
SENATE BILL 6511

State of Washington

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By Senators Stevens and Hargrove

Read first time 01/26/12. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to court procedures for review of petitions for
2 protection orders; and amending RCW 26.50.050, 26.09.060, 26.10.040,
3 26.26.130, and 10.14.070.

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

5 **Sec. 1.** RCW 26.50.050 and 2008 c 287 s 2 are each amended to read
6 as follows:

7 (1) Upon receipt of the petition, the court shall order a hearing
8 which shall be held not later than fourteen days from the date of the
9 order. The court may schedule a hearing by telephone pursuant to local
10 court rule, to reasonably accommodate a disability, or in exceptional
11 circumstances to protect a petitioner from further acts of domestic
12 violence. The court shall require assurances of the petitioner's
13 identity before conducting a telephonic hearing. Except as provided in
14 RCW 26.50.085 and 26.50.123, personal service shall be made upon the
15 respondent not less than five court days prior to the hearing. If
16 timely personal service cannot be made, the court shall set a new
17 hearing date and shall either require an additional attempt at
18 obtaining personal service or permit service by publication as provided
19 in RCW 26.50.085 or service by mail as provided in RCW 26.50.123. The

1 court shall not require more than two attempts at obtaining personal
2 service and shall permit service by publication or by mail unless the
3 petitioner requests additional time to attempt personal service. If
4 the court permits service by publication or by mail, the court shall
5 set the hearing date not later than twenty-four days from the date of
6 the order. The court may issue an ex parte order for protection
7 pending the hearing as provided in RCW 26.50.070, 26.50.085, and
8 26.50.123.

9 (2) The rules of evidence shall be strictly observed in a hearing
10 on petition for a protection order under this chapter. The parties and
11 any witnesses shall be placed under oath prior to testimony. The judge
12 shall disclose to all parties any information other than personally
13 identifying information the judge reviews from any criminal or civil
14 database related to the petition.

15 **Sec. 2.** RCW 26.09.060 and 2008 c 6 s 1009 are each amended to read
16 as follows:

17 (1) In a proceeding for:

18 (a) Dissolution of marriage or domestic partnership, legal
19 separation, or a declaration of invalidity; or

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

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

32 (a) Transferring, removing, encumbering, concealing, or in any way
33 disposing of any property except in the usual course of business or for
34 the necessities of life, and, if so restrained or enjoined, requiring
35 him or her to notify the moving party of any proposed extraordinary
36 expenditures made after the order is issued;

1 (b) Molesting or disturbing the peace of the other party or of any
2 child;

3 (c) Going onto the grounds of or entering the home, workplace, or
4 school of the other party or the day care or school of any child upon
5 a showing of the necessity therefor;

6 (d) Knowingly coming within, or knowingly remaining within, a
7 specified distance from a specified location; and

8 (e) Removing a child from the jurisdiction of the court.

9 (3) Either party may request a domestic violence protection order
10 under chapter 26.50 RCW or an antiharassment protection order under
11 chapter 10.14 RCW on a temporary basis. The court may grant any of the
12 relief provided in RCW 26.50.060 except relief pertaining to
13 residential provisions for the children which provisions shall be
14 provided for under this chapter, and any of the relief provided in RCW
15 10.14.080: PROVIDED, That the rules of evidence shall be strictly
16 observed during any hearing on a protection order, any testimony shall
17 be provided under oath, and the judge shall disclose to all parties any
18 information other than personally identifying information the judge
19 reviews in a criminal or civil database related to the request for a
20 protection order. Ex parte orders issued under this subsection shall
21 be effective for a fixed period not to exceed fourteen days, or upon
22 court order, not to exceed twenty-four days if necessary to ensure that
23 all temporary motions in the case can be heard at the same time.

24 (4) In issuing the order, the court shall consider the provisions
25 of RCW 9.41.800.

26 (5) 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 (6) The court may issue a temporary restraining order or
32 preliminary injunction and an order for temporary maintenance or
33 support in such amounts and on such terms as are just and proper in the
34 circumstances. The court may in its discretion waive the filing of the
35 bond or the posting of security.

36 (7) Restraining orders issued under this section restraining the
37 person from molesting or disturbing another party, or from going onto
38 the grounds of or entering the home, workplace, or school of the other

1 party or the day care or school of any child, or prohibiting the person
2 from knowingly coming within, or knowingly remaining within, a
3 specified distance of a location, shall prominently bear on the front
4 page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL
5 NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.50 RCW AND
6 WILL SUBJECT A VIOLATOR TO ARREST.

