
SENATE BILL 6263

State of Washington

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By Senators A. Smith and Quigley

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1 AN ACT Relating to the surrender of deadly weapons in domestic
2 violence situations; amending RCW 9A.46.050, 10.14.080, 10.99.040,
3 10.99.045, 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.137, and
4 26.50.070; reenacting and amending RCW 9.41.010, 26.26.130, and
5 26.50.060; and adding a new section to chapter 9.41 RCW.

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

7 **Sec. 1.** RCW 9.41.010 and 1992 c 205 s 117 and 1992 c 145 s 5 are
8 each reenacted and amended to read as follows:

9 Unless the context clearly requires otherwise, the definitions in
10 this section apply throughout this chapter.

11 (1) "Short firearm" or "pistol" (~~(as used in this chapter)~~) means
12 any firearm with a barrel less than twelve inches in length.

13 (2) "Crime of violence" (~~(as used in this chapter)~~) means:

14 (a) Any of the following felonies, as now existing or hereafter
15 amended: Any felony defined under any law as a class A felony or an
16 attempt to commit a class A felony, criminal solicitation of or
17 criminal conspiracy to commit a class A felony, manslaughter in the
18 first degree, manslaughter in the second degree, indecent liberties if
19 committed by forcible compulsion, rape in the second degree, kidnapping

1 in the second degree, arson in the second degree, assault in the second
2 degree, assault of a child in the second degree, extortion in the first
3 degree, burglary in the second degree, ~~((and))~~ robbery in the second
4 degree, child molestation in the second degree, controlled substance
5 homicide, incest when committed against a child under age fourteen,
6 indecent liberties, leading organized crime, promoting prostitution in
7 the first degree, rape in the third degree, sexual exploitation,
8 vehicular assault, vehicular homicide, when proximately caused by the
9 driving of any vehicle by any person while under the influence of
10 intoxicating liquor or any drug as defined by RCW 46.61.502, or by the
11 operation of any vehicle in a reckless manner, any other class B felony
12 offense with a finding of sexual motivation, as "sexual motivation" is
13 defined under RCW 9.94A.030, and any other felony with a deadly weapon
14 verdict under RCW 9.94A.125;

15 (b) Any conviction or adjudication for a felony offense in effect
16 at any time prior to ~~((July 1, 1976))~~ the effective date of this act,
17 which is comparable to a felony classified as a crime of violence in
18 subsection (2)(a) of this section; and

19 (c) Any federal or out-of-state conviction or adjudication for an
20 offense comparable to a felony classified as a crime of violence under
21 subsection (2) (a) or (b) of this section.

22 (3) "Firearm" ~~((as used in this chapter))~~ means a weapon or device
23 from which a projectile may be fired by an explosive such as gunpowder.

24 (4) "Commercial seller" ~~((as used in this chapter))~~ means a person
25 who has a federal firearms license.

26 NEW SECTION. Sec. 2. A new section is added to chapter 9.41 RCW
27 to read as follows:

28 (1) Any court when entering an order authorized under RCW
29 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060,
30 26.10.040, 26.10.115, 26.26.130, 26.26.137, 26.50.060, or 26.50.070
31 shall, upon a showing by clear and convincing evidence, that a party
32 has: Used, displayed, or threatened to use a deadly weapon as defined
33 in RCW 9A.04.110 in a crime of violence; threatened a party or witness
34 to the action; or previously committed any offense which makes him or
35 her ineligible to possess a pistol under the provisions of RCW
36 9.41.040:

37 (a) Require the party to surrender any deadly weapon;

1 (b) Require the party to surrender any concealed pistol license
2 issued under RCW 9.41.070;

3 (c) Prohibit the party from obtaining or possessing a deadly
4 weapon;

5 (d) Prohibit the party from obtaining or possessing a concealed
6 pistol license.

7 (2) The court may order temporary surrender of a deadly weapon
8 without notice to the other party if it finds, on the basis of the
9 moving affidavit or other evidence, that irreparable injury could
10 result if an order is not issued until the time for response has
11 elapsed.

12 (3) In addition to the provisions of subsections (1) and (2) of
13 this section, the court may enter an order requiring a party to comply
14 with the provisions in subsection (1) of this section if it finds that
15 the possession of a firearm by any party presents a serious and
16 imminent threat to public health or safety, or to the health or safety
17 of any individual.

