

CHAPTER 3

THE LEGISLATIVE RESPONSE TO DOMESTIC VIOLENCE

As mentioned in Chapter 1, **domestic violence** is defined for purposes of this domestic violence manual as assaultive or abusive conduct between adults who have been, or still are, in an intimate relationship. Washington law provides a variety of remedies for domestic violence, and the remedy that is appropriate will depend on the facts and circumstances of each case.

This chapter offers a brief overview of the legal options that are available as responses to domestic violence. Some of these options are covered in detail in later portions of this domestic violence manual, while others are mentioned only briefly in order to distinguish them from the subjects covered in more detail.

I. Washington's Statutory Framework

A. Domestic Violence as a Crime

The Washington statutes do not define a separate crime of domestic violence, as is done in some states. With limited exceptions, the Washington approach is to rely upon the existing criminal statutes, but to supplement them with special procedures in cases involving domestic violence. As a result, as a general rule, the status of the relationship need not be alleged in the information or found by the jury. *State v. Felix*, 125 Wn. App. 575, 105 P.3d 427 (2005) (Constitutional analysis); *State v. Goodman*, 108 Wn. App. 355, 30 P.3d 516 (2001) (Statutory analysis).

Key statutory provisions are set forth below.

1. Legislative goals

[RCW 10.99.010](#) states:

The purpose of this chapter is to recognize the importance of domestic violence as a serious crime against society and to assure the victim of domestic violence the maximum protection from abuse which the law and those who enforce the law can provide. The legislature finds that the existing criminal statutes are adequate to provide protection for victims of domestic violence. However, previous societal attitudes have been reflected in policies and practices of law enforcement agencies and prosecutors which have resulted in differing treatment of crimes occurring between cohabitants and of the same crimes occurring between strangers. Only in the past twenty years has public perception of

the serious consequences of domestic violence to society and to the victims led to the recognition of the necessity for early intervention by law enforcement agencies. It is the intent of the legislature that the official response to cases of domestic violence shall stress the enforcement of the laws to protect the victim and shall communicate the attitude that violent behavior is not excused or tolerated. Furthermore, it is the intent of the legislature that criminal laws be enforced without regard to whether the persons involved are or were married, cohabiting, or involved in a relationship.

2. **General guidelines**

[RCW 10.99.040\(1\)](#) provides:

- (1) Because of the serious nature of domestic violence, the court in domestic violence actions:
 - (a) Shall not dismiss any charge or delay disposition because of concurrent dissolution or other civil proceedings;
 - (b) Shall not require proof that either party is seeking a dissolution of marriage prior to instigation of criminal proceedings;
 - (c) Shall waive any requirement that the victim's location be disclosed to any person, other than the attorney of a criminal defendant, upon a showing that there is a possibility of further violence: **PROVIDED**, That the court may order a criminal defense attorney not to disclose to his or her client the victim's location; and
 - (d) Shall identify by any reasonable means on docket sheets those criminal actions arising from acts of domestic violence.

B. **Statutory Definitions**

1. **[RCW 10.99.020](#) establishes the following definitions for domestic violence proceedings:**

- (1) "Family or household members" means spouses, former spouses, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together or who have

resided together in the past, persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship, and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.

NOTE: Although prison cellmates technically may come within this definition, the Court of Appeals has suggested they would not favor their inclusion, “We question the wisdom of considering inmates in a penal institution—at least those who are not ‘involved in a relationship’—as cohabiting adults for the purposes of this act.” *State v. Barragan*, 9 P.3d 942, 948 n.1, 102 Wn. App. 754, 763 n.1 (2000).

NOTE: A domestic relationship does not exist between an adult and his minor sister-in-law who does not reside with the family. *State v. Garnica*, 20 P.3d 1069, 1075, 105 Wn. App. 762, 773 (2001).

- (2) “Dating relationship” has the same meaning as in [RCW 26.50.010](#).

NOTE: A dating relationship is defined in [RCW 26.50.010\(3\)](#) as: “[A] social relationship of a romantic nature. Factors that the court may consider in making this determination include: (a) The length of time the relationship has existed; (b) the nature of the relationship; and (c) the frequency of interaction between the parties.”

- (3) “Domestic violence” includes but is not limited to any of the following crimes when committed by one family or household member against another:
- (a) Assault in the first degree ([RCW 9A.36.011](#))
 - (b) Assault in the second degree ([RCW 9A.36.021](#))
 - (c) Assault in the third degree ([RCW 9A.36.031](#))
 - (d) Assault in the fourth degree ([RCW 9A.36.041](#))
 - (e) Drive-by shooting ([RCW 9A.36.045](#))
 - (f) Reckless endangerment ([RCW 9A.36.050](#))

- (g) Coercion ([RCW 9A.36.070](#))
 - (h) Burglary in the first degree ([RCW 9A.52.020](#))
 - (i) Burglary in the second degree ([RCW 9A.52.030](#))
 - (j) Criminal trespass in the first degree ([RCW 9A.52.070](#))
 - (k) Criminal trespass in the second degree ([RCW 9A.52.080](#))
 - (l) Malicious mischief in the first degree ([RCW 9A.48.070](#))
 - (m) Malicious mischief in the second degree ([RCW 9A.48.080](#))
 - (n) Malicious mischief in the third degree ([RCW 9A.48.090](#))
 - (o) Kidnapping in the first degree ([RCW 9A.40.020](#))
 - (p) Kidnapping in the second degree ([RCW 9A.40.030](#))
 - (q) Unlawful imprisonment ([RCW 9A.40.040](#))
 - (r) Violation of the provisions of a restraining order, no-contact order, or protection order restraining or enjoining the person or restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location. ([RCW 10.99.040](#), [10.99.050](#), [26.09.300](#), [26.10.220](#), [26.26.138](#), [26.44.063](#), [26.44.150](#), [26.50.060](#), [26.50.070](#), [26.50.130](#), [26.52.070](#), [74.34.145](#))
 - (s) Rape in the first degree ([RCW 9A.44.040](#))
 - (t) Rape in the second degree ([RCW 9A.44.050](#))
 - (u) Residential burglary ([RCW 9A.52.025](#))
 - (v) Stalking ([RCW 9A.46.110](#))
 - (w) Interference with the reporting of domestic violence ([RCW 9A.36.150](#))
- (4) “Victim” means a family or household member who has been subjected to domestic violence.

NOTE: Special issues concerning prosecutions for property offenses where the parties are married are discussed in Chapter 5, VIII.

2. A more general definition is provided in [RCW 26.50.010](#), which defines domestic violence as:

- (a) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members;
- (b) [S]exual assault of one family or household member by another; or
- (c) [S]talking as defined in [RCW 9A.46.110](#) of one family or household member by another family or household member.

