication:

17 (a) ~~((Using))~~ (i) Uses any lewd, lascivious, indecent, or obscene  
18 words, images, or language, or suggesting the commission of any lewd  
19 or lascivious act;

20 ~~((b) Anonymously))~~ (ii) Is made anonymously or repeatedly  
21 ~~((whether or not conversation occurs));~~ ~~((or~~

1 ~~(c) Threatening to inflict injury on the person or property of~~  
2 ~~the person called or any member of his or her family or household))~~  
3 (iii) Contains a threat to inflict bodily injury immediately or in  
4 the future on the person threatened or to any other person; or  
5 (iv) Contains a threat to damage, immediately or in the future,  
6 the property of the person threatened or of any other person; and  
7 (b) (i) Would cause a reasonable person, with knowledge of the  
8 sender's history, to suffer emotional distress or to fear for the  
9 safety of the person threatened; or  
10 (ii) Reasonably caused the threatened person to suffer emotional  
11 distress or fear for the threatened person's safety.

12 ~~(2) ((Cyberstalking is a gross misdemeanor, except as provided in~~  
13 ~~subsection (3) of this section.~~

14 ~~(3) Cyberstalking is a class C felony if either of the following~~  
15 ~~applies:~~

16 ~~(a) The perpetrator has previously been convicted of the crime of~~  
17 ~~harassment, as defined in RCW 9A.46.060, with the same victim or a~~  
18 ~~member of the victim's family or household or any person specifically~~  
19 ~~named in a no-contact order or no-harassment order in this or any~~  
20 ~~other state; or~~

21 ~~(b) The perpetrator engages in the behavior prohibited under~~  
22 ~~subsection (1)(c) of this section by threatening to kill the person~~  
23 ~~threatened or any other person.~~

24 ~~(4)) (a) Except as provided in (b) of this subsection, cyber~~  
25 ~~harassment is a gross misdemeanor.~~

26 (b) A person who commits cyber harassment is guilty of a class C  
27 felony if any of the following apply:

28 (i) The person has previously been convicted in this or any other  
29 state of any crime of harassment, as defined in RCW 9A.46.060, of the  
30 same victim or members of the victim's family or household or any  
31 person specifically named in a no-contact or no-harassment order;

32 (ii) The person cyber harasses another person under subsection  
33 (1)(a)(i) of this section by threatening to kill the person  
34 threatened or any other person;

35 (iii) The person cyber harasses a criminal justice participant or  
36 election official who is performing the participant's official duties  
37 or election official's official duties at the time the threat is  
38 made;

39 (iv) The person cyber harasses a criminal justice participant or  
40 election official because of an action taken or decision made by the

1 criminal justice participant or election official during the  
2 performance of the participant's official duties or election  
3 official's official duties; or

4 (v) The perpetrator commits cyber harassment in violation of any  
5 protective order protecting the victim.

6 For the purposes of (b)(iii) and (iv) of this subsection, the  
7 fear from the threat must be a fear that a reasonable criminal  
8 justice participant or election official would have under all the  
9 circumstances. Threatening words do not constitute cyber harassment  
10 if it is apparent to the criminal justice participant or election  
11 official that the person does not have the present and future ability  
12 to carry out the threat.

13 (3) Any criminal justice participant or election official who is  
14 a target for threats or harassment prohibited under subsection  
15 (2)(b)(iii) or (iv) of this section, and any family members residing  
16 with the participant or election official, shall be eligible for the  
17 address confidentiality program created under RCW 40.24.030.

18 (4) For purposes of this section, a criminal justice participant  
19 includes any:

20 (a) Federal, state, or municipal court judge;

21 (b) Federal, state, or municipal court staff;

22 (c) Staff member of any adult corrections institution or local  
23 adult detention facility;

24 (d) Staff member of any juvenile corrections institution or local  
25 juvenile detention facility;

26 (e) Community corrections officer, probation officer, or parole  
27 officer;

28 (f) Member of the indeterminate sentence review board;

29 (g) Advocate from a crime victim/witness program; or

30 (h) Defense attorney.

31 (5) For the purposes of this section, an election official  
32 includes any staff member of the office of the secretary of state or  
33 staff member of the county auditor's office, regardless of whether  
34 the member is employed on a temporary or part-time basis, whose  
35 duties relate to voter registration or the processing of votes as  
36 provided in Title 29A RCW.

37 (6) The penalties provided in this section for cyber harassment  
38 do not preclude the victim from seeking any other remedy otherwise  
39 available under law.

1       (7) Any offense committed under this section may be deemed to  
2 have been committed either at the place from which the communication  
3 was made or at the place where the communication was received.

4       (~~(5)~~) (8) For purposes of this section, "electronic  
5 communication" means the transmission of information by wire, radio,  
6 optical cable, electromagnetic, or other similar means. "Electronic  
7 communication" includes, but is not limited to, (~~electronic mail~~)  
8 email, internet-based communications, pager service, and electronic  
9 text messaging.

10       **Sec. 2.** RCW 9A.90.030 and 2016 c 164 s 3 are each amended to  
11 read as follows:

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

14       (1) "Access" means to gain entry to, instruct, communicate with,  
15 store data in, retrieve data from, or otherwise make use of any  
16 resources of electronic data, data network, or data system, including  
17 via electronic means.

18       (2) "Cybercrime" includes crimes of this chapter.

19       (3) "Data" means a digital representation of information,  
20 knowledge, facts, concepts, data software, data programs, or  
21 instructions that are being prepared or have been prepared in a  
22 formalized manner and are intended for use in a data network, data  
23 program, data services, or data system.

24       (4) "Data network" means any system that provides digital  
25 communications between one or more data systems or other digital  
26 input/output devices including, but not limited to, display  
27 terminals, remote systems, mobile devices, and printers.

28       (5) "Data program" means an ordered set of electronic data  
29 representing coded instructions or statements that when executed by a  
30 computer causes the device to process electronic data.

31       (6) "Data services" includes data processing, storage functions,  
32 internet services, email services, electronic message services,  
33 website access, internet-based electronic gaming services, and other  
34 similar system, network, or internet-based services.

35       (7) "Data system" means an electronic device or collection of  
36 electronic devices, including support devices one or more of which  
37 contain data programs, input data, and output data, and that performs  
38 functions including, but not limited to, logic, arithmetic, data  
39 storage and retrieval, communication, and control. This term does not

1 include calculators that are not programmable and incapable of being  
2 used in conjunction with external files.

3 (8) "Electronic tracking device" means an electronic device that  
4 permits a person to remotely determine or monitor the position and  
5 movement of another person, vehicle, device, or other personal  
6 possession. For this section, "electronic device" includes computer  
7 code or other digital instructions that once installed on a digital  
8 device, allows a person to remotely track the position of that  
9 device.

10 (9) "Identifying information" means information that, alone or in  
11 combination, is linked or linkable to a trusted entity that would be  
12 reasonably expected to request or provide credentials to access a  
13 targeted data system or network. It includes, but is not limited to,  
14 recognizable names, addresses, telephone numbers, logos, HTML links,  
15 email addresses, registered domain names, reserved IP addresses, user  
16 names, social media profiles, cryptographic keys, and biometric  
17 identifiers.

18 (~~(9)~~) (10) "Malware" means any set of data instructions that  
19 are designed, without authorization and with malicious intent, to  
20 disrupt computer operations, gather sensitive information, or gain  
21 access to private computer systems. "Malware" does not include  
22 software that installs security updates, removes malware, or causes  
23 unintentional harm due to some deficiency. It includes, but is not  
24 limited to, a group of data instructions commonly called viruses or  
25 worms, that are self-replicating or self-propagating and are designed  
26 to infect other data programs or data, consume data resources,  
27 modify, destroy, record, or transmit data, or in some other fashion  
28 usurp the normal operation of the data, data system, or data network.

29 (~~(10)~~) (11) "White hat security research" means accessing a  
30 data program, service, or system solely for purposes of good faith  
31 testing, investigation, identification, and/or correction of a  
32 security flaw or vulnerability, where such activity is carried out,  
33 and where the information derived from the activity is used,  
34 primarily to promote security or safety.

35 (~~(11)~~) (12) "Without authorization" means to knowingly  
36 circumvent technological access barriers to a data system in order to  
37 obtain information without the express or implied permission of the  
38 owner, where such technological access measures are specifically  
39 designed to exclude or prevent unauthorized individuals from  
40 obtaining such information, but does not include white hat security

1 research or circumventing a technological measure that does not  
2 effectively control access to a computer. The term "without the  
3 express or implied permission" does not include access in violation  
4 of a duty, agreement, or contractual obligation, such as an  
5 acceptable use policy or terms of service agreement, with an internet  
6 service provider, internet website, or employer. The term "circumvent  
7 technological access barriers" may include unauthorized elevation of  
8 privileges, such as allowing a normal user to execute code as  
9 administrator, or allowing a remote person without any privileges to  
10 run code.

11 NEW SECTION. **Sec. 3.** A new section is added to chapter 9A.90  
12 RCW to read as follows:

13 (1) A person commits the crime of cyberstalking if, without  
14 lawful authority and under circumstances not amounting to a felony  
15 attempt of another crime:

16 (a) The stalker knowingly and without consent:

17 (i) Installs or monitors an electronic tracking device; or

18 (ii) Causes an electronic tracking device to be installed,  
19 placed, or used with the intent to track the location of another  
20 person; and

21 (b) The stalker knows or reasonably should know that knowledge of  
22 the installation or monitoring of the tracking device would cause the  
23 person stalked reasonable fear, or the stalker has notice that the  
24 person does not want to be contacted or monitored by the stalker, or  
25 there is a protective order in effect protecting the person being  
26 stalked from the cyberstalker.

27 (2) (a) It is not a defense to the crime of cyberstalking that the  
28 stalker was not given actual notice that the person did not want the  
29 stalker to contact or monitor the person; and

30 (b) It is not a defense to the crime of cyberstalking that the  
31 stalker did not intend to frighten, intimidate, or harass the person.

32 (3) (a) Except as provided in (b) of this subsection, a person who  
33 cyberstalks another person is guilty of a gross misdemeanor.

34 (b) A person who cyberstalks another is guilty of a class C  
35 felony if any of the following applies:

36 (i) The stalker has previously been convicted in this state or  
37 any other state of any crime of harassment, as defined in RCW  
38 9A.46.060, of the same victim or members of the victim's family or  
39 household or any person specifically named in a protective order;

1 (ii) There is a protective order in effect protecting the person  
2 being stalked from contact with the cyberstalker;

3 (iii) The stalker has previously been convicted of a gross  
4 misdemeanor or felony stalking offense for stalking another person;

5 (iv) The stalker was armed with a deadly weapon, as defined in  
6 RCW 9.94A.825, while stalking the person;

7 (v) (A) The stalker's victim is or was a law enforcement officer;  
8 judge; juror; attorney; victim advocate; legislator; community  
9 corrections' officer; an employee, contract staff person, or  
10 volunteer of a correctional agency; court employee, court clerk, or  
11 courthouse facilitator; or an employee of the child protective, child  
12 welfare, or adult protective services division within the department  
13 of social and health services; and

14 (B) The stalker stalked the victim to retaliate against the  
15 victim for an act the victim performed during the course of official  
16 duties or to influence the victim's performance of official duties;  
17 or

18 (vi) The stalker's victim is a current, former, or prospective  
19 witness in an adjudicative proceeding, and the stalker stalked the  
20 victim to retaliate against the victim as a result of the victim's  
21 testimony or potential testimony.