18 (4) The requirements of subsections (1) and (3) of this section may
19 be for a period less than the duration of the order.

20 (5) The court may require the party to surrender any deadly weapon
21 in his or her immediate possession or control or subject to his or her
22 immediate possession or control to the sheriff of the county having
23 jurisdiction of the proceeding or to the restrained or enjoined party's
24 counsel or to any person designated by the court.

25 **Sec. 3.** RCW 9A.46.050 and 1985 c 288 s 5 are each amended to read
26 as follows:

27 A defendant who is charged by citation, complaint, or information
28 with an offense involving harassment and not arrested shall appear in
29 court for arraignment in person as soon as practicable, but in no event
30 later than fourteen days after the next day on which court is in
31 session following the issuance of the citation or the filing of the
32 complaint or information. At that appearance, the court shall
33 determine the necessity of imposing a no-contact or no-harassment
34 order, and consider the provisions of section 2 of this act, or other
35 conditions of pretrial release according to the procedures established
36 by court rule for preliminary appearance or an arraignment.

1 **Sec. 4.** RCW 10.14.080 and 1992 c 143 s 11 are each amended to read
2 as follows:

3 (1) Upon filing a petition for a civil antiharassment protection
4 order under this chapter, the petitioner may obtain an ex parte
5 temporary antiharassment protection order. An ex parte temporary
6 antiharassment protection order may be granted with or without notice
7 upon the filing of an affidavit which, to the satisfaction of the
8 court, shows reasonable proof of unlawful harassment of the petitioner
9 by the respondent and that great or irreparable harm will result to the
10 petitioner if the temporary antiharassment protection order is not
11 granted.

12 (2) An ex parte temporary antiharassment protection order shall be
13 effective for a fixed period not to exceed fourteen days or twenty-four
14 days if the court has permitted service by publication under RCW
15 10.14.085. The ex parte order may be reissued. A full hearing, as
16 provided in this chapter, shall be set for not later than fourteen days
17 from the issuance of the temporary order or not later than twenty-four
18 days if service by publication is permitted. Except as provided in RCW
19 10.14.070 and 10.14.085, the respondent shall be personally served with
20 a copy of the ex parte order along with a copy of the petition and
21 notice of the date set for the hearing.

22 (3) At the hearing, if the court finds by a preponderance of the
23 evidence that unlawful harassment exists, a civil antiharassment
24 protection order shall issue prohibiting such unlawful harassment.

25 (4) An order issued under this chapter shall be effective for not
26 more than one year unless the court finds that the respondent is likely
27 to resume unlawful harassment of the petitioner when the order expires.
28 If so, the court may enter an order for a fixed time exceeding one year
29 or may enter a permanent antiharassment protection order. The court
30 shall not enter an order that is effective for more than one year if
31 the order restrains the respondent from contacting the respondent's
32 minor children. If the petitioner seeks relief for a period longer
33 than one year on behalf of the respondent's minor children, the court
34 shall advise the petitioner that the petitioner may apply for renewal
35 of the order as provided in this chapter or if appropriate may seek
36 relief pursuant to chapter 26.09 or 26.10 RCW.

37 (5) At any time within the three months before the expiration of
38 the order, the petitioner may apply for a renewal of the order by
39 filing a petition for renewal. The petition for renewal shall state

1 the reasons why the petitioner seeks to renew the protection order.
2 Upon receipt of the petition for renewal, the court shall order a
3 hearing which shall be not later than fourteen days from the date of
4 the order. Except as provided in RCW 10.14.085, personal service shall
5 be made upon the respondent not less than five days before the hearing.
6 If timely service cannot be made the court shall set a new hearing date
7 and shall either require additional attempts at obtaining personal
8 service or permit service by publication as provided by RCW 10.14.085.
9 If the court permits service by publication, the court shall set the
10 new hearing date not later than twenty-four days from the date of the
11 order. If the order expires because timely service cannot be made the
12 court shall grant an ex parte order of protection as provided in this
13 section. The court shall grant the petition for renewal unless the
14 respondent proves by a preponderance of the evidence that the
15 respondent will not resume harassment of the petitioner when the order
16 expires. The court may renew the protection order for another fixed
17 time period or may enter a permanent order as provided in subsection
18 (4) of this section.