C. Interference with the Reporting of a Domestic Violence Offense

In 1996, the Legislature adopted [RCW 9A.36.150](#), Interfering with the Reporting of Domestic Violence. That section provides:

1. A person commits the crime of interfering with the reporting of domestic violence if the person:

- (a) Commits a crime of domestic violence, as defined in [RCW 10.99.020](#); and
- (b) Prevents or attempts to prevent the victim of or a witness to that domestic violence crime from calling a 911 emergency communication system, obtaining medical assistance, or making a report to any law enforcement official.

NOTE: In *State v. Clowes*, the court held that information purporting to charge a defendant with the crime of Interfering with the Reporting of Domestic Violence was deficient because “there is no reference to the identity of the victim or to the underlying domestic violence crime.” *State v. Clowes*, 104 Wn. App. 935, 942, 18 P. 3d 596, 599 (2001).

2. Commission of a crime of domestic violence under subsection (1) of this section is a necessary element of the crime of interfering with the reporting of domestic violence.

In *Clowes*, 104 Wn. App. at 945-47, the defendant appealed from his conviction for two offenses: violation of a no-contact order and interfering with the reporting of a domestic violence offense. As discussed above, the interfering charge was dismissed because the charging document was insufficient. The no-contact order conviction was reversed for an instructional error. The court rejected the defense argument that reversal of the no-contact order count provided an independent basis for reversing the interfering with reporting a domestic violence offense count. The court concluded that [RCW 9A.36.150](#) (interfering with reporting a domestic violence offense) does not require a conviction of a separate domestic violence offense and that so long as sufficient evidence of the commission of such an offense is contained in the record, the conviction for interfering with reporting a domestic violence offense can stand.

3. Interference with the reporting of domestic violence is a gross misdemeanor.

This statute marks a significant break from the Legislature's traditional treatment of domestic violence offenses. In essence, it makes proof of the existence of a family or household relationship an element of the offense.

D. Mandatory Arrest Without Warrant

A police officer with probable cause to believe that one of a variety of domestic violence orders has been violated or that an assault between family or household members has occurred within the previous 24 hours is required to arrest the perpetrator. [RCW 10.31.100\(9\)](#). Even when arrest is not required, the officer has discretion to affect a warrantless arrest in virtually any domestic violence situation. [RCW 10.31.100\(1\)](#) authorizes arrests without warrants for all felonies and for misdemeanors that involve violence or threats of violence to persons or property, the wrongful taking of property, and acts of criminal trespass.

This is discussed in greater detail in Chapter 4, Section I.

II. Provisions Concerning the Possession of Firearms

A. Disqualification of Right to Possess a Firearm by Certain Domestic Violence Offenders

1. Possession of a firearm as a felony

[RCW 9.41.040\(1\)\(b\)\(i\)\(a\)](#) defines the crime of Unlawful Possession of a Firearm in the Second Degree. It provides that it shall be unlawful to possess a firearm:

After having previously been convicted in this state or elsewhere of . . . the following crimes *when committed by one family or household member against another*, committed after July 1, 1993: Assault in the fourth degree, coercion, stalking, reckless endangerment, criminal trespass in the first degree, or violation of the provisions of a protection order or no-contact order restraining the person or excluding the person from a residence ([RCW 26.50.060](#), [26.50.070](#), [26.50.130](#), [10.99.040](#)).¹
(*Emphasis added.*)

Possession of a firearm in the second degree is a class C felony. [RCW 9.41.040\(2\)\(b\)](#). Possession of a firearm by a defendant who has been previously convicted of a “serious” offense is the class B felony of Unlawful Possession of a Firearm in the First Degree. No proof of a domestic relationship is required for Possession of a Firearm in the First Degree. A serious offense includes inter alia any crime of violence, reckless endangerment in the first degree, child molestation in the second degree, and any crime in which a deadly weapon verdict was returned. [RCW 9.41.010\(12\)\(a\)-\(o\)](#).

2. Court’s duty to inform defendant of loss of right to possess a firearm

Both [CrR 4.2](#) and [CrRLJ 4.2](#) require that a defendant be advised, in writing, of the effect of a guilty plea on the right to possess a firearm. In addition, at the time of conviction for an offense which makes a defendant ineligible to possess a firearm, the court must inform the person both in writing and orally of the loss of right to possess a firearm and the need to surrender any concealed pistol license. [RCW 9.41.047\(1\)](#). A conviction includes a guilty finding, whether by plea or trial, even if sentence is pending. [RCW 9.41.040\(3\)](#).

The court is required to provide identification and conviction information to the Department of Licensing to effectuate the provisions of [RCW 9.41.040](#). [RCW 9.41.047\(1\)](#).

3. Restoration of the right to possess a firearm

A defendant may petition a court of record for restoration of the right to possess a firearm five years after conviction of a felony (assuming that the defendant has had no subsequent convictions of any kind and so long as possession of a firearm is not barred by [RCW 9.94A.525](#)) or three years after conviction of a non-felony offense (assuming that the defendant has had no subsequent convictions of any kind, is not barred from possession a firearm by [RCW 9.94A.525](#) and the individual has completed all the terms of his or her sentence). [RCW 9.41.040\(4\)\(b\)\(i\)-\(ii\)](#).

NOTE: The Court of Appeals recently held that the trial court's power to restore the right to possess firearms is ministerial, rather than discretionary. *State v. Swanson*, 116 Wn. App. 67, 78; 65 P.3d 343, 349 (2003) (The trial court's function is ministerial, thus the court did not have discretion to deny restoration to convict who met all statutory requirements for restoration).

B. Authority of Court to Prohibit a Perpetrator from Possessing a Firearm or Other Dangerous Weapon while Issuing Orders for Protection of the Victim

[RCW 9.41.800](#) contains broad authority for a court to prohibit the possession of a firearm or other dangerous weapon in conjunction with issuing an order for the protection of a domestic violence victim. Almost all conceivable orders come within the scope of this statute ([RCW 9A.46.080](#), [10.14.080](#), [10.99.045](#), [26.09.050](#), [26.09.060](#), [26.10.040](#), [26.10.115](#), [26.26.130](#), [26.26.590](#), [26.50.060](#), [26.50.070](#)).²² If a court finds by clear and convincing evidence that the person to be restrained used, displayed, or threatened to use a firearm or other dangerous weapon in a serious felony offense, or previously committed an offense which makes a person ineligible to possess a firearm, the court must:

- (a) Require the party to surrender any firearm or other dangerous weapon;
- (b) Require the party to surrender any concealed pistol license issued under [RCW 9.41.070](#);

- (c) Prohibit the party from obtaining or possessing a firearm or dangerous weapon; and
- (d) Prohibit the party from obtaining or possessing a concealed pistol license. [RCW 9.41.800\(1\)\(a\)-\(d\)](#).

If the court makes the same findings by a preponderance (but does not find that clear and convincing evidence has been adduced) the court may issue any or all of the above orders. [RCW 9.41.800\(2\)\(a\)-\(d\)](#).

