

1 who seek protection of public and private agencies involved in domestic
2 violence prevention; improve the ability of agencies to address the
3 needs of victims and their children and the delivery of services;
4 upgrade the quality of treatment programs; and enhance the ability of
5 the justice system to respond quickly and fairly to domestic violence.
6 In order to improve the lives of persons who have, or may suffer, the
7 effects of domestic violence the legislature intends to achieve more
8 uniformity in the decision-making processes at public and private
9 agencies that address domestic violence by reducing inconsistencies and
10 duplications allowing domestic violence victims to achieve safety and
11 stability in their lives.

12 **PART TWO**

13 **LAW ENFORCEMENT/ARREST PROVISIONS**

14 **Sec. 201.** RCW 10.31.100 and 2006 c 138 s 23 are each amended to
15 read as follows:

16 A police officer having probable cause to believe that a person has
17 committed or is committing a felony shall have the authority to arrest
18 the person without a warrant. A police officer may arrest a person
19 without a warrant for committing a misdemeanor or gross misdemeanor
20 only when the offense is committed in the presence of the officer,
21 except as provided in subsections (1) through (10) of this section.

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

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

33 (a) An order has been issued of which the person has knowledge
34 under RCW 26.44.063, or chapter 7.90, 10.99, 26.09, 26.10, 26.26,
35 26.50, or 74.34 RCW restraining the person and the person has violated
36 the terms of the order restraining the person from acts or threats of

1 violence, or restraining the person from going onto the grounds of or
2 entering a residence, workplace, school, or day care, or prohibiting
3 the person from knowingly coming within, or knowingly remaining within,
4 a specified distance of a location or, in the case of an order issued
5 under RCW 26.44.063, imposing any other restrictions or conditions upon
6 the person; or

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

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

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

- 1 (a) RCW 46.52.010, relating to duty on striking an unattended car
2 or other property;
- 3 (b) RCW 46.52.020, relating to duty in case of injury to or death
4 of a person or damage to an attended vehicle;
- 5 (c) RCW 46.61.500 or 46.61.530, relating to reckless driving or
6 racing of vehicles;
- 7 (d) RCW 46.61.502 or 46.61.504, relating to persons under the
8 influence of intoxicating liquor or drugs;
- 9 (e) RCW 46.20.342, relating to driving a motor vehicle while
10 operator's license is suspended or revoked;
- 11 (f) RCW 46.61.5249, relating to operating a motor vehicle in a
12 negligent manner.
- 13 (4) A law enforcement officer investigating at the scene of a motor
14 vehicle accident may arrest the driver of a motor vehicle involved in
15 the accident if the officer has probable cause to believe that the
16 driver has committed in connection with the accident a violation of any
17 traffic law or regulation.
- 18 (5) Any police officer having probable cause to believe that a
19 person has committed or is committing a violation of RCW 79A.60.040
20 shall have the authority to arrest the person.
- 21 (6) An officer may act upon the request of a law enforcement
22 officer in whose presence a traffic infraction was committed, to stop,
23 detain, arrest, or issue a notice of traffic infraction to the driver
24 who is believed to have committed the infraction. The request by the
25 witnessing officer shall give an officer the authority to take
26 appropriate action under the laws of the state of Washington.
- 27 (7) Any police officer having probable cause to believe that a
28 person has committed or is committing any act of indecent exposure, as
29 defined in RCW 9A.88.010, may arrest the person.
- 30 (8) A police officer may arrest and take into custody, pending
31 release on bail, personal recognizance, or court order, a person
32 without a warrant when the officer has probable cause to believe that
33 an order has been issued of which the person has knowledge under
34 chapter 10.14 RCW and the person has violated the terms of that order.
- 35 (9) Any police officer having probable cause to believe that a
36 person has, within twenty-four hours of the alleged violation,
37 committed a violation of RCW 9A.50.020 may arrest such person.

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

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

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

11 (12) No police officer may be held criminally or civilly liable for
12 making an arrest pursuant to (~~RCW 10.31.100~~) subsection (2) or (8) of
13 this section if the police officer acts in good faith and without
14 malice.

15 NEW SECTION. Sec. 202. A new section is added to chapter 36.28A
16 RCW to read as follows:

17 (1)(a) When funded, the Washington association of sheriffs and
18 police chiefs shall convene a work group to develop a model policy
19 regarding the reporting of domestic violence as defined in RCW
20 10.99.020 to law enforcement in cases where the victim is unable or
21 unwilling to make a report in the jurisdiction where the alleged crime
22 occurred.

23 (b) The model policy must include policies and procedures related
24 to:

- 25 (i) Collecting and securing evidence; and
26 (ii) Creating interlocal agreements between law enforcement
27 agencies.

28 (2) In developing the model policy under subsection (1)(a) of this
29 section, the association shall consult with appropriate stakeholders
30 and government agencies.

31 **PART THREE**

32 **NO-CONTACT AND PROTECTION ORDERS**

33 **Sec. 301.** RCW 10.99.045 and 2000 c 119 s 19 are each amended to
34 read as follows:

1 (1) A defendant arrested for an offense involving domestic violence
2 as defined by RCW 10.99.020 shall be required to appear in person
3 before a magistrate within one judicial day after the arrest.

4 (2) A defendant who is charged by citation, complaint, or
5 information with an offense involving domestic violence as defined by
6 RCW 10.99.020 and not arrested shall appear in court for arraignment in
7 person as soon as practicable, but in no event later than fourteen days
8 after the next day on which court is in session following the issuance
9 of the citation or the filing of the complaint or information.

10 (3)(a) At the time of the appearances provided in subsection (1) or
11 (2) of this section, the court shall determine the necessity of
12 imposing a no-contact order or other conditions of pretrial release
13 according to the procedures established by court rule for a preliminary
14 appearance or an arraignment. The court may include in the order any
15 conditions authorized under RCW 9.41.800 and 10.99.040.

16 (b) For the purposes of (a) of this subsection, the prosecutor
17 shall provide for the court's review:

18 (i) The defendant's criminal history, if any, that occurred in
19 Washington or any other state;

20 (ii) If available, the defendant's prior criminal history that
21 occurred in any tribal jurisdiction; and

22 (iii) The defendant's individual order history.

23 (c) For the purposes of (b) of this subsection, criminal history
24 includes all previous convictions and orders of deferred prosecution,
25 as reported through the judicial information system or otherwise
26 available to the court or prosecutor, current to within the period
27 specified in (d) of this subsection before the date of the appearance.

28 (d) The periods applicable to previous convictions and orders of
29 deferred prosecution are:

30 (i) One working day, in the case of previous actions of courts that
31 fully participate in the state judicial information system; and

32 (ii) Seven calendar days, in the case of previous actions of courts
33 that do not fully participate in the judicial information system. For
34 the purposes of this subsection, "fully participate" means regularly
35 providing records to and receiving records from the system by
36 electronic means on a daily basis.

37 (4) Appearances required pursuant to this section are mandatory and
38 cannot be waived.

1 (5) The no-contact order shall be issued and entered with the
2 appropriate law enforcement agency pursuant to the procedures outlined
3 in RCW 10.99.040 (2) and (~~(+4)~~) (6).

4 **Sec. 302.** RCW 26.50.020 and 1992 c 111 s 8 are each amended to
5 read as follows:

6 (1)(a) Any person may seek relief under this chapter by filing a
7 petition with a court alleging that the person has been the victim of
8 domestic violence committed by the respondent. The person may petition
9 for relief on behalf of himself or herself and on behalf of minor
10 family or household members.

11 (b) Any person thirteen years of age or older may seek relief under
12 this chapter by filing a petition with a court alleging that he or she
13 has been the victim of violence in a dating relationship and the
14 respondent is sixteen years of age or older.

15 (2)(a) A person under eighteen years of age who is sixteen years of
16 age or older may seek relief under this chapter and is not required to
17 seek relief by a guardian or next friend.

18 (b) A person under sixteen years of age who is seeking relief under
19 subsection (1)(b) of this section is required to seek relief by a
20 parent, guardian, guardian ad litem, or next friend.

21 (3) No guardian or guardian ad litem need be appointed on behalf of
22 a respondent to an action under this chapter who is under eighteen
23 years of age if such respondent is sixteen years of age or older.

24 (4) The court may, if it deems necessary, appoint a guardian ad
25 litem for a petitioner or respondent who is a party to an action under
26 this chapter.