19 (6) The court, in granting an ex parte temporary antiharassment
20 protection order or a civil antiharassment protection order, shall have
21 broad discretion to grant such relief as the court deems proper,
22 including an order:

23 (a) Restraining the respondent from making any attempts to contact
24 the petitioner;

25 (b) Restraining the respondent from making any attempts to keep the
26 petitioner under surveillance; ~~((and))~~

27 (c) Requiring the respondent to stay a stated distance from the
28 petitioner's residence and workplace; and

29 (d) Considering the provisions of section 2 of this act.

30 (7) A petitioner may not obtain an ex parte temporary
31 antiharassment protection order against a respondent if the petitioner
32 has previously obtained two such ex parte orders against the same
33 respondent but has failed to obtain the issuance of a civil
34 antiharassment protection order unless good cause for such failure can
35 be shown.

36 (8) The court order shall specify the date an order issued pursuant
37 to subsections (4) and (5) of this section expires if any. The court
38 order shall also state whether the court issued the protection order
39 following personal service or service by publication and whether the

1 court has approved service by publication of an order issued under this
2 section.

3 **Sec. 5.** RCW 10.99.040 and 1992 c 86 s 2 are each amended to read
4 as follows:

5 (1) Because of the serious nature of domestic violence, the court
6 in domestic violence actions:

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

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

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

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

19 (2) Because of the likelihood of repeated violence directed at
20 those who have been victims of domestic violence in the past, when any
21 person charged with or arrested for a crime involving domestic violence
22 is released from custody before arraignment or trial on bail or
23 personal recognizance, the court authorizing the release may prohibit
24 that person from having any contact with the victim. The jurisdiction
25 authorizing the release shall determine whether that person should be
26 prohibited from having any contact with the victim. If there is no
27 outstanding restraining or protective order prohibiting that person
28 from having contact with the victim, the court authorizing release may
29 issue, by telephone, a no-contact order prohibiting the person charged
30 or arrested from having contact with the victim. In issuing the order,
31 the court shall consider the provisions of section 2 of this act. The
32 no-contact order shall also be issued in writing as soon as possible.
33 ~~((If the court has probable cause to believe that the person charged or~~
34 ~~arrested is likely to use or display or threaten to use a deadly weapon~~
35 ~~as defined in RCW 9A.04.110 in any further acts of violence, the court~~
36 ~~may also require that person to surrender any deadly weapon in that~~
37 ~~person's immediate possession or control, or subject to that person's~~
38 ~~immediate possession or control, to the sheriff of the county or chief~~

1 of police of the municipality in which that person resides or to the
2 defendant's counsel for safekeeping.))

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

12 (4)(a) Willful violation of a court order issued under subsection
13 (2) or (3) of this section is a misdemeanor. Upon conviction and in
14 addition to other penalties provided by law, the court may require that
15 the defendant submit to electronic monitoring. The court shall specify
16 who shall provide the electronic monitoring services and the terms
17 under which the monitoring must be performed. The court also may
18 include a requirement that the defendant pay the costs of the
19 monitoring. The court shall consider the ability of the convicted
20 person to pay for electronic monitoring.

21 (b) Any assault that is a violation of an order issued under this
22 section and that does not amount to assault in the first or second
23 degree under RCW 9A.36.011 or 9A.36.021 is a class C felony, and any
24 conduct in violation of a protective order issued under this section
25 that is reckless and creates a substantial risk of death or serious
26 physical injury to another person is a class C felony.

27 (c) The written order releasing the person charged or arrested
28 shall contain the court's directives and shall bear the legend:
29 Violation of this order is a criminal offense under chapter 10.99 RCW
30 and will subject a violator to arrest; any assault or reckless
31 endangerment that is a violation of this order is a felony. A
32 certified copy of the order shall be provided to the victim. If a no-
33 contact order has been issued prior to charging, that order shall
34 expire at arraignment or within seventy-two hours if charges are not
35 filed. Such orders need not be entered into the computer information
36 system in this state which is used by law enforcement agencies to list
37 outstanding warrants.

