
SUBSTITUTE HOUSE BILL 2473

State of Washington

66th Legislature

2020 Regular Session

By House Public Safety (originally sponsored by Representatives Goodman and Wylie)

1 AN ACT Relating to domestic violence; amending RCW 7.77.060,
2 7.77.080, 9.41.340, 9.41.345, 9A.36.041, 10.14.055, 10.22.010,
3 10.66.010, 10.95.020, 26.09.015, 41.04.655, 48.18.550, 70.83C.010,
4 and 74.34.145; reenacting and amending RCW 9.41.010, 9.41.040,
5 10.31.100, and 9.96.060; prescribing penalties; and declaring an
6 emergency.

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

8 **Sec. 1.** RCW 7.77.060 and 2013 c 119 s 7 are each amended to read
9 as follows:

10 During a collaborative law process, a tribunal may issue
11 emergency orders to protect the health, safety, welfare, or interest
12 of a party or of a family or household member or intimate partner, as
13 defined in RCW 26.50.010.

14 **Sec. 2.** RCW 7.77.080 and 2013 c 119 s 9 are each amended to read
15 as follows:

16 (1) Except as otherwise provided in subsection (3) of this
17 section, a collaborative lawyer is disqualified from appearing before
18 a tribunal to represent a party in a proceeding related to the
19 collaborative matter.

1 (2) Except as otherwise provided in subsection (3) of this
2 section and RCW 7.77.090, a lawyer in a law firm with which the
3 collaborative lawyer is associated is disqualified from appearing
4 before a tribunal to represent a party in a proceeding related to the
5 collaborative matter if the collaborative lawyer is disqualified from
6 doing so under subsection (1) of this section.

7 (3) A collaborative lawyer or a lawyer in a law firm with which
8 the collaborative lawyer is associated may represent a party:

9 (a) To ask a tribunal to approve an agreement resulting from the
10 collaborative law process; or

11 (b) To seek or defend an emergency order to protect the health,
12 safety, welfare, or interest of a party, or family or household
13 member or intimate partner, as defined in RCW 26.50.010, if a
14 successor lawyer is not immediately available to represent that
15 person.

16 (4) If subsection (3)(b) of this section applies, a collaborative
17 lawyer, or lawyer in a law firm with which the collaborative lawyer
18 is associated, may represent a party or family or household member or
19 intimate partner only until the person is represented by a successor
20 lawyer or reasonable measures are taken to protect the health,
21 safety, welfare, or interest of the person.

22 **Sec. 3.** RCW 9.41.010 and 2019 c 243 s 1 are each reenacted and
23 amended to read as follows:

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

26 (1) "Antique firearm" means a firearm or replica of a firearm not
27 designed or redesigned for using rim fire or conventional center fire
28 ignition with fixed ammunition and manufactured in or before 1898,
29 including any matchlock, flintlock, percussion cap, or similar type
30 of ignition system and also any firearm using fixed ammunition
31 manufactured in or before 1898, for which ammunition is no longer
32 manufactured in the United States and is not readily available in the
33 ordinary channels of commercial trade.

34 (2) "Barrel length" means the distance from the bolt face of a
35 closed action down the length of the axis of the bore to the crown of
36 the muzzle, or in the case of a barrel with attachments to the end of
37 any legal device permanently attached to the end of the muzzle.

38 (3) "Bump-fire stock" means a butt stock designed to be attached
39 to a semiautomatic firearm with the effect of increasing the rate of

1 fire achievable with the semiautomatic firearm to that of a fully
2 automatic firearm by using the energy from the recoil of the firearm
3 to generate reciprocating action that facilitates repeated activation
4 of the trigger.

5 (4) "Crime of violence" means:

6 (a) Any of the following felonies, as now existing or hereafter
7 amended: Any felony defined under any law as a class A felony or an
8 attempt to commit a class A felony, criminal solicitation of or
9 criminal conspiracy to commit a class A felony, manslaughter in the
10 first degree, manslaughter in the second degree, indecent liberties
11 if committed by forcible compulsion, kidnapping in the second degree,
12 arson in the second degree, assault in the second degree, assault of
13 a child in the second degree, extortion in the first degree, burglary
14 in the second degree, residential burglary, and robbery in the second
15 degree;

16 (b) Any conviction for a felony offense in effect at any time
17 prior to June 6, 1996, which is comparable to a felony classified as
18 a crime of violence in (a) of this subsection; and

19 (c) Any federal or out-of-state conviction for an offense
20 comparable to a felony classified as a crime of violence under (a) or
21 (b) of this subsection.

22 (5) "Curio or relic" has the same meaning as provided in 27
23 C.F.R. Sec. 478.11.

24 (6) "Dealer" means a person engaged in the business of selling
25 firearms at wholesale or retail who has, or is required to have, a
26 federal firearms license under 18 U.S.C. Sec. 923(a). A person who
27 does not have, and is not required to have, a federal firearms
28 license under 18 U.S.C. Sec. 923(a), is not a dealer if that person
29 makes only occasional sales, exchanges, or purchases of firearms for
30 the enhancement of a personal collection or for a hobby, or sells all
31 or part of his or her personal collection of firearms.

32 (7) "Family or household member" (~~means "family" or "household~~
33 ~~member" as used~~) has the same meaning as in RCW ((10.99.020))
34 26.50.010.

35 (8) "Felony" means any felony offense under the laws of this
36 state or any federal or out-of-state offense comparable to a felony
37 offense under the laws of this state.

38 (9) "Felony firearm offender" means a person who has previously
39 been convicted or found not guilty by reason of insanity in this
40 state of any felony firearm offense. A person is not a felony firearm

1 offender under this chapter if any and all qualifying offenses have
2 been the subject of an expungement, pardon, annulment, certificate,
3 or rehabilitation, or other equivalent procedure based on a finding
4 of the rehabilitation of the person convicted or a pardon, annulment,
5 or other equivalent procedure based on a finding of innocence.

6 (10) "Felony firearm offense" means:

7 (a) Any felony offense that is a violation of this chapter;

8 (b) A violation of RCW 9A.36.045;

9 (c) A violation of RCW 9A.56.300;

10 (d) A violation of RCW 9A.56.310;

11 (e) Any felony offense if the offender was armed with a firearm
12 in the commission of the offense.

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

18 (12) "Gun" has the same meaning as firearm.

19 (13) "Intimate partner" has the same meaning as provided in RCW
20 26.50.010.

21 (14) "Law enforcement officer" includes a general authority
22 Washington peace officer as defined in RCW 10.93.020, or a specially
23 commissioned Washington peace officer as defined in RCW 10.93.020.
24 "Law enforcement officer" also includes a limited authority
25 Washington peace officer as defined in RCW 10.93.020 if such officer
26 is duly authorized by his or her employer to carry a concealed
27 pistol.

28 ~~((14))~~ (15) "Lawful permanent resident" has the same meaning
29 afforded a person "lawfully admitted for permanent residence" in 8
30 U.S.C. Sec. 1101(a)(20).

31 ~~((15))~~ (16) "Licensed collector" means a person who is
32 federally licensed under 18 U.S.C. Sec. 923(b).

33 ~~((16))~~ (17) "Licensed dealer" means a person who is federally
34 licensed under 18 U.S.C. Sec. 923(a).

35 ~~((17))~~ (18) "Loaded" means:

36 (a) There is a cartridge in the chamber of the firearm;

37 (b) Cartridges are in a clip that is locked in place in the
38 firearm;

39 (c) There is a cartridge in the cylinder of the firearm, if the
40 firearm is a revolver;

1 (d) There is a cartridge in the tube or magazine that is inserted
2 in the action; or

3 (e) There is a ball in the barrel and the firearm is capped or
4 primed if the firearm is a muzzle loader.

