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**SUBSTITUTE SENATE BILL 5628**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

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

READ FIRST TIME 01/21/22.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 participant during the performance of the participant's official  
2 duties; or

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

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

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

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

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

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

20 (c) Staff member of any adult corrections institution or local  
21 adult detention facility;

22 (d) Staff member of any juvenile corrections institution or local  
23 juvenile detention facility;

24 (e) Community corrections officer, probation officer, or parole  
25 officer;

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

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

28 (h) Defense attorney.

29 (5) The penalties provided in this section for cyber harassment  
30 do not preclude the victim from seeking any other remedy otherwise  
31 available under law.

32 (6) Any offense committed under this section may be deemed to  
33 have been committed either at the place from which the communication  
34 was made or at the place where the communication was received.

35 ~~((5))~~ (7) For purposes of this section, "electronic  
36 communication" means the transmission of information by wire, radio,  
37 optical cable, electromagnetic, or other similar means. "Electronic  
38 communication" includes, but is not limited to, ((electronic mail))  
39 email, internet-based communications, pager service, and electronic  
40 text messaging.

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

3       The definitions in this section apply throughout this chapter  
4 unless the context clearly requires otherwise.

5       (1) "Access" means to gain entry to, instruct, communicate with,  
6 store data in, retrieve data from, or otherwise make use of any  
7 resources of electronic data, data network, or data system, including  
8 via electronic means.

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

10       (3) "Data" means a digital representation of information,  
11 knowledge, facts, concepts, data software, data programs, or  
12 instructions that are being prepared or have been prepared in a  
13 formalized manner and are intended for use in a data network, data  
14 program, data services, or data system.

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

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

22       (6) "Data services" includes data processing, storage functions,  
23 internet services, email services, electronic message services,  
24 website access, internet-based electronic gaming services, and other  
25 similar system, network, or internet-based services.

26       (7) "Data system" means an electronic device or collection of  
27 electronic devices, including support devices one or more of which  
28 contain data programs, input data, and output data, and that performs  
29 functions including, but not limited to, logic, arithmetic, data  
30 storage and retrieval, communication, and control. This term does not  
31 include calculators that are not programmable and incapable of being  
32 used in conjunction with external files.

33       (8) "Electronic tracking device" means an electronic device that  
34 permits a person to remotely determine or monitor the position and  
35 movement of another person, vehicle, device, or other personal  
36 possession. For this section, "electronic device" includes computer  
37 code or other digital instructions that once installed on a digital  
38 device, allows a person to remotely track the position of that  
39 device.

1        (9) "Identifying information" means information that, alone or in  
2 combination, is linked or linkable to a trusted entity that would be  
3 reasonably expected to request or provide credentials to access a  
4 targeted data system or network. It includes, but is not limited to,  
5 recognizable names, addresses, telephone numbers, logos, HTML links,  
6 email addresses, registered domain names, reserved IP addresses, user  
7 names, social media profiles, cryptographic keys, and biometric  
8 identifiers.

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

20        ~~((10))~~ (11) "White hat security research" means accessing a  
21 data program, service, or system solely for purposes of good faith  
22 testing, investigation, identification, and/or correction of a  
23 security flaw or vulnerability, where such activity is carried out,  
24 and where the information derived from the activity is used,  
25 primarily to promote security or safety.

26        ~~((11))~~ (12) "Without authorization" means to knowingly  
27 circumvent technological access barriers to a data system in order to  
28 obtain information without the express or implied permission of the  
29 owner, where such technological access measures are specifically  
30 designed to exclude or prevent unauthorized individuals from  
31 obtaining such information, but does not include white hat security  
32 research or circumventing a technological measure that does not  
33 effectively control access to a computer. The term "without the  
34 express or implied permission" does not include access in violation  
35 of a duty, agreement, or contractual obligation, such as an  
36 acceptable use policy or terms of service agreement, with an internet  
37 service provider, internet website, or employer. The term "circumvent  
38 technological access barriers" may include unauthorized elevation of  
39 privileges, such as allowing a normal user to execute code as

1 administrator, or allowing a remote person without any privileges to  
2 run code.

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

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

8 (a) The stalker knowingly and without consent:

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

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

13 (b) The stalker knows or reasonably should know that knowledge of  
14 the installation or monitoring of the tracking device would cause the  
15 person stalked reasonable fear, or the stalker has notice that the  
16 person does not want to be contacted or monitored by the stalker, or  
17 there is a protective order in effect protecting the person being  
18 stalked from the cyberstalker.

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

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

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

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

28 (i) The stalker has previously been convicted in this state or  
29 any other state of any crime of harassment, as defined in RCW  
30 9A.46.060, of the same victim or members of the victim's family or  
31 household or any person specifically named in a protective order;

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

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

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

38 (v) (A) The stalker's victim is or was a law enforcement officer;  
39 judge; juror; attorney; victim advocate; legislator; community

1 corrections' officer; an employee, contract staff person, or  
2 volunteer of a correctional agency; court employee, court clerk, or  
3 courthouse facilitator; or an employee of the child protective, child  
4 welfare, or adult protective services division within the department  
5 of social and health services; and

6 (B) The stalker stalked the victim to retaliate against the  
7 victim for an act the victim performed during the course of official  
8 duties or to influence the victim's performance of official duties;  
9 or

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

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

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

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

23 (c) A legal guardian for a disabled adult or a legally authorized  
24 individual or organization designated to provide protective services  
25 to a disabled adult when the electronic tracking device is installed,  
26 placed, or used to track the location of the disabled adult for which  
27 the person is a legal guardian or the individual or organization is  
28 designated to provide protective services;

29 (d) A parent or legal guardian of a minor when the electronic  
30 tracking device is installed, placed, or used to track the location  
31 of that minor unless the parent or legal guardian is subject to a  
32 court order that orders the parent or legal guardian not to assault,  
33 threaten, harass, follow, or contact that minor;

34 (e) An employer, school, or other organization, who owns the  
35 device on which the tracking device is installed and provides the  
36 device to a person for use in connection with the person's  
37 involvement with the employer, school, or other organization and the  
38 use of the device is limited to recovering lost or stolen items; or

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

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

7 (ii) Motor vehicles held for lease or rental to the general  
8 public; or

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

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

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

15 (1) (a) An adult person, a parent or guardian acting on behalf of  
16 a minor, or a guardian acting on behalf of an incapacitated person,  
17 as defined in RCW 11.88.010, and (b) any criminal justice participant  
18 as defined in RCW 9A.46.020 who is a target for threats or harassment  
19 prohibited under RCW 9.61.260 (as recodified by this act) or  
20 9A.46.020(2)(b) (iii) or (iv), and any family members residing with  
21 him or her, may apply to the secretary of state to have an address  
22 designated by the secretary of state serve as the person's address or  
23 the address of the minor or incapacitated person. The secretary of  
24 state shall approve an application if it is filed in the manner and  
25 on the form prescribed by the secretary of state and if it contains:

26 (i) A sworn statement, under penalty of perjury, by the applicant  
27 that the applicant has good reason to believe (A) that the applicant,  
28 or the minor or incapacitated person on whose behalf the application  
29 is made, is a victim of domestic violence, sexual assault,  
30 trafficking, or stalking and that the applicant fears for his or her  
31 safety or his or her children's safety, or the safety of the minor or  
32 incapacitated person on whose behalf the application is made; or (B)  
33 that the applicant, as a criminal justice participant as defined in  
34 RCW 9A.46.020, is a target for threats or harassment prohibited under  
35 RCW 9.61.260 (as recodified by this act) or 9A.46.020(2)(b) (iii) or  
36 (iv);

37 (ii) If applicable, a sworn statement, under penalty of perjury,  
38 by the applicant, that the applicant has reason to believe they are a

1 victim of (A) domestic violence, sexual assault, or stalking  
2 perpetrated by an employee of a law enforcement agency, or (B)  
3 threats or harassment prohibited under RCW 9.61.260 (as recodified by  
4 this act) or 9A.46.020(2)(b) (iii) or (iv);

5 (iii) A designation of the secretary of state as agent for  
6 purposes of service of process and for the purpose of receipt of  
7 mail;

8 (iv) The residential address and any telephone number where the  
9 applicant can be contacted by the secretary of state, which shall not  
10 be disclosed because disclosure will increase the risk of (A)  
11 domestic violence, sexual assault, trafficking, or stalking, or (B)  
12 threats or harassment prohibited under RCW 9.61.260 (as recodified by  
13 this act) or 9A.46.020(2)(b) (iii) or (iv);

14 (v) The signature of the applicant and of any individual or  
15 representative of any office designated in writing under RCW  
16 40.24.080 who assisted in the preparation of the application, and the  
17 date on which the applicant signed the application.

18 (2) Applications shall be filed with the office of the secretary  
19 of state.

20 (3) Upon filing a properly completed application, the secretary  
21 of state shall certify the applicant as a program participant.  
22 Applicants shall be certified for four years following the date of  
23 filing unless the certification is withdrawn or invalidated before  
24 that date. The secretary of state shall by rule establish a renewal  
25 procedure.

26 (4)(a) During the application process, the secretary of state  
27 shall provide each applicant a form to direct the department of  
28 licensing to change the address of registration for vehicles or  
29 vessels solely or jointly registered to the applicant and the address  
30 associated with the applicant's driver's license or identicard to the  
31 applicant's address as designated by the secretary of state upon  
32 certification in the program. The directive to the department of  
33 licensing is only valid if signed by the applicant. The directive may  
34 only include information required by the department of licensing to  
35 verify the applicant's identity and ownership information for  
36 vehicles and vessels. This information is limited to the:

37 (i) Applicant's full legal name;

38 (ii) Applicant's Washington driver's license or identicard  
39 number;

40 (iii) Applicant's date of birth;

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

3 (v) Hull identification number or vessel document number and  
4 vessel decal number for each vessel solely or jointly registered to  
5 the applicant.

