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HOUSE BILL 2363

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State of Washington

62nd Legislature

2012 Regular Session

By Representatives Goodman, Kenney, Orwall, Darneille, Ryu, Roberts, Appleton, Dickerson, Ladenburg, Reykdal, Jinkins, Santos, and Kagi

Read first time 01/12/12. Referred to Committee on Judiciary.

1 AN ACT Relating to protecting victims of domestic violence and  
2 harassment; amending RCW 4.24.130, 9A.46.040, 9A.46.080, 10.99.040,  
3 26.09.013, 43.235.040, and 43.235.050; adding a new section to chapter  
4 10.14 RCW; adding a new section to chapter 10.99 RCW; adding a new  
5 section to chapter 26.12 RCW; adding new sections to chapter 26.50 RCW;  
6 creating a new section; and prescribing penalties.

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

8 **Sec. 1.** RCW 4.24.130 and 1998 c 220 s 5 are each amended to read  
9 as follows:

10 (1) Any person desiring a change of his or her name or that of his  
11 or her child or ward, may apply therefor to the district court of the  
12 judicial district in which he or she resides, by petition setting forth  
13 the reasons for such change; thereupon such court in its discretion may  
14 order a change of the name and thenceforth the new name shall be in  
15 place of the former.

16 (2) An offender under the jurisdiction of the department of  
17 corrections who applies to change his or her name under subsection (1)  
18 of this section shall submit a copy of the application to the  
19 department of corrections not fewer than five days before the entry of

1 an order granting the name change. No offender under the jurisdiction  
2 of the department of corrections at the time of application shall be  
3 granted an order changing his or her name if the court finds that doing  
4 so will interfere with legitimate penological interests, except that no  
5 order shall be denied when the name change is requested for religious  
6 or legitimate cultural reasons or in recognition of marriage or  
7 dissolution of marriage. An offender under the jurisdiction of the  
8 department of corrections who receives an order changing his or her  
9 name shall submit a copy of the order to the department of corrections  
10 within five days of the entry of the order. Violation of this  
11 subsection is a misdemeanor.

12 (3) A sex offender subject to registration under RCW 9A.44.130 who  
13 applies to change his or her name under subsection (1) of this section  
14 shall follow the procedures set forth in RCW 9A.44.130(6).

15 (4) The district court shall collect the fees authorized by RCW  
16 36.18.010 for filing and recording a name change order, and transmit  
17 the fee and the order to the county auditor. The court may collect a  
18 reasonable fee to cover the cost of transmitting the order to the  
19 county auditor.

20 (5)(a) Name change petitions may be filed and shall be heard in the  
21 superior court of any county when the person desiring a change of his  
22 or her name or that of his or her child or ward is a victim of domestic  
23 violence as defined in RCW 26.50.010(1) and the person seeks to have  
24 access restricted to the name change file ((sealed)) due to reasonable  
25 fear for his or her safety or that of his or her child or ward. ~~((Upon~~  
26 ~~granting the name change, the superior court shall seal the file if the~~  
27 ~~court finds that the safety of the person seeking the name change or~~  
28 ~~his or her child or ward warrants sealing the file. In all))~~

29 (b) Cases filed under this subsection, whether or not the name  
30 change petition is granted, shall be filed as a confidential case type  
31 and there shall be no public access to any court record of the name  
32 change filing, proceeding, ~~((or))~~ order, ~~((unless the name change is~~  
33 ~~granted but the file is not sealed))~~ or index.

34 (c) The court shall grant a petition if: (i) The petitioner has  
35 met the requirements of this section; and (ii) the court finds that the  
36 safety of the petitioner or his or her child or ward warrants  
37 restricting access to the file. If the court determines that a

1 petitioner has not met the standard required for a name change to be  
2 confidential, the court shall deny the petition and the petitioner may  
3 file a petition for a public name change in district court.

4 **Sec. 2.** RCW 9A.46.040 and 2011 c 307 s 4 are each amended to read  
5 as follows:

6 (1) Because of the likelihood of repeated harassment directed at  
7 those who have been victims of harassment in the past, when any  
8 defendant charged with a crime involving harassment is released from  
9 custody before trial on bail or personal recognizance, the court  
10 authorizing the release may require that the defendant:

11 (a) Stay away from the home, school, business, or place of  
12 employment of the victim or victims of the alleged offense or other  
13 location, as shall be specifically named by the court in the order;

14 (b) Refrain from contacting, intimidating, threatening, or  
15 otherwise interfering with the victim or victims of the alleged offense  
16 and such other persons, including but not limited to members of the  
17 family or household of the victim, as shall be specifically named by  
18 the court in the order.

