
BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: H-3845.1/10

ATTY/TYPIST: AL:cro

BRIEF DESCRIPTION: Concerning domestic violence.

1 AN ACT Relating to domestic violence; amending RCW 10.31.100,
2 10.99.045, 26.50.060, 26.50.070, 10.99.040, 26.50.150, 7.68.020,
3 7.68.060, 7.68.070, and 68.50.160; reenacting and amending RCW
4 9.94A.535; adding a new section to chapter 36.28A RCW; adding a new
5 section to chapter 26.50 RCW; adding a new section to chapter 2.56 RCW;
6 and adding a new section to chapter 10.99 RCW.

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

8 **PART ONE**
9 **LAW ENFORCEMENT/ARREST PROVISIONS**

10 **Sec. 101.** RCW 10.31.100 and 2006 c 138 s 23 are each amended to
11 read as follows:

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

1 (1) Any police officer having probable cause to believe that a
2 person has committed or is committing a misdemeanor or gross
3 misdemeanor, involving physical harm or threats of harm to any person
4 or property or the unlawful taking of property or involving the use or
5 possession of cannabis, or involving the acquisition, possession, or
6 consumption of alcohol by a person under the age of twenty-one years
7 under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070
8 or 9A.52.080, shall have the authority to arrest the person.

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

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

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

32 (c) The person is sixteen years or older and within the preceding
33 four hours has assaulted a family or household member as defined in RCW
34 10.99.020 and the officer believes: (i) A felonious assault has
35 occurred; (ii) an assault has occurred which has resulted in bodily
36 injury to the victim, whether the injury is observable by the
37 responding officer or not; or (iii) that any physical action has
38 occurred which was intended to cause another person reasonably to fear

1 imminent serious bodily injury or death. Bodily injury means physical
2 pain, illness, or an impairment of physical condition. When the
3 officer has probable cause to believe that family or household members
4 have assaulted each other, the officer is not required to arrest both
5 persons. The officer shall arrest the person whom the officer believes
6 to be the primary physical aggressor. In making this determination,
7 the officer shall make every reasonable effort to consider: (i) The
8 intent to protect victims of domestic violence under RCW 10.99.010;
9 (ii) the comparative extent of injuries inflicted or serious threats
10 creating fear of physical injury; and (iii) the history of domestic
11 violence (~~between the~~) of each person(s) involved, including
12 whether the conduct was part of an ongoing pattern of abuse manifested
13 by multiple incidents over a prolonged period of time.

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

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

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

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

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

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

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

29 (4) A law enforcement officer investigating at the scene of a motor
30 vehicle accident may arrest the driver of a motor vehicle involved in
31 the accident if the officer has probable cause to believe that the
32 driver has committed in connection with the accident a violation of any
33 traffic law or regulation.

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

37 (6) An officer may act upon the request of a law enforcement
38 officer in whose presence a traffic infraction was committed, to stop,

1 detain, arrest, or issue a notice of traffic infraction to the driver
2 who is believed to have committed the infraction. The request by the
3 witnessing officer shall give an officer the authority to take
4 appropriate action under the laws of the state of Washington.

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

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

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

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

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

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

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

30 NEW SECTION. Sec. 102. A new section is added to chapter 36.28A
31 RCW to read as follows:

32 (1)(a) When funded, the Washington association of sheriffs and
33 police chiefs shall convene a work group to develop a model policy
34 regarding the reporting of domestic violence as defined in RCW
35 10.99.020 to law enforcement in cases where the victim is unable or
36 unwilling to make a report in the jurisdiction where the alleged crime
37 occurred.

1 (b) The model policy must include policies and procedures related
2 to:

3 (i) Collecting and securing evidence; and

4 (ii) Creating interlocal agreements between law enforcement
5 agencies.

