

SB 6292 - H COMM AMD

By Committee on Public Safety

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 10.99.040 and 2015 c 287 s 9 are each amended to
4 read 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)(a) Because of the likelihood of repeated violence directed at
20 those who have been victims of domestic violence in the past, when
21 any person charged with or arrested for a crime involving domestic
22 violence is released from custody before arraignment or trial on bail
23 or personal recognizance, the court authorizing the release may
24 prohibit that person from having any contact with the victim. The
25 jurisdiction authorizing the release shall determine whether that
26 person should be prohibited from having any contact with the victim.
27 If there is no outstanding restraining or protective order
28 prohibiting that person from having contact with the victim, the
29 court authorizing release may issue, by telephone, a no-contact order
30 prohibiting the person charged or arrested from having contact with

1 the victim or from knowingly coming within, or knowingly remaining
2 within, a specified distance of a location.

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

5 (c) The no-contact order shall also be issued in writing as soon
6 as possible, and shall state that it may be extended as provided in
7 subsection (3) of this section. By January 1, 2011, the
8 administrative office of the courts shall develop a pattern form for
9 all no-contact orders issued under this chapter. A no-contact order
10 issued under this chapter must substantially comply with the pattern
11 form developed by the administrative office of the courts.

12 (3) At the time of arraignment the court shall determine whether
13 a no-contact order shall be issued or extended. So long as the court
14 finds probable cause, the court may issue or extend a no-contact
15 order even if the defendant fails to appear at arraignment. The no-
16 contact order shall terminate if the defendant is acquitted or the
17 charges are dismissed. If a no-contact order is issued or extended,
18 the court may also include in the conditions of release a requirement
19 that the defendant submit to electronic monitoring (~~as defined in~~
20 ~~RCW 9.94A.030~~), which may include real-time global positioning
21 system monitoring with victim notification. If electronic monitoring
22 is ordered, the court shall specify who shall provide the monitoring
23 services, and the terms under which the monitoring shall be
24 performed. Upon conviction, the court may require as a condition of
25 the sentence that the defendant reimburse the providing agency for
26 the costs of the electronic monitoring.

27 (4)(a) Willful violation of a court order issued under subsection
28 (2), (3), or (7) of this section is punishable under RCW 26.50.110.

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

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

1 (5) If a no-contact order has been issued prior to charging, that
2 order shall expire at arraignment or within seventy-two hours if
3 charges are not filed.

4 (6) Whenever a no-contact order is issued, modified, or
5 terminated under subsection (2) or (3) of this section, the clerk of
6 the court shall forward a copy of the order on or before the next
7 judicial day to the appropriate law enforcement agency specified in
8 the order. Upon receipt of the copy of the order the law enforcement
9 agency shall enter the order for one year or until the expiration
10 date specified on the order into any computer-based criminal
11 intelligence information system available in this state used by law
12 enforcement agencies to list outstanding warrants. Entry into the
13 computer-based criminal intelligence information system constitutes
14 notice to all law enforcement agencies of the existence of the order.
15 The order is fully enforceable in any jurisdiction in the state. Upon
16 receipt of notice that an order has been terminated under subsection
17 (3) of this section, the law enforcement agency shall remove the
18 order from the computer-based criminal intelligence information
19 system.

20 (7) All courts shall develop policies and procedures by January
21 1, 2011, to grant victims a process to modify or rescind a no-contact
22 order issued under this chapter. The administrative office of the
23 courts shall develop a model policy to assist the courts in
24 implementing the requirements of this subsection.

25 (8) The state and its employees and local governments and their
26 subdivisions and employees are immune from civil liability for
27 damages arising from incidents involving persons who are placed on
28 electronic monitoring under this section, except upon a showing of
29 gross negligence or bad faith.

30 **Sec. 2.** RCW 10.99.020 and 2004 c 18 s 2 are each amended to read
31 as follows:

32 Unless the context clearly requires otherwise, the definitions in
33 this section apply throughout this chapter.

34 (1) "Agency" means a general authority Washington law enforcement
35 agency as defined in RCW 10.93.020.

36 (2) "Association" means the Washington association of sheriffs
37 and police chiefs.

38 (3) "Electronic monitoring" has the same meaning as in RCW
39 9.94A.030.

1 (4) "Family or household members" means spouses, former spouses,
2 persons who have a child in common regardless of whether they have
3 been married or have lived together at any time, adult persons
4 related by blood or marriage, adult persons who are presently
5 residing together or who have resided together in the past, persons
6 sixteen years of age or older who are presently residing together or
7 who have resided together in the past and who have or have had a
8 dating relationship, persons sixteen years of age or older with whom
9 a person sixteen years of age or older has or has had a dating
10 relationship, and persons who have a biological or legal parent-child
11 relationship, including stepparents and stepchildren and grandparents
12 and grandchildren.