38 (5) Whenever an order prohibiting contact is issued, modified, or
39 terminated under subsection (2) or (3) of this section, the clerk of

1 the court shall forward a copy of the order on or before the next
2 judicial day to the appropriate law enforcement agency specified in the
3 order. Upon receipt of the copy of the order the law enforcement
4 agency shall forthwith enter the order for one year or until the
5 expiration date specified on the order into any computer information
6 system available in this state used by law enforcement agencies to list
7 outstanding warrants. Entry into the law enforcement information
8 system constitutes notice to all law enforcement agencies of the
9 existence of the order. The order is fully enforceable in any
10 jurisdiction in the state.

11 **Sec. 6.** RCW 10.99.045 and 1984 c 263 s 23 are each amended to read
12 as follows:

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

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

22 (3) At the time of the appearances provided in subsection (1) or
23 (2) of this section, the court shall determine the necessity of
24 imposing a no contact order or other conditions of pretrial release
25 according to the procedures established by court rule for a preliminary
26 appearance or an arraignment. ~~((If the court has probable cause to
27 believe that the defendant is likely to use or display or threaten to
28 use a deadly weapon as defined in RCW 9A.04.110 in any further acts of
29 violence, as one of the conditions of pretrial release, the court may
30 require the defendant to surrender any deadly weapon in the defendant's
31 immediate possession or control, or subject to the defendant's
32 immediate possession or control, to the sheriff of the county or chief
33 of police of the municipality in which the defendant resides or to the
34 defendant's counsel for safekeeping. The decision of the judge and
35 findings of fact in support thereof shall be in writing.))~~ The court
36 may include in the order any conditions authorized under section 2 of
37 this act.

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

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

6 **Sec. 7.** RCW 26.09.050 and 1989 c 375 s 29 are each amended to read
7 as follows:

8 In entering a decree of dissolution of marriage, legal separation,
9 or declaration of invalidity, the court shall determine the marital
10 status of the parties, make provision for a parenting plan for any
11 minor child of the marriage, make provision for the support of any
12 child of the marriage entitled to support, consider or approve
13 provision for the maintenance of either spouse, make provision for the
14 disposition of property and liabilities of the parties, make provision
15 for the allocation of the children as federal tax exemptions, make
16 provision for any necessary continuing restraining orders including the
17 provisions contained in section 2 of this act, and make provision for
18 the change of name of any party.

19 **Sec. 8.** RCW 26.09.060 and 1992 c 229 s 9 are each amended to read
20 as follows:

21 (1) In a proceeding for:

22 (a) Dissolution of marriage, legal separation, or a declaration of
23 invalidity; or

24 (b) Disposition of property or liabilities, maintenance, or support
25 following dissolution of the marriage by a court which lacked personal
26 jurisdiction over the absent spouse; either party may move for
27 temporary maintenance or for temporary support of children entitled to
28 support. The motion shall be accompanied by an affidavit setting forth
29 the factual basis for the motion and the amounts requested.

30 (2) As a part of a motion for temporary maintenance or support or
31 by independent motion accompanied by affidavit, either party may
32 request the court to issue a temporary restraining order or preliminary
33 injunction, providing relief proper in the circumstances, and
34 restraining or enjoining any person from:

35 (a) Transferring, removing, encumbering, concealing, or in any way
36 disposing of any property except in the usual course of business or for
37 the necessities of life, and, if so restrained or enjoined, requiring

1 him or her to notify the moving party of any proposed extraordinary
2 expenditures made after the order is issued;

3 (b) ~~Molesting or disturbing the peace of the other party or of any
4 child ((and, upon a showing by clear and convincing evidence that the
5 party so restrained or enjoined has used or displayed or threatened to
6 use a deadly weapon as defined in RCW 9A.04.110 in an act of violence
7 or has previously committed acts of domestic violence and is likely to
8 use or display or threaten to use a deadly weapon in an act of domestic
9 violence, requiring the party to surrender any deadly weapon in his
10 immediate possession or control or subject to his immediate possession
11 or control to the sheriff of the county having jurisdiction of the
12 proceeding or to the restrained or enjoined party's counsel or to any
13 person designated by the court. The court may order temporary
14 surrender of deadly weapons without notice to the other party only if
15 it finds on the basis of the moving affidavit or other evidence that
16 irreparable injury could result if an order is not issued until the
17 time for response has elapsed))~~;

18 (c) Entering the family home or the home of the other party upon a
19 showing of the necessity therefor;

20 (d) Removing a child from the jurisdiction of the court.