5 (~~(18)~~) (19) "Machine gun" means any firearm known as a machine
6 gun, mechanical rifle, submachine gun, or any other mechanism or
7 instrument not requiring that the trigger be pressed for each shot
8 and having a reservoir clip, disc, drum, belt, or other separable
9 mechanical device for storing, carrying, or supplying ammunition
10 which can be loaded into the firearm, mechanism, or instrument, and
11 fired therefrom at the rate of five or more shots per second.

12 (~~(19)~~) (20) "Manufacture" means, with respect to a firearm, the
13 fabrication or construction of a firearm.

14 (~~(20)~~) (21) "Nonimmigrant alien" means a person defined as such
15 in 8 U.S.C. Sec. 1101(a) (15).

16 (~~(21)~~) (22) "Person" means any individual, corporation,
17 company, association, firm, partnership, club, organization, society,
18 joint stock company, or other legal entity.

19 (~~(22)~~) (23) "Pistol" means any firearm with a barrel less than
20 sixteen inches in length, or is designed to be held and fired by the
21 use of a single hand.

22 (~~(23)~~) (24) "Rifle" means a weapon designed or redesigned, made
23 or remade, and intended to be fired from the shoulder and designed or
24 redesigned, made or remade, and intended to use the energy of the
25 explosive in a fixed metallic cartridge to fire only a single
26 projectile through a rifled bore for each single pull of the trigger.

27 (~~(24)~~) (25) "Sale" and "sell" mean the actual approval of the
28 delivery of a firearm in consideration of payment or promise of
29 payment.

30 (~~(25)~~) (26) "Secure gun storage" means:

31 (a) A locked box, gun safe, or other secure locked storage space
32 that is designed to prevent unauthorized use or discharge of a
33 firearm; and

34 (b) The act of keeping an unloaded firearm stored by such means.

35 (~~(26)~~) (27) "Semiautomatic assault rifle" means any rifle which
36 utilizes a portion of the energy of a firing cartridge to extract the
37 fired cartridge case and chamber the next round, and which requires a
38 separate pull of the trigger to fire each cartridge.

1 "Semiautomatic assault rifle" does not include antique firearms,
2 any firearm that has been made permanently inoperable, or any firearm
3 that is manually operated by bolt, pump, lever, or slide action.

4 ~~((27))~~ (28) "Serious offense" means any of the following
5 felonies or a felony attempt to commit any of the following felonies,
6 as now existing or hereafter amended:

7 (a) Any crime of violence;

8 (b) Any felony violation of the uniform controlled substances
9 act, chapter 69.50 RCW, that is classified as a class B felony or
10 that has a maximum term of imprisonment of at least ten years;

11 (c) Child molestation in the second degree;

12 (d) Incest when committed against a child under age fourteen;

13 (e) Indecent liberties;

14 (f) Leading organized crime;

15 (g) Promoting prostitution in the first degree;

16 (h) Rape in the third degree;

17 (i) Drive-by shooting;

18 (j) Sexual exploitation;

19 (k) Vehicular assault, when caused by the operation or driving of
20 a vehicle by a person while under the influence of intoxicating
21 liquor or any drug or by the operation or driving of a vehicle in a
22 reckless manner;

23 (l) Vehicular homicide, when proximately caused by the driving of
24 any vehicle by any person while under the influence of intoxicating
25 liquor or any drug as defined by RCW 46.61.502, or by the operation
26 of any vehicle in a reckless manner;

27 (m) Any other class B felony offense with a finding of sexual
28 motivation, as "sexual motivation" is defined under RCW 9.94A.030;

29 (n) Any other felony with a deadly weapon verdict under RCW
30 9.94A.825;

31 (o) Any felony offense in effect at any time prior to June 6,
32 1996, that is comparable to a serious offense, or any federal or out-
33 of-state conviction for an offense that under the laws of this state
34 would be a felony classified as a serious offense; or

35 (p) Any felony conviction under RCW 9.41.115.

36 ~~((28))~~ (29) "Short-barreled rifle" means a rifle having one or
37 more barrels less than sixteen inches in length and any weapon made
38 from a rifle by any means of modification if such modified weapon has
39 an overall length of less than twenty-six inches.

1 ~~((29))~~ (30) "Short-barreled shotgun" means a shotgun having one
2 or more barrels less than eighteen inches in length and any weapon
3 made from a shotgun by any means of modification if such modified
4 weapon has an overall length of less than twenty-six inches.

5 ~~((30))~~ (31) "Shotgun" means a weapon with one or more barrels,
6 designed or redesigned, made or remade, and intended to be fired from
7 the shoulder and designed or redesigned, made or remade, and intended
8 to use the energy of the explosive in a fixed shotgun shell to fire
9 through a smooth bore either a number of ball shot or a single
10 projectile for each single pull of the trigger.

11 ~~((31))~~ (32) "Transfer" means the intended delivery of a firearm
12 to another person without consideration of payment or promise of
13 payment including, but not limited to, gifts and loans. "Transfer"
14 does not include the delivery of a firearm owned or leased by an
15 entity licensed or qualified to do business in the state of
16 Washington to, or return of such a firearm by, any of that entity's
17 employees or agents, defined to include volunteers participating in
18 an honor guard, for lawful purposes in the ordinary course of
19 business.

20 ~~((32))~~ (33) "Undetectable firearm" means any firearm that is
21 not as detectable as 3.7 ounces of 17-4 PH stainless steel by walk-
22 through metal detectors or magnetometers commonly used at airports or
23 any firearm where the barrel, the slide or cylinder, or the frame or
24 receiver of the firearm would not generate an image that accurately
25 depicts the shape of the part when examined by the types of X-ray
26 machines commonly used at airports.

27 ~~((33))~~ (34) "Unlicensed person" means any person who is not a
28 licensed dealer under this chapter.

29 ~~((34))~~ (35) "Untraceable firearm" means any firearm
30 manufactured after July 1, 2019, that is not an antique firearm and
31 that cannot be traced by law enforcement by means of a serial number
32 affixed to the firearm by a federally licensed manufacturer or
33 importer.

34 **Sec. 4.** RCW 9.41.040 and 2019 c 248 s 2, 2019 c 245 s 3, and
35 2019 c 46 s 5003 are each reenacted and amended to read as follows:

36 (1)(a) A person, whether an adult or juvenile, is guilty of the
37 crime of unlawful possession of a firearm in the first degree, if the
38 person owns, has in his or her possession, or has in his or her
39 control any firearm after having previously been convicted or found

1 not guilty by reason of insanity in this state or elsewhere of any
2 serious offense as defined in this chapter.

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

5 (2)(a) A person, whether an adult or juvenile, is guilty of the
6 crime of unlawful possession of a firearm in the second degree, if
7 the person does not qualify under subsection (1) of this section for
8 the crime of unlawful possession of a firearm in the first degree and
9 the person owns, has in his or her possession, or has in his or her
10 control any firearm:

11 (i) After having previously been convicted or found not guilty by
12 reason of insanity in this state or elsewhere of any felony not
13 specifically listed as prohibiting firearm possession under
14 subsection (1) of this section, or any of the following crimes when
15 committed by one family or household member against another or by one
16 intimate partner against another, committed on or after July 1, 1993:
17 Assault in the fourth degree, coercion, stalking, reckless
18 endangerment, criminal trespass in the first degree, or violation of
19 the provisions of a protection order or no-contact order restraining
20 the person or excluding the person from a residence (RCW 26.50.060,
21 26.50.070, 26.50.130, or 10.99.040);

22 (ii) After having previously been convicted or found not guilty
23 by reason of insanity in this state or elsewhere of harassment when
24 committed by one family or household member against another or by one
25 intimate partner against another, committed on or after June 7, 2018;