22 (4) The provisions of this section do not apply to the  
23 installation, placement, or use of an electronic tracking device by  
24 any of the following:

25 (a) A law enforcement officer, judicial officer, probation or  
26 parole officer, or other public employee when any such person is  
27 engaged in the lawful performance of official duties and in  
28 accordance with state or federal law;

29 (b) The installation, placement, or use of an electronic tracking  
30 device authorized by an order of a state or federal court;

31 (c) A legal guardian for a disabled adult or a legally authorized  
32 individual or organization designated to provide protective services  
33 to a disabled adult when the electronic tracking device is installed,  
34 placed, or used to track the location of the disabled adult for which  
35 the person is a legal guardian or the individual or organization is  
36 designated to provide protective services;

37 (d) A parent or legal guardian of a minor when the electronic  
38 tracking device is installed, placed, or used to track the location  
39 of that minor unless the parent or legal guardian is subject to a

1 court order that orders the parent or legal guardian not to assault,  
2 threaten, harass, follow, or contact that minor;

3 (e) An employer, school, or other organization, who owns the  
4 device on which the tracking device is installed and provides the  
5 device to a person for use in connection with the person's  
6 involvement with the employer, school, or other organization and the  
7 use of the device is limited to recovering lost or stolen items; or

8 (f) The owner of fleet vehicles, when tracking such vehicles. For  
9 the purposes of this section, "fleet vehicle" means any of the  
10 following:

11 (i) One or more motor vehicles owned by a single entity and  
12 operated by employees or agents of the entity for business or  
13 government purposes;

14 (ii) Motor vehicles held for lease or rental to the general  
15 public; or

16 (iii) Motor vehicles held for sale, or used as demonstrators,  
17 test vehicles, or loaner vehicles, by motor vehicle dealers.

18 NEW SECTION. **Sec. 4.** RCW 9.61.260 is recodified as a new  
19 section in chapter 9A.90 RCW.

20 **Sec. 5.** RCW 40.24.030 and 2019 c 278 s 3 are each amended to  
21 read as follows:

22 (1)(a) An adult person, a parent or guardian acting on behalf of  
23 a minor, or a guardian acting on behalf of an incapacitated person,  
24 as defined in RCW 11.88.010, ~~((and))~~ (b) any election official as  
25 described in RCW 9.61.260 (as recodified by this act) who is a target  
26 for threats or harassment prohibited under RCW 9.61.260 (as  
27 recodified by this act) or 9A.46.020(2)(c) (section 1(2)(c),  
28 chapter . . . (Substitute Senate Bill No. 5148), Laws of 2022), and  
29 (c) any criminal justice participant as defined in RCW 9A.46.020 who  
30 is a target for threats or harassment prohibited under RCW 9.61.260  
31 (as recodified by this act) or 9A.46.020(2) (b)(iii) or (iv) or (c)  
32 (section 1(2)(c), chapter. . . (Substitute Senate Bill No. 5148),  
33 Laws of 2022), and any family members residing with him or her, may  
34 apply to the secretary of state to have an address designated by the  
35 secretary of state serve as the person's address or the address of  
36 the minor or incapacitated person. The secretary of state shall  
37 approve an application if it is filed in the manner and on the form  
38 prescribed by the secretary of state and if it contains:



1 (i) A sworn statement, under penalty of perjury, by the applicant  
2 that the applicant has good reason to believe (A) that the applicant,  
3 or the minor or incapacitated person on whose behalf the application  
4 is made, is a victim of domestic violence, sexual assault,  
5 trafficking, or stalking and that the applicant fears for his or her  
6 safety or his or her children's safety, or the safety of the minor or  
7 incapacitated person on whose behalf the application is made; (~~or~~)  
8 (B) that the applicant, as an election official as described in RCW  
9 9.61.260 (as recodified by this act), is a target for threats or  
10 harassment prohibited under RCW 9.61.260 (as recodified by this act)  
11 or 9A.46.020(2)(c) (section 1(2)(c), chapter . . . (Substitute Senate  
12 Bill No. 5148), Laws of 2022); or (C) that the applicant, as a  
13 criminal justice participant as defined in RCW 9A.46.020, is a target  
14 for threats or harassment prohibited under RCW 9.61.260 (as  
15 recodified by this act) or 9A.46.020(2) (b)(iii) or (iv) or (c)  
16 (section 1(2)(c), chapter . . . (Substitute Senate Bill No. 5148),  
17 Laws of 2022);

18 (ii) If applicable, a sworn statement, under penalty of perjury,  
19 by the applicant, that the applicant has reason to believe they are a  
20 victim of (A) domestic violence, sexual assault, or stalking  
21 perpetrated by an employee of a law enforcement agency, or (B)  
22 threats or harassment prohibited under RCW 9.61.260 (as recodified by  
23 this act) or 9A.46.020(2) (b)(iii) or (iv) or (c) (section 1(2)(c),  
24 chapter . . . (Substitute Senate Bill No. 5148), Laws of 2022);

25 (iii) A designation of the secretary of state as agent for  
26 purposes of service of process and for the purpose of receipt of  
27 mail;

28 (iv) The residential address and any telephone number where the  
29 applicant can be contacted by the secretary of state, which shall not  
30 be disclosed because disclosure will increase the risk of (A)  
31 domestic violence, sexual assault, trafficking, or stalking, or (B)  
32 threats or harassment prohibited under RCW 9.61.260 (as recodified by  
33 this act) or 9A.46.020(2) (b)(iii) or (iv) or (c) (section 1(2)(c),  
34 chapter . . . (Substitute Senate Bill No. 5148), Laws of 2022);

35 (v) The signature of the applicant and of any individual or  
36 representative of any office designated in writing under RCW  
37 40.24.080 who assisted in the preparation of the application, and the  
38 date on which the applicant signed the application.

39 (2) Applications shall be filed with the office of the secretary  
40 of state.

1 (3) Upon filing a properly completed application, the secretary  
2 of state shall certify the applicant as a program participant.  
3 Applicants shall be certified for four years following the date of  
4 filing unless the certification is withdrawn or invalidated before  
5 that date. The secretary of state shall by rule establish a renewal  
6 procedure.

7 (4)(a) During the application process, the secretary of state  
8 shall provide each applicant a form to direct the department of  
9 licensing to change the address of registration for vehicles or  
10 vessels solely or jointly registered to the applicant and the address  
11 associated with the applicant's driver's license or identicard to the  
12 applicant's address as designated by the secretary of state upon  
13 certification in the program. The directive to the department of  
14 licensing is only valid if signed by the applicant. The directive may  
15 only include information required by the department of licensing to  
16 verify the applicant's identity and ownership information for  
17 vehicles and vessels. This information is limited to the:

18 (i) Applicant's full legal name;

19 (ii) Applicant's Washington driver's license or identicard  
20 number;

21 (iii) Applicant's date of birth;

22 (iv) Vehicle identification number and license plate number for  
23 each vehicle solely or jointly registered to the applicant; and

24 (v) Hull identification number or vessel document number and  
25 vessel decal number for each vessel solely or jointly registered to  
26 the applicant.

27 (b) Upon certification of the applicants, the secretary of state  
28 shall transmit completed and signed directives to the department of  
29 licensing.

30 (c) Within (~~thirty~~) 30 days of receiving a completed and signed  
31 directive, the department of licensing shall update the applicant's  
32 address on registration and licensing records.

33 (d) Applicants are not required to sign the directive to the  
34 department of licensing to be certified as a program participant.

35 (5) A person who knowingly provides false or incorrect  
36 information upon making an application or falsely attests in an  
37 application that disclosure of the applicant's address would endanger  
38 (a) the applicant's safety or the safety of the applicant's children  
39 or the minor or incapacitated person on whose behalf the application  
40 is made, (~~or~~) (b) the safety of any election official as described

1 in RCW 9.61.260 (as recodified by this act) who is a target for  
2 threats or harassment prohibited under RCW 9.61.260 (as recodified by  
3 this act) or 9A.46.020(2)(c) (section 1(2)(c), chapter . . .  
4 (Substitute Senate Bill No. 5148), Laws of 2022), or (c) the safety  
5 of any criminal justice participant as defined in RCW 9A.46.020 who  
6 is a target for threats or harassment prohibited under RCW 9.61.260  
7 (as recodified by this act) or 9A.46.020(2) (b)(iii) or (iv) or (c)  
8 (section 1(2)(c), chapter . . . (Substitute Senate Bill No. 5148),  
9 Laws of 2022), or any family members residing with him or her, shall  
10 be punished under RCW 40.16.030 or other applicable statutes.

11 **Sec. 6.** RCW 7.77.170 and 2013 c 119 s 18 are each amended to  
12 read as follows:

13 (1) There is no privilege under RCW 7.77.150 for a collaborative  
14 law communication that is:

15 (a) Available to the public under chapter 42.56 RCW or made  
16 during a session of a collaborative law process that is open, or is  
17 required by law to be open, to the public;

18 (b) A threat or statement of a plan to inflict bodily injury or  
19 commit a crime of violence;

20 (c) Intentionally used to plan a crime, commit or attempt to  
21 commit a crime, or conceal an ongoing crime or ongoing criminal  
22 activity; or

23 (d) In an agreement resulting from the collaborative law process,  
24 evidenced by a record signed by all parties to the agreement.

25 (2) The privileges under RCW 7.77.150 for a collaborative law  
26 communication do not apply to the extent that a communication is:

27 (a) Sought or offered to prove or disprove a claim or complaint  
28 of professional misconduct or malpractice arising from or related to  
29 a collaborative law process;

30 (b) Sought or offered to prove or disprove abuse, neglect,  
31 abandonment, or exploitation of a child or adult, unless the child  
32 protective services agency or adult protective services agency is a  
33 party to or otherwise participates in the process; or

34 (c) Sought or offered to prove or disprove stalking or  
35 (~~cyberstalking~~) cyber harassment of a party or child.

36 (3) There is no privilege under RCW 7.77.150 if a tribunal finds,  
37 after a hearing in camera, that the party seeking discovery or the  
38 proponent of the evidence has shown the evidence is not otherwise  
39 available, the need for the evidence substantially outweighs the

1 interest in protecting confidentiality, and the collaborative law  
2 communication is sought or offered in:

3 (a) A court proceeding involving a felony or misdemeanor; or

4 (b) A proceeding seeking rescission or reformation of a contract  
5 arising out of the collaborative law process or in which a defense to  
6 avoid liability on the contract is asserted.

7 (4) If a collaborative law communication is subject to an  
8 exception under subsection (2) or (3) of this section, only the part  
9 of the communication necessary for the application of the exception  
10 may be disclosed or admitted.

11 (5) Disclosure or admission of evidence excepted from the  
12 privilege under subsection (2) or (3) of this section does not make  
13 the evidence or any other collaborative law communication  
14 discoverable or admissible for any other purpose.

15 (6) The privileges under RCW 7.77.150 do not apply if the parties  
16 agree in advance in a signed record, or if a record of a proceeding  
17 reflects agreement by the parties, that all or part of a  
18 collaborative law process is not privileged. This subsection does not  
19 apply to a collaborative law communication made by a person that did  
20 not receive actual notice of the agreement before the communication  
21 was made.

22 **Sec. 7.** RCW 7.92.020 and 2020 c 296 s 4 are each amended to read  
23 as follows:

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

26 (1) "Electronic monitoring" means the same as in RCW 9.94A.030.

27 (2) "Minor" means a person who is under (~~eighteen~~) 18 years of  
28 age.

29 (3) "Petitioner" means any named petitioner for the stalking  
30 protection order or any named victim of stalking conduct on whose  
31 behalf the petition is brought.