6 (b) Upon certification of the applicants, the secretary of state  
7 shall transmit completed and signed directives to the department of  
8 licensing.

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

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

14 (5) A person who knowingly provides false or incorrect  
15 information upon making an application or falsely attests in an  
16 application that disclosure of the applicant's address would endanger  
17 (a) the applicant's safety or the safety of the applicant's children  
18 or the minor or incapacitated person on whose behalf the application  
19 is made, or (b) the safety of any criminal justice participant as  
20 defined in RCW 9A.46.020 who is a target for threats or harassment  
21 prohibited under RCW 9.61.260 (as recodified by this act) or  
22 9A.46.020(2)(b) (iii) or (iv), or any family members residing with  
23 him or her, shall be punished under RCW 40.16.030 or other applicable  
24 statutes.

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

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

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

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

34 (c) Intentionally used to plan a crime, commit or attempt to  
35 commit a crime, or conceal an ongoing crime or ongoing criminal  
36 activity; or

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

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

3 (a) Sought or offered to prove or disprove a claim or complaint  
4 of professional misconduct or malpractice arising from or related to  
5 a collaborative law process;

6 (b) Sought or offered to prove or disprove abuse, neglect,  
7 abandonment, or exploitation of a child or adult, unless the child  
8 protective services agency or adult protective services agency is a  
9 party to or otherwise participates in the process; or

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

12 (3) There is no privilege under RCW 7.77.150 if a tribunal finds,  
13 after a hearing in camera, that the party seeking discovery or the  
14 proponent of the evidence has shown the evidence is not otherwise  
15 available, the need for the evidence substantially outweighs the  
16 interest in protecting confidentiality, and the collaborative law  
17 communication is sought or offered in:

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

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

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

26 (5) Disclosure or admission of evidence excepted from the  
27 privilege under subsection (2) or (3) of this section does not make  
28 the evidence or any other collaborative law communication  
29 discoverable or admissible for any other purpose.

30 (6) The privileges under RCW 7.77.150 do not apply if the parties  
31 agree in advance in a signed record, or if a record of a proceeding  
32 reflects agreement by the parties, that all or part of a  
33 collaborative law process is not privileged. This subsection does not  
34 apply to a collaborative law communication made by a person that did  
35 not receive actual notice of the agreement before the communication  
36 was made.

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

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

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

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

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

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

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

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

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

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

18 (ii) Serves no lawful purpose; and

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

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

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

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

31 The definitions in this section apply throughout this chapter  
32 unless the context clearly requires otherwise.

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

37 (2) "Abuse," for the purposes of a vulnerable adult protection  
38 order, means intentional, willful, or reckless action or inaction  
39 that inflicts injury, unreasonable confinement, intimidation, or

1 punishment on a vulnerable adult. In instances of abuse of a  
2 vulnerable adult who is unable to express or demonstrate physical  
3 harm, pain, or mental anguish, the abuse is presumed to cause  
4 physical harm, pain, or mental anguish. "Abuse" includes sexual  
5 abuse, mental abuse, physical abuse, personal exploitation, and  
6 improper use of restraint against a vulnerable adult, which have the  
7 following meanings:

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

15 (b) "Mental abuse" means an intentional, willful, or reckless  
16 verbal or nonverbal action that threatens, humiliates, harasses,  
17 coerces, intimidates, isolates, unreasonably confines, or punishes a  
18 vulnerable adult. "Mental abuse" may include ridiculing, yelling,  
19 swearing, or withholding or tampering with prescribed medications or  
20 their dosage.

21 (c) "Personal exploitation" means an act of forcing, compelling,  
22 or exerting undue influence over a vulnerable adult causing the  
23 vulnerable adult to act in a way that is inconsistent with relevant  
24 past behavior, or causing the vulnerable adult to perform services  
25 for the benefit of another.

26 (d) "Physical abuse" means the intentional, willful, or reckless  
27 action of inflicting bodily injury or physical mistreatment.  
28 "Physical abuse" includes, but is not limited to, striking with or  
29 without an object, slapping, pinching, strangulation, suffocation,  
30 kicking, shoving, or prodding.

31 (e) "Sexual abuse" means any form of nonconsensual sexual conduct  
32 including, but not limited to, unwanted or inappropriate touching,  
33 rape, molestation, indecent liberties, sexual coercion, sexually  
34 explicit photographing or recording, voyeurism, indecent exposure,  
35 and sexual harassment. "Sexual abuse" also includes any sexual  
36 conduct between a staff person, who is not also a resident or client,  
37 of a facility or a staff person of a program authorized under chapter  
38 71A.12 RCW, and a vulnerable adult living in that facility or  
39 receiving service from a program authorized under chapter 71A.12 RCW,  
40 whether or not the sexual conduct is consensual.

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

7 (4) "Consent" in the context of sexual acts means that at the  
8 time of sexual contact, there are actual words or conduct indicating  
9 freely given agreement to that sexual contact. Consent must be  
10 ongoing and may be revoked at any time. Conduct short of voluntary  
11 agreement does not constitute consent as a matter of law. Consent  
12 cannot be freely given when a person does not have capacity due to  
13 disability, intoxication, or age. Consent cannot be freely given when  
14 the other party has authority or control over the care or custody of  
15 a person incarcerated or detained.

16 (5) (a) "Course of conduct" means a pattern of conduct composed of  
17 a series of acts over a period of time, however short, evidencing a  
18 continuity of purpose. "Course of conduct" includes any form of  
19 communication, contact, or conduct, including the sending of an  
20 electronic communication, but does not include constitutionally  
21 protected free speech. Constitutionally protected activity is not  
22 included within the meaning of "course of conduct."

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

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

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

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

31 (iv) The respondent is acting pursuant to any statutory authority  
32 including, but not limited to, acts which are reasonably necessary  
33 to:

34 (A) Protect property or liberty interests;

35 (B) Enforce the law; or

36 (C) Meet specific statutory duties or requirements;

37 (v) The respondent's course of conduct has the purpose or effect  
38 of unreasonably interfering with the petitioner's privacy or the  
39 purpose or effect of creating an intimidating, hostile, or offensive  
40 living environment for the petitioner; or

1 (vi) Contact by the respondent with the petitioner or the  
2 petitioner's family has been limited in any manner by any previous  
3 court order.

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

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

11 (8) "Domestic violence" means:

12 (a) Physical harm, bodily injury, assault, or the infliction of  
13 fear of physical harm, bodily injury, or assault; nonconsensual  
14 sexual conduct or nonconsensual sexual penetration; unlawful  
15 harassment; or stalking of one intimate partner by another intimate  
16 partner; or

17 (b) Physical harm, bodily injury, assault, or the infliction of  
18 fear of physical harm, bodily injury, or assault; nonconsensual  
19 sexual conduct or nonconsensual sexual penetration; unlawful  
20 harassment; or stalking of one family or household member by another  
21 family or household member.

22 (9) "Electronic monitoring" has the same meaning as in RCW  
23 9.94A.030.

24 (10) "Essential personal effects" means those items necessary for  
25 a person's immediate health, welfare, and livelihood. "Essential  
26 personal effects" includes, but is not limited to, clothing, cribs,  
27 bedding, medications, personal hygiene items, cellular phones and  
28 other electronic devices, and documents, including immigration,  
29 health care, financial, travel, and identity documents.

30 (11) "Facility" means a residence licensed or required to be  
31 licensed under chapter 18.20 RCW, assisted living facilities; chapter  
32 18.51 RCW, nursing homes; chapter 70.128 RCW, adult family homes;  
33 chapter 72.36 RCW, soldiers' homes; chapter 71A.20 RCW, residential  
34 habilitation centers; or any other facility licensed or certified by  
35 the department of social and health services.

36 (12) "Family or household members" means: (a) Persons related by  
37 blood, marriage, domestic partnership, or adoption; (b) persons who  
38 currently or formerly resided together; (c) persons who have a  
39 biological or legal parent-child relationship, including stepparents  
40 and stepchildren and grandparents and grandchildren, or a parent's

1 intimate partner and children; and (d) a person who is acting or has  
2 acted as a legal guardian.

3 (13) "Financial exploitation" means the illegal or improper use  
4 of, control over, or withholding of, the property, income, resources,  
5 or trust funds of the vulnerable adult by any person or entity for  
6 any person's or entity's profit or advantage other than for the  
7 vulnerable adult's profit or advantage. "Financial exploitation"  
8 includes, but is not limited to:

9 (a) The use of deception, intimidation, or undue influence by a  
10 person or entity in a position of trust and confidence with a  
11 vulnerable adult to obtain or use the property, income, resources,  
12 government benefits, health insurance benefits, or trust funds of the  
13 vulnerable adult for the benefit of a person or entity other than the  
14 vulnerable adult;

15 (b) The breach of a fiduciary duty, including, but not limited  
16 to, the misuse of a power of attorney, trust, or a guardianship or  
17 conservatorship appointment, that results in the unauthorized  
18 appropriation, sale, or transfer of the property, income, resources,  
19 or trust funds of the vulnerable adult for the benefit of a person or  
20 entity other than the vulnerable adult; or

21 (c) Obtaining or using a vulnerable adult's property, income,  
22 resources, or trust funds without lawful authority, by a person or  
23 entity who knows or clearly should know that the vulnerable adult  
24 lacks the capacity to consent to the release or use of the vulnerable  
25 adult's property, income, resources, or trust funds.