21 (3) In issuing the order, the court shall consider the provisions
22 of section 2 of this act.

23 (4) The court may issue a temporary restraining order without
24 requiring notice to the other party only if it finds on the basis of
25 the moving affidavit or other evidence that irreparable injury could
26 result if an order is not issued until the time for responding has
27 elapsed.

28 ~~((+4))~~ (5) The court may issue a temporary restraining order or
29 preliminary injunction and an order for temporary maintenance or
30 support in such amounts and on such terms as are just and proper in the
31 circumstances. The court may in its discretion waive the filing of the
32 bond or the posting of security.

33 ~~((+5))~~ (6) Restraining orders issued under this section
34 restraining the person from molesting or disturbing another party or
35 from entering a party's home shall bear the legend: VIOLATION OF THIS
36 ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER
37 CHAPTER 26.09 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

38 ~~((+6))~~ (7) The court may order that any temporary restraining
39 order granted under this section be forwarded by the clerk of the court

1 on or before the next judicial day to the appropriate law enforcement
2 agency specified in the order. Upon receipt of the order, the law
3 enforcement agency shall forthwith enter the order for one year into
4 any computer-based criminal intelligence information system available
5 in this state used by law enforcement agencies to list outstanding
6 warrants. Entry into the law enforcement information system
7 constitutes notice to all law enforcement agencies of the existence of
8 the order. The order is fully enforceable in any county in the state.

9 ~~((+7))~~ (8) A temporary order, temporary restraining order, or
10 preliminary injunction:

11 (a) Does not prejudice the rights of a party or any child which are
12 to be adjudicated at subsequent hearings in the proceeding;

13 (b) May be revoked or modified;

14 (c) Terminates when the final decree is entered, except as provided
15 under subsection ~~((+8))~~ (9) of this section, or when the petition for
16 dissolution, legal separation, or declaration of invalidity is
17 dismissed;

18 (d) May be entered in a proceeding for the modification of an
19 existing decree.

20 ~~((+8))~~ (9) Delinquent support payments accrued under an order for
21 temporary support remain collectible and are not extinguished when a
22 final decree is entered unless the decree contains specific language to
23 the contrary. A support debt under a temporary order owed to the state
24 for public assistance expenditures shall not be extinguished by the
25 final decree if:

26 (a) The obligor was given notice of the state's interest under
27 chapter 74.20A RCW; or

28 (b) The temporary order directs the obligor to make support
29 payments to the office of support enforcement or the Washington state
30 support registry.

31 **Sec. 9.** RCW 26.10.040 and 1989 c 375 s 31 are each amended to read
32 as follows:

33 In entering an order under this chapter, the court shall consider,
34 approve, or make provision for:

35 (1) Child custody, visitation, and the support of any child
36 entitled to support;

37 (2) The allocation of the children as a federal tax exemption; and

1 (3) Any necessary continuing restraining orders, including the
2 provisions contained in section 2 of this act.

3 **Sec. 10.** RCW 26.10.115 and 1989 c 375 s 32 are each amended to
4 read as follows:

5 (1) In a proceeding under this chapter either party may file a
6 motion for temporary support of children entitled to support. The
7 motion shall be accompanied by an affidavit setting forth the factual
8 basis for the motion and the amount requested.

9 (2) In a proceeding under this chapter either party may file a
10 motion for a temporary restraining order or preliminary injunction,
11 providing relief proper in the circumstances, and restraining or
12 enjoining any person from:

13 (a) ~~Molesting or disturbing the peace of the other party or of any~~
14 ~~child ((and, upon a showing by clear and convincing evidence that the~~
15 ~~party so restrained or enjoined has used or displayed or threatened to~~
16 ~~use a deadly weapon as defined in RCW 9A.04.110 in an act of violence~~
17 ~~or has previously committed acts of domestic violence and is likely to~~
18 ~~use or display or threaten to use a deadly weapon in an act of domestic~~
19 ~~violence, requiring the party to surrender any deadly weapon in his~~
20 ~~immediate possession or control or subject to his immediate possession~~
21 ~~or control to the sheriff of the county having jurisdiction of the~~
22 ~~proceeding or to the restrained or enjoined party's counsel or to any~~
23 ~~person designated by the court. The court may order temporary~~
24 ~~surrender of deadly weapons without notice to the other party only if~~
25 ~~it finds on the basis of the moving affidavit or other evidence that~~
26 ~~irreparable injury could result if an order is not issued until the~~
27 ~~time for response has elapsed))~~;

28 (b) Entering the family home or the home of the other party upon a
29 showing of the necessity therefor;

30 (c) Removing a child from the jurisdiction of the court.