32 (4) "Stalking conduct" means any of the following:

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

34 (b) Any act of (~~cyberstalking~~) cyber harassment as defined  
35 under RCW 9.61.260 (as recodified by this act);

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

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

3 (ii) Serves no lawful purpose; and

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

7 (5) "Stalking no-contact order" means a temporary order or a  
8 final order granted under this chapter against a person charged with  
9 or arrested for stalking, which includes a remedy authorized under  
10 RCW 7.92.160.

11 (6) "Stalking protection order" means an ex parte temporary order  
12 or a final order granted under this chapter, which includes a remedy  
13 authorized in RCW 7.92.100.

14 **Sec. 8.** RCW 7.105.010 and 2021 c 215 s 2 are each amended to  
15 read as follows:

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

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

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

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

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

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

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

17 (e) "Sexual abuse" means any form of nonconsensual sexual conduct  
18 including, but not limited to, unwanted or inappropriate touching,  
19 rape, molestation, indecent liberties, sexual coercion, sexually  
20 explicit photographing or recording, voyeurism, indecent exposure,  
21 and sexual harassment. "Sexual abuse" also includes any sexual  
22 conduct between a staff person, who is not also a resident or client,  
23 of a facility or a staff person of a program authorized under chapter  
24 71A.12 RCW, and a vulnerable adult living in that facility or  
25 receiving service from a program authorized under chapter 71A.12 RCW,  
26 whether or not the sexual conduct is consensual.

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

33 (4) "Consent" in the context of sexual acts means that at the  
34 time of sexual contact, there are actual words or conduct indicating  
35 freely given agreement to that sexual contact. Consent must be  
36 ongoing and may be revoked at any time. Conduct short of voluntary  
37 agreement does not constitute consent as a matter of law. Consent  
38 cannot be freely given when a person does not have capacity due to  
39 disability, intoxication, or age. Consent cannot be freely given when

1 the other party has authority or control over the care or custody of  
2 a person incarcerated or detained.

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

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

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

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

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

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

21 (A) Protect property or liberty interests;

22 (B) Enforce the law; or

23 (C) Meet specific statutory duties or requirements;

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

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

31 (6) "Court clerk" means court administrators in courts of limited  
32 jurisdiction and elected court clerks.

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

38 (8) "Domestic violence" means:

39 (a) Physical harm, bodily injury, assault, or the infliction of  
40 fear of physical harm, bodily injury, or assault; nonconsensual

1 sexual conduct or nonconsensual sexual penetration; unlawful  
2 harassment; or stalking of one intimate partner by another intimate  
3 partner; or

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

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

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

17 (11) "Facility" means a residence licensed or required to be  
18 licensed under chapter 18.20 RCW, assisted living facilities; chapter  
19 18.51 RCW, nursing homes; chapter 70.128 RCW, adult family homes;  
20 chapter 72.36 RCW, soldiers' homes; chapter 71A.20 RCW, residential  
21 habilitation centers; or any other facility licensed or certified by  
22 the department of social and health services.

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

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

36 (a) The use of deception, intimidation, or undue influence by a  
37 person or entity in a position of trust and confidence with a  
38 vulnerable adult to obtain or use the property, income, resources,  
39 government benefits, health insurance benefits, or trust funds of the



1 vulnerable adult for the benefit of a person or entity other than the  
2 vulnerable adult;

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

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

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

20 (15) "Full hearing" means a hearing where the court determines  
21 whether to issue a full protection order.

22 (16) "Full protection order" means a protection order that is  
23 issued by the court after notice to the respondent and where the  
24 parties had the opportunity for a full hearing by the court. "Full  
25 protection order" includes a protection order entered by the court by  
26 agreement of the parties to resolve the petition for a protection  
27 order without a full hearing.

28 (17) "Hospital" means a facility licensed under chapter 70.41 or  
29 71.12 RCW or a state hospital defined in chapter 72.23 RCW and any  
30 employee, agent, officer, director, or independent contractor  
31 thereof.

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

38 (19) "Intimate partner" means: (a) Spouses or domestic partners;  
39 (b) former spouses or former domestic partners; (c) persons who have  
40 a child in common regardless of whether they have been married or

1 have lived together at any time; or (d) persons who have or have had  
2 a dating relationship where both persons are at least 13 years of age  
3 or older.

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

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

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

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

20 (21) "Judicial day" means days of the week other than Saturdays,  
21 Sundays, or legal holidays.

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

31 (23) "Minor" means a person who is under 18 years of age.

32 (24) "Neglect" means: (a) A pattern of conduct or inaction by a  
33 person or entity with a duty of care that fails to provide the goods  
34 and services that maintain the physical or mental health of a  
35 vulnerable adult, or that fails to avoid or prevent physical or  
36 mental harm or pain to a vulnerable adult; or (b) an act or omission  
37 by a person or entity with a duty of care that demonstrates a serious  
38 disregard of consequences of such a magnitude as to constitute a  
39 clear and present danger to the vulnerable adult's health, welfare,

1 or safety including, but not limited to, conduct prohibited under RCW  
2 9A.42.100.

3 (25) "Nonconsensual" means a lack of freely given consent.

4 (26) "Nonphysical contact" includes, but is not limited to,  
5 written notes, mail, telephone calls, email, text messages, contact  
6 through social media applications, contact through other  
7 technologies, and contact through third parties.

8 (27) "Petitioner" means any named petitioner or any other person  
9 identified in the petition on whose behalf the petition is brought.

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

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

23 (30) "Respondent" means the person who is identified as the  
24 respondent in a petition filed under this chapter.

25 (31) "Sexual conduct" means any of the following:

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

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

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

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

39 (e) Any intentional or knowing touching of the clothed or  
40 unclothed body of a child under the age of 16, if done for the

1 purpose of sexual gratification or arousal of the respondent or  
2 others; or

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

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

13 (33) "Stalking" means any of the following:

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

15 (b) Any act of (~~cyberstalking~~) cyber harassment as defined  
16 under RCW 9.61.260 (as recodified by this act); or

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

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

24 (ii) Serves no lawful purpose; and

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

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

36 (35) "Unlawful harassment" means:

37 (a) A knowing and willful course of conduct directed at a  
38 specific person that seriously alarms, annoys, harasses, or is  
39 detrimental to such person, and that serves no legitimate or lawful  
40 purpose. The course of conduct must be such as would cause a

1 reasonable person to suffer substantial emotional distress, and must  
2 actually cause substantial emotional distress to the petitioner; or

3 (b) A single act of violence or threat of violence directed at a  
4 specific person that seriously alarms, annoys, harasses, or is  
5 detrimental to such person, and that serves no legitimate or lawful  
6 purpose, which would cause a reasonable person to suffer substantial  
7 emotional distress, and must actually cause substantial emotional  
8 distress to the petitioner. A single threat of violence must include:

9 (i) A malicious and intentional threat as described in RCW  
10 9A.36.080(1)(c); or (ii) the presence of a firearm or other weapon.

11 (36) "Vulnerable adult" includes a person:

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

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

16 (c) Who has a developmental disability as defined under RCW  
17 71A.10.020; or

18 (d) Admitted to any facility; or

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

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

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

27 **Sec. 9.** RCW 7.105.310 and 2021 c 215 s 39 are each amended to  
28 read as follows:

29 (1) In issuing any type of protection order, other than an  
30 extreme risk protection order, the court shall have broad discretion  
31 to grant such relief as the court deems proper, including an order  
32 that provides relief as follows:

33 (a) Restrain the respondent from committing any of the following  
34 acts against the petitioner and other persons protected by the order:  
35 Domestic violence; nonconsensual sexual conduct or nonconsensual  
36 sexual penetration; sexual abuse; stalking; acts of abandonment,  
37 abuse, neglect, or financial exploitation against a vulnerable adult;  
38 and unlawful harassment;

1 (b) Restrain the respondent from making any attempts to have  
2 contact, including nonphysical contact, with the petitioner or the  
3 petitioner's family or household members who are minors or other  
4 members of the petitioner's household, either directly, indirectly,  
5 or through third parties regardless of whether those third parties  
6 know of the order;

7 (c) Exclude the respondent from the dwelling that the parties  
8 share; from the residence, workplace, or school of the petitioner; or  
9 from the day care or school of a minor child;

10 (d) Restrain the respondent from knowingly coming within, or  
11 knowingly remaining within, a specified distance from a specified  
12 location including, but not limited to, a residence, school, day  
13 care, workplace, the protected party's person, and the protected  
14 party's vehicle. The specified distance shall presumptively be at  
15 least 1,000 feet, unless the court for good cause finds that a  
16 shorter specified distance is appropriate;

17 (e) If the parties have children in common, make residential  
18 provisions with regard to their minor children on the same basis as  
19 is provided in chapter 26.09 RCW. However, parenting plans as  
20 specified in chapter 26.09 RCW must not be required under this  
21 chapter. The court may not delay or defer relief under this chapter  
22 on the grounds that the parties could seek a parenting plan or  
23 modification to a parenting plan in a different action. A protection  
24 order must not be denied on the grounds that the parties have an  
25 existing parenting plan in effect. A protection order may suspend the  
26 respondent's contact with the parties' children under an existing  
27 parenting plan, subject to further orders in a family law proceeding;

28 (f) Order the respondent to participate in a state-certified  
29 domestic violence perpetrator treatment program approved under RCW  
30 43.20A.735 or a state-certified sex offender treatment program  
31 approved under RCW 18.155.070;

32 (g) Order the respondent to obtain a mental health or chemical  
33 dependency evaluation. If the court determines that a mental health  
34 evaluation is necessary, the court shall clearly document the reason  
35 for this determination and provide a specific question or questions  
36 to be answered by the mental health professional. The court shall  
37 consider the ability of the respondent to pay for an evaluation.  
38 Minors are presumed to be unable to pay. The parent or legal guardian  
39 is responsible for costs unless the parent or legal guardian  
40 demonstrates inability to pay;

1 (h) In cases where the petitioner and the respondent are students  
2 who attend the same public or private elementary, middle, or high  
3 school, the court, when issuing a protection order and providing  
4 relief, shall consider, among the other facts of the case, the  
5 severity of the act, any continuing physical danger, emotional  
6 distress, or educational disruption to the petitioner, and the  
7 financial difficulty and educational disruption that would be caused  
8 by a transfer of the respondent to another school. The court may  
9 order that the respondent not attend the public or private  
10 elementary, middle, or high school attended by the petitioner. If a  
11 minor respondent is prohibited attendance at the minor's assigned  
12 public school, the school district must provide the student  
13 comparable educational services in another setting. In such a case,  
14 the district shall provide transportation at no cost to the  
15 respondent if the respondent's parent or legal guardian is unable to  
16 pay for transportation. The district shall put in place any needed  
17 supports to ensure successful transition to the new school  
18 environment. The court shall send notice of the restriction on  
19 attending the same school as the petitioner to the public or private  
20 school the respondent will attend and to the school the petitioner  
21 attends;

22 (i) Require the respondent to pay the administrative court costs  
23 and service fees, as established by the county or municipality  
24 incurring the expense, and to reimburse the petitioner for costs  
25 incurred in bringing the action, including reasonable attorneys' fees  
26 or limited license legal technician fees when such fees are incurred  
27 by a person licensed and practicing in accordance with state supreme  
28 court admission and practice rule 28, the limited practice rule for  
29 limited license legal technicians. Minors are presumed to be unable  
30 to pay. The parent or legal guardian is responsible for costs unless  
31 the parent or legal guardian demonstrates inability to pay;