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

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

34 (16) "Full protection order" means a protection order that is  
35 issued by the court after notice to the respondent and where the  
36 parties had the opportunity for a full hearing by the court. "Full  
37 protection order" includes a protection order entered by the court by  
38 agreement of the parties to resolve the petition for a protection  
39 order without a full hearing.

1 (17) "Hospital" means a facility licensed under chapter 70.41 or  
2 71.12 RCW or a state hospital defined in chapter 72.23 RCW and any  
3 employee, agent, officer, director, or independent contractor  
4 thereof.

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

11 (19) "Intimate partner" means: (a) Spouses or domestic partners;  
12 (b) former spouses or former domestic partners; (c) persons who have  
13 a child in common regardless of whether they have been married or  
14 have lived together at any time; or (d) persons who have or have had  
15 a dating relationship where both persons are at least 13 years of age  
16 or older.

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

21 (i) Acts that prevent a person from sending, making, or receiving  
22 his or her personal mail, electronic communications, or telephone  
23 calls; or

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

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

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

35 (22) "Mechanical restraint" means any device attached or adjacent  
36 to a vulnerable adult's body that the vulnerable adult cannot easily  
37 remove that restricts freedom of movement or normal access to the  
38 vulnerable adult's body. "Mechanical restraint" does not include the  
39 use of devices, materials, or equipment that are (a) medically  
40 authorized, as required, and (b) used in a manner that is consistent

1 with federal or state licensing or certification requirements for  
2 facilities, hospitals, or programs authorized under chapter 71A.12  
3 RCW.

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

5 (24) "Neglect" means: (a) A pattern of conduct or inaction by a  
6 person or entity with a duty of care that fails to provide the goods  
7 and services that maintain the physical or mental health of a  
8 vulnerable adult, or that fails to avoid or prevent physical or  
9 mental harm or pain to a vulnerable adult; or (b) an act or omission  
10 by a person or entity with a duty of care that demonstrates a serious  
11 disregard of consequences of such a magnitude as to constitute a  
12 clear and present danger to the vulnerable adult's health, welfare,  
13 or safety including, but not limited to, conduct prohibited under RCW  
14 9A.42.100.

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

16 (26) "Nonphysical contact" includes, but is not limited to,  
17 written notes, mail, telephone calls, email, text messages, contact  
18 through social media applications, contact through other  
19 technologies, and contact through third parties.

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

22 (28) "Physical restraint" means the application of physical force  
23 without the use of any device, for the purpose of restraining the  
24 free movement of a vulnerable adult's body. "Physical restraint" does  
25 not include (a) briefly holding, without undue force, a vulnerable  
26 adult in order to calm or comfort him or her, or (b) holding a  
27 vulnerable adult's hand to safely escort him or her from one area to  
28 another.

29 (29) "Possession" means having an item in one's custody or  
30 control. Possession may be either actual or constructive. Actual  
31 possession occurs when the item is in the actual physical custody of  
32 the person charged with possession. Constructive possession occurs  
33 when there is no actual physical possession, but there is dominion  
34 and control over the item.

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

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

38 (a) Any intentional or knowing touching or fondling of the  
39 genitals, anus, or breasts, directly or indirectly, including through  
40 clothing;

1 (b) Any intentional or knowing display of the genitals, anus, or  
2 breasts for the purposes of arousal or sexual gratification of the  
3 respondent;

4 (c) Any intentional or knowing touching or fondling of the  
5 genitals, anus, or breasts, directly or indirectly, including through  
6 clothing, that the petitioner is forced to perform by another person  
7 or the respondent;

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

11 (e) Any intentional or knowing touching of the clothed or  
12 unclothed body of a child under the age of 16, if done for the  
13 purpose of sexual gratification or arousal of the respondent or  
14 others; or

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

18 (32) "Sexual penetration" means any contact, however slight,  
19 between the sex organ or anus of one person by an object, the sex  
20 organ, mouth, or anus of another person, or any intrusion, however  
21 slight, of any part of the body of one person or of any animal or  
22 object into the sex organ or anus of another person including, but  
23 not limited to, cunnilingus, fellatio, or anal penetration. Evidence  
24 of emission of semen is not required to prove sexual penetration.

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

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

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

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

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

36 (ii) Serves no lawful purpose; and

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

1 (34) "Temporary protection order" means a protection order that  
2 is issued before the court has decided whether to issue a full  
3 protection order. "Temporary protection order" includes ex parte  
4 temporary protection orders, as well as temporary protection orders  
5 that are reissued by the court pending the completion of a full  
6 hearing to decide whether to issue a full protection order. An "ex  
7 parte temporary protection order" means a temporary protection order  
8 that is issued without prior notice to the respondent.

9 (35) "Unlawful harassment" means:

10 (a) A knowing and willful course of conduct directed at a  
11 specific person that seriously alarms, annoys, harasses, or is  
12 detrimental to such person, and that serves no legitimate or lawful  
13 purpose. The course of conduct must be such as would cause a  
14 reasonable person to suffer substantial emotional distress, and must  
15 actually cause substantial emotional distress to the petitioner; or

16 (b) A single act of violence or threat of violence directed at a  
17 specific person that seriously alarms, annoys, harasses, or is  
18 detrimental to such person, and that serves no legitimate or lawful  
19 purpose, which would cause a reasonable person to suffer substantial  
20 emotional distress, and must actually cause substantial emotional  
21 distress to the petitioner. A single threat of violence must include:

22 (i) A malicious and intentional threat as described in RCW  
23 9A.36.080(1)(c); or (ii) the presence of a firearm or other weapon.

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

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

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

29 (c) Who has a developmental disability as defined under RCW  
30 71A.10.020; or

31 (d) Admitted to any facility; or

32 (e) Receiving services from home health, hospice, or home care  
33 agencies licensed or required to be licensed under chapter 70.127  
34 RCW; or

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

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

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

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

7       (a) Restrain the respondent from committing any of the following  
8 acts against the petitioner and other persons protected by the order:  
9 Domestic violence; nonconsensual sexual conduct or nonconsensual  
10 sexual penetration; sexual abuse; stalking; acts of abandonment,  
11 abuse, neglect, or financial exploitation against a vulnerable adult;  
12 and unlawful harassment;

13       (b) Restrain the respondent from making any attempts to have  
14 contact, including nonphysical contact, with the petitioner or the  
15 petitioner's family or household members who are minors or other  
16 members of the petitioner's household, either directly, indirectly,  
17 or through third parties regardless of whether those third parties  
18 know of the order;

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

22       (d) Restrain the respondent from knowingly coming within, or  
23 knowingly remaining within, a specified distance from a specified  
24 location including, but not limited to, a residence, school, day  
25 care, workplace, the protected party's person, and the protected  
26 party's vehicle. The specified distance shall presumptively be at  
27 least 1,000 feet, unless the court for good cause finds that a  
28 shorter specified distance is appropriate;

29       (e) If the parties have children in common, make residential  
30 provisions with regard to their minor children on the same basis as  
31 is provided in chapter 26.09 RCW. However, parenting plans as  
32 specified in chapter 26.09 RCW must not be required under this  
33 chapter. The court may not delay or defer relief under this chapter  
34 on the grounds that the parties could seek a parenting plan or  
35 modification to a parenting plan in a different action. A protection  
36 order must not be denied on the grounds that the parties have an  
37 existing parenting plan in effect. A protection order may suspend the  
38 respondent's contact with the parties' children under an existing  
39 parenting plan, subject to further orders in a family law proceeding;

1 (f) Order the respondent to participate in a state-certified  
2 domestic violence perpetrator treatment program approved under RCW  
3 43.20A.735 or a state-certified sex offender treatment program  
4 approved under RCW 18.155.070;

5 (g) Order the respondent to obtain a mental health or chemical  
6 dependency evaluation. If the court determines that a mental health  
7 evaluation is necessary, the court shall clearly document the reason  
8 for this determination and provide a specific question or questions  
9 to be answered by the mental health professional. The court shall  
10 consider the ability of the respondent to pay for an evaluation.  
11 Minors are presumed to be unable to pay. The parent or legal guardian  
12 is responsible for costs unless the parent or legal guardian  
13 demonstrates inability to pay;

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

35 (i) Require the respondent to pay the administrative court costs  
36 and service fees, as established by the county or municipality  
37 incurring the expense, and to reimburse the petitioner for costs  
38 incurred in bringing the action, including reasonable attorneys' fees  
39 or limited license legal technician fees when such fees are incurred  
40 by a person licensed and practicing in accordance with state supreme

1 court admission and practice rule 28, the limited practice rule for  
2 limited license legal technicians. Minors are presumed to be unable  
3 to pay. The parent or legal guardian is responsible for costs unless  
4 the parent or legal guardian demonstrates inability to pay;

5 (j) Restrain the respondent from harassing, following,  
6 monitoring, keeping under physical or electronic surveillance,  
7 (~~cyberstalking~~) cyber harassment as defined in RCW 9.61.260 (as  
8 recodified by this act), and using telephonic, audiovisual, or other  
9 electronic means to monitor the actions, location, or communication  
10 of the petitioner or the petitioner's family or household members who  
11 are minors or other members of the petitioner's household. For the  
12 purposes of this subsection, "communication" includes both "wire  
13 communication" and "electronic communication" as defined in RCW  
14 9.73.260;