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

19 (9) If a restraining order issued pursuant to this section is
20 modified or terminated, the clerk of the court shall notify the law
21 enforcement agency specified in the order on or before the next
22 judicial day. Upon receipt of notice that an order has been
23 terminated, the law enforcement agency shall remove the order from any
24 computer-based criminal intelligence system.

25 (10) A temporary order, temporary restraining order, or preliminary
26 injunction:

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

29 (b) May be revoked or modified;

30 (c) Terminates when the final decree is entered, except as provided
31 under subsection (11) of this section, or when the petition for
32 dissolution, legal separation, or declaration of invalidity is
33 dismissed;

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

36 (11) Delinquent support payments accrued under an order for
37 temporary support remain collectible and are not extinguished when a
38 final decree is entered unless the decree contains specific language to

1 the contrary. A support debt under a temporary order owed to the state
2 for public assistance expenditures shall not be extinguished by the
3 final decree if:

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

6 (b) The temporary order directs the obligor to make support
7 payments to the office of support enforcement or the Washington state
8 support registry.

9 **Sec. 3.** RCW 26.10.040 and 2000 c 119 s 8 are each amended to read
10 as follows:

11 (1) In entering an order under this chapter, the court shall
12 consider, approve, or make provision for:

13 (a) Child custody, visitation, and the support of any child
14 entitled to support;

15 (b) The allocation of the children as a federal tax exemption;

16 (c) Any necessary continuing restraining orders, including the
17 provisions contained in RCW 9.41.800;

18 (d) A domestic violence protection order under chapter 26.50 RCW or
19 an antiharassment protection order under chapter 10.14 RCW. The court
20 may grant any of the relief provided in RCW 26.50.060 except relief
21 pertaining to residential provisions for the children which provisions
22 shall be provided for under this chapter, and any of the relief
23 provided in RCW 10.14.080: PROVIDED, That the rules of evidence shall
24 be strictly observed during any hearing on a protection order, any
25 testimony shall be provided under oath, and the judge shall disclose to
26 all parties any information other than personally identifying
27 information the judge reviews in a criminal or civil database related
28 to the request for a protection order;

29 (e) Restraining orders issued under this section restraining or
30 enjoining the person from molesting or disturbing another party, or
31 from going onto the grounds of or entering the home, workplace, or
32 school of the other party or the day care or school of any child, or
33 prohibiting the person from knowingly coming within, or knowingly
34 remaining within, a specified distance of a location, shall prominently
35 bear on the front page of the order the legend: VIOLATION OF THIS
36 ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER
37 CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

1 (2) The court shall order that any restraining order bearing a
2 criminal offense legend, any domestic violence protection order, or any
3 antiharassment protection order granted under this section, in addition
4 to the law enforcement information sheet or proof of service of the
5 order, be forwarded by the clerk of the court on or before the next
6 judicial day to the appropriate law enforcement agency specified in the
7 order. Upon receipt of the order, the law enforcement agency shall
8 enter the order into any computer-based criminal intelligence
9 information system available in this state used by law enforcement
10 agencies to list outstanding warrants. The order is fully enforceable
11 in any county in the state.

12 (3) If a restraining order issued pursuant to this section is
13 modified or terminated, the clerk of the court shall notify the law
14 enforcement agency specified in the order on or before the next
15 judicial day. Upon receipt of notice that an order has been
16 terminated, the law enforcement agency shall remove the order from any
17 computer-based criminal intelligence system.

18 **Sec. 4.** RCW 26.26.130 and 2011 c 283 s 9 are each amended to read
19 as follows:

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

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

26 (3) The judgment and order shall contain other appropriate
27 provisions directed to the appropriate parties to the proceeding,
28 concerning the duty of current and future support, the extent of any
29 liability for past support furnished to the child if that issue is
30 before the court, the furnishing of bond or other security for the
31 payment of the judgment, or any other matter in the best interest of
32 the child. The judgment and order may direct one parent to pay the
33 reasonable expenses of the mother's pregnancy and childbirth. The
34 judgment and order may include a continuing restraining order or
35 injunction. In issuing the order, the court shall consider the
36 provisions of RCW 9.41.800.

1 (4) The judgment and order shall contain a provision that each
2 party must file with the court and the Washington state child support
3 registry and update as necessary the information required in the
4 confidential information form required by RCW 26.23.050.

5 (5) Support judgment and orders shall be for periodic payments
6 which may vary in amount. The court may limit the parent's liability
7 for the past support to the child to the proportion of the expenses
8 already incurred as the court deems just. The court shall not limit or
9 affect in any manner the right of nonparties including the state of
10 Washington to seek reimbursement for support and other services
11 previously furnished to the child.

12 (6) After considering all relevant factors, the court shall order
13 either or both parents to pay an amount determined pursuant to the
14 schedule and standards contained in chapter 26.19 RCW.