31 (3) In issuing the order, the court shall consider the provisions
32 of section 2 of this act.

33 (4) The court may issue a temporary restraining order without
34 requiring notice to the other party only if it finds on the basis of
35 the moving affidavit or other evidence that irreparable injury could
36 result if an order is not issued until the time for responding has
37 elapsed.

1 (~~(4)~~) (5) The court may issue a temporary restraining order or
2 preliminary injunction and an order for temporary support in such
3 amounts and on such terms as are just and proper in the circumstances.

4 (~~(5)~~) (6) Restraining orders issued under this section
5 restraining the person from molesting or disturbing another party or
6 from entering a party's home shall bear the legend: VIOLATION OF THIS
7 ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER
8 CHAPTER 26.10 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

9 (~~(6)~~) (7) The court may order that any temporary restraining
10 order granted under this section be forwarded by the clerk of the court
11 on or before the next judicial day to the appropriate law enforcement
12 agency specified in the order. Upon receipt of the order, the law
13 enforcement agency shall forthwith enter the order for one year into
14 any computer-based criminal intelligence information system available
15 in this state used by law enforcement agencies to list outstanding
16 warrants. Entry into the law enforcement information system
17 constitutes notice to all law enforcement agencies of the existence of
18 the order. The order is fully enforceable in any county in the state.

19 (~~(7)~~) (8) A temporary order, temporary restraining order, or
20 preliminary injunction:

21 (a) Does not prejudice the rights of a party or any child which are
22 to be adjudicated at subsequent hearings in the proceeding;

23 (b) May be revoked or modified;

24 (c) Terminates when the final order is entered or when the motion
25 is dismissed;

26 (d) May be entered in a proceeding for the modification of an
27 existing order.

28 (~~(8)~~) (9) A support debt owed to the state for public assistance
29 expenditures which has been charged against a party pursuant to RCW
30 74.20A.040 and/or 74.20A.055 shall not be merged in, or otherwise
31 extinguished by, the final decree or order, unless the office of
32 support enforcement has been given notice of the final proceeding and
33 an opportunity to present its claim for the support debt to the court
34 and has failed to file an affidavit as provided in this subsection.
35 Notice of the proceeding shall be served upon the office of support
36 enforcement personally, or by certified mail, and shall be given no
37 fewer than thirty days prior to the date of the final proceeding. An
38 original copy of the notice shall be filed with the court either before
39 service or within a reasonable time thereafter. The office of support

1 enforcement may present its claim, and thereby preserve the support
2 debt, by filing an affidavit setting forth the amount of the debt with
3 the court, and by mailing a copy of the affidavit to the parties or
4 their attorney prior to the date of the final proceeding.

5 **Sec. 11.** RCW 26.26.130 and 1989 c 375 s 23 and 1989 c 360 s 18 are
6 each reenacted and amended to read as follows:

7 (1) The judgment and order of the court determining the existence
8 or nonexistence of the parent and child relationship shall be
9 determinative for all purposes.

10 (2) If the judgment and order of the court is at variance with the
11 child's birth certificate, the court shall order that an amended birth
12 certificate be issued.

13 (3) The judgment and order shall contain other appropriate
14 provisions directed to the appropriate parties to the proceeding,
15 concerning the duty of current and future support, the extent of any
16 liability for past support furnished to the child if that issue is
17 before the court, the furnishing of bond or other security for the
18 payment of the judgment, or any other matter in the best interest of
19 the child. The judgment and order may direct the father to pay the
20 reasonable expenses of the mother's pregnancy and confinement. The
21 judgment and order may include a continuing restraining order or
22 injunction. In issuing the order, the court shall consider the
23 provisions of section 2 of this act.

24 (4) Support judgment and orders shall be for periodic payments
25 which may vary in amount. The court may limit the father's liability
26 for the past support to the child to the proportion of the expenses
27 already incurred as the court deems just. The court shall not limit or
28 affect in any manner the right of nonparties including the state of
29 Washington to seek reimbursement for support and other services
30 previously furnished to the child.