The firearms are to be surrendered to the sheriff, chief of police of municipality having jurisdiction, or to the attorney for the person seeking the order or to any other person designated by the court. [RCW 9.41.800\(6\)](#).

Violation of [RCW 9.41.800](#) is a misdemeanor. [RCW 9.41.810](#).

C. Federal Legislation

Although a detailed discussion of federal legislation is beyond the scope of this manual, two significant enactments merit discussion. Under 18 U.S.C. 922(g)(8), a person who is subject to a court order issued for the protection of an intimate partner cannot possess a firearm or ammunition if the order:

- (a) Was issued after a hearing at which the respondent had actual notice and an opportunity to participate;
- (b) Restrains the person from harassing, stalking, or threatening an intimate partner or otherwise placing the intimate partner in reasonable fear of bodily injury or bodily injury to a child; and
- (c) (i) Includes a finding that the person restrained represents a credible threat to an intimate partner or child; or (ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child. . .

In addition, pursuant to 18 U.S.C. 922(g)(9), a person who has been convicted of a misdemeanor crime of domestic violence in any state court is prohibited from possessing a firearm.

Possession of a firearm by someone previously convicted of an offense with a penalty of greater than one year is barred by 18 U.S.C. 922 (g)(1). Subsection (g)(1) does not require proof that the prior conviction involved

an intimate partner. Subsection (g)(1) is a long-standing statute and is not part of the recent changes to 18 U.S.C. 922.

Violation of any of the provisions of subsection (g) of 18 U.S.C. 922 is punishable by ten years in prison. 18 U.S.C. 924 (a)(2).

NOTE: A violation of 18 U.S.C. 922(g) requires proof of one of several “jurisdictional requirements.” However, since federal jurisdiction is established by proof that the “firearm or ammunition . . . ha[d] been shipped or transported in interstate or foreign commerce,” in most situations, federal prosecution would be possible.

Appendix C contains further discussion of the federal provisions.

III. Orders for the Protection of the Victim

In recognition of the increasing problem of domestic violence, the legislature has also provided for the imposition of several types of orders for the protection of victims of domestic violence. These include:

- No-Contact Orders ([RCW 10.99.040](#), [10.99.050](#))
- Domestic Violence Protection Orders ([RCW 26.50](#))
- Restraining Orders ([RCW 26.09.060](#), [26.09.300](#))
- Anti-Harassment Orders ([RCW 10.14.080](#), [9A.46.050](#))
- Vulnerable Adult Protection Orders ([RCW 74.34.110](#), [74.34.130](#))

Domestic violence concerns may also arise in proceedings under [RCW 26.10.200](#) (non-parental action for child custody); [RCW 26.26.138](#) (restraining order-parentage proceeding); [RCW 26.44.063](#) and [RCW 26.44.150](#) (temporary restraining order or preliminary injunction; child abuse and adult dependent abuse proceedings, and penalties for violation).

The legislature has also enacted specific provisions ensuring that foreign protection orders are enforceable in Washington. [Chapter 26.52, RCW](#).

The following section briefly describes the various types of orders that may confront a court in a domestic violence case. No-contact orders as part of criminal proceedings are discussed in greater detail in Chapter 4 and Chapter 5. Chapter 8 contains a detailed discussion of the procedure to be followed in issuing a domestic violence protection order, which is civil in nature. Anti-harassment orders are not typically issued in domestic violence cases. However, because there are limited circumstances when an anti-harassment order may be the only relief available, they will be discussed briefly below.

Violation of many of these orders is a separate offense. This is discussed where appropriate below. During the 2000 legislative session, the Legislature acted to make uniform the penalties for violations of the various types of orders entered for the protection of domestic violence victims. [RCW 26.50.110](#) establishes penalties for violating any order granted under Chapters [10.99](#), [26.09](#), [26.10](#), [26.26](#), [26.52.020](#), [74.34 RCW](#). A few exceptions remain. Violation of a temporary restraining order issued pursuant to [RCW 26.44.063](#) and [26.44.150](#) remain misdemeanors and are not governed by [26.50.110](#). Anti-harassment orders, both criminal and civil, are also not covered by [RCW 26.50.110](#).

A victim's consent to the violation of a protection or no-contact order is not a defense to a criminal prosecution for violating the court order. *State v. Dejarlais*, 136 Wn.2d 939, 969 P.2d 90, 92(1998) (violation of a 26.50 protection order); *State v. Jacobs*, 101 Wn. App. 80, 2 P.3d 974, 979 (2000) (violation of a 10.99 no-contact order). In fact, [RCW 10.99.040\(4\)\(b\)](#) and [RCW 26.50.035\(1\)\(c\)](#) require that the order prohibiting contact indicate on its face that the person restrained is subject to arrest even if the victim consents to the contact. Continued reliance on *Reed v. Reed*, 270 P. 1028, 1029, 149 Wash. 352, 356 (1928), which held that a victim who consented to a violation of a restraining order could not enforce that order, appears to be unwarranted. *Dejarlais*, 136 Wn.2d at 943-44 (rationale of *Reed* severely criticized, but case not specifically overruled).

NOTE: As indicated above, both [RCW 10.99.040\(4\)\(b\)](#) and [RCW 26.50.035\(1\)\(c\)](#) require that the order, on its face, indicate that consent to violation is not a defense. This is a mandatory requirement. An order that does not include this language cannot serve as the basis for a criminal charge. *State v. Marking*, 100 Wn. App. 506, 512, 997 P.2d 461, 464, *review denied*, 141 Wn.2d 1026 (2000) (conviction based on order without mandatory language reversed for insufficiency of evidence).

In addition, violation of any of these orders is punishable as contempt. For a brief discussion of whether the double jeopardy clause bars both criminal prosecution and entry of a contempt finding, see Chapter 4, Section III, G, 5.

The chart at the end of Chapter 3 summarizes the important attributes of the various available orders.

A bench guide summarizing the various orders available for the protection of victims is available in Appendix J and at <http://www.courts.wa.gov/dv/?fa=dv.guide>. The Administrative Office of the Courts distributed laminated copies of the *Guidelines for Domestic Violence Protection and Antiharassment Orders* to the courts in 2002.

A. No-Contact Orders Under [RCW 10.99.040](#) and [10.99.050](#)

No-contact orders, including jury instructional issues, are discussed in greater detail in Chapter 4, Section III and Chapter 5, Section IX.

1. A domestic violence no-contact order may be imposed whenever a criminal domestic violence prosecution is pending.

A criminal no-contact order may be imposed as a condition of release or a condition of sentence. It is entered by the court having jurisdiction over the criminal matter. The moving party is generally the prosecuting attorney.

2. The scope of a no-contact order is limited.

It bars the defendant from having contact with the victim. It may include a provision prohibiting the defendant from knowingly coming within or remaining a specified distance of a location.