19 (2) (~~An intentional~~) Willful violation of a court order issued  
20 under this section or an equivalent local ordinance is a gross  
21 misdemeanor. The written order releasing the defendant shall contain  
22 the court's directives and shall bear the legend: Violation of this  
23 order is a criminal offense under chapter 9A.46 RCW. A certified copy  
24 of the order shall be provided to the victim by the clerk of the court.

25 **Sec. 3.** RCW 9A.46.080 and 2011 c 307 s 5 are each amended to read  
26 as follows:

27 The victim shall be informed by local law enforcement agencies or  
28 the prosecuting attorney of the final disposition of the case in which  
29 the victim is involved. If a defendant is found guilty of a crime of  
30 harassment and a condition of the sentence restricts the defendant's  
31 ability to have contact with the victim or witnesses, the condition  
32 shall be recorded and a written certified copy of that order shall be  
33 provided to the victim or witnesses by the clerk of the court. Willful  
34 violation of a court order issued under this section or an equivalent  
35 local ordinance is a gross misdemeanor. The written order shall

1 contain the court's directives and shall bear the legend: Violation of  
2 this order is a criminal offense under chapter 9A.46 RCW and will  
3 subject a violator to arrest.

4 **Sec. 4.** RCW 10.99.040 and 2010 c 274 s 309 are each amended to  
5 read as follows:

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

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

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

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

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

20 (2)(a) Because of the likelihood of repeated violence directed at  
21 those who have been victims of domestic violence in the past, when any  
22 person charged with or arrested for a crime involving domestic violence  
23 is released from custody before arraignment or trial on bail or  
24 personal recognizance, the court authorizing the release may prohibit  
25 that person from having any contact with the victim. The jurisdiction  
26 authorizing the release shall determine whether that person should be  
27 prohibited from having any contact with the victim. If there is no  
28 outstanding restraining or protective order prohibiting that person  
29 from having contact with the victim, the court authorizing release may  
30 issue, by telephone, a no-contact order prohibiting the person charged  
31 or arrested from having contact with the victim or from knowingly  
32 coming within, or knowingly remaining within, a specified distance of  
33 a location.

34 (b) In issuing the order, the court shall consider the provisions  
35 of RCW 9.41.800.

36 (c) The no-contact order shall also be issued in writing as soon as  
37 possible. By January 1, 2011, the administrative office of the courts

1 shall develop a pattern form for all no-contact orders issued under  
2 this chapter. A no-contact order issued under this chapter must  
3 substantially comply with the pattern form developed by the  
4 administrative office of the courts.

5 (3) At the time of arraignment the court shall determine whether a  
6 no-contact order shall be issued or extended. So long as the court  
7 finds probable cause, the court may issue or extend a no-contact order  
8 even if the defendant fails to appear at arraignment. The no-contact  
9 order shall terminate if the defendant is acquitted or the charges are  
10 dismissed. If a no-contact order is issued or extended, the court may  
11 also include in the conditions of release a requirement that the  
12 defendant submit to electronic monitoring. If electronic monitoring is  
13 ordered, the court shall specify who shall provide the monitoring  
14 services, and the terms under which the monitoring shall be performed.  
15 Upon conviction, the court may require as a condition of the sentence  
16 that the defendant reimburse the providing agency for the costs of the  
17 electronic monitoring.

18 (4)(a) Willful violation of a court order issued under subsection  
19 (2) ~~((or))~~, (3), or (7) of this section is punishable under RCW  
20 26.50.110.

21 (b) The written order releasing the person charged or arrested  
22 shall contain the court's directives and shall bear the legend:  
23 "Violation of this order is a criminal offense under chapter 26.50 RCW  
24 and will subject a violator to arrest; any assault, drive-by shooting,  
25 or reckless endangerment that is a violation of this order is a felony.  
26 You can be arrested even if any person protected by the order invites  
27 or allows you to violate the order's prohibitions. You have the sole  
28 responsibility to avoid or refrain from violating the order's  
29 provisions. Only the court can change the order."