26 (iii) During any period of time that the person is subject to a
27 court order issued under chapter 7.90, 7.92, 9A.46, 10.14, 10.99,
28 26.09, 26.10, 26.26A, 26.26B, or 26.50 RCW that:

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

32 (B) Restrains the person from harassing, stalking, or threatening
33 the person protected under the order or child of the person or
34 protected person, or engaging in other conduct that would place the
35 protected person in reasonable fear of bodily injury to the protected
36 person or child; and

37 (C) (I) Includes a finding that the person represents a credible
38 threat to the physical safety of the protected person or child and by
39 its terms explicitly prohibits the use, attempted use, or threatened

1 use of physical force against the protected person or child that
2 would reasonably be expected to cause bodily injury; or

3 (II) Includes an order under RCW 9.41.800 requiring the person to
4 surrender all firearms and prohibiting the person from accessing,
5 obtaining, or possessing firearms;

6 (iv) After having previously been involuntarily committed for
7 mental health treatment under RCW 71.05.240, 71.05.320, 71.34.740,
8 71.34.750, chapter 10.77 RCW, or equivalent statutes of another
9 jurisdiction, unless his or her right to possess a firearm has been
10 restored as provided in RCW 9.41.047;

11 (v) After dismissal of criminal charges based on incompetency to
12 stand trial under RCW 10.77.088 when the court has made a finding
13 indicating that the defendant has a history of one or more violent
14 acts, unless his or her right to possess a firearm has been restored
15 as provided in RCW 9.41.047;

16 (vi) If the person is under eighteen years of age, except as
17 provided in RCW 9.41.042; and/or

18 (vii) If the person is free on bond or personal recognizance
19 pending trial, appeal, or sentencing for a serious offense as defined
20 in RCW 9.41.010.

21 (b) (a)(iii) of this subsection does not apply to a sexual
22 assault protection order under chapter 7.90 RCW if the order has been
23 modified pursuant to RCW 7.90.170 to remove any restrictions on
24 firearm purchase, transfer, or possession.

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

27 (3) Notwithstanding RCW 9.41.047 or any other provisions of law,
28 as used in this chapter, a person has been "convicted", whether in an
29 adult court or adjudicated in a juvenile court, at such time as a
30 plea of guilty has been accepted((~~r~~)) or a verdict of guilty has been
31 filed, notwithstanding the pendency of any future proceedings
32 including, but not limited to, sentencing or disposition, post-trial
33 or post-fact-finding motions, and appeals. Conviction includes a
34 dismissal entered after a period of probation, suspension, or
35 deferral of sentence, and also includes equivalent dispositions by
36 courts in jurisdictions other than Washington state. A person shall
37 not be precluded from possession of a firearm if the conviction has
38 been the subject of a pardon, annulment, certificate of
39 rehabilitation, or other equivalent procedure based on a finding of
40 the rehabilitation of the person convicted or the conviction or

1 disposition has been the subject of a pardon, annulment, or other
2 equivalent procedure based on a finding of innocence. Where no record
3 of the court's disposition of the charges can be found, there shall
4 be a rebuttable presumption that the person was not convicted of the
5 charge.

6 (4) (a) Notwithstanding subsection (1) or (2) of this section, a
7 person convicted or found not guilty by reason of insanity of an
8 offense prohibiting the possession of a firearm under this section
9 other than murder, manslaughter, robbery, rape, indecent liberties,
10 arson, assault, kidnapping, extortion, burglary, or violations with
11 respect to controlled substances under RCW 69.50.401 and 69.50.410,
12 who received a probationary sentence under RCW 9.95.200, and who
13 received a dismissal of the charge under RCW 9.95.240, shall not be
14 precluded from possession of a firearm as a result of the conviction
15 or finding of not guilty by reason of insanity. Notwithstanding any
16 other provisions of this section, if a person is prohibited from
17 possession of a firearm under subsection (1) or (2) of this section
18 and has not previously been convicted or found not guilty by reason
19 of insanity of a sex offense prohibiting firearm ownership under
20 subsection (1) or (2) of this section and/or any felony defined under
21 any law as a class A felony or with a maximum sentence of at least
22 twenty years, or both, the individual may petition a court of record
23 to have his or her right to possess a firearm restored:

24 (i) Under RCW 9.41.047; and/or

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

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

1 (b) An individual may petition a court of record to have his or
2 her right to possess a firearm restored under (a) of this subsection
3 (~~(4)~~) only at:

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

6 (ii) The superior court in the county in which the petitioner
7 resides.

8 (5) In addition to any other penalty provided for by law, if a
9 person under the age of eighteen years is found by a court to have
10 possessed a firearm in a vehicle in violation of subsection (1) or
11 (2) of this section or to have committed an offense while armed with
12 a firearm during which offense a motor vehicle served an integral
13 function, the court shall notify the department of licensing within
14 twenty-four hours and the person's privilege to drive shall be
15 revoked under RCW 46.20.265, unless the offense is the juvenile's
16 first offense in violation of this section and has not committed an
17 offense while armed with a firearm, an unlawful possession of a
18 firearm offense, or an offense in violation of chapter 66.44, 69.52,
19 69.41, or 69.50 RCW.

20 (6) Nothing in chapter 129, Laws of 1995 shall ever be construed
21 or interpreted as preventing an offender from being charged and
22 subsequently convicted for the separate felony crimes of theft of a
23 firearm or possession of a stolen firearm, or both, in addition to
24 being charged and subsequently convicted under this section for
25 unlawful possession of a firearm in the first or second degree.
26 Notwithstanding any other law, if the offender is convicted under
27 this section for unlawful possession of a firearm in the first or
28 second degree and for the felony crimes of theft of a firearm or
29 possession of a stolen firearm, or both, then the offender shall
30 serve consecutive sentences for each of the felony crimes of
31 conviction listed in this subsection.

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

34 **Sec. 5.** RCW 9.41.340 and 2015 c 130 s 1 are each amended to read
35 as follows:

36 (1) Each law enforcement agency shall develop a notification
37 protocol that allows a family or household member or intimate partner
38 to use an incident or case number to request to be notified when a
39 law enforcement agency returns a privately owned firearm to the

1 individual from whom it was obtained or to an authorized
2 representative of that person.

3 (a) Notification may be made via telephone, email, text message,
4 or another method that allows notification to be provided without
5 unnecessary delay.

6 (b) If a law enforcement agency is in possession of more than one
7 privately owned firearm from a single person, notification relating
8 to the return of one firearm shall be considered notification for all
9 privately owned firearms for that person.

10 ~~((c) "Family or household member" has the same meaning as in RCW
11 26.50.010.))~~

12 (2) A law enforcement agency shall not provide notification to
13 any party other than a family or household member or intimate partner
14 who has an incident or case number and who has requested to be
15 notified pursuant to this section or another criminal justice agency.

16 (3) The information provided by a family or household member or
17 intimate partner pursuant to chapter 130, Laws of 2015, including the
18 existence of the request for notification, is not subject to public
19 disclosure pursuant to chapter 42.56 RCW.

20 (4) An appointed or elected official, public employee, or public
21 agency as defined in RCW 4.24.470, or combination of units of local
22 government and its employees, as provided in RCW 36.28A.010, are
23 immune from civil liability for damages for any release of
24 information or the failure to release information related to this
25 section, so long as the release or failure was without gross
26 negligence.

27 (5) An individual who knowingly makes a request for notification
28 under this section based on false information may be held liable
29 under RCW 9A.76.175.