32 (j) Restrain the respondent from harassing, following,  
33 monitoring, keeping under physical or electronic surveillance,  
34 (~~cyberstalking~~) cyber harassment as defined in RCW 9.61.260 (as  
35 recodified by this act), and using telephonic, audiovisual, or other  
36 electronic means to monitor the actions, location, or communication  
37 of the petitioner or the petitioner's family or household members who  
38 are minors or other members of the petitioner's household. For the  
39 purposes of this subsection, "communication" includes both "wire

1 communication" and "electronic communication" as defined in RCW  
2 9.73.260;

3 (k) Other than for respondents who are minors, require the  
4 respondent to submit to electronic monitoring. The order must specify  
5 who shall provide the electronic monitoring services and the terms  
6 under which the monitoring must be performed. The order also may  
7 include a requirement that the respondent pay the costs of the  
8 monitoring. The court shall consider the ability of the respondent to  
9 pay for electronic monitoring;

10 (l) Consider the provisions of RCW 9.41.800, and order the  
11 respondent to surrender, and prohibit the respondent from accessing,  
12 having in his or her custody or control, possessing, purchasing,  
13 attempting to purchase or receive, or receiving, all firearms,  
14 dangerous weapons, and any concealed pistol license, as required in  
15 RCW 9.41.800;

16 (m) Order possession and use of essential personal effects. The  
17 court shall list the essential personal effects with sufficient  
18 specificity to make it clear which property is included. Personal  
19 effects may include pets. The court may order that a petitioner be  
20 granted the exclusive custody or control of any pet owned, possessed,  
21 leased, kept, or held by the petitioner, respondent, or minor child  
22 residing with either the petitioner or respondent, and may prohibit  
23 the respondent from interfering with the petitioner's efforts to  
24 obtain the pet. The court may also prohibit the respondent from  
25 knowingly coming within, or knowingly remaining within, a specified  
26 distance of specified locations where the pet is regularly found;

27 (n) Order use of a vehicle;

28 (o) Enter an order restricting the respondent from engaging in  
29 abusive litigation as set forth in chapter 26.51 RCW or in frivolous  
30 filings against the petitioner, making harassing or libelous  
31 communications about the petitioner to third parties, or making false  
32 reports to investigative agencies. A petitioner may request this  
33 relief in the petition or by separate motion. A petitioner may  
34 request this relief by separate motion at any time within five years  
35 of the date the protection order is entered even if the order has  
36 since expired. A stand-alone motion for an order restricting abusive  
37 litigation may be brought by a party who meets the requirements of  
38 chapter 26.51 RCW regardless of whether the party has previously  
39 sought a protection order under this chapter, provided the motion is  
40 made within five years of the date the order that made a finding of



1 domestic violence was entered. In cases where a finding of domestic  
2 violence was entered pursuant to an order under chapter 26.09, 26.26,  
3 or 26.26A RCW, a motion for an order restricting abusive litigation  
4 may be brought under the family law case or as a stand-alone action  
5 filed under this chapter, when it is not reasonable or practical to  
6 file under the family law case;

7 (p) Restrain the respondent from committing acts of abandonment,  
8 abuse, neglect, or financial exploitation against a vulnerable adult;

9 (q) Require an accounting by the respondent of the disposition of  
10 the vulnerable adult's income or other resources;

11 (r) Restrain the transfer of either the respondent's or  
12 vulnerable adult's property, or both, for a specified period not  
13 exceeding 90 days;

14 (s) Order financial relief and restrain the transfer of jointly  
15 owned assets;

16 (t) Restrain the respondent from possessing or distributing  
17 intimate images, as defined in RCW 9A.86.010, depicting the  
18 petitioner including, but not limited to, requiring the respondent  
19 to: Take down and delete all intimate images and recordings of the  
20 petitioner in the respondent's possession or control; and cease any  
21 and all disclosure of those intimate images. The court may also  
22 inform the respondent that it would be appropriate to ask third  
23 parties in possession or control of the intimate images of this  
24 protection order to take down and delete the intimate images so that  
25 the order may not inadvertently be violated; or

26 (u) Order other relief as it deems necessary for the protection  
27 of the petitioner and other family or household members who are  
28 minors or vulnerable adults for whom the petitioner has sought  
29 protection, including orders or directives to a law enforcement  
30 officer, as allowed under this chapter.

31 (2) The court in granting a temporary antiharassment protection  
32 order or a civil antiharassment protection order shall not prohibit  
33 the respondent from exercising constitutionally protected free  
34 speech. Nothing in this section prohibits the petitioner from  
35 utilizing other civil or criminal remedies to restrain conduct or  
36 communications not otherwise constitutionally protected.

37 (3) The court shall not take any of the following actions in  
38 issuing a protection order.

1 (a) The court may not order the petitioner to obtain services  
2 including, but not limited to, drug testing, victim support services,  
3 a mental health assessment, or a psychological evaluation.

4 (b) The court may not order the petitioner to pay the  
5 respondent's attorneys' fees or other costs.

6 (c) The court shall not issue a full protection order to any  
7 party except upon notice to the respondent and the opportunity for a  
8 hearing pursuant to a petition or counter-petition filed and served  
9 by the party seeking relief in accordance with this chapter. Except  
10 as provided in RCW 7.105.210, the court shall not issue a temporary  
11 protection order to any party unless the party has filed a petition  
12 or counter-petition for a protection order seeking relief in  
13 accordance with this chapter.

14 (d) Under no circumstances shall the court deny the petitioner  
15 the type of protection order sought in the petition on the grounds  
16 that the court finds that a different type of protection order would  
17 have a less severe impact on the respondent.

18 (4) The order shall specify the date the order expires, if any.  
19 For permanent orders, the court shall set the date to expire 99 years  
20 from the issuance date. The order shall also state whether the court  
21 issued the protection order following personal service, service by  
22 electronic means, service by mail, or service by publication, and  
23 whether the court has approved service by mail or publication of an  
24 order issued under this section.

25 **Sec. 10.** RCW 9.94A.030 and 2021 c 237 s 1 are each amended to  
26 read as follows:

27 Unless the context clearly requires otherwise, the definitions in  
28 this section apply throughout this chapter.

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

31 (2) "Collect," or any derivative thereof, "collect and remit," or  
32 "collect and deliver," when used with reference to the department,  
33 means that the department, either directly or through a collection  
34 agreement authorized by RCW 9.94A.760, is responsible for monitoring  
35 and enforcing the offender's sentence with regard to the legal  
36 financial obligation, receiving payment thereof from the offender,  
37 and, consistent with current law, delivering daily the entire payment  
38 to the superior court clerk without depositing it in a departmental  
39 account.

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

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

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

11 (6) "Community protection zone" means the area within (~~eight~~  
12 ~~hundred eighty~~) 880 feet of the facilities and grounds of a public  
13 or private school.

14 (7) "Community restitution" means compulsory service, without  
15 compensation, performed for the benefit of the community by the  
16 offender.

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

18 (9) "Conviction" means an adjudication of guilt pursuant to Title  
19 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,  
20 and acceptance of a plea of guilty.

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

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

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

37 (b) A conviction may be removed from a defendant's criminal  
38 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,  
39 9.95.240, or a similar out-of-state statute, or if the conviction has  
40 been vacated pursuant to a governor's pardon. However, when a

1 defendant is charged with a recidivist offense, "criminal history"  
2 includes a vacated prior conviction for the sole purpose of  
3 establishing that such vacated prior conviction constitutes an  
4 element of the present recidivist offense as provided in RCW  
5 9.94A.640(4)(b) and 9.96.060(7)(c).

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

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

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

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

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

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

34 (c) To exact revenge or retribution for the gang or any member of  
35 the gang;

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

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

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

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

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

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

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

27 (19) "Disposable earnings" means that part of the earnings of an  
28 offender remaining after the deduction from those earnings of any  
29 amount required by law to be withheld. For the purposes of this  
30 definition, "earnings" means compensation paid or payable for  
31 personal services, whether denominated as wages, salary, commission,  
32 bonuses, or otherwise, and, notwithstanding any other provision of  
33 law making the payments exempt from garnishment, attachment, or other  
34 process to satisfy a court-ordered legal financial obligation,  
35 specifically includes periodic payments pursuant to pension or  
36 retirement programs, or insurance policies of any type, but does not  
37 include payments made under Title 50 RCW, except as provided in RCW  
38 50.40.020 and 50.40.050, or Title 74 RCW.

39 (20) "Domestic violence" has the same meaning as defined in RCW  
40 10.99.020 and 26.50.010.

1 (21) "Drug offender sentencing alternative" is a sentencing  
2 option available to persons convicted of a felony offense who are  
3 eligible for the option under RCW 9.94A.660.

4 (22) "Drug offense" means:

5 (a) Any felony violation of chapter 69.50 RCW except possession  
6 of a controlled substance (RCW 69.50.4013) or forged prescription for  
7 a controlled substance (RCW 69.50.403);

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

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

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

16 (24) "Electronic monitoring" means tracking the location of an  
17 individual through the use of technology that is capable of  
18 determining or identifying the monitored individual's presence or  
19 absence at a particular location including, but not limited to:

20 (a) Radio frequency signaling technology, which detects if the  
21 monitored individual is or is not at an approved location and  
22 notifies the monitoring agency of the time that the monitored  
23 individual either leaves the approved location or tampers with or  
24 removes the monitoring device; or

25 (b) Active or passive global positioning system technology, which  
26 detects the location of the monitored individual and notifies the  
27 monitoring agency of the monitored individual's location and which  
28 may also include electronic monitoring with victim notification  
29 technology that is capable of notifying a victim or protected party,  
30 either directly or through a monitoring agency, if the monitored  
31 individual enters within the restricted distance of a victim or  
32 protected party, or within the restricted distance of a designated  
33 location.

34 (25) "Escape" means:

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

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

4 (26) "Felony traffic offense" means:

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

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

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

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

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

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

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

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

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

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

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

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

12 (a) Any felony defined under any law as a class A felony or  
13 criminal solicitation of or criminal conspiracy to commit a class A  
14 felony;

15 (b) Assault in the second degree;

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

17 (d) Child molestation in the second degree;

18 (e) Controlled substance homicide;

19 (f) Extortion in the first degree;

20 (g) Incest when committed against a child under age (~~fourteen~~)

21 14;

22 (h) Indecent liberties;

23 (i) Kidnapping in the second degree;

24 (j) Leading organized crime;

25 (k) Manslaughter in the first degree;

26 (l) Manslaughter in the second degree;

27 (m) Promoting prostitution in the first degree;

28 (n) Rape in the third degree;

29 (o) Sexual exploitation;

30 (p) Vehicular assault, when caused by the operation or driving of  
31 a vehicle by a person while under the influence of intoxicating  
32 liquor or any drug or by the operation or driving of a vehicle in a  
33 reckless manner;

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

38 (r) Any other class B felony offense with a finding of sexual  
39 motivation;



1 (s) Any other felony with a deadly weapon verdict under RCW  
2 9.94A.825;

3 (t) Any felony offense in effect at any time prior to December 2,  
4 1993, that is comparable to a most serious offense under this  
5 subsection, or any federal or out-of-state conviction for an offense  
6 that under the laws of this state would be a felony classified as a  
7 most serious offense under this subsection;

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

14 (ii) A prior conviction for indecent liberties under RCW  
15 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,  
16 if: (A) The crime was committed against a child under the age of  
17 (~~fourteen~~) 14; or (B) the relationship between the victim and  
18 perpetrator is included in the definition of indecent liberties under  
19 RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,  
20 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,  
21 1993, through July 27, 1997;

22 (v) Any out-of-state conviction for a felony offense with a  
23 finding of sexual motivation if the minimum sentence imposed was  
24 (~~ten~~) 10 years or more; provided that the out-of-state felony  
25 offense must be comparable to a felony offense under this title and  
26 Title 9A RCW and the out-of-state definition of sexual motivation  
27 must be comparable to the definition of sexual motivation contained  
28 in this section.