15 (7) On the same basis as provided in chapter 26.09 RCW, the court
16 shall make residential provisions with regard to minor children of the
17 parties, except that a parenting plan shall not be required unless
18 requested by a party. If a parenting plan or residential schedule was
19 not entered at the time the order establishing parentage was entered,
20 a parent may move the court for entry of a parenting plan or
21 residential schedule:

22 (a) By filing a motion and proposed parenting plan or residential
23 schedule and providing notice to the other parent and other persons who
24 have residential time with the child pursuant to a court order:
25 PROVIDED, That at the time of filing the motion less than twenty-four
26 months have passed since entry of the order establishing parentage and
27 that the proposed parenting plan or residential schedule does not
28 change the designation of the parent with whom the child spends the
29 majority of time; or

30 (b) By filing a petition for modification under RCW 26.09.260 or
31 petition to establish a parenting plan, residential schedule, or
32 residential provisions.

33 (8) In any dispute between the persons claiming parentage of a
34 child and a person or persons who have (a) commenced adoption
35 proceedings or who have been granted an order of adoption, and (b)
36 pursuant to a court order, or placement by the department of social and
37 health services or by a licensed agency, have had actual custody of the
38 child for a period of one year or more before court action is commenced

1 by the persons claiming parentage, the court shall consider the best
2 welfare and interests of the child, including the child's need for
3 situation stability, in determining the matter of custody, and the
4 parent or person who is more fit shall have the superior right to
5 custody.

6 (9) In entering an order under this chapter, the court may issue
7 any necessary continuing restraining orders, including the restraint
8 provisions of domestic violence protection orders under chapter 26.50
9 RCW or antiharassment protection orders under chapter 10.14 RCW:
10 PROVIDED, That the rules of evidence shall be strictly observed during
11 any hearing, any testimony shall be provided under oath, and the judge
12 shall disclose to all parties any information other than personally
13 identifying information the judge reviews in a criminal or civil
14 database related to the request for a protection order.

15 (10) Restraining orders issued under this section restraining or
16 enjoining the person from molesting or disturbing another party, from
17 going onto the grounds of or entering the home, workplace, or school of
18 the other party or the day care or school of any child, or prohibiting
19 the person from knowingly coming within, or knowingly remaining within,
20 a specified distance of a location, shall prominently bear on the front
21 page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL
22 NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.50 RCW AND
23 WILL SUBJECT A VIOLATOR TO ARREST.

24 (11) The court shall order that any restraining order bearing a
25 criminal offense legend, any domestic violence protection order, or any
26 antiharassment protection order granted under this section be forwarded
27 by the clerk of the court on or before the next judicial day to the
28 appropriate law enforcement agency specified in the order. Upon
29 receipt of the order, the law enforcement agency shall forthwith enter
30 the order into any computer-based criminal intelligence information
31 system available in this state used by law enforcement agencies to list
32 outstanding warrants. The order is fully enforceable in any county in
33 the state.

34 (12) If a restraining order issued pursuant to this section is
35 modified or terminated, the clerk of the court shall notify the law
36 enforcement agency specified in the order on or before the next
37 judicial day. Upon receipt of notice that an order has been

1 terminated, the law enforcement agency shall remove the order from any
2 computer-based criminal intelligence system.

3 **Sec. 5.** RCW 10.14.070 and 2005 c 144 s 1 are each amended to read
4 as follows:

5 (1) Upon receipt of the petition alleging a prima facie case of
6 harassment, other than a petition alleging a sex offense as defined in
7 chapter 9A.44 RCW, the court shall order a hearing which shall be held
8 not later than fourteen days from the date of the order. If the
9 petition alleges a sex offense as defined in chapter 9A.44 RCW, the
10 court shall order a hearing which shall be held not later than fourteen
11 days from the date of the order. Except as provided in RCW 10.14.085,
12 personal service shall be made upon the respondent not less than five
13 court days before the hearing. If timely personal service cannot be
14 made, the court shall set a new hearing date and shall either require
15 additional attempts at obtaining personal service or permit service by
16 publication as provided by RCW 10.14.085. If the court permits service
17 by publication, the court shall set the hearing date not later than
18 twenty-four days from the date of the order. The court may issue an ex
19 parte order for protection pending the hearing as provided in RCW
20 10.14.080 and 10.14.085.

21 (2) The rules of evidence shall be strictly observed in a hearing
22 on petition for a protection order under this chapter. The parties and
23 any witnesses shall be placed under oath prior to testimony. The judge
24 shall disclose to all parties any information other than personally
25 identifying information the judge reviews from any criminal or civil
26 database related to the petition.

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