27 (5) The courts defined in RCW 26.50.010(~~(+3)~~) (4) have
28 jurisdiction over proceedings under this chapter. The jurisdiction of
29 district and municipal courts under this chapter shall be limited to
30 enforcement of RCW 26.50.110(1), or the equivalent municipal ordinance,
31 and the issuance and enforcement of temporary orders for protection
32 provided for in RCW 26.50.070 if: (a) A superior court has exercised
33 or is exercising jurisdiction over a proceeding under this title or
34 chapter 13.34 RCW involving the parties; (b) the petition for relief
35 under this chapter presents issues of residential schedule of and
36 contact with children of the parties; or (c) the petition for relief
37 under this chapter requests the court to exclude a party from the

1 dwelling which the parties share. When the jurisdiction of a district
2 or municipal court is limited to the issuance and enforcement of a
3 temporary order, the district or municipal court shall set the full
4 hearing provided for in RCW 26.50.050 in superior court and transfer
5 the case. If the notice and order are not served on the respondent in
6 time for the full hearing, the issuing court shall have concurrent
7 jurisdiction with the superior court to extend the order for
8 protection.

9 (6) An action under this chapter shall be filed in the county or
10 the municipality where the petitioner resides, unless the petitioner
11 has left the residence or household to avoid abuse. In that case, the
12 petitioner may bring an action in the county or municipality of the
13 previous or the new household or residence.

14 (7) A person's right to petition for relief under this chapter is
15 not affected by the person leaving the residence or household to avoid
16 abuse.

17 **Sec. 303.** RCW 26.50.060 and 2009 c 439 s 2 are each amended to
18 read as follows:

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

21 (a) Restrain the respondent from committing acts of domestic
22 violence;

23 (b) Exclude the respondent from the dwelling that the parties
24 share, from the residence, workplace, or school of the petitioner, or
25 from the day care or school of a child;

26 (c) Prohibit the respondent from knowingly coming within, or
27 knowingly remaining within, a specified distance from a specified
28 location;

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

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

35 (f) Order other relief as it deems necessary for the protection of
36 the petitioner and other family or household members sought to be

1 protected, including orders or directives to a peace officer, as
2 allowed under this chapter;

3 (g) Require the respondent to pay the administrative court costs
4 and service fees, as established by the county or municipality
5 incurring the expense and to reimburse the petitioner for costs
6 incurred in bringing the action, including reasonable attorneys' fees;

7 (h) Restrain the respondent from having any contact with the victim
8 of domestic violence or the victim's children or members of the
9 victim's household;

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

18 (j) Require the respondent to submit to electronic monitoring. The
19 order shall specify who shall provide the electronic monitoring
20 services and the terms under which the monitoring must be performed.
21 The order also may include a requirement that the respondent pay the
22 costs of the monitoring. The court shall consider the ability of the
23 respondent to pay for electronic monitoring;

24 ~~((+j))~~ (k) Consider the provisions of RCW 9.41.800;

25 ~~((+k))~~ (l) Order possession and use of essential personal effects.
26 The court shall list the essential personal effects with sufficient
27 specificity to make it clear which property is included. Personal
28 effects may include pets. The court may order that a petitioner be
29 granted the exclusive custody or control of any pet owned, possessed,
30 leased, kept, or held by the petitioner, respondent, or minor child
31 residing with either the petitioner or respondent and may prohibit the
32 respondent from interfering with the petitioner's efforts to remove the
33 pet. The court may also prohibit the respondent from knowingly coming
34 within, or knowingly remaining within, a specified distance of
35 specified locations where the pet is regularly found; and

36 ~~((+l))~~ (m) Order use of a vehicle.

37 (2) If a protection order restrains the respondent from contacting
38 the respondent's minor children the restraint shall be for a fixed

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

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

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

1 order as provided in this section. The court may award court costs,
2 service fees, and reasonable attorneys' fees as provided in subsection
3 (1)(g) of this section.

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

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

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

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

25 **Sec. 304.** RCW 26.50.070 and 2000 c 119 s 16 are each amended to
26 read as follows:

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

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

35 (b) Restraining any party from going onto the grounds of or
36 entering the dwelling that the parties share, from the residence,

1 workplace, or school of the other, or from the day care or school of a
2 child until further order of the court;

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

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

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

12 (f) Considering the provisions of RCW 9.41.800; and

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

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

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

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

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

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

9 NEW SECTION. Sec. 305. A new section is added to chapter 26.50
10 RCW to read as follows:

11 (1) In a proceeding in which a petition for an order for protection
12 under this chapter is sought, a court of this state may exercise
13 personal jurisdiction over a nonresident individual if:

14 (a) The individual is personally served with a petition within this
15 state;

16 (b) The individual submits to the jurisdiction of this state by
17 consent, entering a general appearance, or filing a responsive document
18 having the effect of waiving any objection to consent to personal
19 jurisdiction;

20 (c) The act or acts of the individual or the individual's agent
21 giving rise to the petition or enforcement of an order for protection
22 either:

23 (i) Occurred within this state; or

24 (ii) Occurred outside this state and are part of an ongoing pattern
25 of domestic violence or stalking that has an adverse effect on the
26 petitioner or a member of the petitioner's family or household and the
27 petitioner resides in this state;

28 (d) As a result of acts of domestic violence or stalking, the
29 petitioner or a member of the petitioner's family or household has
30 sought safety or protection in this state and currently resides in this
31 state; or

32 (e) There is any other basis consistent with RCW 4.28.185 or with
33 the Constitutions of this state and the United States.

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

1 person in this state by means of the mail, interstate commerce, or
2 foreign commerce. Oral or written statements sent by electronic mail
3 or the internet are deemed to have "occurred within this state."

4 NEW SECTION. Sec. 306. A new section is added to chapter 7.90 RCW
5 to read as follows:

6 (1) In a proceeding in which a petition for a sexual assault
7 protection order is sought under this chapter, a court of this state
8 may exercise personal jurisdiction over a nonresident individual if:

9 (a) The individual is personally served with a petition within this
10 state;

11 (b) The individual submits to the jurisdiction of this state by
12 consent, entering a general appearance, or filing a responsive document
13 having the effect of waiving any objection to consent to personal
14 jurisdiction;

15 (c) The act or acts of the individual or the individual's agent
16 giving rise to the petition or enforcement of a sexual assault
17 protection order either:

- 18 (i) Occurred within this state; or
- 19 (ii) Occurred outside this state and are part of an ongoing pattern
20 of sexual assaults or stalking that has an adverse effect on the
21 petitioner or a member of the petitioner's family or household and the
22 petitioner resides in this state;

23 (d) As a result of acts of stalking or a sexual assault, the
24 petitioner or a member of the petitioner's family or household has
25 sought safety or protection in this state and currently resides in this
26 state; or

27 (e) There is any other basis consistent with RCW 4.28.185 or with
28 the constitutions of this state and the United States.

29 (2) For the purposes of this section, an act or acts that "occurred
30 within this state" includes, but is not limited to, an oral or written
31 statement made or published by a person outside of this state to any
32 person in this state by means of the mail, interstate commerce, or
33 foreign commerce. Oral or written statements sent by electronic mail
34 or the internet are deemed to have "occurred within this state."

35 NEW SECTION. Sec. 307. A new section is added to chapter 10.14
36 RCW to read as follows:

1 (1) In a proceeding in which a petition for an order for protection
2 under this chapter is sought, a court of this state may exercise
3 personal jurisdiction over a nonresident individual if:

4 (a) The individual is personally served with a petition within this
5 state;

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

10 (c) The act or acts of the individual or the individual's agent
11 giving rise to the petition or enforcement of an order for protection
12 either:

13 (i) Occurred within this state; or

14 (ii) Occurred outside this state and are part of an ongoing pattern
15 of harassment that has an adverse effect on the petitioner or a member
16 of the petitioner's family or household and the petitioner resides in
17 this state;

18 (d) As a result of acts of harassment, the petitioner or a member
19 of the petitioner's family or household has sought safety or protection
20 in this state and currently resides in this state; or

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

23 (2) For the purposes of this section, an act or acts that "occurred
24 within this state" includes, but is not limited to, an oral or written
25 statement made or published by a person outside of this state to any
26 person in this state by means of the mail, interstate commerce, or
27 foreign commerce. Oral or written statements sent by electronic mail
28 or the internet are deemed to have "occurred within this state."