29 (33) "Nonviolent offense" means an offense which is not a violent  
30 offense.

31 (34) "Offender" means a person who has committed a felony  
32 established by state law and is (~~eighteen~~) 18 years of age or older  
33 or is less than (~~eighteen~~) 18 years of age but whose case is under  
34 superior court jurisdiction under RCW 13.04.030 or has been  
35 transferred by the appropriate juvenile court to a criminal court  
36 pursuant to RCW 13.40.110. In addition, for the purpose of community  
37 custody requirements under this chapter, "offender" also means a  
38 misdemeanor or gross misdemeanor probationer ordered by a superior  
39 court to probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210  
40 and supervised by the department pursuant to RCW 9.94A.501 and

1 9.94A.5011. Throughout this chapter, the terms "offender" and  
2 "defendant" are used interchangeably.

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

13 (36) "Pattern of criminal street gang activity" means:

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

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

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

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

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

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

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

28 (vii) Hate Crime (RCW 9A.36.080);

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

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

32 (x) Any felony conviction by a person (~~eighteen~~) 18 years of  
33 age or older with a special finding of involving a juvenile in a  
34 felony offense under RCW 9.94A.833;

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

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

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

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

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

40 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);

1 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW  
2 9A.56.070);

3 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW  
4 9A.56.075);

5 (xix) Extortion 1 (RCW 9A.56.120);

6 (xx) Extortion 2 (RCW 9A.56.130);

7 (xxi) Intimidating a Witness (RCW 9A.72.110);

8 (xxii) Tampering with a Witness (RCW 9A.72.120);

9 (xxiii) Reckless Endangerment (RCW 9A.36.050);

10 (xxiv) Coercion (RCW 9A.36.070);

11 (xxv) Harassment (RCW 9A.46.020); or

12 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);

13 (b) That at least one of the offenses listed in (a) of this  
14 subsection shall have occurred after July 1, 2008;

15 (c) That the most recent committed offense listed in (a) of this  
16 subsection occurred within three years of a prior offense listed in  
17 (a) of this subsection; and

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

21 (37) "Persistent offender" is an offender who:

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

24 (ii) Has, before the commission of the offense under (a) of this  
25 subsection, been convicted as an offender on at least two separate  
26 occasions, whether in this state or elsewhere, of felonies that under  
27 the laws of this state would be considered most serious offenses and  
28 would be included in the offender score under RCW 9.94A.525; provided  
29 that of the two or more previous convictions, at least one conviction  
30 must have occurred before the commission of any of the other most  
31 serious offenses for which the offender was previously convicted; or

32 (b) (i) Has been convicted of: (A) Rape in the first degree, rape  
33 of a child in the first degree, child molestation in the first  
34 degree, rape in the second degree, rape of a child in the second  
35 degree, or indecent liberties by forcible compulsion; (B) any of the  
36 following offenses with a finding of sexual motivation: Murder in the  
37 first degree, murder in the second degree, homicide by abuse,  
38 kidnapping in the first degree, kidnapping in the second degree,  
39 assault in the first degree, assault in the second degree, assault of  
40 a child in the first degree, assault of a child in the second degree,

1 or burglary in the first degree; or (C) an attempt to commit any  
2 crime listed in this subsection (37)(b)(i); and

3 (ii) Has, before the commission of the offense under (b)(i) of  
4 this subsection, been convicted as an offender on at least one  
5 occasion, whether in this state or elsewhere, of an offense listed in  
6 (b)(i) of this subsection or any federal or out-of-state offense or  
7 offense under prior Washington law that is comparable to the offenses  
8 listed in (b)(i) of this subsection. A conviction for rape of a child  
9 in the first degree constitutes a conviction under (b)(i) of this  
10 subsection only when the offender was (~~sixteen~~) 16 years of age or  
11 older when the offender committed the offense. A conviction for rape  
12 of a child in the second degree constitutes a conviction under (b)(i)  
13 of this subsection only when the offender was (~~eighteen~~) 18 years  
14 of age or older when the offender committed the offense.

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

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

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

2 (41) "Recidivist offense" means a felony offense where a prior  
3 conviction of the same offense or other specified offense is an  
4 element of the crime including, but not limited to:

5 (a) Assault in the fourth degree where domestic violence is  
6 pleaded and proven, RCW 9A.36.041(3);

7 (b) (~~Cyberstalking~~) Cyber harassment, RCW 9.61.260(~~(3)(a)~~)  
8 (as recodified by this act);

9 (c) Harassment, RCW 9A.46.020(2)(b)(i);

10 (d) Indecent exposure, RCW 9A.88.010(2)(c);

11 (e) Stalking, RCW 9A.46.110(5)(b)(i) and (iii);

12 (f) Telephone harassment, RCW 9.61.230(2)(a); and

13 (g) Violation of a no-contact or protection order, RCW  
14 26.50.110(5).

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

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

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

20 (iii) Domestic violence violation of a protection order under  
21 chapter 26.09, 26.26A, 26.26B, or 26.50 RCW that is not a felony  
22 offense;

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

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

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

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

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

39 (45) "Serious traffic offense" means:

1 (a) Nonfelony driving while under the influence of intoxicating  
2 liquor or any drug (RCW 46.61.502), nonfelony actual physical control  
3 while under the influence of intoxicating liquor or any drug (RCW  
4 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an  
5 attended vehicle (RCW 46.52.020(5)); or

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

9 (46) "Serious violent offense" is a subcategory of violent  
10 offense and means:

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

12 (ii) Homicide by abuse;

13 (iii) Murder in the second degree;

14 (iv) Manslaughter in the first degree;

15 (v) Assault in the first degree;

16 (vi) Kidnapping in the first degree;

17 (vii) Rape in the first degree;

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

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

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

24 (47) "Sex offense" means:

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

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

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

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

33 (v) A felony violation of RCW 9A.44.132(1) (failure to register  
34 as a sex offender) if the person has been convicted of violating RCW  
35 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130  
36 prior to June 10, 2010, on at least one prior occasion;

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

1 (c) A felony with a finding of sexual motivation under RCW  
2 9.94A.835 or 13.40.135; or

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

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

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

11 (50) "Statutory maximum sentence" means the maximum length of  
12 time for which an offender may be confined as punishment for a crime  
13 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute  
14 defining the crime, or other statute defining the maximum penalty for  
15 a crime.

16 (51) "Stranger" means that the victim did not know the offender  
17 (~~((twenty-four))~~) 24 hours before the offense.

18 (52) "Total confinement" means confinement inside the physical  
19 boundaries of a facility or institution operated or utilized under  
20 contract by the state or any other unit of government for (~~((twenty-~~  
21 ~~four))~~) 24 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

22 (53) "Transition training" means written and verbal instructions  
23 and assistance provided by the department to the offender during the  
24 two weeks prior to the offender's successful completion of the work  
25 ethic camp program. The transition training shall include  
26 instructions in the offender's requirements and obligations during  
27 the offender's period of community custody.

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

31 (55) "Victim of domestic violence" means an intimate partner or  
32 household member who has been subjected to the infliction of physical  
33 harm or sexual and psychological abuse by an intimate partner or  
34 household member as part of a pattern of assaultive, coercive, and  
35 controlling behaviors directed at achieving compliance from or  
36 control over that intimate partner or household member. Domestic  
37 violence includes, but is not limited to, the offenses listed in RCW  
38 10.99.020 and 26.50.010 committed by an intimate partner or household  
39 member against a victim who is an intimate partner or household  
40 member.

1 (56) "Victim of sex trafficking, prostitution, or commercial  
2 sexual abuse of a minor" means a person who has been forced or  
3 coerced to perform a commercial sex act including, but not limited  
4 to, being a victim of offenses defined in RCW 9A.40.100, 9A.88.070,  
5 9.68A.101, and the trafficking victims protection act of 2000, 22  
6 U.S.C. Sec. 7101 et seq.; or a person who was induced to perform a  
7 commercial sex act when they were less than 18 years of age including  
8 but not limited to the offenses defined in chapter 9.68A RCW.

9 (57) "Victim of sexual assault" means any person who is a victim  
10 of a sexual assault offense, nonconsensual sexual conduct, or  
11 nonconsensual sexual penetration and as a result suffers physical,  
12 emotional, financial, or psychological impacts. Sexual assault  
13 offenses include, but are not limited to, the offenses defined in  
14 chapter 9A.44 RCW.

15 (58) "Violent offense" means:

16 (a) Any of the following felonies:

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

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

21 (iii) Manslaughter in the first degree;

22 (iv) Manslaughter in the second degree;

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

24 (vi) Kidnapping in the second degree;

25 (vii) Arson in the second degree;

26 (viii) Assault in the second degree;

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

28 (x) Extortion in the first degree;

29 (xi) Robbery in the second degree;

30 (xii) Drive-by shooting;

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

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



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

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

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

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

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

20 **Sec. 11.** RCW 9.94A.030 and 2021 c 237 s 1 and 2021 c 215 s 97  
21 are each reenacted and amended to read as follows:

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

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

26 (2) "Collect," or any derivative thereof, "collect and remit," or  
27 "collect and deliver," when used with reference to the department,  
28 means that the department, either directly or through a collection  
29 agreement authorized by RCW 9.94A.760, is responsible for monitoring  
30 and enforcing the offender's sentence with regard to the legal  
31 financial obligation, receiving payment thereof from the offender,  
32 and, consistent with current law, delivering daily the entire payment  
33 to the superior court clerk without depositing it in a departmental  
34 account.

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

36 (4) "Community corrections officer" means an employee of the  
37 department who is responsible for carrying out specific duties in  
38 supervision of sentenced offenders and monitoring of sentence  
39 conditions.

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

6 (6) "Community protection zone" means the area within (~~eight~~  
7 ~~hundred-eighty~~) 880 feet of the facilities and grounds of a public  
8 or private school.

9 (7) "Community restitution" means compulsory service, without  
10 compensation, performed for the benefit of the community by the  
11 offender.

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

13 (9) "Conviction" means an adjudication of guilt pursuant to Title  
14 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,  
15 and acceptance of a plea of guilty.

16 (10) "Crime-related prohibition" means an order of a court  
17 prohibiting conduct that directly relates to the circumstances of the  
18 crime for which the offender has been convicted, and shall not be  
19 construed to mean orders directing an offender affirmatively to  
20 participate in rehabilitative programs or to otherwise perform  
21 affirmative conduct. However, affirmative acts necessary to monitor  
22 compliance with the order of a court may be required by the  
23 department.

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

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

32 (b) A conviction may be removed from a defendant's criminal  
33 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,  
34 9.95.240, or a similar out-of-state statute, or if the conviction has  
35 been vacated pursuant to a governor's pardon. However, when a  
36 defendant is charged with a recidivist offense, "criminal history"  
37 includes a vacated prior conviction for the sole purpose of  
38 establishing that such vacated prior conviction constitutes an  
39 element of the present recidivist offense as provided in RCW  
40 9.94A.640(4)(b) and 9.96.060(7)(c).

1 (c) The determination of a defendant's criminal history is  
2 distinct from the determination of an offender score. A prior  
3 conviction that was not included in an offender score calculated  
4 pursuant to a former version of the sentencing reform act remains  
5 part of the defendant's criminal history.