13 ~~((4))~~ (5) "Dating relationship" has the same meaning as in RCW
14 26.50.010.

15 ~~((5))~~ (6) "Domestic violence" includes but is not limited to
16 any of the following crimes when committed by one family or household
17 member against another:

- 18 (a) Assault in the first degree (RCW 9A.36.011);
- 19 (b) Assault in the second degree (RCW 9A.36.021);
- 20 (c) Assault in the third degree (RCW 9A.36.031);
- 21 (d) Assault in the fourth degree (RCW 9A.36.041);
- 22 (e) Drive-by shooting (RCW 9A.36.045);
- 23 (f) Reckless endangerment (RCW 9A.36.050);
- 24 (g) Coercion (RCW 9A.36.070);
- 25 (h) Burglary in the first degree (RCW 9A.52.020);
- 26 (i) Burglary in the second degree (RCW 9A.52.030);
- 27 (j) Criminal trespass in the first degree (RCW 9A.52.070);
- 28 (k) Criminal trespass in the second degree (RCW 9A.52.080);
- 29 (l) Malicious mischief in the first degree (RCW 9A.48.070);
- 30 (m) Malicious mischief in the second degree (RCW 9A.48.080);
- 31 (n) Malicious mischief in the third degree (RCW 9A.48.090);
- 32 (o) Kidnapping in the first degree (RCW 9A.40.020);
- 33 (p) Kidnapping in the second degree (RCW 9A.40.030);
- 34 (q) Unlawful imprisonment (RCW 9A.40.040);
- 35 (r) Violation of the provisions of a restraining order, no-
36 contact order, or protection order restraining or enjoining the
37 person or restraining the person from going onto the grounds of or
38 entering a residence, workplace, school, or day care, or prohibiting
39 the person from knowingly coming within, or knowingly remaining
40 within, a specified distance of a location (RCW 10.99.040, 10.99.050,

1 26.09.300, 26.10.220, 26.26.138, 26.44.063, 26.44.150, 26.50.060,
2 26.50.070, 26.50.130, 26.52.070, or 74.34.145);

3 (s) Rape in the first degree (RCW 9A.44.040);

4 (t) Rape in the second degree (RCW 9A.44.050);

5 (u) Residential burglary (RCW 9A.52.025);

6 (v) Stalking (RCW 9A.46.110); and

7 (w) Interference with the reporting of domestic violence (RCW
8 9A.36.150).

9 ~~((+6))~~ (7) "Employee" means any person currently employed with
10 an agency.

11 ~~((+7))~~ (8) "Sworn employee" means a general authority Washington
12 peace officer as defined in RCW 10.93.020, any person appointed under
13 RCW 35.21.333, and any person appointed or elected to carry out the
14 duties of the sheriff under chapter 36.28 RCW.

15 ~~((+8))~~ (9) "Victim" means a family or household member who has
16 been subjected to domestic violence.

17 **Sec. 3.** RCW 26.50.060 and 2010 c 274 s 304 are each amended to
18 read as follows:

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

21 (a) Restrain the respondent from committing acts of domestic
22 violence;

23 (b) Exclude the respondent from the dwelling that the parties
24 share, from the residence, workplace, or school of the petitioner, or
25 from the day care or school of a child;

26 (c) Prohibit the respondent from knowingly coming within, or
27 knowingly remaining within, a specified distance from a specified
28 location;

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

33 (e) Order the respondent to participate in a domestic violence
34 perpetrator treatment program approved under RCW 26.50.150;

35 (f) Order other relief as it deems necessary for the protection
36 of the petitioner and other family or household members sought to be
37 protected, including orders or directives to a peace officer, as
38 allowed under this chapter;

1 (g) Require the respondent to pay the administrative court costs
2 and service fees, as established by the county or municipality
3 incurring the expense and to reimburse the petitioner for costs
4 incurred in bringing the action, including reasonable attorneys'
5 fees;

6 (h) Restrain the respondent from having any contact with the
7 victim of domestic violence or the victim's children or members of
8 the victim's household;

9 (i) Restrain the respondent from harassing, following, keeping
10 under physical or electronic surveillance, cyberstalking as defined
11 in RCW 9.61.260, and using telephonic, audiovisual, or other
12 electronic means to monitor the actions, location, or communication
13 of a victim of domestic violence, the victim's children, or members
14 of the victim's household. For the purposes of this subsection,
15 "communication" includes both "wire communication" and "electronic
16 communication" as defined in RCW 9.73.260;