29 **Sec. 308.** RCW 10.99.040 and 2000 c 119 s 18 are each amended to
30 read as follows:

31 (1) Because of the serious nature of domestic violence, the court
32 in domestic violence actions:

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

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

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

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

9 (2)(a) Because of the likelihood of repeated violence directed at
10 those who have been victims of domestic violence in the past, when any
11 person charged with or arrested for a crime involving domestic violence
12 is released from custody before arraignment or trial on bail or
13 personal recognizance, the court authorizing the release may prohibit
14 that person from having any contact with the victim. The jurisdiction
15 authorizing the release shall determine whether that person should be
16 prohibited from having any contact with the victim. If there is no
17 outstanding restraining or protective order prohibiting that person
18 from having contact with the victim, the court authorizing release may
19 issue, by telephone, a no-contact order prohibiting the person charged
20 or arrested from having contact with the victim or from knowingly
21 coming within, or knowingly remaining within, a specified distance of
22 a location.

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

25 (c) The no-contact order shall also be issued in writing as soon as
26 possible. By January 1, 2011, the administrative office of the courts
27 shall develop a pattern form for all no-contact orders issued under
28 this chapter. A no-contact order issued under this chapter must
29 substantially comply with the pattern form developed by the
30 administrative office of the courts.

31 (3) At the time of arraignment the court shall determine whether a
32 no-contact order shall be issued or extended. The no-contact order
33 shall terminate if the defendant is acquitted or the charges are
34 dismissed. If a no-contact order is issued or extended, the court may
35 also include in the conditions of release a requirement that the
36 defendant submit to electronic monitoring. If electronic monitoring is
37 ordered, the court shall specify who shall provide the monitoring
38 services, and the terms under which the monitoring shall be performed.

1 Upon conviction, the court may require as a condition of the sentence
2 that the defendant reimburse the providing agency for the costs of the
3 electronic monitoring.

4 (4)(a) Willful violation of a court order issued under subsection
5 (2) or (3) of this section is punishable under RCW 26.50.110.

6 (b) The written order releasing the person charged or arrested
7 shall contain the court's directives and shall bear the legend:
8 "Violation of this order is a criminal offense under chapter 26.50 RCW
9 and will subject a violator to arrest; any assault, drive-by shooting,
10 or reckless endangerment that is a violation of this order is a felony.
11 You can be arrested even if any person protected by the order invites
12 or allows you to violate the order's prohibitions. You have the sole
13 responsibility to avoid or refrain from violating the order's
14 provisions. Only the court can change the order."

15 (c) A certified copy of the order shall be provided to the victim.

16 (5) If a no-contact order has been issued prior to charging, that
17 order shall expire at arraignment or within seventy-two hours if
18 charges are not filed. Such orders need not be entered into the
19 computer-based criminal intelligence information system in this state
20 which is used by law enforcement agencies to list outstanding warrants.

21 (6) Whenever a no-contact order is issued, modified, or terminated
22 under subsection (2) or (3) of this section, the clerk of the court
23 shall forward a copy of the order on or before the next judicial day to
24 the appropriate law enforcement agency specified in the order. Upon
25 receipt of the copy of the order the law enforcement agency shall enter
26 the order for one year or until the expiration date specified on the
27 order into any computer-based criminal intelligence information system
28 available in this state used by law enforcement agencies to list
29 outstanding warrants. Entry into the computer-based criminal
30 intelligence information system constitutes notice to all law
31 enforcement agencies of the existence of the order. The order is fully
32 enforceable in any jurisdiction in the state. Upon receipt of notice
33 that an order has been terminated under subsection (3) of this section,
34 the law enforcement agency shall remove the order from the computer-
35 based criminal intelligence information system.

36 (7) All courts shall develop policies and procedures by January 1,
37 2011, to grant victims a process to modify or rescind a no-contact

1 order issued under this chapter. The administrative office of the
2 courts shall develop a model policy to assist the courts in
3 implementing the requirements of this subsection.

4 **NEW SECTION. Sec. 309.** A new section is added to chapter 2.56 RCW
5 to read as follows:

6 (1) The administrative office of the courts shall develop
7 guidelines by December 1, 2011, for all courts to establish a process
8 to reconcile duplicate or conflicting no-contact or protection orders
9 issued by courts in this state.

10 (2) The guidelines developed under subsection (1) of this section
11 must include:

12 (a) A process to allow any party named in a no-contact or
13 protection order to petition for the purpose of reconciling duplicate
14 or conflicting orders; and

15 (b) A procedure to address no-contact and protection order data
16 sharing between court jurisdictions in this state.

17 (3) By January 1, 2011, the administrative office of the courts
18 shall provide a report back to the legislature concerning the progress
19 made to develop the guidelines required by this section.

20 **PART FOUR**
21 **SENTENCING REFORMS**

22 **Sec. 401.** RCW 9.94A.030 and 2009 c 375 s 4 are each amended to
23 read as follows:

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

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

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

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

28 (11) "Criminal history" means the list of a defendant's prior
29 convictions and juvenile adjudications, whether in this state, in
30 federal court, or elsewhere.

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

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

1 (c) The determination of a defendant's criminal history is distinct
2 from the determination of an offender score. A prior conviction that
3 was not included in an offender score calculated pursuant to a former
4 version of the sentencing reform act remains part of the defendant's
5 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 the
19 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 is
25 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, prestige,
28 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

1 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
2 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
3 RCW); human trafficking (RCW 9A.40.100); or promoting pornography
4 (chapter 9.68 RCW).

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

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

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

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

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

35 (20) "Domestic violence" has the same meaning as defined in RCW
36 10.99.020 and 26.50.010.

37 (21) "Drug offender sentencing alternative" is a sentencing option

1 available to persons convicted of a felony offense other than a violent
2 offense or a sex offense and who are eligible for the option under RCW
3 9.94A.660.

4 ~~((+21+))~~ (22) "Drug offense" means:

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

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

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

14 ~~((+22+))~~ (23) "Earned release" means earned release from
15 confinement as provided in RCW 9.94A.728.

16 ~~((+23+))~~ (24) "Escape" means:

17 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the
18 first degree (RCW 9A.76.110), escape in the second degree (RCW
19 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
20 willful failure to return from work release (RCW 72.65.070), or willful
21 failure to be available for supervision by the department while in
22 community custody (RCW 72.09.310); or

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

26 ~~((+24+))~~ (25) "Felony traffic offense" means:

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

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

36 ~~((+25+))~~ (26) "Fine" means a specific sum of money ordered by the
37 sentencing court to be paid by the offender to the court over a
38 specific period of time.

1 ~~((26))~~ (27) "First-time offender" means any person who has no
2 prior convictions for a felony and is eligible for the first-time
3 offender waiver under RCW 9.94A.650.

4 ~~((27))~~ (28) "Home detention" means a program of partial
5 confinement available to offenders wherein the offender is confined in
6 a private residence subject to electronic surveillance.

7 ~~((28))~~ (29) "Legal financial obligation" means a sum of money
8 that is ordered by a superior court of the state of Washington for
9 legal financial obligations which may include restitution to the
10 victim, statutorily imposed crime victims' compensation fees as
11 assessed pursuant to RCW 7.68.035, court costs, county or interlocal
12 drug funds, court-appointed attorneys' fees, and costs of defense,
13 fines, and any other financial obligation that is assessed to the
14 offender as a result of a felony conviction. Upon conviction for
15 vehicular assault while under the influence of intoxicating liquor or
16 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the
17 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),
18 legal financial obligations may also include payment to a public agency
19 of the expense of an emergency response to the incident resulting in
20 the conviction, subject to RCW 38.52.430.