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

9 **PART TWO**

10 **NO-CONTACT AND PROTECTION ORDERS**

11 **Sec. 201.** RCW 10.99.045 and 2000 c 119 s 19 are each amended to
12 read as follows:

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

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

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

28 (b) For the purposes of (a) of this subsection, the prosecutor
29 shall provide for the court's review of the defendant's criminal
30 history, if any, that occurred in Washington or any other state. If
31 available, the prosecutor shall also provide the defendant's prior
32 criminal history that occurred in any tribal jurisdiction. The court
33 shall also review the defendant's individual order history. For the
34 purposes of this subsection, criminal history includes all previous
35 convictions and orders of deferred prosecution, as reported through the

1 judicial information system or otherwise available to the court or
2 prosecutor, current to within the period specified in (c) of this
3 subsection before the date of the appearance.

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

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

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

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

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

18 **Sec. 202.** RCW 26.50.060 and 2009 c 439 s 2 are each amended to
19 read as follows:

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

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

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

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

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

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

36 (f) Order other relief as it deems necessary for the protection of

1 the petitioner and other family or household members sought to be
2 protected, including orders or directives to a peace officer, as
3 allowed under this chapter;

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

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

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

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

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

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

37 ((+l)) (m) Order use of a vehicle.

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

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

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

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

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

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

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

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

26 **Sec. 203.** RCW 26.50.070 and 2000 c 119 s 16 are each amended to
27 read as follows:

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

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

36 (b) Restraining any party from going onto the grounds of or

1 entering the dwelling that the parties share, from the residence,
2 workplace, or school of the other, or from the day care or school of a
3 child until further order of the court;

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

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

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

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

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

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

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

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

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

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

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

11 NEW SECTION. **Sec. 204.** A new section is added to chapter 26.50
12 RCW to read as follows:

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

16 (a) The individual is personally served with a petition within this
17 state;

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

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

25 (i) Occurred within this state; or

26 (ii) Occurred outside this state and are part of a continuing
27 course of conduct having an adverse effect on a person in this state;

28 (d) As a result of the acts of the individual, the petitioner
29 resides in this state; or

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

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

1 **Sec. 205.** RCW 10.99.040 and 2000 c 119 s 18 are each amended to
2 read as follows:

3 (1) Because of the serious nature of domestic violence, the court
4 in domestic violence actions:

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

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

9 (c) Shall waive any requirement that the victim's location be
10 disclosed to any person, other than the attorney of a criminal
11 defendant, upon a showing that there is a possibility of further
12 violence: PROVIDED, That the court may order a criminal defense
13 attorney not to disclose to his or her client the victim's location;
14 and

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

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

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

33 (c) The no-contact order shall also be issued in writing as soon as
34 possible. The administrative office of the courts shall develop a
35 pattern form for all no-contact orders issued under this chapter. A
36 no-contact order issued under this chapter must substantially comply
37 with the pattern form developed by the administrative office of the
38 courts.

1 (3) At the time of arraignment the court shall determine whether a
2 no-contact order shall be issued or extended. The no-contact order
3 shall terminate if the defendant is acquitted or the charges are
4 dismissed. If a no-contact order is issued or extended, the court may
5 also include in the conditions of release a requirement that the
6 defendant submit to electronic monitoring. If electronic monitoring is
7 ordered, the court shall specify who shall provide the monitoring
8 services, and the terms under which the monitoring shall be performed.
9 Upon conviction, the court may require as a condition of the sentence
10 that the defendant reimburse the providing agency for the costs of the
11 electronic monitoring.

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

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

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

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

29 (6) Whenever a no-contact order is issued, modified, or terminated
30 under subsection (2) or (3) of this section, the clerk of the court
31 shall forward a copy of the order on or before the next judicial day to
32 the appropriate law enforcement agency specified in the order. Upon
33 receipt of the copy of the order the law enforcement agency shall enter
34 the order for one year or until the expiration date specified on the
35 order into any computer-based criminal intelligence information system
36 available in this state used by law enforcement agencies to list
37 outstanding warrants. Entry into the computer-based criminal
38 intelligence information system constitutes notice to all law

1 enforcement agencies of the existence of the order. The order is fully
2 enforceable in any jurisdiction in the state. Upon receipt of notice
3 that an order has been terminated under subsection (3) of this section,
4 the law enforcement agency shall remove the order from the computer-
5 based criminal intelligence information system.