30 (c) A certified copy of the order shall be provided to the victim.

31 (5) If a no-contact order has been issued prior to charging, that  
32 order shall expire at arraignment or within seventy-two hours if  
33 charges are not filed. ~~((Such orders need not be entered into the  
34 computer-based criminal intelligence information system in this state  
35 which is used by law enforcement agencies to list outstanding  
36 warrants.))~~

37 (6) Whenever a no-contact order is issued, modified, or terminated  
38 under subsection (2) or (3) of this section, the clerk of the court

1 shall forward a copy of the order on or before the next judicial day to  
2 the appropriate law enforcement agency specified in the order. Upon  
3 receipt of the copy of the order the law enforcement agency shall enter  
4 the order for one year or until the expiration date specified on the  
5 order into any computer-based criminal intelligence information system  
6 available in this state used by law enforcement agencies to list  
7 outstanding warrants. Entry into the computer-based criminal  
8 intelligence information system constitutes notice to all law  
9 enforcement agencies of the existence of the order. The order is fully  
10 enforceable in any jurisdiction in the state. Upon receipt of notice  
11 that an order has been terminated under subsection (3) of this section,  
12 the law enforcement agency shall remove the order from the computer-  
13 based criminal intelligence information system.

14 (7) All courts shall develop policies and procedures by January 1,  
15 2011, to grant victims a process to modify or rescind a no-contact  
16 order issued under this chapter. The administrative office of the  
17 courts shall develop a model policy to assist the courts in  
18 implementing the requirements of this subsection.

19 NEW SECTION. **Sec. 5.** A new section is added to chapter 10.14 RCW  
20 to read as follows:

21 (1) A defendant arrested for violating any civil antiharassment  
22 protection order issued pursuant to this chapter is required to appear  
23 in person before a magistrate within one judicial day after the arrest.  
24 At the time of the appearance, the court shall determine the necessity  
25 of imposing a no-contact order or other conditions of pretrial release  
26 in accordance with RCW 9A.46.050.

27 (2) A defendant who is charged by citation, complaint, or  
28 information with violating any civil antiharassment protection order  
29 issued pursuant to this chapter and not arrested shall appear in court  
30 for arraignment in accordance with RCW 9A.46.050.

31 (3) Appearances required pursuant to this section are mandatory and  
32 cannot be waived.

33 NEW SECTION. **Sec. 6.** A new section is added to chapter 10.99 RCW  
34 to read as follows:

35 (1) In cases where a no-contact order issued pursuant to RCW  
36 10.99.040 or 10.99.050 has been terminated, if the court finds that

1 there has been a substantial change in circumstances that warrants the  
2 protection of a no-contact order, the court may reissue the no-contact  
3 order. In determining whether there has been a substantial change in  
4 circumstances, the court's findings must be based in part on an  
5 affidavit made under oath by a person with reason to believe that the  
6 protection of a no-contact order is necessary, which includes, but is  
7 not limited to, a victim, prosecutor, domestic violence advocate, or  
8 law enforcement officer. In accordance with RCW 26.50.110, the  
9 defendant is not subject to penalties for violations of the no-contact  
10 order unless the defendant knows of the order.

11 (2)(a) Where irreparable injury could result from domestic violence  
12 if a no-contact order under subsection (1) of this section is not  
13 issued immediately without prior notice to the defendant, the court may  
14 issue a no-contact order on an ex parte temporary basis, pending a full  
15 hearing, and grant relief as the court deems proper.

16 (b) Irreparable injury under this section includes, but is not  
17 limited to, situations in which the defendant has recently threatened  
18 a person with bodily injury or has engaged in acts of domestic  
19 violence.

20 (c) The court shall hold an ex parte hearing in person or by  
21 telephone on the day the petition is filed or on the following judicial  
22 day.

23 (d) An ex parte temporary no-contact order is effective for a fixed  
24 period not to exceed fourteen days or twenty-four days if the court has  
25 permitted service by publication or by mail. The ex parte temporary  
26 no-contact order may be reissued. A full hearing must be set for not  
27 later than fourteen days from the issuance of the temporary order or  
28 not later than twenty-four days if service by publication or by mail is  
29 permitted. Except when service by publication or by mail is permitted,  
30 the defendant must be personally served with a copy of the ex parte  
31 temporary no-contact order along with a notice of the date set for the  
32 hearing.