30 **Sec. 6.** RCW 9.41.345 and 2019 c 367 s 5 are each amended to read
31 as follows:

32 (1) Before a law enforcement agency returns a privately owned
33 firearm, the law enforcement agency must:

34 (a) Confirm that the individual to whom the firearm will be
35 returned is the individual from whom the firearm was obtained or an
36 authorized representative of that person;

37 (b) Confirm that the individual to whom the firearm will be
38 returned is eligible to possess a firearm pursuant to RCW 9.41.040;

1 (c) Ensure that the firearm is not otherwise required to be held
2 in custody or otherwise prohibited from being released; and

3 (d) Ensure that twenty-four hours have elapsed from the time the
4 firearm was obtained by law enforcement, unless the firearm was
5 seized in connection with a domestic violence call pursuant to RCW
6 10.99.030, in which case the law enforcement agency must ensure that
7 five business days have elapsed from the time the firearm was
8 obtained.

9 (2) (a) Once the requirements in subsections (1) and (3) of this
10 section have been met, a law enforcement agency must release a
11 firearm to the individual from whom it was obtained or an authorized
12 representative of that person upon request without unnecessary delay.

13 (b) (i) If a firearm cannot be returned because it is required to
14 be held in custody or is otherwise prohibited from being released, a
15 law enforcement agency must provide written notice to the individual
16 from whom it was obtained within five business days of the individual
17 requesting return of his or her firearm and specify the reason the
18 firearm must be held in custody.

19 (ii) Notification may be made via email, text message, mail
20 service, or personal service. For methods other than personal
21 service, service shall be considered complete once the notification
22 is sent.

23 (3) If a family or household member or intimate partner has
24 requested to be notified pursuant to RCW 9.41.340, a law enforcement
25 agency must:

26 (a) Provide notice to the family or household member or intimate
27 partner within one business day of verifying that the requirements in
28 subsection (1) of this section have been met; and

29 (b) Hold the firearm in custody for seventy-two hours from the
30 time notification has been provided.

31 (4) (a) A law enforcement agency may not return a concealed pistol
32 license that has been surrendered to, or impounded by, the law
33 enforcement agency for any reason to the licensee until the law
34 enforcement agency determines the licensee is eligible to possess a
35 firearm under state and federal law and meets the other eligibility
36 requirements for a concealed pistol license under RCW 9.41.070.

37 (b) A law enforcement agency must release a concealed pistol
38 license to the licensee without unnecessary delay, and in no case
39 longer than five business days, after the law enforcement agency
40 determines the requirements of (a) of this subsection have been met.

1 (5) The provisions of chapter 130, Laws of 2015 and subsection
2 (4) of this section shall not apply to circumstances where a law
3 enforcement officer has momentarily obtained a firearm or concealed
4 pistol license from an individual and would otherwise immediately
5 return the firearm or concealed pistol license to the individual
6 during the same interaction.

7 **Sec. 7.** RCW 9A.36.041 and 2017 c 272 s 1 are each amended to
8 read as follows:

9 (1) A person is guilty of assault in the fourth degree if, under
10 circumstances not amounting to assault in the first, second, or third
11 degree, or custodial assault, he or she assaults another.

12 (2) Assault in the fourth degree is a gross misdemeanor, except
13 as provided in subsection (3) of this section.

14 (3) (a) Assault in the fourth degree(~~(, where domestic violence~~
15 ~~was pleaded and proven~~) occurring after July 23, 2017, and before
16 the effective date of this section, where domestic violence is
17 pleaded and proven, is a class C felony if the person has two or more
18 prior adult convictions within ten years for any of the following
19 offenses (~~(where domestic violence as defined in RCW 9.94A.030 was~~
20 pleaded and proven)) occurring after July 23, 2017, where domestic
21 violence was pleaded and proven:

22 ~~((a))~~ (i) Repetitive domestic violence offense as defined in
23 RCW 9.94A.030;

24 ~~((b))~~ (ii) Crime of harassment as defined by RCW 9A.46.060;

25 ~~((c))~~ (iii) Assault in the third degree;

26 ~~((d))~~ (iv) Assault in the second degree;

27 ~~((e))~~ (v) Assault in the first degree; or

28 ~~((f) An out-of-state comparable offense.~~

29 ~~(4))~~ (vi) A municipal, tribal, federal, or out-of-state offense
30 comparable to any offense under (a)(i) through (v) of this
31 subsection.

32 For purposes of this subsection (3)(a) (~~(of this section)~~),
33 "family or household members" for purposes of the definition of
34 "domestic violence" means spouses, domestic partners, former spouses,
35 former domestic partners, persons who have a child in common
36 regardless of whether they have been married or have lived together
37 at any time, persons sixteen years of age or older who are presently
38 residing together or who have resided together in the past and who
39 have or have had a dating relationship, and persons sixteen years of

1 age or older with whom a person sixteen years of age or older has or
2 has had a dating relationship. "Family or household member" also
3 includes an "intimate partner" as defined in RCW 26.50.010.

4 (b) Assault in the fourth degree occurring on or after the
5 effective date of this section, where domestic violence against an
6 "intimate partner" as defined in RCW 26.50.010 is pleaded and proven,
7 is a class C felony if the person has two or more prior adult
8 convictions within ten years for any of the following offenses
9 occurring after July 23, 2017, where domestic violence against an
10 "intimate partner" as defined in RCW 26.50.010 or domestic violence
11 against a "family or household member" as defined in (a) of this
12 subsection was pleaded and proven:

13 (i) Repetitive domestic violence offense as defined in RCW
14 9.94A.030;

15 (ii) Crime of harassment as defined by RCW 9A.46.060;

16 (iii) Assault in the third degree;

17 (iv) Assault in the second degree;

18 (v) Assault in the first degree; or

19 (vi) A municipal, tribal, federal, or out-of-state offense
20 comparable to any offense under (b) (i) through (v) of this
21 subsection.

22 **Sec. 8.** RCW 10.14.055 and 2002 c 117 s 2 are each amended to
23 read as follows:

24 No fees for filing or service of process may be charged by a
25 public agency to petitioners seeking relief under this chapter from a
26 person who has stalked them as that term is defined in RCW 9A.46.110,
27 or from a person who has engaged in conduct that would constitute a
28 sex offense as defined in RCW (~~9A.44.130~~) 9A.44.128, or from a
29 person who is a family or household member or intimate partner as
30 defined in RCW 26.50.010(~~((2))~~) who has engaged in conduct that would
31 constitute domestic violence as defined in RCW 26.50.010(~~((1))~~).

32 **Sec. 9.** RCW 10.22.010 and 2010 c 8 s 1015 are each amended to
33 read as follows:

34 When a defendant is prosecuted in a criminal action for a
35 misdemeanor, other than a violation of RCW 9A.48.105, for which the
36 person injured by the act constituting the offense has a remedy by a
37 civil action, the offense may be compromised as provided in RCW
38 10.22.020, except when it was committed:

- 1 (1) By or upon an officer while in the execution of the duties of
2 his or her office;
- 3 (2) Riotously;
- 4 (3) With an intent to commit a felony; or
- 5 (4) By one family or household member against another or by one
6 intimate partner against another as defined in RCW (~~10.99.020~~)
7 26.50.010 and was a crime of domestic violence as defined in RCW
8 10.99.020.

9 **Sec. 10.** RCW 10.31.100 and 2019 c 263 s 911, 2019 c 246 s 6,
10 2019 c 46 s 5013, and 2019 c 18 s 1 are each reenacted and amended to
11 read as follows:

12 A police officer having probable cause to believe that a person
13 has committed or is committing a felony shall have the authority to
14 arrest the person without a warrant. A police officer may arrest a
15 person without a warrant for committing a misdemeanor or gross
16 misdemeanor only when the offense is committed in the presence of an
17 officer, except as provided in subsections (1) through (11) of this
18 section.