15 (k) Other than for respondents who are minors, require the  
16 respondent to submit to electronic monitoring. The order must specify  
17 who shall provide the electronic monitoring services and the terms  
18 under which the monitoring must be performed. The order also may  
19 include a requirement that the respondent pay the costs of the  
20 monitoring. The court shall consider the ability of the respondent to  
21 pay for electronic monitoring;

22 (l) Consider the provisions of RCW 9.41.800, and order the  
23 respondent to surrender, and prohibit the respondent from accessing,  
24 having in his or her custody or control, possessing, purchasing,  
25 attempting to purchase or receive, or receiving, all firearms,  
26 dangerous weapons, and any concealed pistol license, as required in  
27 RCW 9.41.800;

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

39 (n) Order use of a vehicle;

1 (o) Enter an order restricting the respondent from engaging in  
2 abusive litigation as set forth in chapter 26.51 RCW or in frivolous  
3 filings against the petitioner, making harassing or libelous  
4 communications about the petitioner to third parties, or making false  
5 reports to investigative agencies. A petitioner may request this  
6 relief in the petition or by separate motion. A petitioner may  
7 request this relief by separate motion at any time within five years  
8 of the date the protection order is entered even if the order has  
9 since expired. A stand-alone motion for an order restricting abusive  
10 litigation may be brought by a party who meets the requirements of  
11 chapter 26.51 RCW regardless of whether the party has previously  
12 sought a protection order under this chapter, provided the motion is  
13 made within five years of the date the order that made a finding of  
14 domestic violence was entered. In cases where a finding of domestic  
15 violence was entered pursuant to an order under chapter 26.09, 26.26,  
16 or 26.26A RCW, a motion for an order restricting abusive litigation  
17 may be brought under the family law case or as a stand-alone action  
18 filed under this chapter, when it is not reasonable or practical to  
19 file under the family law case;

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

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

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

27 (s) Order financial relief and restrain the transfer of jointly  
28 owned assets;

29 (t) Restrain the respondent from possessing or distributing  
30 intimate images, as defined in RCW 9A.86.010, depicting the  
31 petitioner including, but not limited to, requiring the respondent  
32 to: Take down and delete all intimate images and recordings of the  
33 petitioner in the respondent's possession or control; and cease any  
34 and all disclosure of those intimate images. The court may also  
35 inform the respondent that it would be appropriate to ask third  
36 parties in possession or control of the intimate images of this  
37 protection order to take down and delete the intimate images so that  
38 the order may not inadvertently be violated; or

39 (u) Order other relief as it deems necessary for the protection  
40 of the petitioner and other family or household members who are

1 minors or vulnerable adults for whom the petitioner has sought  
2 protection, including orders or directives to a law enforcement  
3 officer, as allowed under this chapter.

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

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

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

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

17 (c) The court shall not issue a full protection order to any  
18 party except upon notice to the respondent and the opportunity for a  
19 hearing pursuant to a petition or counter-petition filed and served  
20 by the party seeking relief in accordance with this chapter. Except  
21 as provided in RCW 7.105.210, the court shall not issue a temporary  
22 protection order to any party unless the party has filed a petition  
23 or counter-petition for a protection order seeking relief in  
24 accordance with this chapter.

25 (d) Under no circumstances shall the court deny the petitioner  
26 the type of protection order sought in the petition on the grounds  
27 that the court finds that a different type of protection order would  
28 have a less severe impact on the respondent.

29 (4) The order shall specify the date the order expires, if any.  
30 For permanent orders, the court shall set the date to expire 99 years  
31 from the issuance date. The order shall also state whether the court  
32 issued the protection order following personal service, service by  
33 electronic means, service by mail, or service by publication, and  
34 whether the court has approved service by mail or publication of an  
35 order issued under this section.

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

38 Unless the context clearly requires otherwise, the definitions in  
39 this section apply throughout this chapter.

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

3 (2) "Collect," or any derivative thereof, "collect and remit," or  
4 "collect and deliver," when used with reference to the department,  
5 means that the department, either directly or through a collection  
6 agreement authorized by RCW 9.94A.760, is responsible for monitoring  
7 and enforcing the offender's sentence with regard to the legal  
8 financial obligation, receiving payment thereof from the offender,  
9 and, consistent with current law, delivering daily the entire payment  
10 to the superior court clerk without depositing it in a departmental  
11 account.

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

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

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

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

25 (7) "Community restitution" means compulsory service, without  
26 compensation, performed for the benefit of the community by the  
27 offender.

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

29 (9) "Conviction" means an adjudication of guilt pursuant to Title  
30 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,  
31 and acceptance of a plea of guilty.

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

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

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

9 (b) A conviction may be removed from a defendant's criminal  
10 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,  
11 9.95.240, or a similar out-of-state statute, or if the conviction has  
12 been vacated pursuant to a governor's pardon. However, when a  
13 defendant is charged with a recidivist offense, "criminal history"  
14 includes a vacated prior conviction for the sole purpose of  
15 establishing that such vacated prior conviction constitutes an  
16 element of the present recidivist offense as provided in RCW  
17 9.94A.640(4)(b) and 9.96.060(7)(c).

18 (c) The determination of a defendant's criminal history is  
19 distinct from the determination of an offender score. A prior  
20 conviction that was not included in an offender score calculated  
21 pursuant to a former version of the sentencing reform act remains  
22 part of the defendant's criminal history.

23 (12) "Criminal street gang" means any ongoing organization,  
24 association, or group of three or more persons, whether formal or  
25 informal, having a common name or common identifying sign or symbol,  
26 having as one of its primary activities the commission of criminal  
27 acts, and whose members or associates individually or collectively  
28 engage in or have engaged in a pattern of criminal street gang  
29 activity. This definition does not apply to employees engaged in  
30 concerted activities for their mutual aid and protection, or to the  
31 activities of labor and bona fide nonprofit organizations or their  
32 members or agents.

33 (13) "Criminal street gang associate or member" means any person  
34 who actively participates in any criminal street gang and who  
35 intentionally promotes, furthers, or assists in any criminal act by  
36 the criminal street gang.

37 (14) "Criminal street gang-related offense" means any felony or  
38 misdemeanor offense, whether in this state or elsewhere, that is  
39 committed for the benefit of, at the direction of, or in association  
40 with any criminal street gang, or is committed with the intent to

1 promote, further, or assist in any criminal conduct by the gang, or  
2 is committed for one or more of the following reasons:

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

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

6 (c) To exact revenge or retribution for the gang or any member of  
7 the gang;

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

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

13 (f) To provide the gang with any advantage in, or any control or  
14 dominance over any criminal market sector, including, but not limited  
15 to, manufacturing, delivering, or selling any controlled substance  
16 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen  
17 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88  
18 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual  
19 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter  
20 9.68 RCW).

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

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

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

31 (18) "Determinate sentence" means a sentence that states with  
32 exactitude the number of actual years, months, or days of total  
33 confinement, of partial confinement, of community custody, the number  
34 of actual hours or days of community restitution work, or dollars or  
35 terms of a legal financial obligation. The fact that an offender  
36 through earned release can reduce the actual period of confinement  
37 shall not affect the classification of the sentence as a determinate  
38 sentence.

39 (19) "Disposable earnings" means that part of the earnings of an  
40 offender remaining after the deduction from those earnings of any

1 amount required by law to be withheld. For the purposes of this  
2 definition, "earnings" means compensation paid or payable for  
3 personal services, whether denominated as wages, salary, commission,  
4 bonuses, or otherwise, and, notwithstanding any other provision of  
5 law making the payments exempt from garnishment, attachment, or other  
6 process to satisfy a court-ordered legal financial obligation,  
7 specifically includes periodic payments pursuant to pension or  
8 retirement programs, or insurance policies of any type, but does not  
9 include payments made under Title 50 RCW, except as provided in RCW  
10 50.40.020 and 50.40.050, or Title 74 RCW.

11 (20) "Domestic violence" has the same meaning as defined in RCW  
12 10.99.020 and 26.50.010.

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

16 (22) "Drug offense" means:

17 (a) Any felony violation of chapter 69.50 RCW except possession  
18 of a controlled substance (RCW 69.50.4013) or forged prescription for  
19 a controlled substance (RCW 69.50.403);

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

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

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

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

32 (a) Radio frequency signaling technology, which detects if the  
33 monitored individual is or is not at an approved location and  
34 notifies the monitoring agency of the time that the monitored  
35 individual either leaves the approved location or tampers with or  
36 removes the monitoring device; or

37 (b) Active or passive global positioning system technology, which  
38 detects the location of the monitored individual and notifies the  
39 monitoring agency of the monitored individual's location and which  
40 may also include electronic monitoring with victim notification

1 technology that is capable of notifying a victim or protected party,  
2 either directly or through a monitoring agency, if the monitored  
3 individual enters within the restricted distance of a victim or  
4 protected party, or within the restricted distance of a designated  
5 location.

6 (25) "Escape" means:

7 (a) Sexually violent predator escape (RCW 9A.76.115), escape in  
8 the first degree (RCW 9A.76.110), escape in the second degree (RCW  
9 9A.76.120), willful failure to return from furlough (RCW 72.66.060),  
10 willful failure to return from work release (RCW 72.65.070), or  
11 willful failure to be available for supervision by the department  
12 while in community custody (RCW 72.09.310); or

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

16 (26) "Felony traffic offense" means:

17 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
18 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-  
19 run injury-accident (RCW 46.52.020(4)), felony driving while under  
20 the influence of intoxicating liquor or any drug (RCW 46.61.502(6)),  
21 or felony physical control of a vehicle while under the influence of  
22 intoxicating liquor or any drug (RCW 46.61.504(6)); 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 a felony  
25 traffic offense under (a) of this subsection.