33 (e) Any order issued under this section must contain the date and  
34 time of issuance and the expiration date and must be entered into a  
35 statewide judicial information system by the clerk of the court within  
36 one judicial day after issuance.

1           **Sec. 7.** RCW 26.09.013 and 2007 c 496 s 401 are each amended to  
2 read as follows:

3           In order to provide judicial officers with better information and  
4 to facilitate decision making which allows for the protection of  
5 children from physical, mental, or emotional harm and in order to  
6 facilitate consistent healthy contact between both parents and their  
7 children:

8           (1) Parties and witnesses who require the assistance of  
9 interpreters shall be provided access to qualified interpreters  
10 pursuant to chapter 2.42 or 2.43 RCW. To the extent practicable and  
11 within available resources, interpreters shall also be made available  
12 at dissolution-related proceedings.

13           (2) Parties and witnesses who require literacy assistance shall be  
14 referred to the multipurpose service centers established in chapter  
15 28B.04 RCW.

16           (3) In matters involving guardians ad litem(~~s~~), the court shall  
17 specify the hourly rate the guardian ad litem may charge for his or her  
18 services, and shall specify the maximum amount the guardian ad litem  
19 may charge without additional review. Counties may, and to the extent  
20 state funding is provided therefor counties shall, provide indigent  
21 parties with guardian ad litem services at a reduced or waived fee.

22           (4) Parties may request to participate by telephone or interactive  
23 videoconference. The court may allow telephonic or interactive  
24 videoconference participation of one or more parties at any proceeding  
25 in its discretion. The court may also allow telephonic or interactive  
26 videoconference participation of witnesses.

27           (5) In cases involving domestic violence or child abuse, if  
28 residential time is ordered, the court may:

29           (a) Order exchange of a child to occur in a protected setting;

30           (b) Order residential time supervised by a neutral and independent  
31 adult and pursuant to an adequate plan for supervision of such  
32 residential time. The court shall not approve of a supervisor for  
33 contact between the child and the parent unless the supervisor is  
34 willing to and capable of protecting the child from harm. The court  
35 shall revoke court approval of the supervisor if the court determines,  
36 after a hearing, that the supervisor has failed to protect the child or  
37 is no longer willing or capable of protecting the child. If the court



1 allows a family or household member to supervise residential time, the  
2 court shall establish conditions to be followed during residential  
3 time.

4 (6) In cases involving domestic violence or child abuse, the court  
5 may not require a victim of domestic violence or the custodial parent  
6 of a victim of child abuse to disclose information that would  
7 reasonably be expected to enable the perpetrator of domestic violence  
8 or child abuse to obtain confidential information regarding the name,  
9 location, or address of a victim's residence, employer, or school.

10 (7) In cases in which the court finds that the parties do not have  
11 a satisfactory history of cooperation or there is a high level of  
12 parental conflict, the court may order the parties to use supervised  
13 visitation and safe exchange centers or alternative safe locations to  
14 facilitate the exercise of residential time.

15 **Sec. 8.** RCW 43.235.040 and 2000 c 50 s 4 are each amended to read  
16 as follows:

17 (1) An oral or written communication or a document shared within or  
18 produced by a ((~~regional~~)) domestic violence fatality review panel  
19 related to a domestic violence fatality review is confidential and not  
20 subject to disclosure or discoverable by a third party. An oral or  
21 written communication or a document provided by a third party to a  
22 ((~~regional~~)) domestic violence fatality review panel, or between a  
23 third party and a ((~~regional~~)) domestic violence fatality review panel  
24 is confidential and not subject to disclosure or discovery by a third  
25 party. Notwithstanding the foregoing, recommendations from the  
26 ((~~regional~~)) domestic violence fatality review panel and the  
27 coordinating entity generally may be disclosed minus personal  
28 identifiers.

29 (2) The ((~~regional~~)) review panels, only to the extent otherwise  
30 permitted by law or court rule, shall have access to information and  
31 records regarding the domestic violence victims and perpetrators under  
32 review held by domestic violence perpetrators' treatment providers;  
33 dental care providers; hospitals, medical providers, and pathologists;  
34 coroners and medical examiners; mental health providers; lawyers; the  
35 state and local governments; the courts; and employers. The  
36 coordinating entity and the ((~~regional~~)) review panels shall maintain

1 the confidentiality of such information to the extent required by any  
2 applicable law.