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

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

32 (a) An order has been issued of which the person has knowledge
33 under RCW 26.44.063, or chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88,
34 10.99, 26.09, 26.10, 26.26A, 26.26B, 26.50, or 74.34 RCW restraining
35 the person and the person has violated the terms of the order
36 restraining the person from acts or threats of violence, or
37 restraining the person from going onto the grounds of, or entering, a
38 residence, workplace, school, or day care, or prohibiting the person
39 from knowingly coming within, or knowingly remaining within, a

1 specified distance of a location or, in the case of an order issued
2 under RCW 26.44.063, imposing any other restrictions or conditions
3 upon the person;

4 (b) An extreme risk protection order has been issued against the
5 person under RCW 7.94.040, the person has knowledge of the order, and
6 the person has violated the terms of the order prohibiting the person
7 from having in his or her custody or control, purchasing, possessing,
8 accessing, or receiving a firearm or concealed pistol license;

9 (c) A foreign protection order, as defined in RCW 26.52.010, or a
10 Canadian domestic violence protection order, as defined in RCW
11 26.55.010, has been issued of which the person under restraint has
12 knowledge and the person under restraint has violated a provision of
13 the foreign protection order or the Canadian domestic violence
14 protection order prohibiting the person under restraint from
15 contacting or communicating with another person, or excluding the
16 person under restraint from a residence, workplace, school, or day
17 care, or prohibiting the person from knowingly coming within, or
18 knowingly remaining within, a specified distance of a location, or a
19 violation of any provision for which the foreign protection order or
20 the Canadian domestic violence protection order specifically
21 indicates that a violation will be a crime; or

22 (d) The person is eighteen years or older and within the
23 preceding four hours has assaulted a family or household member or
24 intimate partner as defined in RCW (~~(10.99.020)~~) 26.50.010 and the
25 officer believes: (i) A felonious assault has occurred; (ii) an
26 assault has occurred which has resulted in bodily injury to the
27 victim, whether the injury is observable by the responding officer or
28 not; or (iii) that any physical action has occurred which was
29 intended to cause another person reasonably to fear imminent serious
30 bodily injury or death. Bodily injury means physical pain, illness,
31 or an impairment of physical condition. When the officer has probable
32 cause to believe that family or household members or intimate
33 partners have assaulted each other, the officer is not required to
34 arrest both persons. The officer shall arrest the person whom the
35 officer believes to be the primary physical aggressor. In making this
36 determination, the officer shall make every reasonable effort to
37 consider: (A) The intent to protect victims of domestic violence
38 under RCW 10.99.010; (B) the comparative extent of injuries inflicted
39 or serious threats creating fear of physical injury; and (C) the

1 history of domestic violence of each person involved, including
2 whether the conduct was part of an ongoing pattern of abuse.

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

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

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

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

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

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

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

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

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

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

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

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

39 (7) An officer may act upon the request of a law enforcement
40 officer, in whose presence a traffic infraction was committed, to

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

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

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

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

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

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

24 (12) A law enforcement officer having probable cause to believe
25 that a person has committed a violation under RCW 77.15.160(5) may
26 issue a citation for an infraction to the person in connection with
27 the violation.

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

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

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

37 (16)(a) Except as provided in (b) of this subsection, a police
38 officer shall arrest and keep in custody, until release by a judicial
39 officer on bail, personal recognizance, or court order, a person
40 without a warrant when the officer has probable cause to believe that

1 the person has violated RCW 46.61.502 or 46.61.504 or an equivalent
2 local ordinance and the police officer: (i) Has knowledge that the
3 person has a prior offense as defined in RCW 46.61.5055 within ten
4 years; or (ii) has knowledge, based on a review of the information
5 available to the officer at the time of arrest, that the person is
6 charged with or is awaiting arraignment for an offense that would
7 qualify as a prior offense as defined in RCW 46.61.5055 if it were a
8 conviction.

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

12 **Sec. 11.** RCW 10.66.010 and 1989 c 271 s 214 are each amended to
13 read as follows:

14 Unless the context clearly requires otherwise, the definitions in
15 this section apply throughout this chapter:

16 (1) "Applicant" means any person who owns, occupies, or has a
17 substantial interest in property, or who is a neighbor to property
18 which is adversely affected by drug trafficking, including:

19 (a) A "family or household member" or "intimate partner" as
20 defined by RCW (~~(10.99.020(1))~~) 26.50.010, who has a possessory
21 interest in a residence as an owner or tenant, at least as great as a
22 known drug trafficker's interest;

23 (b) An owner or lessor;

24 (c) An owner, tenant, or resident who lives or works in a
25 designated PADT area; or

26 (d) A city or prosecuting attorney for any jurisdiction in this
27 state where drug trafficking is occurring.

28 (2) "Drug" or "drugs" means a controlled substance as defined in
29 chapter 69.50 RCW or an "imitation controlled substance" as defined
30 in RCW 69.52.020.

31 (3) "Known drug trafficker" means any person who has been
32 convicted of a drug offense in this state, another state, or federal
33 court who subsequently has been arrested for a drug offense in this
34 state. For purposes of this definition, "drug offense" means a felony
35 violation of chapter 69.50 or 69.52 RCW or equivalent law in another
36 jurisdiction that involves the manufacture, distribution, or
37 possession with intent to manufacture or distribute(~~(7)~~) of a
38 controlled substance or imitation controlled substance.

1 (4) "Off-limits orders" means an order issued by a superior or
2 district court in the state of Washington that enjoins known drug
3 traffickers from entering or remaining in a designated PADT area.

4 (5) "Protected against drug trafficking area" or "PADT area"
5 means any specifically described area, public or private, contained
6 in an off-limits order. The perimeters of a PADT area shall be
7 defined using street names and numbers and shall include all real
8 property contained therein, where drug sales, possession of drugs,
9 pedestrian or vehicular traffic attendant to drug activity, or other
10 activity associated with drug offenses confirms a pattern associated
11 with drug trafficking. The area may include the full width of
12 streets, alleys and sidewalks on the perimeter, common areas,
13 planting strips, or parks and parking areas within the area described
14 using the streets as boundaries.

15 **Sec. 12.** RCW 10.95.020 and 2003 c 53 s 96 are each amended to
16 read as follows:

17 A person is guilty of aggravated first degree murder, a class A
18 felony, if he or she commits first degree murder as defined by RCW
19 9A.32.030(1)(a), as now or hereafter amended, and one or more of the
20 following aggravating circumstances exist:

21 (1) The victim was a law enforcement officer, corrections
22 officer, or firefighter who was performing his or her official duties
23 at the time of the act resulting in death and the victim was known or
24 reasonably should have been known by the person to be such at the
25 time of the killing;

26 (2) At the time of the act resulting in the death, the person was
27 serving a term of imprisonment, had escaped, or was on authorized or
28 unauthorized leave in or from a state facility or program for the
29 incarceration or treatment of persons adjudicated guilty of crimes;

30 (3) At the time of the act resulting in death, the person was in
31 custody in a county or county-city jail as a consequence of having
32 been adjudicated guilty of a felony;

33 (4) The person committed the murder pursuant to an agreement that
34 he or she would receive money or any other thing of value for
35 committing the murder;

36 (5) The person solicited another person to commit the murder and
37 had paid or had agreed to pay money or any other thing of value for
38 committing the murder;

1 (6) The person committed the murder to obtain or maintain his or
2 her membership or to advance his or her position in the hierarchy of
3 an organization, association, or identifiable group;

4 (7) The murder was committed during the course of or as a result
5 of a shooting where the discharge of the firearm, as defined in RCW
6 9.41.010, is either from a motor vehicle or from the immediate area
7 of a motor vehicle that was used to transport the shooter or the
8 firearm, or both, to the scene of the discharge;

9 (8) The victim was:

10 (a) A judge; juror or former juror; prospective, current, or
11 former witness in an adjudicative proceeding; prosecuting attorney;
12 deputy prosecuting attorney; defense attorney; a member of the
13 indeterminate sentence review board; or a probation or parole
14 officer; and

15 (b) The murder was related to the exercise of official duties
16 performed or to be performed by the victim;