6 (7) All courts shall develop policies and procedures by January 1,
7 2011, to grant victims a process to modify or rescind a no-contact
8 order issued under this chapter. The administrative office of the
9 courts shall develop a model policy to assist the courts in
10 implementing the requirements of this subsection.

11 NEW SECTION. Sec. 206. A new section is added to chapter 2.56 RCW
12 to read as follows:

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

17 (2) The guidelines developed under subsection (1) of this section
18 must include:

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

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

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

27 **PART THREE**

28 **SENTENCING REFORMS**

29 **Sec. 301.** RCW 9.94A.535 and 2008 c 276 s 303 and 2008 c 233 s 9
30 are each reenacted and amended to read as follows:

31 The court may impose a sentence outside the standard sentence range
32 for an offense if it finds, considering the purpose of this chapter,
33 that there are substantial and compelling reasons justifying an
34 exceptional sentence. Facts supporting aggravated sentences, other

1 than the fact of a prior conviction, shall be determined pursuant to
2 the provisions of RCW 9.94A.537.

3 Whenever a sentence outside the standard sentence range is imposed,
4 the court shall set forth the reasons for its decision in written
5 findings of fact and conclusions of law. A sentence outside the
6 standard sentence range shall be a determinate sentence.

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

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

15 (1) Mitigating Circumstances - Court to Consider

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

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

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

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

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

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

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

37 (g) The operation of the multiple offense policy of RCW 9.94A.589

1 results in a presumptive sentence that is clearly excessive in light of
2 the purpose of this chapter, as expressed in RCW 9.94A.010.

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

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

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

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

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

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

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

25 (d) The failure to consider the defendant's prior criminal history
26 which was omitted from the offender score calculation pursuant to RCW
27 9.94A.525 results in a presumptive sentence that is clearly too
28 lenient.

29 (3) Aggravating Circumstances - Considered by a Jury -Imposed by
30 the Court

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

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

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

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

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

6 (i) The current offense involved multiple victims or multiple
7 incidents per victim;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (s) The defendant committed the offense to obtain or maintain his

1 or her membership or to advance his or her position in the hierarchy of
2 an organization, association, or identifiable group.

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

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

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

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

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

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

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

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

31 (aa) The defendant committed the offense with the intent to
32 directly or indirectly cause any benefit, aggrandizement, gain, profit,
33 or other advantage to or for a criminal street gang as defined in RCW
34 9.94A.030, its reputation, influence, or membership.

35 NEW SECTION. **Sec. 302.** A new section is added to chapter 10.99
36 RCW to read as follows:

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

4 (a) The defendant suffered a continuing pattern of coercive control
5 or abuse by the victim of the offense and the offense is a response to
6 that control or abuse; and

7 (b) The offense occurred within sight or sound of minor children
8 under the age of eighteen years.

9 (2)(a) In sentencing for a crime of domestic violence as defined in
10 this chapter, the prosecutor shall provide for the court's review of
11 the defendant's criminal history, if any, that occurred in Washington
12 or any other state. If available, the prosecutor shall also provide
13 the defendant's prior criminal history that occurred in any tribal
14 jurisdiction. The court shall also review the defendant's individual
15 order history. For the purposes of this subsection, criminal history
16 includes all previous convictions and orders of deferred prosecution,
17 as reported through the judicial information system or otherwise
18 available to the court or prosecutor, current to within the period
19 specified in (b) of this subsection before the date of sentencing.