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

16 (13) "Criminal street gang associate or member" means any person  
17 who actively participates in any criminal street gang and who  
18 intentionally promotes, furthers, or assists in any criminal act by  
19 the criminal street gang.

20 (14) "Criminal street gang-related offense" means any felony or  
21 misdemeanor offense, whether in this state or elsewhere, that is  
22 committed for the benefit of, at the direction of, or in association  
23 with any criminal street gang, or is committed with the intent to  
24 promote, further, or assist in any criminal conduct by the gang, or  
25 is committed for one or more of the following reasons:

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

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

29 (c) To exact revenge or retribution for the gang or any member of  
30 the gang;

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

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

36 (f) To provide the gang with any advantage in, or any control or  
37 dominance over any criminal market sector, including, but not limited  
38 to, manufacturing, delivering, or selling any controlled substance  
39 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen  
40 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88

1 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual  
2 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter  
3 9.68 RCW).

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

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

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

14 (18) "Determinate sentence" means a sentence that states with  
15 exactitude the number of actual years, months, or days of total  
16 confinement, of partial confinement, of community custody, the number  
17 of actual hours or days of community restitution work, or dollars or  
18 terms of a legal financial obligation. The fact that an offender  
19 through earned release can reduce the actual period of confinement  
20 shall not affect the classification of the sentence as a determinate  
21 sentence.

22 (19) "Disposable earnings" means that part of the earnings of an  
23 offender remaining after the deduction from those earnings of any  
24 amount required by law to be withheld. For the purposes of this  
25 definition, "earnings" means compensation paid or payable for  
26 personal services, whether denominated as wages, salary, commission,  
27 bonuses, or otherwise, and, notwithstanding any other provision of  
28 law making the payments exempt from garnishment, attachment, or other  
29 process to satisfy a court-ordered legal financial obligation,  
30 specifically includes periodic payments pursuant to pension or  
31 retirement programs, or insurance policies of any type, but does not  
32 include payments made under Title 50 RCW, except as provided in RCW  
33 50.40.020 and 50.40.050, or Title 74 RCW.

34 (20)(a) "Domestic violence" has the same meaning as defined in  
35 RCW 10.99.020.

36 (b) "Domestic violence" also means: (i) Physical harm, bodily  
37 injury, assault, or the infliction of fear of imminent physical harm,  
38 bodily injury, or assault, sexual assault, or stalking, as defined in  
39 RCW 9A.46.110, of one intimate partner by another intimate partner as  
40 defined in RCW 10.99.020; or (ii) physical harm, bodily injury,

1 assault, or the infliction of fear of imminent physical harm, bodily  
2 injury, or assault, sexual assault, or stalking, as defined in RCW  
3 9A.46.110, of one family or household member by another family or  
4 household member as defined in RCW 10.99.020.

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

8 (22) "Drug offense" means:

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

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

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

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

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

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

29 (b) Active or passive global positioning system technology, which  
30 detects the location of the monitored individual and notifies the  
31 monitoring agency of the monitored individual's location and which  
32 may also include electronic monitoring with victim notification  
33 technology that is capable of notifying a victim or protected party,  
34 either directly or through a monitoring agency, if the monitored  
35 individual enters within the restricted distance of a victim or  
36 protected party, or within the restricted distance of a designated  
37 location.

38 (25) "Escape" means:

39 (a) Sexually violent predator escape (RCW 9A.76.115), escape in  
40 the first degree (RCW 9A.76.110), escape in the second degree (RCW

1 9A.76.120), willful failure to return from furlough (RCW 72.66.060),  
2 willful failure to return from work release (RCW 72.65.070), or  
3 willful failure to be available for supervision by the department  
4 while in community custody (RCW 72.09.310); or

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

8 (26) "Felony traffic offense" means:

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

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

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

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

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

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

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

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

38 (c) A private residence where the individual stays as a transient  
39 invitee.

1 (31) "Legal financial obligation" means a sum of money that is  
2 ordered by a superior court of the state of Washington for legal  
3 financial obligations which may include restitution to the victim,  
4 statutorily imposed crime victims' compensation fees as assessed  
5 pursuant to RCW 7.68.035, court costs, county or interlocal drug  
6 funds, court-appointed attorneys' fees, and costs of defense, fines,  
7 and any other financial obligation that is assessed to the offender  
8 as a result of a felony conviction. Upon conviction for vehicular  
9 assault while under the influence of intoxicating liquor or any drug,  
10 RCW 46.61.522(1)(b), or vehicular homicide while under the influence  
11 of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal  
12 financial obligations may also include payment to a public agency of  
13 the expense of an emergency response to the incident resulting in the  
14 conviction, subject to RCW 38.52.430.

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

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

20 (b) Assault in the second degree;

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

22 (d) Child molestation in the second degree;

23 (e) Controlled substance homicide;

24 (f) Extortion in the first degree;

25 (g) Incest when committed against a child under age (~~fourteen~~)

26 14;

27 (h) Indecent liberties;

28 (i) Kidnapping in the second degree;

29 (j) Leading organized crime;

30 (k) Manslaughter in the first degree;

31 (l) Manslaughter in the second degree;

32 (m) Promoting prostitution in the first degree;

33 (n) Rape in the third degree;

34 (o) Sexual exploitation;

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

39 (q) Vehicular homicide, when proximately caused by the driving of  
40 any vehicle by any person while under the influence of intoxicating

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

3 (r) Any other class B felony offense with a finding of sexual  
4 motivation;

5 (s) Any other felony with a deadly weapon verdict under RCW  
6 9.94A.825;

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

12 (u)(i) A prior conviction for indecent liberties under RCW  
13 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.  
14 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),  
15 and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW  
16 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,  
17 until July 1, 1988;

18 (ii) A prior conviction for indecent liberties under RCW  
19 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,  
20 if: (A) The crime was committed against a child under the age of  
21 (~~fourteen~~) 14; or (B) the relationship between the victim and  
22 perpetrator is included in the definition of indecent liberties under  
23 RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,  
24 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,  
25 1993, through July 27, 1997;

26 (v) Any out-of-state conviction for a felony offense with a  
27 finding of sexual motivation if the minimum sentence imposed was  
28 (~~ten~~) 10 years or more; provided that the out-of-state felony  
29 offense must be comparable to a felony offense under this title and  
30 Title 9A RCW and the out-of-state definition of sexual motivation  
31 must be comparable to the definition of sexual motivation contained  
32 in this section.

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

35 (34) "Offender" means a person who has committed a felony  
36 established by state law and is (~~eighteen~~) 18 years of age or older  
37 or is less than (~~eighteen~~) 18 years of age but whose case is under  
38 superior court jurisdiction under RCW 13.04.030 or has been  
39 transferred by the appropriate juvenile court to a criminal court  
40 pursuant to RCW 13.40.110. In addition, for the purpose of community



1 custody requirements under this chapter, "offender" also means a  
2 misdemeanor or gross misdemeanor probationer ordered by a superior  
3 court to probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210  
4 and supervised by the department pursuant to RCW 9.94A.501 and  
5 9.94A.5011. Throughout this chapter, the terms "offender" and  
6 "defendant" are used interchangeably.

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

17 (36) "Pattern of criminal street gang activity" means:

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

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

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

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

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

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

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

32 (vii) Hate Crime (RCW 9A.36.080);

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

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

36 (x) Any felony conviction by a person (~~eighteen~~) 18 years of  
37 age or older with a special finding of involving a juvenile in a  
38 felony offense under RCW 9.94A.833;

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

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

1 (xiii) Malicious Mischief 1 (RCW 9A.48.070);  
2 (xiv) Malicious Mischief 2 (RCW 9A.48.080);  
3 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);  
4 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);  
5 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW  
6 9A.56.070);  
7 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW  
8 9A.56.075);  
9 (xix) Extortion 1 (RCW 9A.56.120);  
10 (xx) Extortion 2 (RCW 9A.56.130);  
11 (xxi) Intimidating a Witness (RCW 9A.72.110);  
12 (xxii) Tampering with a Witness (RCW 9A.72.120);  
13 (xxiii) Reckless Endangerment (RCW 9A.36.050);  
14 (xxiv) Coercion (RCW 9A.36.070);  
15 (xxv) Harassment (RCW 9A.46.020); or  
16 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);  
17 (b) That at least one of the offenses listed in (a) of this  
18 subsection shall have occurred after July 1, 2008;  
19 (c) That the most recent committed offense listed in (a) of this  
20 subsection occurred within three years of a prior offense listed in  
21 (a) of this subsection; and  
22 (d) Of the offenses that were committed in (a) of this  
23 subsection, the offenses occurred on separate occasions or were  
24 committed by two or more persons.  
25 (37) "Persistent offender" is an offender who:  
26 (a) (i) Has been convicted in this state of any felony considered  
27 a most serious offense; and  
28 (ii) Has, before the commission of the offense under (a) of this  
29 subsection, been convicted as an offender on at least two separate  
30 occasions, whether in this state or elsewhere, of felonies that under  
31 the laws of this state would be considered most serious offenses and  
32 would be included in the offender score under RCW 9.94A.525; provided  
33 that of the two or more previous convictions, at least one conviction  
34 must have occurred before the commission of any of the other most  
35 serious offenses for which the offender was previously convicted; or  
36 (b) (i) Has been convicted of: (A) Rape in the first degree, rape  
37 of a child in the first degree, child molestation in the first  
38 degree, rape in the second degree, rape of a child in the second  
39 degree, or indecent liberties by forcible compulsion; (B) any of the  
40 following offenses with a finding of sexual motivation: Murder in the

1 first degree, murder in the second degree, homicide by abuse,  
2 kidnapping in the first degree, kidnapping in the second degree,  
3 assault in the first degree, assault in the second degree, assault of  
4 a child in the first degree, assault of a child in the second degree,  
5 or burglary in the first degree; or (C) an attempt to commit any  
6 crime listed in this subsection (37)(b)(i); and

7 (ii) Has, before the commission of the offense under (b)(i) of  
8 this subsection, been convicted as an offender on at least one  
9 occasion, whether in this state or elsewhere, of an offense listed in  
10 (b)(i) of this subsection or any federal or out-of-state offense or  
11 offense under prior Washington law that is comparable to the offenses  
12 listed in (b)(i) of this subsection. A conviction for rape of a child  
13 in the first degree constitutes a conviction under (b)(i) of this  
14 subsection only when the offender was (~~sixteen~~) 16 years of age or  
15 older when the offender committed the offense. A conviction for rape  
16 of a child in the second degree constitutes a conviction under (b)(i)  
17 of this subsection only when the offender was (~~eighteen~~) 18 years  
18 of age or older when the offender committed the offense.

19 (38) "Predatory" means: (a) The perpetrator of the crime was a  
20 stranger to the victim, as defined in this section; (b) the  
21 perpetrator established or promoted a relationship with the victim  
22 prior to the offense and the victimization of the victim was a  
23 significant reason the perpetrator established or promoted the  
24 relationship; or (c) the perpetrator was: (i) A teacher, counselor,  
25 volunteer, or other person in authority in any public or private  
26 school and the victim was a student of the school under his or her  
27 authority or supervision. For purposes of this subsection, "school"  
28 does not include home-based instruction as defined in RCW  
29 28A.225.010; (ii) a coach, trainer, volunteer, or other person in  
30 authority in any recreational activity and the victim was a  
31 participant in the activity under his or her authority or  
32 supervision; (iii) a pastor, elder, volunteer, or other person in  
33 authority in any church or religious organization, and the victim was  
34 a member or participant of the organization under his or her  
35 authority; or (iv) a teacher, counselor, volunteer, or other person  
36 in authority providing home-based instruction and the victim was a  
37 student receiving home-based instruction while under his or her  
38 authority or supervision. For purposes of this subsection: (A) "Home-  
39 based instruction" has the same meaning as defined in RCW  
40 28A.225.010; and (B) "teacher, counselor, volunteer, or other person

1 in authority" does not include the parent or legal guardian of the  
2 victim.