21 ~~((29))~~ (30) "Most serious offense" means any of the following
22 felonies or a felony attempt to commit any of the following felonies:

23 (a) Any felony defined under any law as a class A felony or
24 criminal solicitation of or criminal conspiracy to commit a class A
25 felony;

26 (b) Assault in the second degree;

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

28 (d) Child molestation in the second degree;

29 (e) Controlled substance homicide;

30 (f) Extortion in the first degree;

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

32 (h) Indecent liberties;

33 (i) Kidnapping in the second degree;

34 (j) Leading organized crime;

35 (k) Manslaughter in the first degree;

36 (l) Manslaughter in the second degree;

37 (m) Promoting prostitution in the first degree;

38 (n) Rape in the third degree;

1 (o) Robbery in the second degree;

2 (p) Sexual exploitation;

3 (q) Vehicular assault, when caused by the operation or driving of
4 a vehicle by a person while under the influence of intoxicating liquor
5 or any drug or by the operation or driving of a vehicle in a reckless
6 manner;

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

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

13 (t) Any other felony with a deadly weapon verdict under RCW
14 9.94A.825;

15 (u) Any felony offense in effect at any time prior to December 2,
16 1993, that is comparable to a most serious offense under this
17 subsection, or any federal or out-of-state conviction for an offense
18 that under the laws of this state would be a felony classified as a
19 most serious offense under this subsection;

20 (v)(i) A prior conviction for indecent liberties under RCW
21 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
22 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
23 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
24 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

25 (ii) A prior conviction for indecent liberties under RCW
26 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
27 if: (A) The crime was committed against a child under the age of
28 fourteen; or (B) the relationship between the victim and perpetrator is
29 included in the definition of indecent liberties under RCW
30 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
31 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
32 through July 27, 1997;

33 (w) Any out-of-state conviction for a felony offense with a finding
34 of sexual motivation if the minimum sentence imposed was ten years or
35 more; provided that the out-of-state felony offense must be comparable
36 to a felony offense under Title 9 or 9A RCW and the out-of-state
37 definition of sexual motivation must be comparable to the definition of
38 sexual motivation contained in this section.

1 ~~((30))~~ (31) "Nonviolent offense" means an offense which is not a
2 violent offense.

3 ~~((31))~~ (32) "Offender" means a person who has committed a felony
4 established by state law and is eighteen years of age or older or is
5 less than eighteen years of age but whose case is under superior court
6 jurisdiction under RCW 13.04.030 or has been transferred by the
7 appropriate juvenile court to a criminal court pursuant to RCW
8 13.40.110. In addition, for the purpose of community custody
9 requirements under this chapter, "offender" also means a misdemeanor or
10 gross misdemeanor probationer convicted of an offense included in RCW
11 9.94A.501(1) and ordered by a superior court to probation under the
12 supervision of the department pursuant to RCW 9.92.060, 9.95.204, or
13 9.95.210. Throughout this chapter, the terms "offender" and
14 "defendant" are used interchangeably.

15 ~~((32))~~ (33) "Partial confinement" means confinement for no more
16 than one year in a facility or institution operated or utilized under
17 contract by the state or any other unit of government, or, if home
18 detention or work crew has been ordered by the court, in an approved
19 residence, for a substantial portion of each day with the balance of
20 the day spent in the community. Partial confinement includes work
21 release, home detention, work crew, and a combination of work crew and
22 home detention.

23 ~~((33))~~ (34) "Pattern of criminal street gang activity" means:
24 (a) The commission, attempt, conspiracy, or solicitation of, or any
25 prior juvenile adjudication of or adult conviction of, two or more of
26 the following criminal street gang-related offenses:

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

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

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

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

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

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

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

- 1 (viii) Harassment where a subsequent violation or deadly threat is
- 2 made (RCW 9A.46.020(2)(b));
- 3 (ix) Criminal Gang Intimidation (RCW 9A.46.120);
- 4 (x) Any felony conviction by a person eighteen years of age or
- 5 older with a special finding of involving a juvenile in a felony
- 6 offense under RCW 9.94A.833;
- 7 (xi) Residential Burglary (RCW 9A.52.025);
- 8 (xii) Burglary 2 (RCW 9A.52.030);
- 9 (xiii) Malicious Mischief 1 (RCW 9A.48.070);
- 10 (xiv) Malicious Mischief 2 (RCW 9A.48.080);
- 11 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);
- 12 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);
- 13 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);
- 14 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
- 15 9A.56.075);
- 16 (xix) Extortion 1 (RCW 9A.56.120);
- 17 (xx) Extortion 2 (RCW 9A.56.130);
- 18 (xxi) Intimidating a Witness (RCW 9A.72.110);
- 19 (xxii) Tampering with a Witness (RCW 9A.72.120);
- 20 (xxiii) Reckless Endangerment (RCW 9A.36.050);
- 21 (xxiv) Coercion (RCW 9A.36.070);
- 22 (xxv) Harassment (RCW 9A.46.020); or
- 23 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);
- 24 (b) That at least one of the offenses listed in (a) of this
- 25 subsection shall have occurred after July 1, 2008;
- 26 (c) That the most recent committed offense listed in (a) of this
- 27 subsection occurred within three years of a prior offense listed in (a)
- 28 of this subsection; and
- 29 (d) Of the offenses that were committed in (a) of this subsection,
- 30 the offenses occurred on separate occasions or were committed by two or
- 31 more persons.
- 32 (~~((34))~~) (35) "Persistent offender" is an offender who:
- 33 (a)(i) Has been convicted in this state of any felony considered a
- 34 most serious offense; and
- 35 (ii) Has, before the commission of the offense under (a) of this
- 36 subsection, been convicted as an offender on at least two separate
- 37 occasions, whether in this state or elsewhere, of felonies that under
- 38 the laws of this state would be considered most serious offenses and

1 would be included in the offender score under RCW 9.94A.525; provided
2 that of the two or more previous convictions, at least one conviction
3 must have occurred before the commission of any of the other most
4 serious offenses for which the offender was previously convicted; or

5 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
6 of a child in the first degree, child molestation in the first degree,
7 rape in the second degree, rape of a child in the second degree, or
8 indecent liberties by forcible compulsion; (B) any of the following
9 offenses with a finding of sexual motivation: Murder in the first
10 degree, murder in the second degree, homicide by abuse, kidnapping in
11 the first degree, kidnapping in the second degree, assault in the first
12 degree, assault in the second degree, assault of a child in the first
13 degree, assault of a child in the second degree, or burglary in the
14 first degree; or (C) an attempt to commit any crime listed in this
15 subsection (~~((34))~~) (35)(b)(i); and

16 (ii) Has, before the commission of the offense under (b)(i) of this
17 subsection, been convicted as an offender on at least one occasion,
18 whether in this state or elsewhere, of an offense listed in (b)(i) of
19 this subsection or any federal or out-of-state offense or offense under
20 prior Washington law that is comparable to the offenses listed in
21 (b)(i) of this subsection. A conviction for rape of a child in the
22 first degree constitutes a conviction under (b)(i) of this subsection
23 only when the offender was sixteen years of age or older when the
24 offender committed the offense. A conviction for rape of a child in
25 the second degree constitutes a conviction under (b)(i) of this
26 subsection only when the offender was eighteen years of age or older
27 when the offender committed the offense.

28 (~~((35))~~) (36) "Predatory" means: (a) The perpetrator of the crime
29 was a stranger to the victim, as defined in this section; (b) the
30 perpetrator established or promoted a relationship with the victim
31 prior to the offense and the victimization of the victim was a
32 significant reason the perpetrator established or promoted the
33 relationship; or (c) the perpetrator was: (i) A teacher, counselor,
34 volunteer, or other person in authority in any public or private school
35 and the victim was a student of the school under his or her authority
36 or supervision. For purposes of this subsection, "school" does not
37 include home-based instruction as defined in RCW 28A.225.010; (ii) a
38 coach, trainer, volunteer, or other person in authority in any

1 recreational activity and the victim was a participant in the activity
2 under his or her authority or supervision; or (iii) a pastor, elder,
3 volunteer, or other person in authority in any church or religious
4 organization, and the victim was a member or participant of the
5 organization under his or her authority.

6 ~~((+36+))~~ (37) "Private school" means a school regulated under
7 chapter 28A.195 or 28A.205 RCW.

8 ~~((+37+))~~ (38) "Public school" has the same meaning as in RCW
9 28A.150.010.

10 ~~((+38+))~~ (39) "Repetitive domestic violence offense" means any:
11 (a)(i) Domestic violence assault that is not a felony offense under
12 RCW 9A.36.041;

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

15 (iii) Domestic violence violation of a protection order under
16 chapter 26.09, 26.10, 26.26, or 26.50 RCW that is not a felony offense;

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

19 (v) Domestic violence stalking offense under 9A.46.110 that is not
20 a felony offense; or

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

25 (40) "Restitution" means a specific sum of money ordered by the
26 sentencing court to be paid by the offender to the court over a
27 specified period of time as payment of damages. The sum may include
28 both public and private costs.