This type of order properly does not make provisions for the custody of children or for division of property.

In *State v. Ancira*, 107 Wn. App. 650, 656-7, 27 P.3d 1246, 1249 (2001), the court concluded that, under the facts presented, a provision in a criminal no-contact order that barred the defendant from having any contact with his non-victim children violated his fundamental right to parent. Accord *State v. Stanford*, 128 Wn. App. 280, 115 P.3d 368 (2005) (Provision of criminal sentence restricting defendant to only supervised contact with non-victim children not warranted).

3. Violation of a no-contact order is a crime.

Any violation of a domestic violence no-contact order is a separate crime. It is punished pursuant to the provisions of [RCW 26.50.110](#). Generally, violation is a gross misdemeanor. However, under the following circumstances, violation is a class C felony:³

- (a) The act that violates the order issued under [RCW 10.99](#), [26.09](#), [26.10](#), [22.26](#), [74.34](#), or a valid foreign protection order as defined in [RCW 26.52.020](#), is an assault (not amounting to an assault in the first or second degree) or is an act “that is reckless and creates a substantial risk of

death or serious physical injury to another person.” [RCW 26.50.110\(4\)](#).

Apparently, in some counties, these incidents are referred to as assaults in violation of a protection/no-contact order and not as felony violations of a no-contact order. *See State v. Sanchez*, 122 Wn. App. 579, 94 P.3d 384 (2004).

- (b) The defendant has had two prior convictions for violating orders issued under any of the following provisions: [RCW 10.99](#), [26.09](#), [26.10](#), [26.26](#), [74.34](#) or a valid foreign protection order as defined in [RCW 26.52.020](#). The previous conviction need not involve the same person as is the victim in the current offense. [RCW 26.50.110\(5\)](#).

NOTE: Felony violations of a no-contact order have been classified as seriousness level five offenses.⁴ [RCW 9.94A.515](#). A felony violation of a no-contact order is included within the definition of “crime against person” and subject to the filing standards of [RCW 9.94A.411](#). In addition, when sentencing an offender for a “crime against person,” the court is required to impose a community custody range. [RCW 9.94A.715](#). These penalties apply to offenses, which occur on or after July 1, 2000, regardless of when the original order was issued. [RCW 26.50.021](#).

B. Domestic Violence Protection Orders Under Chapter [26.50 RCW](#)

Chapter 8 contains a detailed discussion of domestic violence protection orders and contains specific information concerning the procedure for issuing and serving such orders. Jury instructional issues are discussed in Chapter 5, IX.

1. Protection orders may be obtained by a victim even if criminal charges are not pending

A court may issue a protection order when there are specific allegations of domestic violence regardless of “whether or not there is a pending lawsuit, complaint, petition, or other action between the parties.” [RCW 26.50.030\(2\)](#). There is no requirement of a recent act of domestic violence, so long as there are past acts of domestic violence and the victim is currently fearful. *Spence v. Kaminski*, 12 P.3d 1030, 1035, 103 Wn. App. 325, 333-4 (2000).

Pursuant to [RCW 26.50.021](#), the Department of Social and Health Services may seek a domestic violence protection order on behalf of and with the consent of a vulnerable adult. See [RCW 74.34.020\(13\)](#) (definition of vulnerable adult).

2. Scope of a protection order

Unlike a criminal no-contact order, the scope of a protection order can be quite broad. Of course, protection orders can prohibit the abuser from contacting the victim. In addition, protection orders can include provisions requiring the abuser to vacate a residence or to obtain treatment, for temporary custody of children, requiring the police to assist the victim, and requiring the payment of attorney fees.

In the 2000 legislative session, [RCW 26.50.060](#) and [RCW 26.50.070](#) were amended to make it clear that a court, in issuing a protection order, could prohibit an abuser from coming within a specified distance from a specified location. This was in response to the Court of Appeals decision in *State v. Chapman*, 96 Wn. App. 495, 500-1, 980 P.2d 295, 298 (1999), which had held that a judge issuing a protection order had no authority to prohibit the person being restrained from coming within a specified distance of a residence. The Court of Appeals decision was reversed by the Supreme Court at *State v. Chapman*, 140 Wn.2d 436, 456, 998 P.2d 282, 292 (2000), *cert. denied*, 531 U.S. 984 (2000).

3. Penalty for violation of protection orders

- (a) Violation of the restraint provision or a provision excluding a person from a residence, workplace, school, or day care, or of a provision excluding the person restrained from knowingly coming within, or remaining within, a specified distance of a location is a crime. A “restraint provision” is a provision which restrains the respondent from committing acts of domestic violence and/or which restrains the respondent from having any contact with the victim, the victim’s children or members of the victim’s household. *Jacques v. Sharp*, 83 Wn. App. 532, 542-3 922 P.2d. 145, 150 (1996); [RCW 26.50.060\(1\)\(a\),\(g\)](#).

However, a violation of any provision of a domestic violence protection order that follows two prior convictions for violating a no-contact or domestic violence protection order subjects a defendant to felony criminal prosecution even if the violation, itself, could not have been prosecuted pursuant to [RCW 26.50.110\(1\)](#). *State v. Chapman*, 140 Wn.2d 436, 998 P.2d 282 (2000).

- (b) A criminal violation of a protection order is generally a gross misdemeanor. [RCW 26.50.110\(1\)](#). The violation is a class C felony, however, if:
- (i) The act that violates the order issued under [RCW 10.99](#), [26.09](#), [26.10](#), [22.26](#), [74.34](#) or a valid foreign protection order as defined in [RCW 26.52.020](#), is an assault (not amounting to an assault in the first or second degree) or is an act “that is reckless and creates a substantial risk of death or serious physical injury to another person.” [RCW 26.50.110\(4\)](#).
 - (ii) The defendant has had two prior convictions for violating orders issued under any of the following provisions: [RCW 10.99](#), [26.09](#), [26.10](#), [26.26](#), [74.34](#) or a valid foreign protection order as defined in [RCW 26.52.020](#). The previous conviction need not involve the same person as is the victim in the current offense. [RCW 26.50.110\(5\)](#).

NOTE: Effective July 1, 2000, felony violations of a protection order have been classified as seriousness level five offenses.⁵ [RCW 9.94A.515](#). A felony violation of a protection order is included within the definition of “crime against person” and subject to the filing standards of [RCW 9.94A.411](#). In addition, when sentencing an offender for a “crime against person,” the court is required to impose a community custody range. [RCW 9.94A.505\(11\)](#). The new penalties apply to offenses, which occur on or after July 1, 2000, regardless of when the original order was issued. [RCW 26.50.021](#).

