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HOUSE BILL 2783

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State of Washington

55th Legislature

1998 Regular Session

By Representative Costa

Read first time 01/20/98. Referred to Committee on Law & Justice.

1 AN ACT Relating to domestic violence; and amending RCW 26.50.160,  
2 26.50.135, 26.26.137, and 26.50.025.

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

4 **Sec. 1.** RCW 26.50.160 and 1995 c 246 s 18 are each amended to read  
5 as follows:

6 Notwithstanding any statutes to the contrary, to prevent the  
7 issuance of competing protection and custody orders in different courts  
8 and to give courts needed information for issuance of orders, the  
9 judicial information system shall be available in each district,  
10 municipal, and superior court by July 1, 1997, and shall include a data  
11 base containing the following information:

12 (1) The names of the parties and (~~the cause number~~) other  
13 relevant information necessary as determined by the judicial  
14 information system committee for every order of protection issued under  
15 this title, every criminal no-contact order issued under chapter 10.99  
16 RCW, every antiharassment order issued under chapter 10.14 RCW, every  
17 dissolution action under chapter 26.09 RCW, involving either minor  
18 children or a restraining order wherein the court restricts personal  
19 contact every third-party custody action under chapter 26.10 RCW,

1 ((and)) every parentage action under chapter ((26.10)) 26.26 RCW upon  
2 entry of the final judgment and order, every child custody action under  
3 chapter 26.27 RCW, every dependency and termination of parent-child  
4 relationship action under chapter 13.34 RCW, and every at-risk youth  
5 and child in need of services action under chapter 13.32A RCW in which  
6 a residential placement decision is made; and

7 (2) A criminal case history of the parties((; and

8 ~~(3) Other relevant information necessary to assist courts in~~  
9 ~~issuing orders under this chapter as determined by the judicial~~  
10 ~~information system committee)).~~

11 Collecting information and entering it in the judicial information  
12 system under this section does not constitute the practice of law, and  
13 clerks are not responsible for incorrect or incomplete information  
14 provided by the litigants and entered in the judicial information  
15 system. County clerks are not liable for unauthorized release of  
16 information outside their office by court personnel. Sharing this  
17 information with other courts in the state of Washington does not  
18 violate statutory confidentiality restrictions, provided that juvenile  
19 dependency records covered by RCW 13.50.100 may be shared only among  
20 superior courts.

21 **Sec. 2.** RCW 26.50.135 and 1995 c 246 s 19 are each amended to read  
22 as follows:

23 (1) Notwithstanding any statutes to the contrary, before granting  
24 an order under this chapter directing residential placement of a child  
25 or restraining or limiting a party's contact with a child, the court  
26 shall consult the judicial information system, if available, to  
27 determine the pendency of other proceedings involving the residential  
28 placement of any child of the parties for whom residential placement  
29 has been requested. Providing to the court judicial information from  
30 the judicial information system under this section does not constitute  
31 the practice of law by the clerks, and clerks are not responsible for  
32 incorrect information. County clerks are not liable for unauthorized  
33 release of court information outside their office by court personnel.  
34 Sharing information from the judicial information system with other  
35 courts in the state of Washington does not violate statutory  
36 confidentiality restrictions; however, juvenile dependency records  
37 covered by RCW 13.50.100 may be shared only among superior courts.

1 (2) Jurisdictional issues regarding out-of-state proceedings  
2 involving the custody or residential placement of any child of the  
3 parties shall be governed by the uniform child custody jurisdiction  
4 act, chapter 26.27 RCW.

5 **Sec. 3.** RCW 26.26.137 and 1995 c 246 s 32 are each amended to read  
6 as follows:

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

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

17 (a) Molesting or disturbing the peace of another party;

18 (b) Going onto the grounds of or entering the home, workplace, or  
19 school of another party or the day care or school of any child; or

20 (c) Removing a child from the jurisdiction of the court. Orders  
21 issued under this subsection will not be entered into the judicial  
22 information system.

23 (3) Either party may request a domestic violence protection order  
24 under chapter 26.50 RCW or an antiharassment protection order under  
25 chapter 10.14 RCW on a temporary basis. However, until final judgment  
26 is entered, domestic violence protection orders and antiharassment  
27 protection orders will be filed as separate civil causes of action.  
28 The court may grant any of the relief provided in RCW 26.50.060 except  
29 relief pertaining to residential provisions for the children which  
30 provisions shall be provided for under this chapter, and any of the  
31 relief provided in RCW 10.14.080. Ex parte orders issued under this  
32 subsection shall be effective for a fixed period not to exceed fourteen  
33 days, or upon court order, not to exceed twenty-four days if necessary  
34 to ensure that all temporary motions in the case can be heard at the  
35 same time.

36 (4) 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 shall prominently bear on  
2 the front page of the order the legend: VIOLATION OF THIS ORDER WITH  
3 ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.26  
4 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

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

15 (6) The court may issue a temporary restraining order without  
16 requiring notice to the other party only if it finds on the basis of  
17 the moving affidavit or other evidence that irreparable injury could  
18 result if an order is not issued until the time for responding has  
19 elapsed.

20 (7) The court may issue a temporary restraining order or  
21 preliminary injunction and an order for temporary support in such  
22 amounts and on such terms as are just and proper in the circumstances.  
23 In issuing the order, the court shall consider the provisions of RCW  
24 9.41.800.

25 (8) 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 order is entered or when the petition  
31 is dismissed; and

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

34 (9) A support debt owed to the state for public assistance  
35 expenditures which has been charged against a party pursuant to RCW  
36 74.20A.040 and/or 74.20A.055 shall not be merged in, or otherwise  
37 extinguished by, the final decree or order, unless the office of  
38 support enforcement has been given notice of the final proceeding and  
39 an opportunity to present its claim for the support debt to the court

1 and has failed to file an affidavit as provided in this subsection.  
2 Notice of the proceeding shall be served upon the office of support  
3 enforcement personally, or by certified mail, and shall be given no  
4 fewer than thirty days prior to the date of the final proceeding. An  
5 original copy of the notice shall be filed with the court either before  
6 service or within a reasonable time thereafter. The office of support  
7 enforcement may present its claim, and thereby preserve the support  
8 debt, by filing an affidavit setting forth the amount of the debt with  
9 the court, and by mailing a copy of the affidavit to the parties or  
10 their attorney prior to the date of the final proceeding.

11 **Sec. 4.** RCW 26.50.025 and 1995 c 246 s 2 are each amended to read  
12 as follows:

13 (1) Any order available under this chapter may be issued in actions  
14 under chapter 26.09, 26.10, or 26.26 RCW after entry of the judgment  
15 and order determining the parent and child relationship. If an order  
16 for protection is issued in an action under chapter 26.09, 26.10, or  
17 26.26 RCW, the order shall be issued on the forms mandated by RCW  
18 26.50.035(1). An order issued in accordance with this subsection is  
19 fully enforceable and shall be enforced under the provisions of this  
20 chapter.

21 (2) If a party files an action under chapter 26.09, 26.10, or 26.26  
22 RCW, an order issued previously under this chapter between the same  
23 parties may be consolidated by the court under that action and cause  
24 number. Any order issued under this chapter after consolidation shall  
25 contain the original cause number and the cause number of the action  
26 under chapter 26.09, 26.10, or 26.26 RCW. Relief under this chapter  
27 shall not be denied or delayed on the grounds that the relief is  
28 available in another action.

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