20 (b) The periods applicable to previous convictions and orders of
21 deferred prosecution are:

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

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

29 **PART FOUR**

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

31 **Sec. 401.** RCW 26.50.150 and 1999 c 147 s 1 are each amended to
32 read as follows:

33 Any program that treats domestic violence perpetrators must be
34 certified and meet minimum standards for continuing approval by the
35 department of social and health services. The department of social and
36 health services shall adopt rules for standards of approval of domestic

1 violence perpetrator programs (~~(that accept perpetrators of domestic~~
2 ~~violence into treatment to satisfy court orders or that represent the~~
3 ~~programs as ones that treat domestic violence perpetrators)~~). The
4 treatment must meet the following minimum qualifications:

5 (1) All treatment must be based upon a full, complete clinical
6 intake including: Current and past violence history; a lethality risk
7 assessment; a complete diagnostic evaluation; a substance abuse
8 assessment; criminal history; assessment of cultural issues, learning
9 disabilities, literacy, and special language needs; and a treatment
10 plan that adequately and appropriately addresses the treatment needs of
11 the individual.

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

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

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

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

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

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

1 treatment must specifically include education regarding the effects of
2 domestic violence on children, such as the emotional impacts of
3 domestic violence on children and the long-term consequences that
4 exposure to incidents of domestic violence may have on children.

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

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

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

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

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

25 **Sec. 402.** RCW 7.68.020 and 2006 c 268 s 1 are each amended to read
26 as follows:

27 The following words and phrases as used in this chapter have the
28 meanings set forth in this section unless the context otherwise
29 requires.

30 (1) "Department" means the department of labor and industries.

31 (2) "Criminal act" means an act committed or attempted in this
32 state which is: (a) Punishable as a federal offense that is comparable
33 to a felony or gross misdemeanor in this state; (b) punishable as a
34 felony or gross misdemeanor under the laws of this state; (c) an act
35 committed outside the state of Washington against a resident of the
36 state of Washington which would be compensable had it occurred inside
37 this state and the crime occurred in a state which does not have a

1 crime victims compensation program, for which the victim is eligible as
2 set forth in the Washington compensation law; or (d) an act of
3 terrorism as defined in 18 U.S.C. Sec. 2331, as it exists on May 2,
4 1997, committed outside of the United States against a resident of the
5 state of Washington, except as follows:

6 (i) The operation of a motor vehicle, motorcycle, train, boat, or
7 aircraft in violation of law does not constitute a "criminal act"
8 unless:

9 (A) The injury or death was intentionally inflicted;

10 (B) The operation thereof was part of the commission of another
11 non-vehicular criminal act as defined in this section;

12 (C) The death or injury was the result of the operation of a motor
13 vehicle after July 24, 1983, and a preponderance of the evidence
14 establishes that the death was the result of vehicular homicide under
15 RCW 46.61.520, or a conviction of vehicular assault under RCW
16 46.61.522, has been obtained: PROVIDED, That in cases where a probable
17 criminal defendant has died in perpetration of vehicular assault or, in
18 cases where the perpetrator of the vehicular assault is unascertainable
19 because he or she left the scene of the accident in violation of RCW
20 46.52.020 or, because of physical or mental infirmity or disability the
21 perpetrator is incapable of standing trial for vehicular assault, the
22 department may, by a preponderance of the evidence, establish that a
23 vehicular assault had been committed and authorize benefits;

24 (D) The injury or death was caused by a driver in violation of RCW
25 46.61.502; or

26 (E) The injury or death was caused by a driver in violation of RCW
27 46.61.655(7)(a), failure to secure a load in the first degree;

28 (ii) Neither an acquittal in a criminal prosecution nor the absence
29 of any such prosecution is admissible in any claim or proceeding under
30 this chapter as evidence of the noncriminal character of the acts
31 giving rise to such claim or proceeding, except as provided for in
32 (d)(i)(C) of this subsection;

33 (iii) Evidence of a criminal conviction arising from acts which are
34 the basis for a claim or proceeding under this chapter is admissible in
35 such claim or proceeding for the limited purpose of proving the
36 criminal character of the acts; and

37 (iv) Acts which, but for the insanity or mental irresponsibility of

1 the perpetrator, would constitute criminal conduct are deemed to be
2 criminal conduct within the meaning of this chapter.