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

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

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

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

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

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

8 (c) A private residence where the individual stays as a transient  
9 invitee.

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

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

26 (a) Any felony defined under any law as a class A felony or  
27 criminal solicitation of or criminal conspiracy to commit a class A  
28 felony;

29 (b) Assault in the second degree;

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

31 (d) Child molestation in the second degree;

32 (e) Controlled substance homicide;

33 (f) Extortion in the first degree;

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

35 14;

36 (h) Indecent liberties;

37 (i) Kidnapping in the second degree;

38 (j) Leading organized crime;

39 (k) Manslaughter in the first degree;

40 (l) Manslaughter in the second degree;

1 (m) Promoting prostitution in the first degree;  
2 (n) Rape in the third degree;  
3 (o) Sexual exploitation;  
4 (p) Vehicular assault, when caused by the operation or driving of  
5 a vehicle by a person while under the influence of intoxicating  
6 liquor or any drug or by the operation or driving of a vehicle in a  
7 reckless manner;  
8 (q) Vehicular homicide, when proximately caused by the driving of  
9 any vehicle by any person while under the influence of intoxicating  
10 liquor or any drug as defined by RCW 46.61.502, or by the operation  
11 of any vehicle in a reckless manner;  
12 (r) Any other class B felony offense with a finding of sexual  
13 motivation;  
14 (s) Any other felony with a deadly weapon verdict under RCW  
15 9.94A.825;  
16 (t) Any felony offense in effect at any time prior to December 2,  
17 1993, that is comparable to a most serious offense under this  
18 subsection, or any federal or out-of-state conviction for an offense  
19 that under the laws of this state would be a felony classified as a  
20 most serious offense under this subsection;  
21 (u) (i) A prior conviction for indecent liberties under RCW  
22 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.  
23 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),  
24 and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW  
25 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,  
26 until July 1, 1988;  
27 (ii) A prior conviction for indecent liberties under RCW  
28 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,  
29 if: (A) The crime was committed against a child under the age of  
30 (~~fourteen~~) 14; or (B) the relationship between the victim and  
31 perpetrator is included in the definition of indecent liberties under  
32 RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,  
33 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,  
34 1993, through July 27, 1997;  
35 (v) Any out-of-state conviction for a felony offense with a  
36 finding of sexual motivation if the minimum sentence imposed was  
37 (~~ten~~) 10 years or more; provided that the out-of-state felony  
38 offense must be comparable to a felony offense under this title and  
39 Title 9A RCW and the out-of-state definition of sexual motivation

1 must be comparable to the definition of sexual motivation contained  
2 in this section.

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

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

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

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

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

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

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

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

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

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

1 (vi) Possession of a Stolen Firearm (RCW 9A.56.310);  
2 (vii) Hate Crime (RCW 9A.36.080);  
3 (viii) Harassment where a subsequent violation or deadly threat  
4 is made (RCW 9A.46.020(2)(b));  
5 (ix) Criminal Gang Intimidation (RCW 9A.46.120);  
6 (x) Any felony conviction by a person (~~eighteen~~) 18 years of  
7 age or older with a special finding of involving a juvenile in a  
8 felony offense under RCW 9.94A.833;  
9 (xi) Residential Burglary (RCW 9A.52.025);  
10 (xii) Burglary 2 (RCW 9A.52.030);  
11 (xiii) Malicious Mischief 1 (RCW 9A.48.070);  
12 (xiv) Malicious Mischief 2 (RCW 9A.48.080);  
13 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);  
14 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);  
15 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW  
16 9A.56.070);  
17 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW  
18 9A.56.075);  
19 (xix) Extortion 1 (RCW 9A.56.120);  
20 (xx) Extortion 2 (RCW 9A.56.130);  
21 (xxi) Intimidating a Witness (RCW 9A.72.110);  
22 (xxii) Tampering with a Witness (RCW 9A.72.120);  
23 (xxiii) Reckless Endangerment (RCW 9A.36.050);  
24 (xxiv) Coercion (RCW 9A.36.070);  
25 (xxv) Harassment (RCW 9A.46.020); or  
26 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);  
27 (b) That at least one of the offenses listed in (a) of this  
28 subsection shall have occurred after July 1, 2008;  
29 (c) That the most recent committed offense listed in (a) of this  
30 subsection occurred within three years of a prior offense listed in  
31 (a) of this subsection; and  
32 (d) Of the offenses that were committed in (a) of this  
33 subsection, the offenses occurred on separate occasions or were  
34 committed by two or more persons.  
35 (37) "Persistent offender" is an offender who:  
36 (a) (i) Has been convicted in this state of any felony considered  
37 a most serious offense; and  
38 (ii) Has, before the commission of the offense under (a) of this  
39 subsection, been convicted as an offender on at least two separate  
40 occasions, whether in this state or elsewhere, of felonies that under

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

6 (b) (i) Has been convicted of: (A) Rape in the first degree, rape  
7 of a child in the first degree, child molestation in the first  
8 degree, rape in the second degree, rape of a child in the second  
9 degree, or indecent liberties by forcible compulsion; (B) any of the  
10 following offenses with a finding of sexual motivation: Murder in the  
11 first degree, murder in the second degree, homicide by abuse,  
12 kidnapping in the first degree, kidnapping in the second degree,  
13 assault in the first degree, assault in the second degree, assault of  
14 a child in the first degree, assault of a child in the second degree,  
15 or burglary in the first degree; or (C) an attempt to commit any  
16 crime listed in this subsection (37) (b) (i); and

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

29 (38) "Predatory" means: (a) The perpetrator of the crime was a  
30 stranger to the victim, as defined in this section; (b) the  
31 perpetrator established or promoted a relationship with the victim  
32 prior to the offense and the victimization of the victim was a  
33 significant reason the perpetrator established or promoted the  
34 relationship; or (c) the perpetrator was: (i) A teacher, counselor,  
35 volunteer, or other person in authority in any public or private  
36 school and the victim was a student of the school under his or her  
37 authority or supervision. For purposes of this subsection, "school"  
38 does not include home-based instruction as defined in RCW  
39 28A.225.010; (ii) a coach, trainer, volunteer, or other person in  
40 authority in any recreational activity and the victim was a

1 participant in the activity under his or her authority or  
2 supervision; (iii) a pastor, elder, volunteer, or other person in  
3 authority in any church or religious organization, and the victim was  
4 a member or participant of the organization under his or her  
5 authority; or (iv) a teacher, counselor, volunteer, or other person  
6 in authority providing home-based instruction and the victim was a  
7 student receiving home-based instruction while under his or her  
8 authority or supervision. For purposes of this subsection: (A) "Home-  
9 based instruction" has the same meaning as defined in RCW  
10 28A.225.010; and (B) "teacher, counselor, volunteer, or other person  
11 in authority" does not include the parent or legal guardian of the  
12 victim.

13 (39) "Private school" means a school regulated under chapter  
14 28A.195 or 28A.205 RCW.

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

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

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

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

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

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

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

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

27 (g) Violation of a no-contact or protection order, RCW  
28 26.50.110(5).

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

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

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

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

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

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

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

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

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

13 (45) "Serious traffic offense" means:

14 (a) Nonfelony driving while under the influence of intoxicating  
15 liquor or any drug (RCW 46.61.502), nonfelony actual physical control  
16 while under the influence of intoxicating liquor or any drug (RCW  
17 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an  
18 attended vehicle (RCW 46.52.020(5)); or

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

22 (46) "Serious violent offense" is a subcategory of violent  
23 offense and means:

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

25 (ii) Homicide by abuse;

26 (iii) Murder in the second degree;

27 (iv) Manslaughter in the first degree;

28 (v) Assault in the first degree;

29 (vi) Kidnapping in the first degree;

30 (vii) Rape in the first degree;

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

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

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

37 (47) "Sex offense" means:

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

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

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

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

6 (v) A felony violation of RCW 9A.44.132(1) (failure to register  
7 as a sex offender) if the person has been convicted of violating RCW  
8 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130  
9 prior to June 10, 2010, on at least one prior occasion;

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

13 (c) A felony with a finding of sexual motivation under RCW  
14 9.94A.835 or 13.40.135; or

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

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

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

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

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

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

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

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

4 (55) "Victim of domestic violence" means an intimate partner or  
5 household member who has been subjected to the infliction of physical  
6 harm or sexual and psychological abuse by an intimate partner or  
7 household member as part of a pattern of assaultive, coercive, and  
8 controlling behaviors directed at achieving compliance from or  
9 control over that intimate partner or household member. Domestic  
10 violence includes, but is not limited to, the offenses listed in RCW  
11 10.99.020 and 26.50.010 committed by an intimate partner or household  
12 member against a victim who is an intimate partner or household  
13 member.

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

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

28 (58) "Violent offense" means:

29 (a) Any of the following felonies:

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

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

34 (iii) Manslaughter in the first degree;

35 (iv) Manslaughter in the second degree;

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

37 (vi) Kidnapping in the second degree;

38 (vii) Arson in the second degree;

39 (viii) Assault in the second degree;

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

1 (x) Extortion in the first degree;  
2 (xi) Robbery in the second degree;  
3 (xii) Drive-by shooting;  
4 (xiii) Vehicular assault, when caused by the operation or driving  
5 of a vehicle by a person while under the influence of intoxicating  
6 liquor or any drug or by the operation or driving of a vehicle in a  
7 reckless manner; and

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

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

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

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

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

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

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

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

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

37 (2) "Collect," or any derivative thereof, "collect and remit," or  
38 "collect and deliver," when used with reference to the department,  
39 means that the department, either directly or through a collection

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

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

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

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

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

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

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

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

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

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

39 (a) The history shall include, where known, for each conviction  
40 (i) whether the defendant has been placed on probation and the length

1 and terms thereof; and (ii) whether the defendant has been  
2 incarcerated and the length of incarceration.