31 (5) After considering all relevant factors, the court shall order
32 either or both parents to pay an amount determined pursuant to the
33 schedule and standards (~~adopted under RCW 26.19.040~~) contained in
34 chapter 26.19 RCW.

35 (6) On the same basis as provided in chapter 26.09 RCW, the court
36 shall make residential provisions with regard to minor children of the
37 parties, except that a parenting plan shall not be required unless
38 requested by a party.

1 (7) In any dispute between the natural parents of a child and a
2 person or persons who have (a) commenced adoption proceedings or who
3 have been granted an order of adoption, and (b) pursuant to a court
4 order, or placement by the department of social and health services or
5 by a licensed agency, have had actual custody of the child for a period
6 of one year or more before court action is commenced by the natural
7 parent or parents, the court shall consider the best welfare and
8 interests of the child, including the child's need for situation
9 stability, in determining the matter of custody, and the parent or
10 person who is more fit shall have the superior right to custody.

11 **Sec. 12.** RCW 26.26.137 and 1983 1st ex.s. c 41 s 12 are each
12 amended to read as follows:

13 (1) If the court has made a finding as to the paternity of a child,
14 or if a party's acknowledgment of paternity has been filed with the
15 court, or a party alleges he is the father of the child, any party may
16 move for temporary support for the child prior to the date of entry of
17 the final order. The motion shall be accompanied by an affidavit
18 setting forth the factual basis for the motion and the amounts
19 requested.

20 (2) Any party may request the court to issue a temporary
21 restraining order or preliminary injunction, providing relief proper in
22 the circumstances, and restraining or enjoining any party from:

- 23 (a) Molesting or disturbing the peace of another party;
24 (b) Entering the home of another party; or
25 (c) Removing a child from the jurisdiction of the court.

26 (3) The court may issue a temporary restraining order without
27 requiring notice to the other party only if it finds on the basis of
28 the moving affidavit or other evidence that irreparable injury could
29 result if an order is not issued until the time for responding has
30 elapsed.

31 (4) The court may issue a temporary restraining order or
32 preliminary injunction and an order for temporary support in such
33 amounts and on such terms as are just and proper in the circumstances.
34 In issuing the order, the court shall consider the provisions of
35 section 2 of this act.

36 (5) A temporary order, temporary restraining order, or preliminary
37 injunction:

1 (a) Does not prejudice the rights of a party or any child which are
2 to be adjudicated at subsequent hearings in the proceeding;

3 (b) May be revoked or modified;

4 (c) Terminates when the final order is entered or when the petition
5 is dismissed; and

6 (d) May be entered in a proceeding for the modification of an
7 existing order.

8 (6) A support debt owed to the state for public assistance
9 expenditures which has been charged against a party pursuant to RCW
10 74.20A.040 and/or 74.20A.055 shall not be merged in, or otherwise
11 extinguished by, the final decree or order, unless the office of
12 support enforcement has been given notice of the final proceeding and
13 an opportunity to present its claim for the support debt to the court
14 and has failed to file an affidavit as provided in this subsection.
15 Notice of the proceeding shall be served upon the office of support
16 enforcement personally, or by certified mail, and shall be given no
17 fewer than thirty days prior to the date of the final proceeding. An
18 original copy of the notice shall be filed with the court either before
19 service or within a reasonable time thereafter. The office of support
20 enforcement may present its claim, and thereby preserve the support
21 debt, by filing an affidavit setting forth the amount of the debt with
22 the court, and by mailing a copy of the affidavit to the parties or
23 their attorney prior to the date of the final proceeding.

24 **Sec. 13.** RCW 26.50.060 and 1992 c 143 s 2, 1992 c 111 s 4, and
25 1992 c 86 s 4 are each reenacted and amended to read as follows:

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

28 (a) Restrain the respondent from committing acts of domestic
29 violence;

30 (b) Exclude the respondent from the dwelling which the parties
31 share or from the residence of the petitioner;

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

36 (d) Order the respondent to participate in batterers' treatment;

37 (e) Order other relief as it deems necessary for the protection of
38 the petitioner and other family or household members sought to be

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

3 (f) Require the respondent to pay the filing fee and court costs,
4 including service fees, and to reimburse the petitioner for costs
5 incurred in bringing the action, including a reasonable attorney's fee.
6 If the petitioner has been granted leave to proceed in forma pauperis,
7 the court may require the respondent to pay the filing fee and costs,
8 including services fees, to the county or municipality incurring the
9 expense;

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

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

19 (i) Consider the provisions of section 2 of this act.