3 (3) "Victim" means a person who suffers bodily injury or death as
4 a proximate result of a criminal act of another person, the victim's
5 own good faith and reasonable effort to prevent a criminal act, or his
6 or her good faith effort to apprehend a person reasonably suspected of
7 engaging in a criminal act. For the purposes of receiving benefits
8 pursuant to this chapter, "victim" is interchangeable with "employee"
9 or "worker" as defined in chapter 51.08 RCW as now or hereafter
10 amended.

11 (4) "Child," "accredited school," "dependent," "beneficiary,"
12 "average monthly wage," "director," "injury," "invalid," "permanent
13 partial disability," and "permanent total disability" have the meanings
14 assigned to them in chapter 51.08 RCW as now or hereafter amended.

15 (5) "Gainfully employed" means engaging on a regular and continuous
16 basis in a lawful activity from which a person derives a livelihood.

17 (6) "Private insurance" means any source of recompense provided by
18 contract available as a result of the claimed injury or death at the
19 time of such injury or death, or which becomes available any time
20 thereafter.

21 (7) "Public insurance" means any source of recompense provided by
22 statute, state or federal, available as a result of the claimed injury
23 or death at the time of such injury or death, or which becomes
24 available any time thereafter.

25 (8) "Domestic violence offense" means any felony or nonfelony
26 domestic violence offense under chapter 10.99, 26.09, 26.10, 26.26, or
27 26.50 RCW.

28 **Sec. 403.** RCW 7.68.060 and 2001 c 153 s 1 are each amended to read
29 as follows:

30 (1) For the purposes of applying for benefits under this chapter,
31 the rights, privileges, responsibilities, duties, limitations and
32 procedures contained in RCW 51.28.020, 51.28.030, 51.28.040 and
33 51.28.060 shall apply: PROVIDED, That except for applications received
34 pursuant to subsection (4) of this section, no compensation of any kind
35 shall be available under this chapter if:

36 (a) An application for benefits is not received by the department
37 within two years after the date the criminal act was reported to a

1 local police department or sheriff's office or the date the rights of
2 dependents or beneficiaries accrued, unless the director has determined
3 that "good cause" exists to expand the time permitted to receive the
4 application. "Good cause" shall be determined by the department on a
5 case-by-case basis and may extend the period of time in which an
6 application can be received for up to five years after the date the
7 criminal act was reported to a local police department or sheriff's
8 office or the date the rights of dependents or beneficiaries accrued;
9 or

10 (b) The criminal act is not reported by the victim or someone on
11 his or her behalf to a local police department or sheriff's office
12 within twelve months of its occurrence or, if it could not reasonably
13 have been reported within that period, within twelve months of the time
14 when a report could reasonably have been made. In making
15 determinations as to reasonable time limits, the department shall give
16 greatest weight to the needs of the victims.

17 (2) This section shall apply only to criminal acts reported after
18 December 31, 1985 and domestic violence offenses reported after July 1,
19 2010.

20 (3) Because victims of childhood criminal acts may repress
21 conscious memory of such criminal acts far beyond the age of eighteen,
22 the rights of adult victims of childhood criminal acts shall accrue at
23 the time the victim discovers or reasonably should have discovered the
24 elements of the crime. In making determinations as to reasonable time
25 limits, the department shall give greatest weight to the needs of the
26 victim.