17 (9) The person committed the murder to conceal the commission of
18 a crime or to protect or conceal the identity of any person
19 committing a crime, including, but specifically not limited to, any
20 attempt to avoid prosecution as a persistent offender as defined in
21 RCW 9.94A.030;

22 (10) There was more than one victim and the murders were part of
23 a common scheme or plan or the result of a single act of the person;

24 (11) The murder was committed in the course of, in furtherance
25 of, or in immediate flight from one of the following crimes:

26 (a) Robbery in the first or second degree;

27 (b) Rape in the first or second degree;

28 (c) Burglary in the first or second degree or residential
29 burglary;

30 (d) Kidnapping in the first degree; or

31 (e) Arson in the first degree;

32 (12) The victim was regularly employed or self-employed as a
33 newsreporter and the murder was committed to obstruct or hinder the
34 investigative, research, or reporting activities of the victim;

35 (13) At the time the person committed the murder, there existed a
36 court order, issued in this or any other state, which prohibited the
37 person from either contacting the victim, molesting the victim, or
38 disturbing the peace of the victim, and the person had knowledge of
39 the existence of that order;

1 (14) At the time the person committed the murder, the person and
2 the victim were "family or household members" or "intimate partners"
3 as (~~that term is~~) defined in RCW (~~(10.99.020(1))~~) 26.50.010, and
4 the person had previously engaged in a pattern or practice of three
5 or more of the following crimes committed upon the victim within a
6 five-year period, regardless of whether a conviction resulted:

7 (a) Harassment as defined in RCW 9A.46.020; or

8 (b) Any criminal assault.

9 **Sec. 13.** RCW 26.09.015 and 2008 c 6 s 1044 are each amended to
10 read as follows:

11 (1) In any proceeding under this chapter, the matter may be set
12 for mediation of the contested issues before, or concurrent with, the
13 setting of the matter for hearing. The purpose of the mediation
14 proceeding shall be to reduce acrimony which may exist between the
15 parties and to develop an agreement assuring the child's close and
16 continuing contact with both parents after the marriage or the
17 domestic partnership is dissolved. The mediator shall use his or her
18 best efforts to effect a settlement of the dispute.

19 (2)(a) Each superior court may make available a mediator. The
20 court shall use the most cost-effective mediation services that are
21 readily available unless there is good cause to access alternative
22 providers. The mediator may be a member of the professional staff of
23 a family court or mental health services agency, or may be any other
24 person or agency designated by the court. In order to provide
25 mediation services, the court is not required to institute a family
26 court.

27 (b) In any proceeding involving issues relating to residential
28 time or other matters governed by a parenting plan, the matter may be
29 set for mediation of the contested issues before, or concurrent with,
30 the setting of the matter for hearing. Counties may, and to the
31 extent state funding is provided therefor counties shall, provide
32 both predecree and postdecree mediation at reduced or waived fee to
33 the parties within one year of the filing of the dissolution
34 petition.

35 (3)(a) Mediation proceedings under this chapter shall be governed
36 in all respects by chapter 7.07 RCW, except as follows:

37 (i) Mediation communications in postdecree mediations mandated by
38 a parenting plan are admissible in subsequent proceedings for the
39 limited purpose of proving:

1 (A) Abuse, neglect, abandonment, exploitation, or unlawful
2 harassment, as defined in RCW 9A.46.020(1), of a child;

3 (B) Abuse or unlawful harassment as defined in RCW 9A.46.020(1),
4 of a family or household member or intimate partner, each as defined
5 in RCW 26.50.010(~~(+2)~~); or

6 (C) That a parent used or frustrated the dispute resolution
7 process without good reason for purposes of RCW 26.09.184(4)(d).

8 (ii) If a postdecree mediation-arbitration proceeding is required
9 pursuant to a parenting plan and the same person acts as both
10 mediator and arbitrator, mediation communications in the mediation
11 phase of such a proceeding may be admitted during the arbitration
12 phase, and shall be admissible in the judicial review of such a
13 proceeding under RCW 26.09.184(4)(e) to the extent necessary for such
14 review to be effective.

15 (b) None of the exceptions under (a)(i) and (ii) of this
16 subsection shall subject a mediator to compulsory process to testify
17 except by court order for good cause shown, taking into consideration
18 the need for the mediator's testimony and the interest in the
19 mediator maintaining an appearance of impartiality. If a mediation
20 communication is not privileged under (a)(i) of this subsection or
21 that portion of (a)(ii) of this subsection pertaining to judicial
22 review, only the portion of the communication necessary for the
23 application of the exception may be admitted, and such admission of
24 evidence shall not render any other mediation communication
25 discoverable or admissible except as may be provided in chapter 7.07
26 RCW.

27 (4) The mediator shall assess the needs and interests of the
28 child or children involved in the controversy and may interview the
29 child or children if the mediator deems such interview appropriate or
30 necessary.

31 (5) Any agreement reached by the parties as a result of mediation
32 shall be reported to the court and to counsel for the parties by the
33 mediator on the day set for mediation or any time thereafter
34 designated by the court.

35 **Sec. 14.** RCW 41.04.655 and 2018 c 39 s 2 are each amended to
36 read as follows:

37 Unless the context clearly requires otherwise, the definitions in
38 this section apply throughout RCW 41.04.650 through 41.04.670,
39 28A.400.380, and section 7, chapter 93, Laws of 1989.

1 (1) "Domestic violence" means any of the following acts committed
2 by one family or household member against another or by one intimate
3 partner against another, as those terms are defined in RCW 26.50.010:

4 (a) Physical harm, bodily injury, assault, or the infliction of
5 fear of imminent physical harm, bodily injury, or assault (~~(, between~~
6 ~~family or household members as defined in RCW 26.50.010));~~

7 (b) (~~(sexual)~~) Sexual assault (~~(of one family or household member~~
8 ~~by another family or household member)); or~~

9 (c) (~~(stalking)~~) Stalking as defined in RCW 9A.46.110 (~~(of one~~
10 ~~family or household member by another family or household member)).~~

11 (2) "Employee" means any employee of the state, including
12 employees of school districts and educational service districts, who
13 are entitled to accrue sick leave or annual leave and for whom
14 accurate leave records are maintained.

15 (3) "Parental leave" means leave to bond and care for a newborn
16 child after birth or to bond and care for a child after placement for
17 adoption or foster care, for a period of up to sixteen weeks after
18 the birth or placement.

19 (4) "Pregnancy disability" means a pregnancy-related medical
20 condition or miscarriage.

21 (5) "Program" means the leave sharing program established in RCW
22 41.04.660.

23 (6) "Service in the uniformed services" means the performance of
24 duty on a voluntary or involuntary basis in a uniformed service under
25 competent authority and includes active duty, active duty for
26 training, initial active duty for training, inactive duty training,
27 full-time national guard duty including state-ordered active duty,
28 and a period for which a person is absent from a position of
29 employment for the purpose of an examination to determine the fitness
30 of the person to perform any such duty.

31 (7) "Sexual assault" has the same meaning as set forth in RCW
32 70.125.030.

33 (8) "Stalking" has the same meaning as set forth in RCW
34 9A.46.110.

35 (9) "State agency" or "agency" means departments, offices,
36 agencies, or institutions of state government, the legislature,
37 institutions of higher education, school districts, and educational
38 service districts.

39 (10) "Uniformed services" means the armed forces, the army
40 national guard, and the air national guard of any state, territory,

1 commonwealth, possession, or district when engaged in active duty for
2 training, inactive duty training, full-time national guard duty, or
3 state active duty, the commissioned corps of the public health
4 service, the coast guard, and any other category of persons
5 designated by the president of the United States in time of war or
6 national emergency.

7 (11) "Victim" means a person against whom domestic violence,
8 sexual assault, or stalking has been committed as defined in this
9 section.