29 ~~((+39+))~~ (41) "Risk assessment" means the application of the risk
30 instrument recommended to the department by the Washington state
31 institute for public policy as having the highest degree of predictive
32 accuracy for assessing an offender's risk of reoffense.

33 ~~((+40+))~~ (42) "Serious traffic offense" means:

34 (a) Nonfelony driving while under the influence of intoxicating
35 liquor or any drug (RCW 46.61.502), nonfelony actual physical control
36 while under the influence of intoxicating liquor or any drug (RCW
37 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
38 attended vehicle (RCW 46.52.020(5)); or

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

4 (~~(41)~~) (43) "Serious violent offense" is a subcategory of violent
5 offense and means:

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

7 (ii) Homicide by abuse;

8 (iii) Murder in the second degree;

9 (iv) Manslaughter in the first degree;

10 (v) Assault in the first degree;

11 (vi) Kidnapping in the first degree;

12 (vii) Rape in the first degree;

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

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

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

19 (~~(42)~~) (44) "Sex offense" means:

20 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than
21 RCW 9A.44.130(12);

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

23 (iii) A felony that is a violation of chapter 9.68A RCW other than
24 RCW 9.68A.080; or

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

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

30 (c) A felony with a finding of sexual motivation under RCW
31 9.94A.835 or 13.40.135; or

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

35 (~~(43)~~) (45) "Sexual motivation" means that one of the purposes
36 for which the defendant committed the crime was for the purpose of his
37 or her sexual gratification.

1 ~~((44))~~ (46) "Standard sentence range" means the sentencing
2 court's discretionary range in imposing a nonappealable sentence.

3 ~~((45))~~ (47) "Statutory maximum sentence" means the maximum length
4 of time for which an offender may be confined as punishment for a crime
5 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining
6 the crime, or other statute defining the maximum penalty for a crime.

7 ~~((46))~~ (48) "Stranger" means that the victim did not know the
8 offender twenty-four hours before the offense.

9 ~~((47))~~ (49) "Total confinement" means confinement inside the
10 physical boundaries of a facility or institution operated or utilized
11 under contract by the state or any other unit of government for twenty-
12 four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

13 ~~((48))~~ (50) "Transition training" means written and verbal
14 instructions and assistance provided by the department to the offender
15 during the two weeks prior to the offender's successful completion of
16 the work ethic camp program. The transition training shall include
17 instructions in the offender's requirements and obligations during the
18 offender's period of community custody.

19 ~~((49))~~ (51) "Victim" means any person who has sustained
20 emotional, psychological, physical, or financial injury to person or
21 property as a direct result of the crime charged.

22 ~~((50))~~ (52) "Violent offense" means:

23 (a) Any of the following felonies:

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

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

28 (iii) Manslaughter in the first degree;

29 (iv) Manslaughter in the second degree;

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

31 (vi) Kidnapping in the second degree;

32 (vii) Arson in the second degree;

33 (viii) Assault in the second degree;

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

35 (x) Extortion in the first degree;

36 (xi) Robbery in the second degree;

37 (xii) Drive-by shooting;

1 (xiii) Vehicular assault, when caused by the operation or driving
2 of a vehicle by a person while under the influence of intoxicating
3 liquor or any drug or by the operation or driving of a vehicle in a
4 reckless manner; and

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

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

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

15 ~~((+51+))~~ (53) "Work crew" means a program of partial confinement
16 consisting of civic improvement tasks for the benefit of the community
17 that complies with RCW 9.94A.725.

18 ~~((+52+))~~ (54) "Work ethic camp" means an alternative incarceration
19 program as provided in RCW 9.94A.690 designed to reduce recidivism and
20 lower the cost of corrections by requiring offenders to complete a
21 comprehensive array of real-world job and vocational experiences,
22 character-building work ethics training, life management skills
23 development, substance abuse rehabilitation, counseling, literacy
24 training, and basic adult education.

25 ~~((+53+))~~ (55) "Work release" means a program of partial confinement
26 available to offenders who are employed or engaged as a student in a
27 regular course of study at school.

28 **Sec. 402.** RCW 9.94A.535 and 2008 c 276 s 303 and 2008 c 233 s 9
29 are each reenacted and amended to read as follows:

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

36 Whenever a sentence outside the standard sentence range is imposed,

1 the court shall set forth the reasons for its decision in written
2 findings of fact and conclusions of law. A sentence outside the
3 standard sentence range shall be a determinate sentence.

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

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

12 (1) Mitigating Circumstances - Court to Consider

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

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

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

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

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

27 (e) The defendant's capacity to appreciate the wrongfulness of his
28 or her conduct, or to conform his or her conduct to the requirements of
29 the law, was significantly impaired. Voluntary use of drugs or alcohol
30 is excluded.

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

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

37 (h) The defendant or the defendant's children suffered a continuing

1 pattern of physical or sexual abuse by the victim of the offense and
2 the offense is a response to that abuse.

3 (i) The current offense involved domestic violence, as defined in
4 RCW 10.99.020, and the defendant suffered a continuing pattern of
5 coercion, control, or abuse by the victim of the offense and the
6 offense is a response to that coercion, control, or abuse.

7 (2) Aggravating Circumstances - Considered and Imposed by the Court

8 The trial court may impose an aggravated exceptional sentence
9 without a finding of fact by a jury under the following circumstances:

10 (a) The defendant and the state both stipulate that justice is best
11 served by the imposition of an exceptional sentence outside the
12 standard range, and the court finds the exceptional sentence to be
13 consistent with and in furtherance of the interests of justice and the
14 purposes of the sentencing reform act.

15 (b) The defendant's prior unscored misdemeanor or prior unscored
16 foreign criminal history results in a presumptive sentence that is
17 clearly too lenient in light of the purpose of this chapter, as
18 expressed in RCW 9.94A.010.

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

22 (d) The failure to consider the defendant's prior criminal history
23 which was omitted from the offender score calculation pursuant to RCW
24 9.94A.525 results in a presumptive sentence that is clearly too
25 lenient.

26 (3) Aggravating Circumstances - Considered by a Jury -Imposed by
27 the Court

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

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

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

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

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

4 (i) The current offense involved multiple victims or multiple
5 incidents per victim;

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

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

10 (iv) The defendant used his or her position of trust, confidence,
11 or fiduciary responsibility to facilitate the commission of the current
12 offense.

13 (e) The current offense was a major violation of the Uniform
14 Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to
15 trafficking in controlled substances, which was more onerous than the
16 typical offense of its statutory definition: The presence of ANY of
17 the following may identify a current offense as a major VUCSA:

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

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

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

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

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

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

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

37 (g) The offense was part of an ongoing pattern of sexual abuse of

1 the same victim under the age of eighteen years manifested by multiple
2 incidents over a prolonged period of time.

3 (h) The current offense involved domestic violence, as defined in
4 RCW 10.99.020, and one or more of the following was present:

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

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

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

12 (i) The offense resulted in the pregnancy of a child victim of
13 rape.

14 (j) The defendant knew that the victim of the current offense was
15 a youth who was not residing with a legal custodian and the defendant
16 established or promoted the relationship for the primary purpose of
17 victimization.

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

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

24 (m) The offense involved a high degree of sophistication or
25 planning.

26 (n) The defendant used his or her position of trust, confidence, or
27 fiduciary responsibility to facilitate the commission of the current
28 offense.

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

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

32 (q) The defendant demonstrated or displayed an egregious lack of
33 remorse.

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

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

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

3 (u) The current offense is a burglary and the victim of the
4 burglary was present in the building or residence when the crime was
5 committed.

6 (v) The offense was committed against a law enforcement officer who
7 was performing his or her official duties at the time of the offense,
8 the offender knew that the victim was a law enforcement officer, and
9 the victim's status as a law enforcement officer is not an element of
10 the offense.

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

13 (x) The defendant committed the offense against a public official
14 or officer of the court in retaliation of the public official's
15 performance of his or her duty to the criminal justice system.

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

19 (z)(i)(A) The current offense is theft in the first degree, theft
20 in the second degree, possession of stolen property in the first
21 degree, or possession of stolen property in the second degree; (B) the
22 stolen property involved is metal property; and (C) the property damage
23 to the victim caused in the course of the theft of metal property is
24 more than three times the value of the stolen metal property, or the
25 theft of the metal property creates a public hazard.