27 (4) A right to benefits under this chapter is available to any
28 victim of a person against whom the state initiates proceedings under
29 chapter 71.09 RCW. The right created under this subsection shall
30 accrue when the victim is notified of proceedings under chapter 71.09
31 RCW or the victim is interviewed, deposed, or testifies as a witness in
32 connection with the proceedings. An application for benefits under
33 this subsection must be received by the department within two years
34 after the date the victim's right accrued unless the director
35 determines that good cause exists to expand the time to receive the
36 application. The director shall determine "good cause" on a case-by-
37 case basis and may extend the period of time in which an application
38 can be received for up to five years after the date the right of the

1 victim accrued. Benefits under this subsection shall be limited to
2 compensation for costs or losses incurred on or after the date the
3 victim's right accrues for a claim allowed under this subsection.

4 (5)(a) A right to benefits under this chapter is available to any
5 child under the age of eighteen years old: (i) That resides with a
6 person that has been a victim of a domestic violence offense; and (ii)
7 who was a direct witness by sight or sound to the domestic violence
8 offense that occurred.

9 (b) The domestic violence offense must be reported by the victim or
10 someone on his or her behalf to a local police department or sheriff's
11 office within twelve months of its occurrence, or, if it could not
12 reasonably have been reported within that period, within twelve months
13 of the time when a report could reasonably have been made. Benefits
14 under this subsection are limited to compensation for domestic violence
15 treatment and counseling costs incurred as a result of a child being
16 the direct witness of the domestic violence offense occurring.

17 **Sec. 404.** RCW 7.68.070 and 2009 c 38 s 1 are each amended to read
18 as follows:

19 The right to benefits under this chapter and the amount thereof
20 will be governed insofar as is applicable by the provisions contained
21 in chapter 51.32 RCW except as provided in this section:

22 (1) The provisions contained in RCW 51.32.015, 51.32.030,
23 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 are not
24 applicable to this chapter.

25 (2) Each victim injured as a result of a criminal act, including
26 criminal acts committed between July 1, 1981, and January 1, 1983, or
27 the victim's family or dependents in case of death of the victim, are
28 entitled to benefits in accordance with this chapter, subject to the
29 limitations under RCW 7.68.015. The rights, duties, responsibilities,
30 limitations, and procedures applicable to a worker as contained in RCW
31 51.32.010 are applicable to this chapter.

32 (3) The limitations contained in RCW 51.32.020 are applicable to
33 claims under this chapter. In addition thereto, no person or spouse,
34 child, or dependent of such person is entitled to benefits under this
35 chapter when the injury for which benefits are sought, was:

36 (a) The result of consent, provocation, or incitement by the

1 victim, unless an injury resulting from a criminal act caused the death
2 of the victim;

3 (b) Sustained while the crime victim was engaged in the attempt to
4 commit, or the commission of, a felony; or

5 (c) Sustained while the victim was confined in any county or city
6 jail, federal jail or prison or in any other federal institution, or
7 any state correctional institution maintained and operated by the
8 department of social and health services or the department of
9 corrections, prior to release from lawful custody; or confined or
10 living in any other institution maintained and operated by the
11 department of social and health services or the department of
12 corrections.

13 (4) The benefits established upon the death of a worker and
14 contained in RCW 51.32.050 shall be the benefits obtainable under this
15 chapter and provisions relating to payment contained in that section
16 shall equally apply under this chapter: PROVIDED, That benefits for
17 burial expenses shall not exceed the amount paid by the department in
18 case of the death of a worker as provided in chapter 51.32 RCW in any
19 claim: PROVIDED FURTHER, That if the criminal act results in the death
20 of a victim who was not gainfully employed at the time of the criminal
21 act, and who was not so employed for at least three consecutive months
22 of the twelve months immediately preceding the criminal act;

23 (a) Benefits payable to an eligible surviving spouse, where there
24 are no children of the victim at the time of the criminal act who have
25 survived the victim or where such spouse has legal custody of all of
26 his or her children, shall be limited to burial expenses and a lump sum
27 payment of seven thousand five hundred dollars without reference to
28 number of children, if any;

29 (b) Where any such spouse has legal custody of one or more but not
30 all of such children, then such burial expenses shall be paid, and such
31 spouse shall receive a lump sum payment of three thousand seven hundred
32 fifty dollars and any such child or children not in the legal custody
33 of such spouse shall receive a lump sum of three thousand seven hundred
34 fifty dollars to be divided equally among such child or children;