20 (2) Any relief granted by the order for protection, other than a
21 judgment for costs, shall be for a fixed period not to exceed one year
22 if the restraining order restrains the respondent from contacting the
23 respondent's minor children. If the petitioner has petitioned for
24 relief on his or her own behalf or on behalf of the petitioner's family
25 or household members or minor children that are not also the
26 respondent's minor children, and the court finds that the respondent is
27 likely to resume acts of domestic violence against the petitioner or
28 the petitioner's family or household members or minor children when the
29 order expires, the court may either (a) grant relief for a fixed period
30 not to exceed one year; (b) grant relief for a fixed period in excess
31 of one year; or (c) enter a permanent order of protection.

32 If the petitioner has petitioned for relief on behalf of the
33 respondent's minor children, the court shall advise the petitioner that
34 if the petitioner wants to continue protection for a period beyond one
35 year the petitioner may either petition for renewal pursuant to the
36 provisions of this chapter or may seek relief pursuant to the
37 provisions of chapter 26.09 RCW.

38 (3) If the court grants an order for a fixed time period, the
39 petitioner may apply for renewal of the order by filing a petition for

1 renewal at any time within the three months before the order expires.
2 The petition for renewal shall state the reasons why the petitioner
3 seeks to renew the protection order. Upon receipt of the petition for
4 renewal the court shall order a hearing which shall be not later than
5 fourteen days from the date of the order. Except as provided in RCW
6 26.50.085, personal service shall be made on the respondent not less
7 than five days before the hearing. If timely service cannot be made
8 the court shall set a new hearing date and shall either require
9 additional attempts at obtaining personal service or permit service by
10 publication as provided in RCW 26.50.085. If the court permits service
11 by publication, the court shall set the new hearing date not later than
12 twenty-four days from the date of the order. If the order expires
13 because timely service cannot be made the court shall grant an ex parte
14 order of protection as provided in RCW 26.50.070. The court shall
15 grant the petition for renewal unless the respondent proves by a
16 preponderance of the evidence that the respondent will not resume acts
17 of domestic violence against the petitioner or the petitioner's
18 children or family or household members when the order expires. The
19 court may renew the protection order for another fixed time period or
20 may enter a permanent order as provided in this section. The court may
21 award court costs, service fees, and reasonable attorneys' fees as
22 provided in subsection (1)(f) of this section.

23 (4) In providing relief under this chapter, the court may realign
24 the designation of the parties as "petitioner" and "respondent" where
25 the court finds that the original petitioner is the abuser and the
26 original respondent is the victim of domestic violence and may issue an
27 ex parte temporary order for protection in accordance with RCW
28 26.50.070 on behalf of the victim until the victim is able to prepare
29 a petition for an order for protection in accordance with RCW
30 26.50.030.

31 (5) Except as provided in subsection (4) of this section, no order
32 for protection shall grant relief to any party except upon notice to
33 the respondent and hearing pursuant to a petition or counter-petition
34 filed and served by the party seeking relief in accordance with RCW
35 26.50.050.

36 (6) The court order shall specify the date the order expires if
37 any. The court order shall also state whether the court issued the
38 protection order following personal service or service by publication

1 and whether the court has approved service by publication of an order
2 issued under this section.

3 **Sec. 14.** RCW 26.50.070 and 1992 c 143 s 3 are each amended to read
4 as follows:

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

11 (a) Restraining any party from committing acts of domestic
12 violence;

13 (b) Excluding any party from the dwelling shared or from the
14 residence of the other until further order of the court;

15 (c) Restraining any party from interfering with the other's custody
16 of the minor children or from removing the children from the
17 jurisdiction of the court; ((and))

18 (d) Restraining any party from having any contact with the victim
19 of domestic violence or the victim's children or members of the
20 victim's household; and

21 (e) Considering the provisions of section 2 of this act.

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

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

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

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

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