26 (ii) For purposes of this subsection, "metal property" means
27 commercial metal property, private metal property, or nonferrous metal
28 property, as defined in RCW 19.290.010.

29 (aa) The defendant committed the offense with the intent to
30 directly or indirectly cause any benefit, aggrandizement, gain, profit,
31 or other advantage to or for a criminal street gang as defined in RCW
32 9.94A.030, its reputation, influence, or membership.

33 **Sec. 403.** RCW 9.94A.525 and 2008 c 231 s 3 are each amended to
34 read as follows:

35 The offender score is measured on the horizontal axis of the
36 sentencing grid. The offender score rules are as follows:

1 The offender score is the sum of points accrued under this section
2 rounded down to the nearest whole number.

3 (1) A prior conviction is a conviction which exists before the date
4 of sentencing for the offense for which the offender score is being
5 computed. Convictions entered or sentenced on the same date as the
6 conviction for which the offender score is being computed shall be
7 deemed "other current offenses" within the meaning of RCW 9.94A.589.

8 (2)(a) Class A and sex prior felony convictions shall always be
9 included in the offender score.

10 (b) Class B prior felony convictions other than sex offenses shall
11 not be included in the offender score, if since the last date of
12 release from confinement (including full-time residential treatment)
13 pursuant to a felony conviction, if any, or entry of judgment and
14 sentence, the offender had spent ten consecutive years in the community
15 without committing any crime that subsequently results in a conviction.

16 (c) Except as provided in (e) of this subsection, class C prior
17 felony convictions other than sex offenses shall not be included in the
18 offender score if, since the last date of release from confinement
19 (including full-time residential treatment) pursuant to a felony
20 conviction, if any, or entry of judgment and sentence, the offender had
21 spent five consecutive years in the community without committing any
22 crime that subsequently results in a conviction.

23 (d) Except as provided in (e) of this subsection, serious traffic
24 convictions shall not be included in the offender score if, since the
25 last date of release from confinement (including full-time residential
26 treatment) pursuant to a felony conviction, if any, or entry of
27 judgment and sentence, the offender spent five years in the community
28 without committing any crime that subsequently results in a conviction.

29 (e) If the present conviction is felony driving while under the
30 influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or
31 felony physical control of a vehicle while under the influence of
32 intoxicating liquor or any drug (RCW 46.61.504(6)), prior convictions
33 of felony driving while under the influence of intoxicating liquor or
34 any drug, felony physical control of a vehicle while under the
35 influence of intoxicating liquor or any drug, and serious traffic
36 offenses shall be included in the offender score if: (i) The prior
37 convictions were committed within five years since the last date of
38 release from confinement (including full-time residential treatment) or

1 entry of judgment and sentence; or (ii) the prior convictions would be
2 considered "prior offenses within ten years" as defined in RCW
3 46.61.5055.

4 (f) This subsection applies to both adult and juvenile prior
5 convictions.

6 (3) Out-of-state convictions for offenses shall be classified
7 according to the comparable offense definitions and sentences provided
8 by Washington law. Federal convictions for offenses shall be
9 classified according to the comparable offense definitions and
10 sentences provided by Washington law. If there is no clearly
11 comparable offense under Washington law or the offense is one that is
12 usually considered subject to exclusive federal jurisdiction, the
13 offense shall be scored as a class C felony equivalent if it was a
14 felony under the relevant federal statute.

15 (4) Score prior convictions for felony anticipatory offenses
16 (attempts, criminal solicitations, and criminal conspiracies) the same
17 as if they were convictions for completed offenses.

18 (5)(a) In the case of multiple prior convictions, for the purpose
19 of computing the offender score, count all convictions separately,
20 except:

21 (i) Prior offenses which were found, under RCW 9.94A.589(1)(a), to
22 encompass the same criminal conduct, shall be counted as one offense,
23 the offense that yields the highest offender score. The current
24 sentencing court shall determine with respect to other prior adult
25 offenses for which sentences were served concurrently or prior juvenile
26 offenses for which sentences were served consecutively, whether those
27 offenses shall be counted as one offense or as separate offenses using
28 the "same criminal conduct" analysis found in RCW 9.94A.589(1)(a), and
29 if the court finds that they shall be counted as one offense, then the
30 offense that yields the highest offender score shall be used. The
31 current sentencing court may presume that such other prior offenses
32 were not the same criminal conduct from sentences imposed on separate
33 dates, or in separate counties or jurisdictions, or in separate
34 complaints, indictments, or informations;

35 (ii) In the case of multiple prior convictions for offenses
36 committed before July 1, 1986, for the purpose of computing the
37 offender score, count all adult convictions served concurrently as one

1 offense, and count all juvenile convictions entered on the same date as
2 one offense. Use the conviction for the offense that yields the
3 highest offender score.

4 (b) As used in this subsection (5), "served concurrently" means
5 that: (i) The latter sentence was imposed with specific reference to
6 the former; (ii) the concurrent relationship of the sentences was
7 judicially imposed; and (iii) the concurrent timing of the sentences
8 was not the result of a probation or parole revocation on the former
9 offense.

10 (6) If the present conviction is one of the anticipatory offenses
11 of criminal attempt, solicitation, or conspiracy, count each prior
12 conviction as if the present conviction were for a completed offense.
13 When these convictions are used as criminal history, score them the
14 same as a completed crime.

15 (7) If the present conviction is for a nonviolent offense and not
16 covered by subsection (11), (12), or (13) of this section, count one
17 point for each adult prior felony conviction and one point for each
18 juvenile prior violent felony conviction and 1/2 point for each
19 juvenile prior nonviolent felony conviction.

20 (8) If the present conviction is for a violent offense and not
21 covered in subsection (9), (10), (11), (12), or (13) of this section,
22 count two points for each prior adult and juvenile violent felony
23 conviction, one point for each prior adult nonviolent felony
24 conviction, and 1/2 point for each prior juvenile nonviolent felony
25 conviction.

26 (9) If the present conviction is for a serious violent offense,
27 count three points for prior adult and juvenile convictions for crimes
28 in this category, two points for each prior adult and juvenile violent
29 conviction (not already counted), one point for each prior adult
30 nonviolent felony conviction, and 1/2 point for each prior juvenile
31 nonviolent felony conviction.

32 (10) If the present conviction is for Burglary 1, count prior
33 convictions as in subsection (8) of this section; however count two
34 points for each prior adult Burglary 2 or residential burglary
35 conviction, and one point for each prior juvenile Burglary 2 or
36 residential burglary conviction.

37 (11) If the present conviction is for a felony traffic offense
38 count two points for each adult or juvenile prior conviction for

1 Vehicular Homicide or Vehicular Assault; for each felony offense count
2 one point for each adult and 1/2 point for each juvenile prior
3 conviction; for each serious traffic offense, other than those used for
4 an enhancement pursuant to RCW 46.61.520(2), count one point for each
5 adult and 1/2 point for each juvenile prior conviction; count one point
6 for each adult and 1/2 point for each juvenile prior conviction for
7 operation of a vessel while under the influence of intoxicating liquor
8 or any drug.

9 (12) If the present conviction is for homicide by watercraft or
10 assault by watercraft count two points for each adult or juvenile prior
11 conviction for homicide by watercraft or assault by watercraft; for
12 each felony offense count one point for each adult and 1/2 point for
13 each juvenile prior conviction; count one point for each adult and 1/2
14 point for each juvenile prior conviction for driving under the
15 influence of intoxicating liquor or any drug, actual physical control
16 of a motor vehicle while under the influence of intoxicating liquor or
17 any drug, or operation of a vessel while under the influence of
18 intoxicating liquor or any drug.

19 (13) If the present conviction is for manufacture of
20 methamphetamine count three points for each adult prior manufacture of
21 methamphetamine conviction and two points for each juvenile manufacture
22 of methamphetamine offense. If the present conviction is for a drug
23 offense and the offender has a criminal history that includes a sex
24 offense or serious violent offense, count three points for each adult
25 prior felony drug offense conviction and two points for each juvenile
26 drug offense. All other adult and juvenile felonies are scored as in
27 subsection (8) of this section if the current drug offense is violent,
28 or as in subsection (7) of this section if the current drug offense is
29 nonviolent.

30 (14) If the present conviction is for Escape from Community
31 Custody, RCW 72.09.310, count only prior escape convictions in the
32 offender score. Count adult prior escape convictions as one point and
33 juvenile prior escape convictions as 1/2 point.