3 (b) A conviction may be removed from a defendant's criminal  
4 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,  
5 9.95.240, or a similar out-of-state statute, or if the conviction has  
6 been vacated pursuant to a governor's pardon. However, when a  
7 defendant is charged with a recidivist offense, "criminal history"  
8 includes a vacated prior conviction for the sole purpose of  
9 establishing that such vacated prior conviction constitutes an  
10 element of the present recidivist offense as provided in RCW  
11 9.94A.640(4)(b) and 9.96.060(7)(c).

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

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

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

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

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

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

1 (c) To exact revenge or retribution for the gang or any member of  
2 the gang;

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

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

8 (f) To provide the gang with any advantage in, or any control or  
9 dominance over any criminal market sector, including, but not limited  
10 to, manufacturing, delivering, or selling any controlled substance  
11 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen  
12 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88  
13 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual  
14 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter  
15 9.68 RCW).

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

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

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

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

34 (19) "Disposable earnings" means that part of the earnings of an  
35 offender remaining after the deduction from those earnings of any  
36 amount required by law to be withheld. For the purposes of this  
37 definition, "earnings" means compensation paid or payable for  
38 personal services, whether denominated as wages, salary, commission,  
39 bonuses, or otherwise, and, notwithstanding any other provision of  
40 law making the payments exempt from garnishment, attachment, or other

1 process to satisfy a court-ordered legal financial obligation,  
2 specifically includes periodic payments pursuant to pension or  
3 retirement programs, or insurance policies of any type, but does not  
4 include payments made under Title 50 RCW, except as provided in RCW  
5 50.40.020 and 50.40.050, or Title 74 RCW.

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

8 (b) "Domestic violence" also means: (i) Physical harm, bodily  
9 injury, assault, or the infliction of fear of imminent physical harm,  
10 bodily injury, or assault, sexual assault, or stalking, as defined in  
11 RCW 9A.46.110, of one intimate partner by another intimate partner as  
12 defined in RCW 10.99.020; or (ii) physical harm, bodily injury,  
13 assault, or the infliction of fear of imminent physical harm, bodily  
14 injury, or assault, sexual assault, or stalking, as defined in RCW  
15 9A.46.110, of one family or household member by another family or  
16 household member as defined in RCW 10.99.020.

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

20 (22) "Drug offense" means:

21 (a) Any felony violation of chapter 69.50 RCW except possession  
22 of a controlled substance (RCW 69.50.4013) or forged prescription for  
23 a controlled substance (RCW 69.50.403);

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

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

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

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

36 (a) Radio frequency signaling technology, which detects if the  
37 monitored individual is or is not at an approved location and  
38 notifies the monitoring agency of the time that the monitored  
39 individual either leaves the approved location or tampers with or  
40 removes the monitoring device; or

1 (b) Active or passive global positioning system technology, which  
2 detects the location of the monitored individual and notifies the  
3 monitoring agency of the monitored individual's location and which  
4 may also include electronic monitoring with victim notification  
5 technology that is capable of notifying a victim or protected party,  
6 either directly or through a monitoring agency, if the monitored  
7 individual enters within the restricted distance of a victim or  
8 protected party, or within the restricted distance of a designated  
9 location.

10 (25) "Escape" means:

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

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

20 (26) "Felony traffic offense" means:

21 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
22 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-  
23 run injury-accident (RCW 46.52.020(4)), felony driving while under  
24 the influence of intoxicating liquor or any drug (RCW 46.61.502(6)),  
25 or felony physical control of a vehicle while under the influence of  
26 intoxicating liquor or any drug (RCW 46.61.504(6)); or

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

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

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

36 (29) "Home detention" is a subset of electronic monitoring and  
37 means a program of partial confinement available to offenders wherein  
38 the offender is confined in a private residence (~~(twenty-four)~~) 24  
39 hours a day, unless an absence from the residence is approved,  
40 authorized, or otherwise permitted in the order by the court or other

1 supervising agency that ordered home detention, and the offender is  
2 subject to electronic monitoring.

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

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

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

10 (c) A private residence where the individual stays as a transient  
11 invitee.

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

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

28 (a) Any felony defined under any law as a class A felony or  
29 criminal solicitation of or criminal conspiracy to commit a class A  
30 felony;

31 (b) Assault in the second degree;

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

33 (d) Child molestation in the second degree;

34 (e) Controlled substance homicide;

35 (f) Extortion in the first degree;

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

37 14;

38 (h) Indecent liberties;

39 (i) Kidnapping in the second degree;

40 (j) Leading organized crime;

1 (k) Manslaughter in the first degree;  
2 (l) Manslaughter in the second degree;  
3 (m) Promoting prostitution in the first degree;  
4 (n) Rape in the third degree;  
5 (o) Sexual exploitation;  
6 (p) Vehicular assault, when caused by the operation or driving of  
7 a vehicle by a person while under the influence of intoxicating  
8 liquor or any drug or by the operation or driving of a vehicle in a  
9 reckless manner;  
10 (q) Vehicular homicide, when proximately caused by the driving of  
11 any vehicle by any person while under the influence of intoxicating  
12 liquor or any drug as defined by RCW 46.61.502, or by the operation  
13 of any vehicle in a reckless manner;  
14 (r) Any other class B felony offense with a finding of sexual  
15 motivation;  
16 (s) Any other felony with a deadly weapon verdict under RCW  
17 9.94A.825;  
18 (t) Any felony offense in effect at any time prior to December 2,  
19 1993, that is comparable to a most serious offense under this  
20 subsection, or any federal or out-of-state conviction for an offense  
21 that under the laws of this state would be a felony classified as a  
22 most serious offense under this subsection;  
23 (u) (i) A prior conviction for indecent liberties under RCW  
24 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.  
25 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),  
26 and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW  
27 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,  
28 until July 1, 1988;  
29 (ii) A prior conviction for indecent liberties under RCW  
30 9A.44.100(1) (c) as it existed from June 11, 1986, until July 1, 1988,  
31 if: (A) The crime was committed against a child under the age of  
32 (~~fourteen~~) 14; or (B) the relationship between the victim and  
33 perpetrator is included in the definition of indecent liberties under  
34 RCW 9A.44.100(1) (c) as it existed from July 1, 1988, through July 27,  
35 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,  
36 1993, through July 27, 1997;  
37 (v) Any out-of-state conviction for a felony offense with a  
38 finding of sexual motivation if the minimum sentence imposed was  
39 (~~ten~~) 10 years or more; provided that the out-of-state felony  
40 offense must be comparable to a felony offense under this title and

1 Title 9A RCW and the out-of-state definition of sexual motivation  
2 must be comparable to the definition of sexual motivation contained  
3 in this section.

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

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

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

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

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

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

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

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

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

- 1 (v) Theft of a Firearm (RCW 9A.56.300);  
2 (vi) Possession of a Stolen Firearm (RCW 9A.56.310);  
3 (vii) Hate Crime (RCW 9A.36.080);  
4 (viii) Harassment where a subsequent violation or deadly threat  
5 is made (RCW 9A.46.020(2)(b));  
6 (ix) Criminal Gang Intimidation (RCW 9A.46.120);  
7 (x) Any felony conviction by a person (~~eighteen~~) 18 years of  
8 age or older with a special finding of involving a juvenile in a  
9 felony offense under RCW 9.94A.833;  
10 (xi) Residential Burglary (RCW 9A.52.025);  
11 (xii) Burglary 2 (RCW 9A.52.030);  
12 (xiii) Malicious Mischief 1 (RCW 9A.48.070);  
13 (xiv) Malicious Mischief 2 (RCW 9A.48.080);  
14 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);  
15 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);  
16 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW  
17 9A.56.070);  
18 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW  
19 9A.56.075);  
20 (xix) Extortion 1 (RCW 9A.56.120);  
21 (xx) Extortion 2 (RCW 9A.56.130);  
22 (xxi) Intimidating a Witness (RCW 9A.72.110);  
23 (xxii) Tampering with a Witness (RCW 9A.72.120);  
24 (xxiii) Reckless Endangerment (RCW 9A.36.050);  
25 (xxiv) Coercion (RCW 9A.36.070);  
26 (xxv) Harassment (RCW 9A.46.020); or  
27 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);

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

30 (c) That the most recent committed offense listed in (a) of this  
31 subsection occurred within three years of a prior offense listed in  
32 (a) of this subsection; and

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

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

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

39 (ii) Has, before the commission of the offense under (a) of this  
40 subsection, been convicted as an offender on at least two separate

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

7 (b) (i) Has been convicted of: (A) Rape in the first degree, rape  
8 of a child in the first degree, child molestation in the first  
9 degree, rape in the second degree, rape of a child in the second  
10 degree, or indecent liberties by forcible compulsion; (B) any of the  
11 following offenses with a finding of sexual motivation: Murder in the  
12 first degree, murder in the second degree, homicide by abuse,  
13 kidnapping in the first degree, kidnapping in the second degree,  
14 assault in the first degree, assault in the second degree, assault of  
15 a child in the first degree, assault of a child in the second degree,  
16 or burglary in the first degree; or (C) an attempt to commit any  
17 crime listed in this subsection (37) (b) (i); and