35 (c) If any such spouse does not have legal custody of any of the
36 children, the burial expenses shall be paid and the spouse shall
37 receive a lump sum payment of up to three thousand seven hundred fifty
38 dollars and any such child or children not in the legal custody of the

1 spouse shall receive a lump sum payment of up to three thousand seven
2 hundred fifty dollars to be divided equally among the child or
3 children;

4 (d) If no such spouse survives, then such burial expenses shall be
5 paid, and each surviving child of the victim at the time of the
6 criminal act shall receive a lump sum payment of three thousand seven
7 hundred fifty dollars up to a total of two such children and where
8 there are more than two such children the sum of seven thousand five
9 hundred dollars shall be divided equally among such children.

10 No other benefits may be paid or payable under these circumstances.

11 (5) The benefits established in RCW 51.32.060 for permanent total
12 disability proximately caused by the criminal act shall be the benefits
13 obtainable under this chapter, and provisions relating to payment
14 contained in that section apply under this chapter: PROVIDED, That if
15 a victim becomes permanently and totally disabled as a proximate result
16 of the criminal act and was not gainfully employed at the time of the
17 criminal act, the victim shall receive monthly during the period of the
18 disability the following percentages, where applicable, of the average
19 monthly wage determined as of the date of the criminal act pursuant to
20 RCW 51.08.018:

21 (a) If married at the time of the criminal act, twenty-nine percent
22 of the average monthly wage.

23 (b) If married with one child at the time of the criminal act,
24 thirty-four percent of the average monthly wage.

25 (c) If married with two children at the time of the criminal act,
26 thirty-eight percent of the average monthly wage.

27 (d) If married with three children at the time of the criminal act,
28 forty-one percent of the average monthly wage.

29 (e) If married with four children at the time of the criminal act,
30 forty-four percent of the average monthly wage.

31 (f) If married with five or more children at the time of the
32 criminal act, forty-seven percent of the average monthly wage.

33 (g) If unmarried at the time of the criminal act, twenty-five
34 percent of the average monthly wage.

35 (h) If unmarried with one child at the time of the criminal act,
36 thirty percent of the average monthly wage.

37 (i) If unmarried with two children at the time of the criminal act,
38 thirty-four percent of the average monthly wage.

1 (j) If unmarried with three children at the time of the criminal
2 act, thirty-seven percent of the average monthly wage.

3 (k) If unmarried with four children at the time of the criminal
4 act, forty percent of the average monthly wage.

5 (l) If unmarried with five or more children at the time of the
6 criminal act, forty-three percent of the average monthly wage.

7 (6) The benefits established in RCW 51.32.080 for permanent partial
8 disability shall be the benefits obtainable under this chapter, and
9 provisions relating to payment contained in that section equally apply
10 under this chapter.

11 (7) The benefits established in RCW 51.32.090 for temporary total
12 disability shall be the benefits obtainable under this chapter, and
13 provisions relating to payment contained in that section apply under
14 this chapter: PROVIDED, That no person is eligible for temporary total
15 disability benefits under this chapter if such person was not gainfully
16 employed at the time of the criminal act, and was not so employed for
17 at least three consecutive months of the twelve months immediately
18 preceding the criminal act.

19 (8) The benefits established in RCW 51.32.095 for continuation of
20 benefits during vocational rehabilitation shall be benefits obtainable
21 under this chapter, and provisions relating to payment contained in
22 that section apply under this chapter: PROVIDED, That benefits shall
23 not exceed five thousand dollars for any single injury.

24 (9) The provisions for lump sum payment of benefits upon death or
25 permanent total disability as contained in RCW 51.32.130 apply under
26 this chapter.

27 (10) The provisions relating to payment of benefits to, for or on
28 behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100,
29 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and
30 51.32.210 are applicable to payment of benefits to, for or on behalf of
31 victims under this chapter.