34 (15) If the present conviction is for Escape 1, RCW 9A.76.110, or
35 Escape 2, RCW 9A.76.120, count adult prior convictions as one point and
36 juvenile prior convictions as 1/2 point.

37 (16) If the present conviction is for Burglary 2 or residential
38 burglary, count priors as in subsection (7) of this section; however,

1 count two points for each adult and juvenile prior Burglary 1
2 conviction, two points for each adult prior Burglary 2 or residential
3 burglary conviction, and one point for each juvenile prior Burglary 2
4 or residential burglary conviction.

5 (17) If the present conviction is for a sex offense, count priors
6 as in subsections (7) through (11) and (13) through (16) of this
7 section; however count three points for each adult and juvenile prior
8 sex offense conviction.

9 (18) If the present conviction is for failure to register as a sex
10 offender under RCW 9A.44.130(11), count priors as in subsections (7)
11 through (11) and (13) through (16) of this section; however count three
12 points for each adult and juvenile prior sex offense conviction,
13 excluding prior convictions for failure to register as a sex offender
14 under RCW 9A.44.130(11), which shall count as one point.

15 (19) If the present conviction is for an offense committed while
16 the offender was under community custody, add one point. For purposes
17 of this subsection, community custody includes community placement or
18 postrelease supervision, as defined in chapter 9.94B RCW.

19 (20) If the present conviction is for Theft of a Motor Vehicle,
20 Possession of a Stolen Vehicle, Taking a Motor Vehicle Without
21 Permission 1, or Taking a Motor Vehicle Without Permission 2, count
22 priors as in subsections (7) through (18) of this section; however
23 count one point for prior convictions of Vehicle Prowling 2, and three
24 points for each adult and juvenile prior Theft 1 (of a motor vehicle),
25 Theft 2 (of a motor vehicle), Possession of Stolen Property 1 (of a
26 motor vehicle), Possession of Stolen Property 2 (of a motor vehicle),
27 Theft of a Motor Vehicle, Possession of a Stolen Vehicle, Taking a
28 Motor Vehicle Without Permission 1, or Taking a Motor Vehicle Without
29 Permission 2 conviction.

30 (21) If the present conviction is for a felony domestic violence
31 offense where domestic violence as defined in RCW 9.94A.030 was plead
32 and proven, count priors as in subsections (7) through (20) of this
33 section; however, count points as follows:

34 Count one point for each adult and juvenile prior conviction for a
35 repetitive domestic violence offense as defined in RCW 9.94A.030, where
36 domestic violence, as defined in RCW 9.94A.030, was plead and proven.

37 (22) The fact that a prior conviction was not included in an
38 offender's offender score or criminal history at a previous sentencing

1 shall have no bearing on whether it is included in the criminal history
2 or offender score for the current offense. Prior convictions that were
3 not counted in the offender score or included in criminal history under
4 repealed or previous versions of the sentencing reform act shall be
5 included in criminal history and shall count in the offender score if
6 the current version of the sentencing reform act requires including or
7 counting those convictions. Prior convictions that were not included
8 in criminal history or in the offender score shall be included upon any
9 resentencing to ensure imposition of an accurate sentence.

10 NEW SECTION. **Sec. 404.** A new section is added to chapter 10.99
11 RCW to read as follows:

12 (1) In sentencing for a crime of domestic violence as defined in
13 this chapter, courts of limited jurisdiction shall consider, among
14 other factors, whether:

15 (a) The defendant suffered a continuing pattern of coercion,
16 control, or abuse by the victim of the offense and the offense is a
17 response to that coercion, control, or abuse;

18 (b) The offense was part of an ongoing pattern of psychological,
19 physical, or sexual abuse of a victim or multiple victims manifested by
20 multiple incidents over a prolonged period of time; and

21 (c) The offense occurred within sight or sound of the victim's or
22 the offender's minor children under the age of eighteen years.

23 (2)(a) In sentencing for a crime of domestic violence as defined in
24 this chapter, the prosecutor shall provide for the court's review:

25 (i) The defendant's criminal history, if any, that occurred in
26 Washington or any other state;

27 (ii) If available, the defendant's prior criminal history that
28 occurred in any tribal jurisdiction; and

29 (iii) The defendant's individual order history.

30 (b) For the purposes of (a) of this subsection, criminal history
31 includes all previous convictions and orders of deferred prosecution,
32 as reported through the judicial information system or otherwise
33 available to the court or prosecutor, current to within the period
34 specified in (c) of this subsection before the date of sentencing.

35 (c) The periods applicable to previous convictions and orders of
36 deferred prosecution are:

1 (i) One working day, in the case of previous actions of courts that
2 fully participate in the state judicial information system; and

3 (ii) Seven calendar days, in the case of previous actions of courts
4 that do not fully participate in the judicial information system. For
5 the purposes of this subsection, "fully participate" means regularly
6 providing records to and receiving records from the system by
7 electronic means on a daily basis.

8 **Sec. 405.** RCW 3.66.068 and 2001 c 94 s 2 are each amended to read
9 as follows:

10 For a period not to exceed five years after imposition of sentence
11 for a defendant sentenced for a domestic violence offense or under RCW
12 46.61.5055 and two years after imposition of sentence for all other
13 offenses, the court has continuing jurisdiction and authority to
14 suspend or defer the execution of all or any part of its sentence upon
15 stated terms, including installment payment of fines. A defendant who
16 has been sentenced, or whose sentence has been deferred, and who then
17 fails to appear for any hearing to address the defendant's compliance
18 with the terms of probation when ordered to do so by the court, shall
19 have the term of probation tolled until such time as the defendant
20 makes his or her presence known to the court on the record. However,
21 the jurisdiction period in this section does not apply to the
22 enforcement of orders issued under RCW 46.20.720. For the purposes of
23 this section, "domestic violence offense" means a crime listed in RCW
24 10.99.020 that is not a felony offense.

25 **Sec. 406.** RCW 3.50.330 and 2001 c 94 s 5 are each amended to read
26 as follows:

27 For a period not to exceed five years after imposition of sentence
28 for a defendant sentenced for a domestic violence offense or under RCW
29 46.61.5055 and two years after imposition of sentence for all other
30 offenses, the court shall have continuing jurisdiction and authority to
31 suspend or defer the execution of all or any part of the sentence upon
32 stated terms, including installment payment of fines. A defendant who
33 has been sentenced, or whose sentence has been deferred, and who then
34 fails to appear for any hearing to address the defendant's compliance
35 with the terms of probation when ordered to do so by the court, shall
36 have the term of probation tolled until such time as the defendant

1 makes his or her presence known to the court on the record. However,
2 the jurisdiction period in this section does not apply to the
3 enforcement of orders issued under RCW 46.20.720. Any time before
4 entering an order terminating probation, the court may modify or revoke
5 its order suspending or deferring the imposition or execution of the
6 sentence. For the purposes of this section, "domestic violence
7 offense" means a crime listed in RCW 10.99.020 that is not a felony
8 offense.

9 **Sec. 407.** RCW 35.20.255 and 2005 c 400 s 5 are each amended to
10 read as follows:

11 (1) Judges of the municipal court, in their discretion, shall have
12 the power in all criminal proceedings within their jurisdiction
13 including violations of city ordinances, to defer imposition of any
14 sentence, suspend all or part of any sentence including installment
15 payment of fines, fix the terms of any such deferral or suspension, and
16 provide for such probation as in their opinion is reasonable and
17 necessary under the circumstances of the case, but in no case shall it
18 extend for more than five years from the date of conviction for a
19 defendant to be sentenced for a domestic violence offense or under RCW
20 46.61.5055 and two years from the date of conviction for all other
21 offenses. A defendant who has been sentenced, or whose sentence has
22 been deferred, and who then fails to appear for any hearing to address
23 the defendant's compliance with the terms of probation when ordered to
24 do so by the court, shall have the term of probation tolled until such
25 time as the defendant makes his or her presence known to the court on
26 the record. However, the jurisdiction period in this section does not
27 apply to the enforcement of orders issued under RCW 46.20.720. Any
28 time before entering an order terminating probation, the court may
29 modify or revoke its order suspending or deferring the imposition or
30 execution of the sentence. For the purposes of this subsection,
31 "domestic violence offense" means a crime listed in RCW 10.99.020 that
32 is not a felony offense.