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

30 (38) "Predatory" means: (a) The perpetrator of the crime was a  
31 stranger to the victim, as defined in this section; (b) the  
32 perpetrator established or promoted a relationship with the victim  
33 prior to the offense and the victimization of the victim was a  
34 significant reason the perpetrator established or promoted the  
35 relationship; or (c) the perpetrator was: (i) A teacher, counselor,  
36 volunteer, or other person in authority in any public or private  
37 school and the victim was a student of the school under his or her  
38 authority or supervision. For purposes of this subsection, "school"  
39 does not include home-based instruction as defined in RCW  
40 28A.225.010; (ii) a coach, trainer, volunteer, or other person in

1 authority in any recreational activity and the victim was a  
2 participant in the activity under his or her authority or  
3 supervision; (iii) a pastor, elder, volunteer, or other person in  
4 authority in any church or religious organization, and the victim was  
5 a member or participant of the organization under his or her  
6 authority; or (iv) a teacher, counselor, volunteer, or other person  
7 in authority providing home-based instruction and the victim was a  
8 student receiving home-based instruction while under his or her  
9 authority or supervision. For purposes of this subsection: (A) "Home-  
10 based instruction" has the same meaning as defined in RCW  
11 28A.225.010; and (B) "teacher, counselor, volunteer, or other person  
12 in authority" does not include the parent or legal guardian of the  
13 victim.

14 (39) "Private school" means a school regulated under chapter  
15 28A.195 or 28A.205 RCW.

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

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

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

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

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

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

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

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

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

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

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

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

35 (iii) Domestic violence violation of a protection order under  
36 chapter 26.09, 26.26A, or 26.26B RCW or former chapter 26.50 RCW, or  
37 violation of a domestic violence protection order under chapter 7.105  
38 RCW, that is not a felony offense;

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

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

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

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

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

15 (45) "Serious traffic offense" means:

16 (a) Nonfelony driving while under the influence of intoxicating  
17 liquor or any drug (RCW 46.61.502), nonfelony actual physical control  
18 while under the influence of intoxicating liquor or any drug (RCW  
19 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an  
20 attended vehicle (RCW 46.52.020(5)); or

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

24 (46) "Serious violent offense" is a subcategory of violent  
25 offense and means:

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

27 (ii) Homicide by abuse;

28 (iii) Murder in the second degree;

29 (iv) Manslaughter in the first degree;

30 (v) Assault in the first degree;

31 (vi) Kidnapping in the first degree;

32 (vii) Rape in the first degree;

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

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

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

39 (47) "Sex offense" means:

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

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

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

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

9 (v) A felony violation of RCW 9A.44.132(1) (failure to register  
10 as a sex offender) if the person has been convicted of violating RCW  
11 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130  
12 prior to June 10, 2010, on at least one prior occasion;

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

16 (c) A felony with a finding of sexual motivation under RCW  
17 9.94A.835 or 13.40.135; or

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

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

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

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

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

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

37 (53) "Transition training" means written and verbal instructions  
38 and assistance provided by the department to the offender during the  
39 two weeks prior to the offender's successful completion of the work  
40 ethic camp program. The transition training shall include

1 instructions in the offender's requirements and obligations during  
2 the offender's period of community custody.

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

6 (55) "Victim of domestic violence" means an intimate partner or  
7 household member who has been subjected to the infliction of physical  
8 harm or sexual and psychological abuse by an intimate partner or  
9 household member as part of a pattern of assaultive, coercive, and  
10 controlling behaviors directed at achieving compliance from or  
11 control over that intimate partner or household member. Domestic  
12 violence includes, but is not limited to, the offenses listed in RCW  
13 10.99.020 and 26.50.010 committed by an intimate partner or household  
14 member against a victim who is an intimate partner or household  
15 member.

16 (56) "Victim of sex trafficking, prostitution, or commercial  
17 sexual abuse of a minor" means a person who has been forced or  
18 coerced to perform a commercial sex act including, but not limited  
19 to, being a victim of offenses defined in RCW 9A.40.100, 9A.88.070,  
20 9.68A.101, and the trafficking victims protection act of 2000, 22  
21 U.S.C. Sec. 7101 et seq.; or a person who was induced to perform a  
22 commercial sex act when they were less than 18 years of age including  
23 but not limited to the offenses defined in chapter 9.68A RCW.

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

30 (58) "Violent offense" means:

31 (a) Any of the following felonies:

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

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

36 (iii) Manslaughter in the first degree;

37 (iv) Manslaughter in the second degree;

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

39 (vi) Kidnapping in the second degree;

40 (vii) Arson in the second degree;

1 (viii) Assault in the second degree;

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

3 (x) Extortion in the first degree;

4 (xi) Robbery in the second degree;

5 (xii) Drive-by shooting;

6 (xiii) Vehicular assault, when caused by the operation or driving  
7 of a vehicle by a person while under the influence of intoxicating  
8 liquor or any drug or by the operation or driving of a vehicle in a  
9 reckless manner; and

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

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

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

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

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

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

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

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

37 (1) Harassment (RCW 9A.46.020);

38 (2) Hate crime (RCW 9A.36.080);

39 (3) Telephone harassment (RCW 9.61.230);

- 1 (4) Assault in the first degree (RCW 9A.36.011);
- 2 (5) Assault of a child in the first degree (RCW 9A.36.120);
- 3 (6) Assault in the second degree (RCW 9A.36.021);
- 4 (7) Assault of a child in the second degree (RCW 9A.36.130);
- 5 (8) Assault in the fourth degree (RCW 9A.36.041);
- 6 (9) Reckless endangerment (RCW 9A.36.050);
- 7 (10) Extortion in the first degree (RCW 9A.56.120);
- 8 (11) Extortion in the second degree (RCW 9A.56.130);
- 9 (12) Coercion (RCW 9A.36.070);
- 10 (13) Burglary in the first degree (RCW 9A.52.020);
- 11 (14) Burglary in the second degree (RCW 9A.52.030);
- 12 (15) Criminal trespass in the first degree (RCW 9A.52.070);
- 13 (16) Criminal trespass in the second degree (RCW 9A.52.080);
- 14 (17) Malicious mischief in the first degree (RCW 9A.48.070);
- 15 (18) Malicious mischief in the second degree (RCW 9A.48.080);
- 16 (19) Malicious mischief in the third degree (RCW 9A.48.090);
- 17 (20) Kidnapping in the first degree (RCW 9A.40.020);
- 18 (21) Kidnapping in the second degree (RCW 9A.40.030);
- 19 (22) Unlawful imprisonment (RCW 9A.40.040);
- 20 (23) Rape in the first degree (RCW 9A.44.040);
- 21 (24) Rape in the second degree (RCW 9A.44.050);
- 22 (25) Rape in the third degree (RCW 9A.44.060);
- 23 (26) Indecent liberties (RCW 9A.44.100);
- 24 (27) Rape of a child in the first degree (RCW 9A.44.073);
- 25 (28) Rape of a child in the second degree (RCW 9A.44.076);
- 26 (29) Rape of a child in the third degree (RCW 9A.44.079);
- 27 (30) Child molestation in the first degree (RCW 9A.44.083);
- 28 (31) Child molestation in the second degree (RCW 9A.44.086);
- 29 (32) Child molestation in the third degree (RCW 9A.44.089);
- 30 (33) Stalking (RCW 9A.46.110);
- 31 (34) ((~~Cyberstalking~~)) Cyber harassment (RCW 9.61.260 (as
- 32 recodified by this act));
- 33 (35) Residential burglary (RCW 9A.52.025);
- 34 (36) Violation of a temporary, permanent, or final protective
- 35 order issued pursuant to chapter 7.90, 9A.46, 10.14, 10.99, 26.09, or
- 36 26.50 RCW;
- 37 (37) Unlawful discharge of a laser in the first degree (RCW
- 38 9A.49.020); and
- 39 (38) Unlawful discharge of a laser in the second degree (RCW
- 40 9A.49.030).