32 (11) No person or spouse, child, or dependent of such person is
33 entitled to benefits under this chapter where the person making a claim
34 for such benefits has refused to give reasonable cooperation to state
35 or local law enforcement agencies in their efforts to apprehend and
36 convict the perpetrator(s) of the criminal act which gave rise to the
37 claim.

1 (12) In addition to other benefits provided under this chapter,
2 victims of sexual assault are entitled to receive appropriate
3 counseling. Fees for such counseling shall be determined by the
4 department in accordance with RCW 51.04.030, subject to the limitations
5 of RCW 7.68.080. Counseling services may include, if determined
6 appropriate by the department, counseling of members of the victim's
7 immediate family, other than the perpetrator of the assault.

8 (13) Except for medical benefits authorized under RCW 7.68.080, no
9 more than thirty thousand dollars shall be granted as a result of a
10 single injury or death, except that benefits granted as the result of
11 total permanent disability or death shall not exceed forty thousand
12 dollars.

13 (14) Notwithstanding other provisions of this chapter and Title 51
14 RCW, benefits payable for total temporary disability under subsection
15 (7) of this section, shall be limited to fifteen thousand dollars.

16 (15) Any person who is responsible for the victim's injuries, or
17 who would otherwise be unjustly enriched as a result of the victim's
18 injuries, shall not be a beneficiary under this chapter.

19 (16) Crime victims' compensation is not available to pay for
20 services covered under chapter 74.09 RCW or Title XIX of the federal
21 social security act, except to the extent that the costs for such
22 services exceed service limits established by the department of social
23 and health services or, during the 1993-95 fiscal biennium, to the
24 extent necessary to provide matching funds for federal medicaid
25 reimbursement.

26 (17) In addition to other benefits provided under this chapter,
27 immediate family members of a homicide victim may receive appropriate
28 counseling to assist in dealing with the immediate, near-term
29 consequences of the related effects of the homicide. Fees for
30 counseling shall be determined by the department in accordance with RCW
31 51.04.030, subject to the limitations of RCW 7.68.080. Payment of
32 counseling benefits under this section may not be provided to the
33 perpetrator of the homicide. The benefits under this subsection may be
34 provided only with respect to homicides committed on or after July 1,
35 1992.

36 (18) A dependent mother, father, stepmother, or stepfather, as
37 defined in RCW 51.08.050, who is a survivor of her or his child's
38 homicide, who has been requested by a law enforcement agency or a

1 prosecutor to assist in the judicial proceedings related to the death
2 of the victim, and who is not domiciled in Washington state at the time
3 of the request, may receive a lump-sum payment upon arrival in this
4 state. Total benefits under this subsection may not exceed seven
5 thousand five hundred dollars. If more than one dependent parent is
6 eligible for this benefit, the lump-sum payment of seven thousand five
7 hundred dollars shall be divided equally among the dependent parents.

8 (19) A victim whose crime occurred in another state who qualifies
9 for benefits under RCW 7.68.060(4) may receive appropriate mental
10 health counseling to address distress arising from participation in the
11 civil commitment proceedings. Fees for counseling shall be determined
12 by the department in accordance with RCW 51.04.030, subject to the
13 limitations of RCW 7.68.080.

14 (20)(a) A child under the age of eighteen years old who: (i)
15 Resides with a person that is a victim of a domestic violence offense;
16 and (ii) was a direct witness by sight or sound to the domestic
17 violence offense occurring, qualifies for benefits under RCW
18 7.68.060(5) and may receive appropriate counseling and treatment to
19 address distress arising from the domestic violence offense where he or
20 she was a direct witness.

21 (b) The department shall determine fees for counseling and
22 treatment services, subject to the limitations of RCW 7.68.080.

23 PART FIVE

24 MISCELLANEOUS PROVISIONS

25 **Sec. 501.** 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.

--- END ---