- (c) Upon conviction, the court, “in addition to any other penalties provided by law,” may order the defendant to submit to electronic home detention. For further discussion see Chapter 4, III, G, 6.
- (d) Violation of any provision of a protection order constitutes contempt of court. [RCW 26.50.110\(3\)](#). *Jacques v. Sharp*, 83 Wn. App. at 542, 922 P.2d at 150. The existence of two different remedies in punishing a defendant who violates the restraint provisions of a protection order does not violate an accused’s right to equal protection. *State v. Horton*, 54 Wn. App. 837, 840-1 776 P.2d 703, 704-5, (1989).

- (e) Although there is no constitutional bar to the imposition of a permanent protection order, a court intending to enter such an order must craft it carefully. In *City of Seattle v. Edwards*, 87 Wn. App. 305, 307, 941 P.2d 697, 699 (1997), the court was faced with an order that contained language indicating that the order would remain in effect for one year or “until further [order] of the court.” *Edwards* at 699. The act that was alleged to be a violation of the order occurred after the expiration of the one-year period. The Court of Appeals concluded that the order was ambiguous as to whether it continued beyond the one-year period and reversed the conviction.

C. Restraining Orders in Other Domestic or Civil Proceedings

1. Restraining orders may be entered in a dissolution or parentage action

The statutes governing marriage dissolutions and parentage actions authorize the court to enter restraining orders, temporary or otherwise, in the context of those proceedings. [RCW 26.09, 26.26.138](#).

The relief available with a restraining order is broad, and the order may be tailored to the facts and circumstances of each individual case. Provision can be made for child support, maintenance, and attorney fees. A restraining order can last longer than one year.

Obtaining a restraining order is complex and expensive. The victim may be unable to obtain a restraining order without retaining counsel. Also, a restraining order is not available in the context of another proceeding if the parties are neither married nor have a child in common. In such cases, the victim’s remedy is normally limited to a protection order.

2. Penalty for violation

Knowing violation of a provision in a restraining order “restricting the person from acts or threats of violence, or of a provision restraining the person from going onto the grounds of or entering the residence, workplace, school, or day care of another, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location” is a crime. [RCW 26.09.300\(1\)](#). Penalties (including felony penalties under some circumstances) are governed by [RCW 26.50.110](#).

D. Foreign Protection Orders

In recognition of what the Washington State Legislature termed an “epidemic” of women fleeing abusers by crossing state lines and in fulfillment of the policies of the Violence Against Women Act (VAWA) as Title IV of the violent crime control and law enforcement act (P.L. 103-322), it adopted the foreign protection order full faith and credit act in 1999. This act has been codified in [Chapter 26.52, RCW](#).

The legislature, in adopting this act, intended “that the barriers faced by persons entitled to protection under a foreign protection order will be removed and that violations of foreign protection orders be criminally prosecuted in this state.” [RCW 26.52.005](#).

1. Definition

[RCW 26.52.010\(3\)](#) defines a foreign protection order as:

An injunction or other order related to domestic or family violence, harassment, sexual abuse, or stalking, for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to another person issued by a court of another state, territory, or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia, or any United States military tribunal, or a tribal court, in a civil or criminal action.

2. Validity

A foreign protection order is valid if the issuing court had jurisdiction over both the person and the subject matter and the person being restrained had reasonable notice to contest issuance of the order or, for an ex parte, had notice and the opportunity to be heard shortly after issuance. An order that “appears to be authentic” is presumed valid. [RCW 26.52.020](#).

3. Filing

A person protected by a foreign protection order may present a “certified, authenticated, or exemplified copy” of the order for filing with the clerk of the court in the county in which the protected person resides or in any county in which the person believes enforcement may be necessary. [RCW 26.52.030](#). The filing shall be at no charge and the clerk is to provide information concerning available services for domestic violence victims.

Filing of a foreign protection order is not a prerequisite to enforcement. [RCW 26.52.030\(2\)](#).

4. Entry of Foreign Protection Order into the law enforcement information system

The clerk of the court, the next judicial day after the filing of a foreign protection order, shall forward a copy of the order to the county sheriff, who must enter the order into “any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants.” If available, information concerning manner and proof of service shall also be entered into the law enforcement computer system.

Entry of the foreign protection order into the law enforcement information system shall constitute notice to all law enforcement agencies. [RCW 26.52.040](#).

A foreign protection order is enforceable even if it has not been entered into the law enforcement computer system. [RCW 26.52.030\(2\)](#).

5. Criminal enforcement

A knowing violation of a provision of a foreign protection order that prohibits the person restrained from “contacting or communicating with another person, or of a provision excluding the person under restraint from a residence, workplace, school, or day care, or of a provision prohibiting a person from knowingly coming within, or knowingly remaining within, a specified distance of a location, or a violation of any provision for which the foreign protection order specifically indicates that a violation will be a crime, is punishable under [RCW 26.50.110](#).” [RCW 26.52.070\(1\)](#).

Thus, violation of a provision that could not result in criminal prosecution under a Washington-issued order could be criminally prosecuted under [RCW 26.52.070](#) and [26.50.110](#) so long as the order, itself, indicates that violation of such provision is a crime.

In contrast, a violation of a provision of a foreign protection order that would support criminal prosecution under a Washington-issued order can apparently proceed, even if the order does not indicate that violation is a crime.

6. Mandatory arrest

Pursuant to both [RCW 26.52.070\(2\)](#) and [RCW 10.31.100\(2\)\(b\)](#), a police officer with probable cause to believe a criminally enforceable provision of a foreign protection order has been violated must arrest such person.

E. Anti-Harassment Orders

1. Civil anti-harassment orders under [Chapter 10.14 RCW](#)

- a. Washington’s anti-harassment statutes, [Chapter 10.14 RCW](#), authorize protection orders similar to protection orders entered under the Domestic Violence Prevention Act (DVPA) ([RCW 26.50](#)). The anti-harassment statutes apply in situations not governed by [Chapter 10.99 RCW](#) (no-contact orders, criminal) or by [Chapter 26.50 RCW](#) (protection orders). See [RCW 10.14.130](#).
- b. Before the 1995 amendments to [Chapter 26.50 RCW](#) and [Chapter 10.99 RCW](#), anti-harassment orders were frequently the only remedy available to protect a petitioner from a person with whom she or he had been romantically involved but had never married, resided with or had a child with. Since 1995, persons in a “dating relationship” are now considered to be “family or household members.” Thus, it appears that anti-harassment orders in the context of domestic violence cases may often now be sought by other family members of the victims of domestic violence who, themselves, fear violence or harassment from the perpetrator, and not by the victims themselves. For example, anti-harassment orders may come into play in domestic violence cases when an ex-partner is harassing a current partner, the parents, or children of a former family or household member.

- c. Superior Court has the authority to hear any anti-harassment petition while district and municipal court has been vested with concurrent jurisdiction to hear those cases involving a respondent 18 years or older. [RCW 10.14.150\(1\)-\(2\)](#). *McIntosh v. Nafziger*, 69 Wn. App. 906, 851 P.2d 713 (1993).