3 (39) "Private school" means a school regulated under chapter  
4 28A.195 or 28A.205 RCW.

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

6 (41) "Recidivist offense" means a felony offense where a prior  
7 conviction of the same offense or other specified offense is an  
8 element of the crime including, but not limited to:

9 (a) Assault in the fourth degree where domestic violence is  
10 pleaded and proven, RCW 9A.36.041(3);

11 (b) (~~Cyberstalking~~) Cyber harassment, RCW 9.61.260(~~(3)(a)~~)  
12 (as recodified by this act);

13 (c) Harassment, RCW 9A.46.020(2)(b)(i);

14 (d) Indecent exposure, RCW 9A.88.010(2)(c);

15 (e) Stalking, RCW 9A.46.110(5)(b)(i) and (iii);

16 (f) Telephone harassment, RCW 9.61.230(2)(a); and

17 (g) Violation of a no-contact or protection order, RCW 7.105.450  
18 or former RCW 26.50.110(5).

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

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

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

24 (iii) Domestic violence violation of a protection order under  
25 chapter 26.09, 26.26A, or 26.26B RCW or former chapter 26.50 RCW, or  
26 violation of a domestic violence protection order under chapter 7.105  
27 RCW, that is not a felony offense;

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

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

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

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

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

5 (45) "Serious traffic offense" means:

6 (a) Nonfelony driving while under the influence of intoxicating  
7 liquor or any drug (RCW 46.61.502), nonfelony actual physical control  
8 while under the influence of intoxicating liquor or any drug (RCW  
9 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an  
10 attended vehicle (RCW 46.52.020(5)); or

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

14 (46) "Serious violent offense" is a subcategory of violent  
15 offense and means:

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

17 (ii) Homicide by abuse;

18 (iii) Murder in the second degree;

19 (iv) Manslaughter in the first degree;

20 (v) Assault in the first degree;

21 (vi) Kidnapping in the first degree;

22 (vii) Rape in the first degree;

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

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

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

29 (47) "Sex offense" means:

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

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

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

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

38 (v) A felony violation of RCW 9A.44.132(1) (failure to register  
39 as a sex offender) if the person has been convicted of violating RCW

1 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130  
2 prior to June 10, 2010, on at least one prior occasion;

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

6 (c) A felony with a finding of sexual motivation under RCW  
7 9.94A.835 or 13.40.135; or

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

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

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

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

21 (51) "Stranger" means that the victim did not know the offender  
22 (~~((twenty-four))~~) 24 hours before the offense.

23 (52) "Total confinement" means confinement inside the physical  
24 boundaries of a facility or institution operated or utilized under  
25 contract by the state or any other unit of government for (~~((twenty-~~  
26 ~~four))~~) 24 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

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

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

36 (55) "Victim of domestic violence" means an intimate partner or  
37 household member who has been subjected to the infliction of physical  
38 harm or sexual and psychological abuse by an intimate partner or  
39 household member as part of a pattern of assaultive, coercive, and  
40 controlling behaviors directed at achieving compliance from or

1 control over that intimate partner or household member. Domestic  
2 violence includes, but is not limited to, the offenses listed in RCW  
3 10.99.020 and 26.50.010 committed by an intimate partner or household  
4 member against a victim who is an intimate partner or household  
5 member.

6 (56) "Victim of sex trafficking, prostitution, or commercial  
7 sexual abuse of a minor" means a person who has been forced or  
8 coerced to perform a commercial sex act including, but not limited  
9 to, being a victim of offenses defined in RCW 9A.40.100, 9A.88.070,  
10 9.68A.101, and the trafficking victims protection act of 2000, 22  
11 U.S.C. Sec. 7101 et seq.; or a person who was induced to perform a  
12 commercial sex act when they were less than 18 years of age including  
13 but not limited to the offenses defined in chapter 9.68A RCW.

14 (57) "Victim of sexual assault" means any person who is a victim  
15 of a sexual assault offense, nonconsensual sexual conduct, or  
16 nonconsensual sexual penetration and as a result suffers physical,  
17 emotional, financial, or psychological impacts. Sexual assault  
18 offenses include, but are not limited to, the offenses defined in  
19 chapter 9A.44 RCW.

20 (58) "Violent offense" means:

21 (a) Any of the following felonies:

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

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

26 (iii) Manslaughter in the first degree;

27 (iv) Manslaughter in the second degree;

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

29 (vi) Kidnapping in the second degree;

30 (vii) Arson in the second degree;

31 (viii) Assault in the second degree;

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

33 (x) Extortion in the first degree;

34 (xi) Robbery in the second degree;

35 (xii) Drive-by shooting;

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

1 (xiv) Vehicular homicide, when proximately caused by the driving  
2 of any vehicle by any person while under the influence of  
3 intoxicating liquor or any drug as defined by RCW 46.61.502, or by  
4 the operation of any vehicle in a reckless manner;

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

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

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

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

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

24 **Sec. 12.** RCW 9A.46.060 and 2019 c 271 s 8 are each amended to  
25 read as follows:

26 As used in this chapter, "harassment" may include but is not  
27 limited to any of the following crimes:

- 28 (1) Harassment (RCW 9A.46.020);
- 29 (2) Hate crime (RCW 9A.36.080);
- 30 (3) Telephone harassment (RCW 9.61.230);
- 31 (4) Assault in the first degree (RCW 9A.36.011);
- 32 (5) Assault of a child in the first degree (RCW 9A.36.120);
- 33 (6) Assault in the second degree (RCW 9A.36.021);
- 34 (7) Assault of a child in the second degree (RCW 9A.36.130);
- 35 (8) Assault in the fourth degree (RCW 9A.36.041);
- 36 (9) Reckless endangerment (RCW 9A.36.050);
- 37 (10) Extortion in the first degree (RCW 9A.56.120);
- 38 (11) Extortion in the second degree (RCW 9A.56.130);
- 39 (12) Coercion (RCW 9A.36.070);



- 1 (13) Burglary in the first degree (RCW 9A.52.020);
- 2 (14) Burglary in the second degree (RCW 9A.52.030);
- 3 (15) Criminal trespass in the first degree (RCW 9A.52.070);
- 4 (16) Criminal trespass in the second degree (RCW 9A.52.080);
- 5 (17) Malicious mischief in the first degree (RCW 9A.48.070);
- 6 (18) Malicious mischief in the second degree (RCW 9A.48.080);
- 7 (19) Malicious mischief in the third degree (RCW 9A.48.090);
- 8 (20) Kidnapping in the first degree (RCW 9A.40.020);
- 9 (21) Kidnapping in the second degree (RCW 9A.40.030);
- 10 (22) Unlawful imprisonment (RCW 9A.40.040);
- 11 (23) Rape in the first degree (RCW 9A.44.040);
- 12 (24) Rape in the second degree (RCW 9A.44.050);
- 13 (25) Rape in the third degree (RCW 9A.44.060);
- 14 (26) Indecent liberties (RCW 9A.44.100);
- 15 (27) Rape of a child in the first degree (RCW 9A.44.073);
- 16 (28) Rape of a child in the second degree (RCW 9A.44.076);
- 17 (29) Rape of a child in the third degree (RCW 9A.44.079);
- 18 (30) Child molestation in the first degree (RCW 9A.44.083);
- 19 (31) Child molestation in the second degree (RCW 9A.44.086);
- 20 (32) Child molestation in the third degree (RCW 9A.44.089);
- 21 (33) Stalking (RCW 9A.46.110);
- 22 (34) (~~Cyberstalking~~) Cyber harassment (RCW 9.61.260 (as
- 23 recodified by this act));
- 24 (35) Residential burglary (RCW 9A.52.025);
- 25 (36) Violation of a temporary, permanent, or final protective
- 26 order issued pursuant to chapter 7.90, 9A.46, 10.14, 10.99, 26.09, or
- 27 26.50 RCW;
- 28 (37) Unlawful discharge of a laser in the first degree (RCW
- 29 9A.49.020); and
- 30 (38) Unlawful discharge of a laser in the second degree (RCW
- 31 9A.49.030).

32 **Sec. 13.** RCW 9A.46.060 and 2021 c 215 s 109 are each amended to  
33 read as follows:

34 As used in this chapter, "harassment" may include but is not  
35 limited to any of the following crimes:

- 36 (1) Harassment (RCW 9A.46.020);
- 37 (2) Hate crime (RCW 9A.36.080);
- 38 (3) Telephone harassment (RCW 9.61.230);
- 39 (4) Assault in the first degree (RCW 9A.36.011);

- 1 (5) Assault of a child in the first degree (RCW 9A.36.120);
- 2 (6) Assault in the second degree (RCW 9A.36.021);
- 3 (7) Assault of a child in the second degree (RCW 9A.36.130);
- 4 (8) Assault in the fourth degree (RCW 9A.36.041);
- 5 (9) Reckless endangerment (RCW 9A.36.050);
- 6 (10) Extortion in the first degree (RCW 9A.56.120);
- 7 (11) Extortion in the second degree (RCW 9A.56.130);
- 8 (12) Coercion (RCW 9A.36.070);
- 9 (13) Burglary in the first degree (RCW 9A.52.020);
- 10 (14) Burglary in the second degree (RCW 9A.52.030);
- 11 (15) Criminal trespass in the first degree (RCW 9A.52.070);
- 12 (16) Criminal trespass in the second degree (RCW 9A.52.080);
- 13 (17) Malicious mischief in the first degree (RCW 9A.48.070);
- 14 (18) Malicious mischief in the second degree (RCW 9A.48.080);
- 15 (19) Malicious mischief in the third degree (RCW 9A.48.090);
- 16 (20) Kidnapping in the first degree (RCW 9A.40.020);
- 17 (21) Kidnapping in the second degree (RCW 9A.40.030);
- 18 (22) Unlawful imprisonment (RCW 9A.40.040);
- 19 (23) Rape in the first degree (RCW 9A.44.040);
- 20 (24) Rape in the second degree (RCW 9A.44.050);
- 21 (25) Rape in the third degree (RCW 9A.44.060);
- 22 (26) Indecent liberties (RCW 9A.44.100);
- 23 (27) Rape of a child in the first degree (RCW 9A.44.073);
- 24 (28) Rape of a child in the second degree (RCW 9A.44.076);
- 25 (29) Rape of a child in the third degree (RCW 9A.44.079);
- 26 (30) Child molestation in the first degree (RCW 9A.44.083);
- 27 (31) Child molestation in the second degree (RCW 9A.44.086);
- 28 (32) Child molestation in the third degree (RCW 9A.44.089);
- 29 (33) Stalking (RCW 9A.46.110);
- 30 (34) (~~Cyberstalking~~) Cyber harassment (RCW 9.61.260 (as
- 31 recodified by this act));
- 32 (35) Residential burglary (RCW 9A.52.025);
- 33 (36) Violation of a temporary, permanent, or final protective
- 34 order issued pursuant to chapter 9A.44, 9A.46, 10.99, or 26.09 RCW or
- 35 any of the former chapters 7.90, 10.14, and 26.50 RCW, or violation
- 36 of a domestic violence protection order, sexual assault protection
- 37 order, or antiharassment protection order issued under chapter 7.105
- 38 RCW;
- 39 (37) Unlawful discharge of a laser in the first degree (RCW
- 40 9A.49.020); and

1 (38) Unlawful discharge of a laser in the second degree (RCW  
2 9A.49.030).