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

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

- 5       (1) Harassment (RCW 9A.46.020);
- 6       (2) Hate crime (RCW 9A.36.080);
- 7       (3) Telephone harassment (RCW 9.61.230);
- 8       (4) Assault in the first degree (RCW 9A.36.011);
- 9       (5) Assault of a child in the first degree (RCW 9A.36.120);
- 10       (6) Assault in the second degree (RCW 9A.36.021);
- 11       (7) Assault of a child in the second degree (RCW 9A.36.130);
- 12       (8) Assault in the fourth degree (RCW 9A.36.041);
- 13       (9) Reckless endangerment (RCW 9A.36.050);
- 14       (10) Extortion in the first degree (RCW 9A.56.120);
- 15       (11) Extortion in the second degree (RCW 9A.56.130);
- 16       (12) Coercion (RCW 9A.36.070);
- 17       (13) Burglary in the first degree (RCW 9A.52.020);
- 18       (14) Burglary in the second degree (RCW 9A.52.030);
- 19       (15) Criminal trespass in the first degree (RCW 9A.52.070);
- 20       (16) Criminal trespass in the second degree (RCW 9A.52.080);
- 21       (17) Malicious mischief in the first degree (RCW 9A.48.070);
- 22       (18) Malicious mischief in the second degree (RCW 9A.48.080);
- 23       (19) Malicious mischief in the third degree (RCW 9A.48.090);
- 24       (20) Kidnapping in the first degree (RCW 9A.40.020);
- 25       (21) Kidnapping in the second degree (RCW 9A.40.030);
- 26       (22) Unlawful imprisonment (RCW 9A.40.040);
- 27       (23) Rape in the first degree (RCW 9A.44.040);
- 28       (24) Rape in the second degree (RCW 9A.44.050);
- 29       (25) Rape in the third degree (RCW 9A.44.060);
- 30       (26) Indecent liberties (RCW 9A.44.100);
- 31       (27) Rape of a child in the first degree (RCW 9A.44.073);
- 32       (28) Rape of a child in the second degree (RCW 9A.44.076);
- 33       (29) Rape of a child in the third degree (RCW 9A.44.079);
- 34       (30) Child molestation in the first degree (RCW 9A.44.083);
- 35       (31) Child molestation in the second degree (RCW 9A.44.086);
- 36       (32) Child molestation in the third degree (RCW 9A.44.089);
- 37       (33) Stalking (RCW 9A.46.110);
- 38       (34) (~~Cyberstalking~~) Cyber harassment (RCW 9.61.260 (as  
39 recodified by this act));
- 40       (35) Residential burglary (RCW 9A.52.025);

1 (36) Violation of a temporary, permanent, or final protective  
2 order issued pursuant to chapter 9A.44, 9A.46, 10.99, or 26.09 RCW or  
3 any of the former chapters 7.90, 10.14, and 26.50 RCW, or violation  
4 of a domestic violence protection order, sexual assault protection  
5 order, or antiharassment protection order issued under chapter 7.105  
6 RCW;

7 (37) Unlawful discharge of a laser in the first degree (RCW  
8 9A.49.020); and

9 (38) Unlawful discharge of a laser in the second degree (RCW  
10 9A.49.030).

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

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

15 (a) Restrain the respondent from committing acts of domestic  
16 violence;

17 (b) Exclude the respondent from the dwelling that the parties  
18 share, from the residence, workplace, or school of the petitioner, or  
19 from the day care or school of a child;

20 (c) Prohibit the respondent from knowingly coming within, or  
21 knowingly remaining within, a specified distance from a specified  
22 location;

23 (d) On the same basis as is provided in chapter 26.09 RCW, the  
24 court shall make residential provision with regard to minor children  
25 of the parties. However, parenting plans as specified in chapter  
26 26.09 RCW shall not be required under this chapter;

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

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

33 (g) Require the respondent to pay the administrative court costs  
34 and service fees, as established by the county or municipality  
35 incurring the expense and to reimburse the petitioner for costs  
36 incurred in bringing the action, including reasonable attorneys' fees  
37 or limited license legal technician fees when such fees are incurred  
38 by a person licensed and practicing in accordance with the state

1 supreme court's admission to practice rule 28, the limited practice  
2 rule for limited license legal technicians;

3 (h) Restrain the respondent from having any contact with the  
4 victim of domestic violence or the victim's children or members of  
5 the victim's household;

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

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

21 (k) Consider the provisions of RCW 9.41.800;

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

33 (m) Order use of a vehicle; and

34 (n) Enter an order restricting the respondent from engaging in  
35 abusive litigation as set forth in chapter 26.51 RCW. A petitioner  
36 may request this relief in the petition or by separate motion. A  
37 petitioner may request this relief by separate motion at any time  
38 within five years of the date the order for protection is entered  
39 even if the order has since expired. A stand-alone motion for an  
40 order restricting abusive litigation may be brought by a party who

1 meets the requirements of chapter 26.51 RCW regardless of whether the  
2 party has previously sought an order for protection under this  
3 chapter, provided the motion is made within five years of the date  
4 the order that made a finding of domestic violence was entered. In  
5 cases where a finding of domestic violence was entered pursuant to an  
6 order under chapter 26.09, 26.26, or 26.26A RCW, a motion for an  
7 order restricting abusive litigation may be brought under the family  
8 law case or as a stand-alone action filed under this chapter, when it  
9 is not reasonable or practical to file under the family law case.

10 (2) If a protection order restrains the respondent from  
11 contacting the respondent's minor children the restraint shall be for  
12 a fixed period not to exceed one year. This limitation is not  
13 applicable to orders for protection issued under chapter 26.09,  
14 26.10, 26.26A, or 26.26B RCW. With regard to other relief, if the  
15 petitioner has petitioned for relief on his or her own behalf or on  
16 behalf of the petitioner's family or household members or minor  
17 children, and the court finds that the respondent is likely to resume  
18 acts of domestic violence against the petitioner or the petitioner's  
19 family or household members or minor children when the order expires,  
20 the court may either grant relief for a fixed period or enter a  
21 permanent order of protection.

22 If the petitioner has petitioned for relief on behalf of the  
23 respondent's minor children, the court shall advise the petitioner  
24 that if the petitioner wants to continue protection for a period  
25 beyond one year the petitioner may either petition for renewal  
26 pursuant to the provisions of this chapter or may seek relief  
27 pursuant to the provisions of chapter 26.09, 26.26A, or 26.26B RCW.

28 (3) If the court grants an order for a fixed time period, the  
29 petitioner may apply for renewal of the order by filing a petition  
30 for renewal at any time within the three months before the order  
31 expires. The petition for renewal shall state the reasons why the  
32 petitioner seeks to renew the protection order. Upon receipt of the  
33 petition for renewal the court shall order a hearing which shall be  
34 not later than (~~fourteen~~) 14 days from the date of the order.  
35 Except as provided in RCW 26.50.085, personal service shall be made  
36 on the respondent not less than five days before the hearing. If  
37 timely service cannot be made the court shall set a new hearing date  
38 and shall either require additional attempts at obtaining personal  
39 service or permit service by publication as provided in RCW 26.50.085  
40 or by mail as provided in RCW 26.50.123. If the court permits service

1 by publication or mail, the court shall set the new hearing date not  
2 later than (~~twenty-four~~) 24 days from the date of the order. If the  
3 order expires because timely service cannot be made the court shall  
4 grant an ex parte order of protection as provided in RCW 26.50.070.  
5 The court shall grant the petition for renewal unless the respondent  
6 proves by a preponderance of the evidence that the respondent will  
7 not resume acts of domestic violence against the petitioner or the  
8 petitioner's children or family or household members when the order  
9 expires. The court may renew the protection order for another fixed  
10 time period or may enter a permanent order as provided in this  
11 section. The court may award court costs, service fees, and  
12 reasonable attorneys' fees as provided in subsection (1)(g) of this  
13 section.

14 (4) In providing relief under this chapter, the court may realign  
15 the designation of the parties as "petitioner" and "respondent" where  
16 the court finds that the original petitioner is the abuser and the  
17 original respondent is the victim of domestic violence and may issue  
18 an ex parte temporary order for protection in accordance with RCW  
19 26.50.070 on behalf of the victim until the victim is able to prepare  
20 a petition for an order for protection in accordance with RCW  
21 26.50.030.

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

27 (6) The court order shall specify the date the order expires if  
28 any. The court order shall also state whether the court issued the  
29 protection order following personal service, service by publication,  
30 or service by mail and whether the court has approved service by  
31 publication or mail of an order issued under this section.

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

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

37 (1) Where an application under this section alleges that  
38 irreparable injury could result from domestic violence if an order is  
39 not issued immediately without prior notice to the respondent, the

1 court may grant an ex parte temporary order for protection, pending a  
2 full hearing, and grant relief as the court deems proper, including  
3 an order:

4 (a) Restraining any party from committing acts of domestic  
5 violence;

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

10 (c) Prohibiting any party from knowingly coming within, or  
11 knowingly remaining within, a specified distance from a specified  
12 location;

13 (d) Restraining any party from interfering with the other's  
14 custody of the minor children or from removing the children from the  
15 jurisdiction of the court;

16 (e) Restraining any party from having any contact with the victim  
17 of domestic violence or the victim's children or members of the  
18 victim's household; and

19 (f) Restraining the respondent from harassing, following, keeping  
20 under physical or electronic surveillance, (~~cyberstalking~~) cyber  
21 harassment as defined in RCW 9.61.260 (as recodified by this act),  
22 and using telephonic, audiovisual, or other electronic means to  
23 monitor the actions, location, or communication of a victim of  
24 domestic violence, the victim's children, or members of the victim's  
25 household. For the purposes of this subsection, "communication"  
26 includes both "wire communication" and "electronic communication" as  
27 defined in RCW 9.73.260.

28 (2) In issuing the order, the court shall consider the provisions  
29 of RCW 9.41.800, and shall order the respondent to surrender, and  
30 prohibit the respondent from possessing, all firearms, dangerous  
31 weapons, and any concealed pistol license as required in RCW  
32 9.41.800.

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

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

1 (5) An ex parte temporary order for protection shall be effective  
2 for a fixed period not to exceed (~~fourteen~~) 14 days or (~~twenty-~~  
3 ~~four~~) 24 days if the court has permitted service by publication  
4 under RCW 26.50.085 or by mail under RCW 26.50.123. The ex parte  
5 temporary order may be reissued. A full hearing, as provided in this  
6 chapter, shall be set for not later than (~~fourteen~~) 14 days from  
7 the issuance of the ex parte temporary order or not later than  
8 (~~twenty-four~~) 24 days if service by publication or by mail is  
9 permitted. Except as provided in RCW 26.50.050, 26.50.085, and  
10 26.50.123, the respondent shall be personally served with a copy of  
11 the ex parte temporary order along with a copy of the petition and  
12 notice of the date set for the hearing.

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

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

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

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

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