3 (3) The (~~regional~~) review panels shall review, only to the extent  
4 otherwise permitted by law or court rule when determined to be relevant  
5 and necessary to an investigation, guardian ad litem reports, parenting  
6 evaluations, and victim impact statements; probation information;  
7 mental health evaluations done for court; presentence interviews and  
8 reports, and any recommendations made regarding bail and release on own  
9 recognizance; child protection services, welfare, and other information  
10 held by the department; any law enforcement incident documentation,  
11 such as incident reports, dispatch records, victim, witness, and  
12 suspect statements, and any supplemental reports, probable cause  
13 statements, and 911 call taker's reports; corrections and postsentence  
14 supervision reports; and any other information determined to be  
15 relevant to the review. The coordinating entity and the (~~regional~~)  
16 review panels shall maintain the confidentiality of such information to  
17 the extent required by any applicable law.

18 **Sec. 9.** RCW 43.235.050 and 2000 c 50 s 5 are each amended to read  
19 as follows:

20 If acting in good faith, without malice, and within the parameters  
21 of this chapter and the protocols established, representatives of the  
22 coordinating entity and the statewide and regional domestic violence  
23 fatality review panels are immune from civil liability for an activity  
24 related to reviews of particular fatalities.

25 NEW SECTION. **Sec. 10.** A new section is added to chapter 26.12 RCW  
26 to read as follows:

27 The court shall act in accordance with the requirements of the  
28 address confidentiality program pursuant to chapter 40.24 RCW in the  
29 course of all proceedings under this title. A court order for address  
30 confidentiality program participant information may only be issued upon  
31 completing the requirements of RCW 40.24.075.

32 NEW SECTION. **Sec. 11.** A new section is added to chapter 26.50 RCW  
33 to read as follows:

34 (1) Except as otherwise provided in subsection (2) of this section,  
35 no court or administrative body may compel any person or domestic

1 violence program as defined in RCW 70.123.020 to disclose the name,  
2 address, or location of any domestic violence program, including a  
3 shelter or transitional housing facility location in any civil or  
4 criminal case or in any administrative proceeding.

5 (2) A court may compel disclosure of the name, address, or location  
6 of a domestic violence program only if the court finds, following a  
7 hearing, that there is clear and convincing evidence that failure to  
8 disclose would be likely to result in an imminent risk of serious  
9 bodily harm or death to a domestic violence victim or another person.  
10 In a proceeding where the domestic violence program is a party to the  
11 proceeding, a court may compel disclosure of the name, address, or  
12 location of a domestic violence program if the court finds that such  
13 information is necessary and relevant to the facts of the case.

14 (3) Any person who obtains access to and releases confidential  
15 information about the location of a domestic violence program for any  
16 purpose other than required by a court proceeding is guilty of a gross  
17 misdemeanor, unless such release is authorized by a court order or is  
18 made with the written authorization of the person or persons  
19 responsible for the operation of the domestic violence program.

20 NEW SECTION. **Sec. 12.** A new section is added to chapter 26.50 RCW  
21 to read as follows:

22 (1) The Washington state institute for public policy shall conduct  
23 a statewide study to assess recidivism by domestic violence offenders  
24 and assess domestic violence perpetrator treatment. The institute  
25 shall report recidivism rates of domestic violence offenders in  
26 Washington, and if data is available, the report must also include an  
27 estimate of the number of domestic violence offenders sentenced to  
28 treatment in Washington state and completion rates for those entering  
29 treatment.

30 (2) The study must include a review and update of the literature on  
31 domestic violence perpetrator treatment, and provide a description of  
32 studies used in meta-analysis of domestic violence perpetrator  
33 treatment. The institute shall report on other treatments and programs  
34 that are effective at reducing recidivism among the general offender  
35 population. The institute shall survey other states to study how  
36 misdemeanor and felony domestic violence cases are handled and assess  
37 whether domestic violence perpetrator treatment is required by law and

1 whether a treatment modality is codified in law. The institute shall  
2 complete the review and report results to the legislature by January 1,  
3 2013.

4 NEW SECTION. **Sec. 13.** If specific funding for the purposes of  
5 section 12 of this act, referencing section 12 of this act by bill or  
6 chapter number and section number, is not provided by June 30, 2012, in  
7 the omnibus appropriations act, section 12 of this act is null and  
8 void.

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