3 **Sec. 14.** RCW 26.50.060 and 2020 c 311 s 9 are each amended to  
4 read as follows:

5 (1) Upon notice and after hearing, the court may provide relief  
6 as follows:

7 (a) Restrain the respondent from committing acts of domestic  
8 violence;

9 (b) Exclude the respondent from the dwelling that the parties  
10 share, from the residence, workplace, or school of the petitioner, or  
11 from the day care or school of a child;

12 (c) Prohibit the respondent from knowingly coming within, or  
13 knowingly remaining within, a specified distance from a specified  
14 location;

15 (d) On the same basis as is provided in chapter 26.09 RCW, the  
16 court shall make residential provision with regard to minor children  
17 of the parties. However, parenting plans as specified in chapter  
18 26.09 RCW shall not be required under this chapter;

19 (e) Order the respondent to participate in a domestic violence  
20 perpetrator treatment program approved under RCW 26.50.150;

21 (f) Order other relief as it deems necessary for the protection  
22 of the petitioner and other family or household members sought to be  
23 protected, including orders or directives to a peace officer, as  
24 allowed under this chapter;

25 (g) Require the respondent to pay the administrative court costs  
26 and service fees, as established by the county or municipality  
27 incurring the expense and to reimburse the petitioner for costs  
28 incurred in bringing the action, including reasonable attorneys' fees  
29 or limited license legal technician fees when such fees are incurred  
30 by a person licensed and practicing in accordance with the state  
31 supreme court's admission to practice rule 28, the limited practice  
32 rule for limited license legal technicians;

33 (h) Restrain the respondent from having any contact with the  
34 victim of domestic violence or the victim's children or members of  
35 the victim's household;

36 (i) Restrain the respondent from harassing, following, keeping  
37 under physical or electronic surveillance, (~~cyberstalking~~) cyber  
38 harassment as defined in RCW 9.61.260 (as recodified by this act),  
39 and using telephonic, audiovisual, or other electronic means to

1 monitor the actions, location, or communication of a victim of  
2 domestic violence, the victim's children, or members of the victim's  
3 household. For the purposes of this subsection, "communication"  
4 includes both "wire communication" and "electronic communication" as  
5 defined in RCW 9.73.260;

6 (j) Require the respondent to submit to electronic monitoring.  
7 The order shall specify who shall provide the electronic monitoring  
8 services and the terms under which the monitoring must be performed.  
9 The order also may include a requirement that the respondent pay the  
10 costs of the monitoring. The court shall consider the ability of the  
11 respondent to pay for electronic monitoring;

12 (k) Consider the provisions of RCW 9.41.800;

13 (l) Order possession and use of essential personal effects. The  
14 court shall list the essential personal effects with sufficient  
15 specificity to make it clear which property is included. Personal  
16 effects may include pets. The court may order that a petitioner be  
17 granted the exclusive custody or control of any pet owned, possessed,  
18 leased, kept, or held by the petitioner, respondent, or minor child  
19 residing with either the petitioner or respondent and may prohibit  
20 the respondent from interfering with the petitioner's efforts to  
21 remove the pet. The court may also prohibit the respondent from  
22 knowingly coming within, or knowingly remaining within, a specified  
23 distance of specified locations where the pet is regularly found;

24 (m) Order use of a vehicle; and

25 (n) Enter an order restricting the respondent from engaging in  
26 abusive litigation as set forth in chapter 26.51 RCW. A petitioner  
27 may request this relief in the petition or by separate motion. A  
28 petitioner may request this relief by separate motion at any time  
29 within five years of the date the order for protection is entered  
30 even if the order has since expired. A stand-alone motion for an  
31 order restricting abusive litigation may be brought by a party who  
32 meets the requirements of chapter 26.51 RCW regardless of whether the  
33 party has previously sought an order for protection under this  
34 chapter, provided the motion is made within five years of the date  
35 the order that made a finding of domestic violence was entered. In  
36 cases where a finding of domestic violence was entered pursuant to an  
37 order under chapter 26.09, 26.26, or 26.26A RCW, a motion for an  
38 order restricting abusive litigation may be brought under the family  
39 law case or as a stand-alone action filed under this chapter, when it  
40 is not reasonable or practical to file under the family law case.

1 (2) If a protection order restrains the respondent from  
2 contacting the respondent's minor children the restraint shall be for  
3 a fixed period not to exceed one year. This limitation is not  
4 applicable to orders for protection issued under chapter 26.09,  
5 26.10, 26.26A, or 26.26B RCW. With regard to other relief, if the  
6 petitioner has petitioned for relief on his or her own behalf or on  
7 behalf of the petitioner's family or household members or minor  
8 children, and the court finds that the respondent is likely to resume  
9 acts of domestic violence against the petitioner or the petitioner's  
10 family or household members or minor children when the order expires,  
11 the court may either grant relief for a fixed period or enter a  
12 permanent order of protection.

13 If the petitioner has petitioned for relief on behalf of the  
14 respondent's minor children, the court shall advise the petitioner  
15 that if the petitioner wants to continue protection for a period  
16 beyond one year the petitioner may either petition for renewal  
17 pursuant to the provisions of this chapter or may seek relief  
18 pursuant to the provisions of chapter 26.09, 26.26A, or 26.26B RCW.

19 (3) If the court grants an order for a fixed time period, the  
20 petitioner may apply for renewal of the order by filing a petition  
21 for renewal at any time within the three months before the order  
22 expires. The petition for renewal shall state the reasons why the  
23 petitioner seeks to renew the protection order. Upon receipt of the  
24 petition for renewal the court shall order a hearing which shall be  
25 not later than (~~fourteen~~) 14 days from the date of the order.  
26 Except as provided in RCW 26.50.085, personal service shall be made  
27 on the respondent not less than five days before the hearing. If  
28 timely service cannot be made the court shall set a new hearing date  
29 and shall either require additional attempts at obtaining personal  
30 service or permit service by publication as provided in RCW 26.50.085  
31 or by mail as provided in RCW 26.50.123. If the court permits service  
32 by publication or mail, the court shall set the new hearing date not  
33 later than (~~twenty-four~~) 24 days from the date of the order. If the  
34 order expires because timely service cannot be made the court shall  
35 grant an ex parte order of protection as provided in RCW 26.50.070.  
36 The court shall grant the petition for renewal unless the respondent  
37 proves by a preponderance of the evidence that the respondent will  
38 not resume acts of domestic violence against the petitioner or the  
39 petitioner's children or family or household members when the order  
40 expires. The court may renew the protection order for another fixed

1 time period or may enter a permanent order as provided in this  
2 section. The court may award court costs, service fees, and  
3 reasonable attorneys' fees as provided in subsection (1)(g) of this  
4 section.

5 (4) In providing relief under this chapter, the court may realign  
6 the designation of the parties as "petitioner" and "respondent" where  
7 the court finds that the original petitioner is the abuser and the  
8 original respondent is the victim of domestic violence and may issue  
9 an ex parte temporary order for protection in accordance with RCW  
10 26.50.070 on behalf of the victim until the victim is able to prepare  
11 a petition for an order for protection in accordance with RCW  
12 26.50.030.

13 (5) Except as provided in subsection (4) of this section, no  
14 order for protection shall grant relief to any party except upon  
15 notice to the respondent and hearing pursuant to a petition or  
16 counter-petition filed and served by the party seeking relief in  
17 accordance with RCW 26.50.050.

18 (6) The court order shall specify the date the order expires if  
19 any. The court order shall also state whether the court issued the  
20 protection order following personal service, service by publication,  
21 or service by mail and whether the court has approved service by  
22 publication or mail of an order issued under this section.

23 (7) If the court declines to issue an order for protection or  
24 declines to renew an order for protection, the court shall state in  
25 writing on the order the particular reasons for the court's denial.

26 **Sec. 15.** RCW 26.50.070 and 2019 c 245 s 14 are each amended to  
27 read as follows:

28 (1) Where an application under this section alleges that  
29 irreparable injury could result from domestic violence if an order is  
30 not issued immediately without prior notice to the respondent, the  
31 court may grant an ex parte temporary order for protection, pending a  
32 full hearing, and grant relief as the court deems proper, including  
33 an order:

34 (a) Restraining any party from committing acts of domestic  
35 violence;

36 (b) Restraining any party from going onto the grounds of or  
37 entering the dwelling that the parties share, from the residence,  
38 workplace, or school of the other, or from the day care or school of  
39 a child until further order of the court;

1 (c) Prohibiting any party from knowingly coming within, or  
2 knowingly remaining within, a specified distance from a specified  
3 location;

4 (d) Restraining any party from interfering with the other's  
5 custody of the minor children or from removing the children from the  
6 jurisdiction of the court;

7 (e) Restraining any party from having any contact with the victim  
8 of domestic violence or the victim's children or members of the  
9 victim's household; and

10 (f) Restraining the respondent from harassing, following, keeping  
11 under physical or electronic surveillance, (~~cyberstalking~~) cyber  
12 harassment as defined in RCW 9.61.260 (as recodified by this act),  
13 and using telephonic, audiovisual, or other electronic means to  
14 monitor the actions, location, or communication of a victim of  
15 domestic violence, the victim's children, or members of the victim's  
16 household. For the purposes of this subsection, "communication"  
17 includes both "wire communication" and "electronic communication" as  
18 defined in RCW 9.73.260.

19 (2) In issuing the order, the court shall consider the provisions  
20 of RCW 9.41.800, and shall order the respondent to surrender, and  
21 prohibit the respondent from possessing, all firearms, dangerous  
22 weapons, and any concealed pistol license as required in RCW  
23 9.41.800.

24 (3) Irreparable injury under this section includes but is not  
25 limited to situations in which the respondent has recently threatened  
26 petitioner with bodily injury or has engaged in acts of domestic  
27 violence against the petitioner.

28 (4) The court shall hold an ex parte hearing in person or by  
29 telephone on the day the petition is filed or on the following  
30 judicial day.

31 (5) An ex parte temporary order for protection shall be effective  
32 for a fixed period not to exceed (~~fourteen~~) 14 days or (~~twenty-~~  
33 ~~four~~) 24 days if the court has permitted service by publication  
34 under RCW 26.50.085 or by mail under RCW 26.50.123. The ex parte  
35 temporary order may be reissued. A full hearing, as provided in this  
36 chapter, shall be set for not later than (~~fourteen~~) 14 days from  
37 the issuance of the ex parte temporary order or not later than  
38 (~~twenty-four~~) 24 days if service by publication or by mail is  
39 permitted. Except as provided in RCW 26.50.050, 26.50.085, and  
40 26.50.123, the respondent shall be personally served with a copy of

1 the ex parte temporary order along with a copy of the petition and  
2 notice of the date set for the hearing.

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

7 (7) If the court declines to issue an ex parte temporary order  
8 for protection the court shall state the particular reasons for the  
9 court's denial. The court's denial of a motion for an ex parte  
10 temporary order for protection shall be filed with the court.

11 NEW SECTION. **Sec. 16.** Sections 7, 10, 12, 14, and 15 of this  
12 act expire July 1, 2022.

13 NEW SECTION. **Sec. 17.** Sections 8, 9, 11, and 13 of this act  
14 take effect July 1, 2022.

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