10 **Sec. 15.** RCW 48.18.550 and 1998 c 301 s 1 are each amended to
11 read as follows:

12 (1) No insurer shall deny or refuse to accept an application for
13 insurance, refuse to insure, refuse to renew, cancel, restrict, or
14 otherwise terminate a policy of insurance, or charge a different rate
15 for the same coverage((~~r~~)) on the basis that the applicant or insured
16 person is, has been, or may be a victim of domestic abuse.

17 (2) Nothing in this section shall prevent an insurer from taking
18 any of the actions set forth in subsection (1) of this section on the
19 basis of loss history or medical condition or for any other reason
20 not otherwise prohibited by this section, any other law, regulation,
21 or rule.

22 (3) Any form filed or filed after June 11, 1998, subject to RCW
23 48.18.120(1) or subject to a rule adopted under RCW 48.18.120(1) may
24 exclude coverage for losses caused by intentional or fraudulent acts
25 of any insured. Such an exclusion, however, shall not apply to deny
26 an insured's otherwise-covered property loss if the property loss is
27 caused by an act of domestic abuse by another insured under the
28 policy, the insured claiming property loss files a police report and
29 cooperates with any law enforcement investigation relating to the act
30 of domestic abuse, and the insured claiming property loss did not
31 cooperate in, or contribute to, the creation of the property loss.
32 Payment by the insurer to an insured may be limited to the person's
33 insurable interest in the property less payments made to a mortgagee
34 or other party with a legal secured interest in the property. An
35 insurer making payment to an insured under this section has all
36 rights of subrogation to recover against the perpetrator of the act
37 that caused the loss.

38 (4) Nothing in this section prohibits an insurer from
39 investigating a claim and complying with chapter 48.30A RCW.

1 (5) (~~As used in this section, "domestic~~) For the purposes of
2 this section, the following definitions apply:

3 (a) "Domestic abuse" means: (~~(a)~~) (i) Physical harm, bodily
4 injury, assault, or the infliction of fear of imminent physical harm,
5 bodily injury, or assault between family or household members or
6 intimate partners; (~~(b)~~) (ii) sexual assault of one family or
7 household member by another or of one intimate partner by another;
8 (~~(c)~~) (iii) stalking as defined in RCW 9A.46.110 of one family or
9 household member by another (~~family or household member~~) or of one
10 intimate partner by another; or (~~(d)~~) (iv) intentionally,
11 knowingly, or recklessly causing damage to property so as to
12 intimidate or attempt to control the behavior of another family or
13 household member or of another intimate partner.

14 (b) "Family or household member" has the same meaning as in RCW
15 26.50.010.

16 (c) "Intimate partner" has the same meaning as in RCW 26.50.010.

17 **Sec. 16.** RCW 70.83C.010 and 1993 c 422 s 4 are each amended to
18 read as follows:

19 Unless the context clearly requires otherwise, the definitions in
20 this section apply throughout this chapter.

21 (1) "Alcoholism" means a disease, characterized by a dependency
22 on alcoholic beverages, loss of control over the amount and
23 circumstances of alcohol use, symptoms of tolerance, physiological or
24 psychological withdrawal, or both, if use is reduced or discontinued,
25 and impairment of health or disruption of social or economic
26 functioning.

27 (2) "Approved treatment program" means a discrete program of
28 chemical dependency treatment provided by a treatment program
29 certified by the department of social and health services as meeting
30 standards adopted under this chapter.

31 (3) "Assessment" means an interview with an individual to
32 determine if he or she is chemically dependent and in need of
33 referral to an approved treatment program.

34 (4) "Chemically dependent individual" means someone suffering
35 from alcoholism or drug addiction, or dependence on alcohol or one or
36 more other psychoactive chemicals.

37 (5) "Department" means the department of social and health
38 services.

1 (6) "Domestic violence" is a categorization of offenses, as
2 defined in RCW 10.99.020(~~(, committed by one family or household~~
3 ~~member against another)~~).

4 (7) "Domestic violence program" means a shelter or other program
5 which provides services to victims of domestic violence.

6 (8) "Drug addiction" means a disease characterized by a
7 dependency on psychoactive chemicals, loss of control over the amount
8 and circumstances of use, symptoms of tolerance, physiological or
9 psychological withdrawal, or both, if use is reduced or discontinued,
10 and impairment of health or disruptions of social or economic
11 functioning.

12 (9) (~~"Family or household members" means a family or household~~
13 ~~member as defined in RCW 10.99.020.~~

14 ~~(10)~~) "Pretreatment" means the period of time prior to an
15 individual's enrollment in alcohol or drug treatment.

16 ~~((11))~~ (10) "Pretreatment services" means activities taking
17 place prior to treatment that include identification of individuals
18 using alcohol or drugs, education, assessment of their use,
19 evaluation of need for treatment, referral to an approved treatment
20 program, and advocacy on a client's behalf with social service
21 agencies or others to ensure and coordinate a client's entry into
22 treatment.

23 ~~((12))~~ (11) "Primary prevention" means providing information
24 about the effects of alcohol or drug use to individuals so they will
25 avoid using these substances.

26 ~~((13))~~ (12) "Secondary prevention" means identifying and
27 obtaining an assessment on individuals using alcohol or other drugs
28 for referral to treatment when indicated.

29 ~~((14))~~ (13) "Secretary" means the secretary of the department
30 of social and health services.

31 ~~((15))~~ (14) "Treatment" means the broad range of emergency
32 detoxification, residential, and outpatient services and care,
33 including diagnostic evaluation, chemical dependency education and
34 counseling, medical, psychiatric, psychological, and social service
35 care, vocational rehabilitation, and career counseling, that may be
36 extended to chemically dependent individuals and their families.

37 ~~((16))~~ (15) "Treatment program" means an organization,
38 institution, or corporation, public or private, engaged in the care,
39 treatment, or rehabilitation of chemically dependent individuals.

1 **Sec. 17.** RCW 74.34.145 and 2007 c 312 s 7 are each amended to
2 read as follows:

3 (1) An order for protection of a vulnerable adult issued under
4 this chapter, which restrains the respondent or another person from
5 committing acts of abuse, prohibits contact with the vulnerable
6 adult, excludes the person from any specified location, or prohibits
7 the person from coming within a specified distance from a location,
8 shall prominently bear on the front page of the order the legend:
9 VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL
10 OFFENSE UNDER CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO
11 ARREST.

12 (2) Whenever an order for protection of a vulnerable adult is
13 issued under this chapter(~~(7)~~) and the respondent or person to be
14 restrained knows of the order, a violation of a provision restraining
15 the person from committing acts of abuse, prohibiting contact with
16 the vulnerable adult, excluding the person from any specified
17 location, or prohibiting the person from coming within a specified
18 distance of a location(~~(7)~~) shall be punishable under RCW 26.50.110,
19 regardless of whether the person is a family or household member or
20 intimate partner as defined in RCW 26.50.010.

21 **Sec. 18.** RCW 9.96.060 and 2019 c 400 s 1, 2019 c 331 s 4, and
22 2019 c 46 s 5010 are each reenacted and amended to read as follows:

23 (1) When vacating a conviction under this section, the court
24 effectuates the vacation by: (a)(i) Permitting the applicant to
25 withdraw the applicant's plea of guilty and to enter a plea of not
26 guilty; or (ii) if the applicant has been convicted after a plea of
27 not guilty, the court setting aside the verdict of guilty; and (b)
28 the court dismissing the information, indictment, complaint, or
29 citation against the applicant and vacating the judgment and
30 sentence.