33 (2)(a) If a defendant whose sentence has been deferred requests
34 permission to travel or transfer to another state, the director of
35 probation services or a designee thereof shall determine whether such
36 request is subject to RCW 9.94A.745, the interstate compact for adult

1 offender supervision. If such request is subject to the compact, the
2 director or designee shall:

3 (i) Notify the department of corrections of the defendant's
4 request;

5 (ii) Provide the department of corrections with the supporting
6 documentation it requests for processing an application for transfer;

7 (iii) Notify the defendant of the fee due to the department of
8 corrections for processing an application under the compact;

9 (iv) Cease supervision of the defendant while another state
10 supervises the defendant pursuant to the compact;

11 (v) Resume supervision if the defendant returns to this state
12 before the period of deferral expires.

13 (b) The defendant shall receive credit for time served while being
14 supervised by another state.

15 (c) If the probationer is returned to the state at the request of
16 the receiving state under rules of the interstate compact for adult
17 offender supervision, the department of corrections is responsible for
18 the cost of returning the probationer.

19 (d) The state of Washington, the department of corrections and its
20 employees, and any city and its employees are not liable for civil
21 damages resulting from any act or omission authorized or required under
22 this section unless the act or omission constitutes gross negligence.

23 **PART FIVE**

24 **TREATMENT/SERVICES FOR PERPETRATORS AND VICTIMS**

25 **Sec. 501.** RCW 26.50.150 and 1999 c 147 s 1 are each amended to
26 read as follows:

27 Any program that provides domestic violence treatment to
28 perpetrators of domestic violence must be certified by the department
29 of social and health services and meet minimum standards for domestic
30 violence treatment purposes. The department of social and health
31 services shall adopt rules for standards of approval of domestic
32 violence perpetrator programs (~~(that accept perpetrators of domestic~~
33 ~~violence into treatment to satisfy court orders or that represent the~~
34 ~~programs as ones that treat domestic violence perpetrators)). The~~
35 treatment must meet the following minimum qualifications:

1 (1) All treatment must be based upon a full, complete clinical
2 intake including but not limited to: Current and past violence
3 history; a lethality risk assessment; history of treatment from past
4 domestic violence perpetrator treatment programs; a complete diagnostic
5 evaluation; a substance abuse assessment; criminal history; assessment
6 of cultural issues, learning disabilities, literacy, and special
7 language needs; and a treatment plan that adequately and appropriately
8 addresses the treatment needs of the individual.

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

12 (a) A release for the program to inform the victim and victim's
13 community and legal advocates that the perpetrator is in treatment with
14 the program, and to provide information, for safety purposes, to the
15 victim and victim's community and legal advocates;

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

18 (c) A release for the program to provide information on the
19 perpetrator to relevant legal entities including: Lawyers, courts,
20 parole, probation, child protective services, and child welfare
21 services.

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

30 (4) The treatment must focus primarily on ending the violence,
31 holding the perpetrator accountable for his or her violence, and
32 changing his or her behavior. The treatment must be based on
33 nonvictim-blaming strategies and philosophies and shall include
34 education about the individual, family, and cultural dynamics of
35 domestic violence. If the perpetrator or the victim has a minor child,
36 treatment must specifically include education regarding the effects of
37 domestic violence on children, such as the emotional impacts of

1 domestic violence on children and the long-term consequences that
2 exposure to incidents of domestic violence may have on children.

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

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

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

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

13 (9) The department may conduct on-site monitoring visits as part of
14 its plan for certifying domestic violence perpetrator programs and
15 monitoring implementation of the rules adopted by the secretary of the
16 department to determine compliance with the minimum qualifications for
17 domestic violence perpetrator programs. The applicant or certified
18 domestic violence perpetrator program shall cooperate fully with the
19 department in the monitoring visit and provide all program and
20 management records requested by the department to determine the
21 program's compliance with the minimum certification qualifications and
22 rules adopted by the department.

23 **PART SIX**

24 **MISCELLANEOUS PROVISIONS**

25 **Sec. 601.** RCW 68.50.160 and 2007 c 156 s 24 are each amended to
26 read as follows:

27 (1) A person has the right to control the disposition of his or her
28 own remains without the predeath or postdeath consent of another
29 person. A valid written document expressing the decedent's wishes
30 regarding the place or method of disposition of his or her remains,
31 signed by the decedent in the presence of a witness, is sufficient
32 legal authorization for the procedures to be accomplished.

33 (2) Prearrangements that are prepaid, or filed with a licensed
34 funeral establishment or cemetery authority, under RCW 18.39.280
35 through 18.39.345 and chapter 68.46 RCW are not subject to cancellation
36 or substantial revision by survivors. Absent actual knowledge of

1 contrary legal authorization under this section, a licensed funeral
2 establishment or cemetery authority shall not be held criminally nor
3 civilly liable for acting upon such prearrangements.

4 (3) Except as provided in subsection (4) of this subsection, if the
5 decedent has not made a prearrangement as set forth in subsection (2)
6 of this section or the costs of executing the decedent's wishes
7 regarding the disposition of the decedent's remains exceeds a reason-
8 able amount or directions have not been given by the decedent, the
9 right to control the disposition of the remains of a deceased person
10 vests in, and the duty of disposition and the liability for the
11 reasonable cost of preparation, care, and disposition of such remains
12 devolves upon the following in the order named:

13 (a) The surviving spouse or state registered domestic partner.

14 (b) The surviving adult children of the decedent.

15 (c) The surviving parents of the decedent.

16 (d) The surviving siblings of the decedent.

17 (e) A person acting as a representative of the decedent under the
18 signed authorization of the decedent.

19 (4) A person listed in subsection (3) of this section does not have
20 the right to control the disposition of a decedent's remains if the
21 person has been arrested for or charged with first or second degree
22 murder, homicide by abuse, or first or second degree manslaughter by
23 reason of the death of the decedent. The right to control the
24 disposition of the decedent's remains vests in an eligible person in
25 the next applicable class in accordance with subsection (3) of this
26 section.

27 (5) If a cemetery authority as defined in RCW 68.04.190 or a
28 funeral establishment licensed under chapter 18.39 RCW has made a good
29 faith effort to locate the person cited in subsection (3)(a) through
30 (e) of this section or the legal representative of the decedent's
31 estate, the cemetery authority or funeral establishment shall have the
32 right to rely on an authority to bury or cremate the human remains,
33 executed by the most responsible party available, and the cemetery
34 authority or funeral establishment may not be held criminally or
35 civilly liable for burying or cremating the human remains. In the
36 event any government agency provides the funds for the disposition of
37 any human remains and the government agency elects to provide funds for

1 cremation only, the cemetery authority or funeral establishment may not
2 be held criminally or civilly liable for cremating the human remains.

3 ~~((+5))~~ (6) The liability for the reasonable cost of preparation,
4 care, and disposition devolves jointly and severally upon all kin of
5 the decedent in the same degree of kindred, in the order listed in
6 subsection (3) of this section, and upon the estate of the decedent.

7 NEW SECTION. **Sec. 602.** A new section is added to chapter 2.56 RCW
8 to read as follows:

9 (1)(a) The administrative office of the courts shall, within
10 existing resources, convene a work group to address the issue of
11 transmitting information regarding revocation of concealed pistol
12 licenses, upon the entry of orders issued under chapter 10.99, 26.50,
13 or 26.52 RCW.

14 (b) The work group must include a superior court judge, a district
15 court judge, a municipal court judge, an attorney whose practice
16 includes a significant amount of time representing defendants in
17 criminal trials, and representatives from the following entities: The
18 Washington state patrol, the Washington association of sheriffs and
19 police chiefs, the prosecuting attorneys association, the department of
20 licensing, and the county clerks. Other members may be added as deemed
21 appropriate by the work group.

22 (2) The work group shall review the methods currently used to
23 transfer information between the courts, the county clerks, the
24 prosecutors, the department of licensing, the Washington state patrol,
25 and local law enforcement agencies regarding the suspension and
26 revocation of concealed pistol licenses.

27 (3) The goal of the work group is to identify methods to expedite
28 the transfer of information to enhance the safety of law enforcement
29 and the public.

30 (4) The work group shall report its recommendations to the affected
31 entities and the legislature not later than December 1, 2010. All
32 agency representatives shall cooperate fully with the work group's
33 efforts.

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