NOTE: In 1993, Const. art. 4, § 6 (amend. 65) was amended to grant district and superior courts concurrent jurisdiction over cases in equity. Thus, case law which held that an anti-harassment order issued by a district court was void as being in excess of the court's jurisdiction no longer is controlling. See *State v. Brennan*, 884 P.2d 1343, 1340 n.8, 76 Wash. App. 347, 356 n.8 (1994).

- d. Violation of an anti-harassment order issued pursuant to [Chapter 10.14 RCW](#) is a gross misdemeanor. [RCW 10.14.170](#).

2. **Criminal anti-harassment orders under [RCW 9A.46.040](#)**

- a. A defendant who is charged with a crime of harassment under [RCW 9A.46.020](#) may be ordered, as a condition of release, to:
 - (1) Stay away from the home, school, business, or place of employment of the victim;
 - (2) Refrain from “contacting, intimidating or threatening, or otherwise interfering” with the victim or others, including but not limited to members of the victim’s family or household. [RCW 9A.46.040\(1\)\(a\)\(b\)](#).
- b. Similarly, [RCW 9A.46.080](#) permits imposition of a criminal anti-harassment order following conviction. Violation of such an order is a misdemeanor.

IV. Domestic Violence Database and Computer-Based Intelligence Information System

A. Domestic Violence Database

All no-contact, protection, and similar orders must be entered into the Domestic Violence Database. The Domestic Violence Database is discussed more fully in Chapter 9.

B. Computer-Based Intelligence Information System

Virtually all of the orders that are required to be entered into the Domestic Violence Database are also to be entered into the Computer-Based Intelligence Information System. [RCW 10.14.110](#). [RCW 26.52.030\(2\)](#) provides for the entry of Foreign Protection Orders. The system currently in use is the Washington Crime Information Center (WACIC) managed by the Washington State Patrol.

The clerk of the court is to forward a copy of the order on or before the next judicial day to the law enforcement agency specified in the order. That agency is to enter the order into a computer-based criminal intelligence system. If the order is modified or terminated, the clerk is to forward a copy of the superseding document to the appropriate law enforcement agency.

If the order specifies no particular date, the order remains in law enforcement's computer-based criminal intelligence information system for one year. If the order specifies a particular date, the order remains in the law enforcement computer-based criminal intelligence information system until the expiration date specified on the order. [RCW 10.99.040\(5\)-\(6\)](#), [RCW 10.99.050\(3\)](#).

Entry into the computer-based criminal intelligence information system constitutes notice to all law enforcement of the existence of the order.

NOTE: The court should be aware that not every protection order may actually be entered into the law enforcement database. Washington State Agencies began entering Protection Orders into the National Crime Information Center (NCIC) using the NCIC Protection Order format in September 1999. When there are gaps in the mandatory information fields required for entry into NCIC, the order may not be recorded. Neither the courts nor the victim may be aware that the order was not entered. Also note, Foreign Protection Orders are not entered unless they have been filed with a state court. The court should make every effort to ensure the required information is included on every order.

V. Confidential Name Changes and Confidential Addresses

A. Name Changes for Domestic Violence Victims

[RCW 4.24.130\(5\)](#) provides:

Name change petitions may be filed and shall be heard in superior court when the person desiring a change of his or her name or that of his or her child or ward is a victim of domestic violence as defined in [RCW 26.50.010\(1\)](#) and the person seeks to have the name change file sealed due to reasonable fear for his or her safety or that of his or her child or ward. Upon granting the name change, the superior court shall seal the file if the court finds that the safety of the person seeking the name change or his or her child or ward warrants sealing the file. In all cases filed under this subsection, whether or not the name change petition is granted, there shall be no public access to any court record of the name change filing, proceeding, or order, unless the name change is granted but the file is not sealed.

B. Confidential Addresses

A victim of domestic violence may request that the Secretary of State designate an address for receipt of mail and service of process.⁶ The address designated by the Secretary can be used by the victim for virtually all legitimate purposes. The secretary will forward all first class mail to the actual address of the victim. [RCW 40.24.010](#) et seq. The victim's actual address may be disclosed only to a law enforcement agency or pursuant to court order. [RCW 40.24.070](#).

The Secretary of State has adopted administrative regulations to carry out the dictates of [RCW 40.24](#). These are found at [WAC 434-840](#).

A parent or guardian may make a request for a confidential address on behalf of a child. [RCW 40.24.030\(1\)](#). A person intending to relocate a child who is a participant in the confidential address program of [RCW 40.24](#) may have confidential information notice requirements delayed or waived. [RCW 26.09.460](#).

VI. Domestic Violence Fatality Review Panels

Pursuant to [RCW 43.235](#), the Department of Social and Health Services was directed to coordinate the investigation of all domestic violence fatalities. The panels are to include medical personnel, forensic pathologists, prosecuting attorneys, domestic violence advocates and other persons with appropriate expertise. Biennial statewide reports are to be generated, summarizing the findings of the various panels and identifying issues and performance deficits identified by the various panels. The Domestic Violence Fatality Review Project began in 1997. As of this writing, four major reports (2000, 2002, 2004, and 2006) have been issued by the Washington State Coalition Against Domestic Violence, Fatality Review Project. The reports can be found at http://www.wscadv.org/projects/FR/index.htm#FR_Reports or by contacting the Washington State Coalition Against Domestic Violence.⁷

ATTACHMENT 1

COMPARISON OF COURT ORDERS FAMILY AND DOMESTIC VIOLENCE ORDERS

KIND OF ORDER	DOMESTIC VIOLENCE NO-CONTACT ORDERS	DOMESTIC VIOLENCE PROTECTION ORDERS	FAMILY LAW RESTRAINING ORDERS	FOREIGN PROTECTION ORDERS
Nature of Proceeding	Criminal in context of pending criminal action. <i>See</i> Chapter 10.99 RCW .	Civil, under RCW 26.50 .	Civil, normally in context of pending dissolution or other family law action. <i>See, e.g.,</i> 26.09 , 26.10 , and 26.26 .	Civil or Criminal, under the law of the state or tribe where the order was issued.
Who may Obtain order	The prosecuting attorney, on behalf of victims of domestic violence, when criminal charges are filed. Limited ability for order to be imposed on an individual who is released from jail pending his or her first appearance in court.	Petitioner who has been a victim of domestic violence or who fears abuse from a family or household member.	Petitioner who is either married to respondent or has a child in common with the respondent.	Depends upon the law of the state or tribe where the order was issued.
How is the Order obtained	Prosecution, generally after consultation with the victim, will make a request to the court for issuance of an order. Order may be obtained regardless of the victim's wishes.	Victim files petition. Order may be obtained telephonically in special circumstances. May also be obtained during the course of a family law matter.	Victim files a petition for divorce, legal separation, or child custody, or a paternity action.	Depends upon the law of the state or tribe where the order was issued.
Where is the Order obtained	District, Municipal or Superior Court through the prosecuting authority.	District, Municipal, or Superior Court. Superior Court only if family law action pending or if case involves children or order to vacate home.	Superior Court only.	Depends upon the law of the state or tribe where the order was issued.