31 (2) Every person convicted of a misdemeanor or gross misdemeanor
32 offense may apply to the sentencing court for a vacation of the
33 applicant's record of conviction for the offense. If the court finds
34 the applicant meets the requirements of this subsection, the court
35 may in its discretion vacate the record of conviction. Except as
36 provided in subsections (3), (4), and (5) of this section, an
37 applicant may not have the record of conviction for a misdemeanor or
38 gross misdemeanor offense vacated if any one of the following is
39 present:

1 (a) The applicant has not completed all of the terms of the
2 sentence for the offense;

3 (b) There are any criminal charges against the applicant pending
4 in any court of this state or another state, or in any federal or
5 tribal court, at the time of application;

6 (c) The offense was a violent offense as defined in RCW 9.94A.030
7 or an attempt to commit a violent offense;

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

16 (e) The offense was any misdemeanor or gross misdemeanor
17 violation, including attempt, of chapter 9.68 RCW (obscenity and
18 pornography), chapter 9.68A RCW (sexual exploitation of children), or
19 chapter 9A.44 RCW (sex offenses), except for failure to register as a
20 sex offender under RCW 9A.44.132;

21 (f) The applicant was convicted of a misdemeanor or gross
22 misdemeanor offense as defined in RCW 10.99.020, or the court
23 determines after a review of the court file that the offense was
24 committed by one family (~~member~~) or household member against
25 another or by one intimate partner against another, or the court,
26 after considering the damage to person or property that resulted in
27 the conviction, any prior convictions for crimes defined in RCW
28 10.99.020, or for comparable offenses in another state or in federal
29 court, and the totality of the records under review by the court
30 regarding the conviction being considered for vacation, determines
31 that the offense involved domestic violence, and any one of the
32 following factors exist:

33 (i) The applicant has not provided written notification of the
34 vacation petition to the prosecuting attorney's office that
35 prosecuted the offense for which vacation is sought, or has not
36 provided that notification to the court;

37 (ii) The applicant has two or more domestic violence convictions
38 stemming from different incidents. For purposes of this subsection,
39 however, if the current application is for more than one conviction

1 that arose out of a single incident, none of those convictions counts
2 as a previous conviction;

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

7 (iv) Less than five years have elapsed since the person completed
8 the terms of the original conditions of the sentence, including any
9 financial obligations and successful completion of any treatment
10 ordered as a condition of sentencing;

11 (g) For any offense other than those described in (f) of this
12 subsection, less than three years have passed since the person
13 completed the terms of the sentence, including any financial
14 obligations;

15 (h) The offender has been convicted of a new crime in this state,
16 another state, or federal or tribal court in the three years prior to
17 the vacation application; or

18 (i) The applicant is currently restrained by a domestic violence
19 protection order, a no-contact order, an antiharassment order, or a
20 civil restraining order which restrains one party from contacting the
21 other party or was previously restrained by such an order and was
22 found to have committed one or more violations of the order in the
23 five years prior to the vacation application.

24 (3) Subject to RCW 9.96.070, every person convicted of
25 prostitution under RCW 9A.88.030 who committed the offense as a
26 result of being a victim of trafficking, RCW 9A.40.100, promoting
27 prostitution in the first degree, RCW 9A.88.070, promoting commercial
28 sexual abuse of a minor, RCW 9.68A.101, or trafficking in persons
29 under the trafficking victims protection act of 2000, 22 U.S.C. Sec.
30 7101 et seq. may apply to the sentencing court for vacation of the
31 applicant's record of conviction for the prostitution offense. An
32 applicant may not have the record of conviction for prostitution
33 vacated if any one of the following is present:

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

37 (b) The offender has been convicted of another crime, except
38 prostitution, in this state, another state, or federal court since
39 the date of conviction. The limitation in this subsection (3)(b) does
40 not apply to convictions where the offender proves by a preponderance

1 of the evidence that he or she committed the crime as a result of
2 being a victim of trafficking, RCW 9A.40.100, promoting prostitution
3 in the first degree, RCW 9A.88.070, promoting commercial sexual abuse
4 of a minor, RCW 9.68A.101, or trafficking in persons under the
5 trafficking victims protection act of 2000, 22 U.S.C. Sec. 7101 et
6 seq., according to the requirements provided in RCW 9.96.070 for each
7 respective conviction.

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

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

22 (b) The state has been enjoined from taking enforcement action of
23 the statute or rule to the extent that it interferes with a treaty
24 Indian fishing right as determined under *United States v. Washington*,
25 384 F. Supp. 312 (W.D. Wash. 1974), or *Sohappy v. Smith*, 302 F. Supp.
26 899 (D. Oregon 1969), and any posttrial orders of those courts, or
27 any other state supreme court or federal court decision.

28 (5) Every person convicted of a misdemeanor marijuana offense,
29 who was twenty-one years of age or older at the time of the offense,
30 may apply to the sentencing court for a vacation of the applicant's
31 record of conviction for the offense. A misdemeanor marijuana offense
32 includes, but is not limited to: Any offense under RCW 69.50.4014,
33 from July 1, 2004, onward, and its predecessor statutes, including
34 RCW 69.50.401(e), from March 21, 1979, to July 1, 2004, and RCW
35 69.50.401(d), from May 21, 1971, to March 21, 1979, and any offense
36 under an equivalent municipal ordinance. If an applicant qualifies
37 under this subsection, the court shall vacate the record of
38 conviction.

39 (6)(a) Except as provided in (c) of this subsection, once the
40 court vacates a record of conviction under this section, the person

1 shall be released from all penalties and disabilities resulting from
2 the offense and the fact that the person has been convicted of the
3 offense shall not be included in the person's criminal history for
4 purposes of determining a sentence in any subsequent conviction. For
5 all purposes, including responding to questions on employment or
6 housing applications, a person whose conviction has been vacated
7 under this section may state that he or she has never been convicted
8 of that crime. However, nothing in this section affects the
9 requirements for restoring a right to possess a firearm under RCW
10 9.41.040. Except as provided in (b) of this subsection, nothing in
11 this section affects or prevents the use of an offender's prior
12 conviction in a later criminal prosecution.

13 (b) When a court vacates a record of domestic violence as defined
14 in RCW 10.99.020 under this section, the state may not use the
15 vacated conviction in a later criminal prosecution unless the
16 conviction was for: (i) Violating the provisions of a restraining
17 order, no-contact order, or protection order restraining or enjoining
18 the person or restraining the person from going on to the grounds of
19 or entering a residence, workplace, school, or day care, or
20 prohibiting the person from knowingly coming within, or knowingly
21 remaining within, a specified distance of a location (RCW 10.99.040,
22 10.99.050, 26.09.300, 26.10.220, 26.26B.050, 26.44.063, 26.44.150,
23 26.50.060, 26.50.070, 26.50.130, 26.52.070, or 74.34.145); or (ii)
24 stalking (RCW 9A.46.110). A vacated conviction under this section is
25 not considered a conviction of such an offense for the purposes of 27
26 C.F.R. 478.11.

27 (c) A conviction vacated on or after July 28, 2019, qualifies as
28 a prior conviction for the purpose of charging a present recidivist
29 offense as defined in RCW 9.94A.030 occurring on or after July 28,
30 2019.

31 (7) The clerk of the court in which the vacation order is entered
32 shall immediately transmit the order vacating the conviction to the
33 Washington state patrol identification section and to the local
34 police agency, if any, which holds criminal history information for
35 the person who is the subject of the conviction. The Washington state
36 patrol and any such local police agency shall immediately update
37 their records to reflect the vacation of the conviction, and shall
38 transmit the order vacating the conviction to the federal bureau of
39 investigation. A conviction that has been vacated under this section
40 may not be disseminated or disclosed by the state patrol or local law

1 enforcement agency to any person, except other criminal justice
2 enforcement agencies.

3 NEW SECTION. **Sec. 19.** This act is necessary for the immediate
4 preservation of the public peace, health, or safety, or support of
5 the state government and its existing public institutions, and takes
6 effect immediately.

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