KIND OF ORDER	DOMESTIC VIOLENCE NO-CONTACT ORDERS	DOMESTIC VIOLENCE PROTECTION ORDERS	FAMILY LAW RESTRAINING ORDERS	FOREIGN PROTECTION ORDERS
What does the Order provide	No contact with petitioner directly or indirectly anywhere by phone, in writing, or in person. Prohibition from knowingly coming within, or knowingly remaining within, a specified distance of a location.	Temporary: Exclusion from a residence, prohibition from knowingly coming within, or knowingly remaining within, a specified distance of a location. No acts of violence, no interference with custody of minor children. Full: All of the above and custody and visitation schedule, treatment or counseling, court costs, specific relief or assistance.	Temporary or Full: Various restraint provisions including exclusion from a residence, prohibition from knowingly coming within, or knowingly remaining within, a specified distance of a location, no acts of violence or harassment, custody and visitation directives.	Depends upon the law of the state or tribe where the order was issued.
Cost of the Order	None.	No cost to petitioner.	Same as dissolution (divorce) filing fee. The filing fee may be waived if indigent. Petitioner pays related costs and service fees.	Depends upon the law of the state or tribe where the order was issued.
How does the respondent receive notice of the Order	Verbal and written notice given to the defendant when order is entered. Order may be entered at any stage of the proceeding, including the bail hearing, the arraignment, or the sentencing.	Notice served on respondent by police officer, private party, or process server. Notice by certified mail, or publication authorized in limited circumstances.	Notice served on respondent or respondent's attorney generally by process server, private party, or police server.	Depends upon the law of the state or tribe where the order was issued.
Consequences if Order is knowingly violated	Mandatory arrest. Release pending trial may be revoked. Additional criminal or contempt charges may be filed. Class C felony if assault or reckless conduct accompanies a violation. Class C felony if two or more prior convictions of any similar type of order. Otherwise gross misdemeanor. See RCW 26.50.110 .	Mandatory arrest for violating restraint and exclusion provisions. Possible criminal charges or contempt. Class C felony if assault or reckless conduct accompanies a violation. Class C felony if two or more prior convictions of any similar type of order. Otherwise gross misdemeanor. See RCW 26.50.110 .	Mandatory arrest if criminal legend appears. Possible criminal charges or contempt. Class C felony if assault or reckless conduct accompanies a violation. Class C felony if two or more prior convictions of any similar type of order. Otherwise gross misdemeanor. See RCW 26.50.110 .	Mandatory arrest for violating restraint and exclusion provisions or other provision where the foreign order expressly provides for mandatory arrest. Possible criminal charges or contempt. Class C felony if assault or reckless conduct accompanies a violation. Class C felony if two or more prior convictions of any similar type of order. Otherwise gross misdemeanor. See RCW 26.50.110 .

KIND OF ORDER	DOMESTIC VIOLENCE NO-CONTACT ORDERS	DOMESTIC VIOLENCE PROTECTION ORDERS	FAMILY LAW RESTRAINING ORDERS	FOREIGN PROTECTION ORDERS
Duration of Order	Set period of time, usually until trial and/or sentencing are concluded. Post-sentencing provision may last up to the statutory maximum sentence and/or until probation is concluded.	Temporary: 14 days Full: 1 year or more	Temporary: 14 days. Preliminary: Pendency of action. Full: In final decree, permanent until modified.	Depends upon the law of the state or tribe where the order was issued.
How may the Order be modified	Only by the Court.	Only by the Court.	Only by the Court.	Depends upon the law of the state or tribe where the order was issued.
How do the police know the Order exists	Entered into WACIC, except those issued by jail prior to charging.	Entered into Washington State Criminal Information Computer (WACIC).	Entered into WACIC by request only.	Entered into WACIC if registered with a Washington Court. Depending upon the law of the state or tribe where the order was issued, the order may be entered into that jurisdiction's criminal information computer.

ATTACHMENT 2

OTHER COURT ORDERS

KIND OF ORDER	ANTI-HARASSMENT ORDERS	HARASSMENT NO-CONTACT ORDERS	ABUSED CHILD RESTRAINING ORDERS	VULNERABLE ADULT PROTECTION ORDERS	SEXUAL ASSAULT PROTECTION ORDER
Nature of Proceeding	Civil, under RCW 10.14	Criminal, under RCW 9A.46.040	Any judicial proceeding conducted in juvenile court in which it is alleged that a child has been subjected to sexual or physical abuse. See RCW 26.44.063 .	Civil, under RCW 74.34.110 .	Civil, under RCW 7.90 (Laws of 2006, ch. 138, § 10, effective date 06/07/2006). Criminal as part of a pending criminal proceeding or as a condition of a sentence, under RCW 7.90.150 (Laws of 2006, ch. 138, § 16, effective date 06/07/2006)
Who may Obtain order	Petitioner who has been seriously alarmed, annoyed, or harassed by conduct which served no legitimate or lawful purpose.	The prosecuting attorney, on behalf of victims of harassment, when charges are filed.	The Court on its own motion, the guardian ad litem, or any party.	A vulnerable adult who has been abandoned, abused, subject to financial exploitation or neglect. The Department of Social and Health Services may also obtain an order on behalf of a vulnerable adult.	Petitioner, or the parent of a petitioner or the guardian of a vulnerable adult, who has been a victim of nonconsensual sexual conduct or sexual penetration and who has a fear of future dangerous acts based upon specific statements or actions made at the time of the sexual assault of subsequently thereafter. The prosecuting attorney, on behalf of victims of sex offenses, when criminal charges are filed. Limited ability for order to be imposed on an individual who is released from jail pending his or her first appearance in court.
How is the Order obtained	Victim files a petition.	Prosecuting attorney, generally after consultation with the victim, will make a request to the court for issuance of an order. Order may be obtained regardless of the victim's wishes.	A party or the guardian ad litem will make a request to the court of issuance of an order or the Court may issue an order on its own. The order may be obtained regardless of the victim's wishes.	Victim or the Department of Social or Health Services will file a petition.	Victim or parent of a victim files a petition for a civil order. Prosecuting attorney, generally after consultation with the victim, will make a request to the court for issuance of an order. Order may be obtained regardless of the victim's wishes.

KIND OF ORDER	ANTI-HARASSMENT ORDERS	HARASSMENT NO-CONTACT ORDERS	ABUSED CHILD RESTRAINING ORDERS	VULNERABLE ADULT PROTECTION ORDERS	SEXUAL ASSAULT PROTECTION ORDER
Where is the Order obtained	District Court, but in Superior Court when respondent is under the age of 18 years or when case is referred to the Superior Court by the District Court.	The criminal order may be obtained by the prosecutor in district, municipal, or superior court.	Superior Court Juvenile Department.	Superior court.	The superior court, district court, and municipal court, but if the respondent is less than District Court, but only the superior court can issue a final order if the respondent is under the age of 18 years. The criminal order may be obtained by the prosecutor in district, municipal, or superior court.
What does the Order provide	Exclusion from and restrained from a specific distance from residence, work, or school of petitioner, no contact of any kind directly/indirectly by phone, writing, or in person.	Prohibition on contacting the victim, going to the victim's home, school, business or place of employment or other specific locations.	Prohibition on contacting the victim, entering the victim's family home without specific court approval, molesting or disturbing the peace of the victim, and on knowingly coming within, or remaining within, a specified distance of a specified location.	Various restraint provisions including exclusion from victim's residence, prohibition from contacting victim, prohibition upon knowingly coming within, or remaining within, a specified distance of a specified location.	Various restraint provisions including no contact with victim, prohibition upon going to the petitioner's residence, workplace, school or day care, and a prohibition upon knowingly coming within or remaining within, a specified distance of a specified location.
Cost of the Order	Basic district court or superior court filing fee. The filing fee may be waived if the petitioner is indigent. The service fee may be waived if the petitioner is indigent, the victim of stalking or a sex offense, or a family or household member.	No cost.	No cost to victim, since the order is generally obtained in a proceeding initiated by the Department of Social and Health Services.	Basic superior court filing fee. The fee may be waived at the discretion of the court.	No cost to the petitioner.

KIND OF ORDER	ANTI-HARASSMENT ORDERS	HARASSMENT NO-CONTACT ORDERS	ABUSED CHILD RESTRAINING ORDERS	VULNERABLE ADULT PROTECTION ORDERS	SEXUAL ASSAULT PROTECTION ORDER
How does the respondent receive notice of the Order	Notice served on respondent or respondent's attorney by police, private party, or process server.	Verbal and written notice of criminal order given to the defendant when order is entered. Order may be entered whenever the defendant is being released on bail or personal recognizance.	Verbal and written notice generally given to the individual whose conduct will be restrained or to the individual whose conduct will be restrained's attorney. Ex parte orders may be entered only if the court finds evidence that irreparable injury could result if an order is not issued until the time for responding has elapsed.	Notice served on respondent or respondent's attorney by police, private party, or process server.	Notice of civil order served on respondent by police, private party, or process server. Verbal and written notice of criminal order given to the defendant when order is entered. Order may be entered at any stage of the proceeding, including the bail hearing, the arraignment, or the sentencing.
Consequences if Order is knowingly violated	May be arrested. Possible criminal charges or contempt if the violator is an adult. Contempt only if the violator is a juvenile. See RCW 10.14.120 ; RCW 10.14.170 ; RCW 10.31.100(8) .	An intentional violation is a misdemeanor. RCW 9A.46.040(2) . A warrantless arrest may only be made for violations that occur in the officer's presence, unless the violation also constitutes criminal trespass.	Mandatory arrest if criminal legend appears. See RCW 10.31.100(2)(a) . Possible criminal charges or contempt. The crime is a misdemeanor. See RCW 26.44.067 .	Mandatory arrest if criminal legend appears. Possible criminal charges or contempt. Class C felony if assault or reckless conduct accompanies a violation. Class C felony if two or more prior convictions of any similar type of order. Otherwise gross misdemeanor. See RCW 26.50.110 .	Mandatory arrest if criminal legend appears. Possible criminal charges or contempt. Class C felony if assault or reckless conduct accompanies a violation. Class C felony if two or more prior convictions of any similar type of order. Otherwise gross misdemeanor. See RCW 26.50.110 .
Duration of Order	Emergency: 14 days Full: 1 year	Until the criminal case is concluded.	Until further order of the Court.	Not to exceed 1 year.	Temporary civil order – 14 days. Full civil order fixed period not to exceed 14 days. Criminal orders – Set period of time, usually until trial and/or sentencing are concluded. Post-sentencing provision may last up to two years following the expiration of any sentence of imprisonment and subsequent period of community supervision, conditional release, probation, or parole.

KIND OF ORDER	ANTI-HARASSMENT ORDERS	HARASSMENT NO-CONTACT ORDERS	ABUSED CHILD RESTRAINING ORDERS	VULNERABLE ADULT PROTECTION ORDERS	SEXUAL ASSAULT PROTECTION ORDER
How may the Order be modified	Only by the Court.	Only by the Court.	Only by the Court.	Only by Court.	Only by Court.
How do the police know the Order exists	Entered into WACIC.	May be entered into WACIC. Victim is provided with a copy of the order.	Entered into WACIC.	Entered into WACIC.	Entered into WACIC.

¹ The version of [RCW 9.41.040\(1\)\(b\)\(i\)](#) includes as disqualifying offenses violations of pre-trial no-contact orders issued pursuant to [RCW 10.99.040](#) but is silent as to post-trial orders under [RCW 10.99.050](#).

² As discussed in footnote 1 to this chapter, [RCW 10.99.050](#) post-conviction no-contact orders are omitted from this list. This has no “real world” significance, when the underlying conviction is for a felony, as all felons are disqualified from possessing firearms. [RCW 9.41.040\(1\)\(a\)\(b\)](#). However, there is a potential impact in misdemeanor and gross misdemeanor prosecutions.

³ Somewhat confusingly, both [RCW 10.99.040](#) and [10.99.050](#) require that the face of the order indicate that any violation of the order which is an assault, an act of reckless endangerment or a *drive-by shooting* is a felony and then refer to [RCW 26.50.110](#) for the penalty provisions. [RCW 26.50.110](#) does not include the drive-by shooting provision, presumably since any drive-by shooting is, by itself, a felony. [RCW 9A.36.045](#).

⁴ Before this date, these offenses were “unranked” and thus subject to a 0 to 365-day penalty, regardless of the defendant’s prior record.

⁵ Before this date, these offenses were “unranked” and thus subject to a 0 to 365-day penalty, regardless of the defendant’s prior record.

⁶ For further information, contact the Address Confidentiality Program, Office of the Secretary of State, PO Box 257, Olympia, WA 98507-0257, 1-800-822-1065 (in Washington) or 360-753-2972, TTY 1-800-664-9677 (in Washington) or 360-664-0515 or <http://www.secstate.wa.gov/acp/>.

⁷ For further information, contact the Washington State Coalition Against Domestic Violence, Olympia Office: 711 Capitol Way, Suite 702, Olympia, WA 98501, 360-586-1022, TTY 360-586-1029, or Seattle Office: 1402 - 3rd Ave, Suite 406, Seattle WA 98101, 206-389-2515, TTY 206-389-2900, or go to <http://www.wscadv.org/>.