17 (j) Require the respondent to submit to electronic monitoring,
18 which may include real-time global positioning system monitoring with
19 victim notification. The order shall specify who shall provide the
20 electronic monitoring services and the terms under which the
21 monitoring must be performed. The order also may include a
22 requirement that the respondent pay the costs of the monitoring. The
23 court shall consider the ability of the respondent to pay for
24 electronic monitoring;

25 (k) Consider the provisions of RCW 9.41.800;

26 (l) Order possession and use of essential personal effects. The
27 court shall list the essential personal effects with sufficient
28 specificity to make it clear which property is included. Personal
29 effects may include pets. The court may order that a petitioner be
30 granted the exclusive custody or control of any pet owned, possessed,
31 leased, kept, or held by the petitioner, respondent, or minor child
32 residing with either the petitioner or respondent and may prohibit
33 the respondent from interfering with the petitioner's efforts to
34 remove the pet. The court may also prohibit the respondent from
35 knowingly coming within, or knowingly remaining within, a specified
36 distance of specified locations where the pet is regularly found; and

37 (m) Order use of a vehicle.

38 (2) If a protection order restrains the respondent from
39 contacting the respondent's minor children the restraint shall be for
40 a fixed period not to exceed one year. This limitation is not

1 applicable to orders for protection issued under chapter 26.09,
2 26.10, or 26.26 RCW. With regard to other relief, if the petitioner
3 has petitioned for relief on his or her own behalf or on behalf of
4 the petitioner's family or household members or minor children, and
5 the court finds that the respondent is likely to resume acts of
6 domestic violence against the petitioner or the petitioner's family
7 or household members or minor children when the order expires, the
8 court may either grant relief for a fixed period or enter a permanent
9 order of protection.

10 If the petitioner has petitioned for relief on behalf of the
11 respondent's minor children, the court shall advise the petitioner
12 that if the petitioner wants to continue protection for a period
13 beyond one year the petitioner may either petition for renewal
14 pursuant to the provisions of this chapter or may seek relief
15 pursuant to the provisions of chapter 26.09 or 26.26 RCW.

16 (3) If the court grants an order for a fixed time period, the
17 petitioner may apply for renewal of the order by filing a petition
18 for renewal at any time within the three months before the order
19 expires. The petition for renewal shall state the reasons why the
20 petitioner seeks to renew the protection order. Upon receipt of the
21 petition for renewal the court shall order a hearing which shall be
22 not later than fourteen days from the date of the order. Except as
23 provided in RCW 26.50.085, personal service shall be made on the
24 respondent not less than five days before the hearing. If timely
25 service cannot be made the court shall set a new hearing date and
26 shall either require additional attempts at obtaining personal
27 service or permit service by publication as provided in RCW 26.50.085
28 or by mail as provided in RCW 26.50.123. If the court permits service
29 by publication or mail, the court shall set the new hearing date not
30 later than twenty-four days from the date of the order. If the order
31 expires because timely service cannot be made the court shall grant
32 an ex parte order of protection as provided in RCW 26.50.070. The
33 court shall grant the petition for renewal unless the respondent
34 proves by a preponderance of the evidence that the respondent will
35 not resume acts of domestic violence against the petitioner or the
36 petitioner's children or family or household members when the order
37 expires. The court may renew the protection order for another fixed
38 time period or may enter a permanent order as provided in this
39 section. The court may award court costs, service fees, and

1 reasonable attorneys' fees as provided in subsection (1)(g) of this
2 section.

3 (4) In providing relief under this chapter, the court may realign
4 the designation of the parties as "petitioner" and "respondent" where
5 the court finds that the original petitioner is the abuser and the
6 original respondent is the victim of domestic violence and may issue
7 an ex parte temporary order for protection in accordance with RCW
8 26.50.070 on behalf of the victim until the victim is able to prepare
9 a petition for an order for protection in accordance with RCW
10 26.50.030.

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

16 (6) The court order shall specify the date the order expires if
17 any. The court order shall also state whether the court issued the
18 protection order following personal service, service by publication,
19 or service by mail and whether the court has approved service by
20 publication or mail of an order issued under this section.

21 (7) If the court declines to issue an order for protection or
22 declines to renew an order for protection, the court shall state in
23 writing on the order the particular reasons for the court's denial.

24 (8) The state and its employees and local governments and their
25 subdivisions and employees are immune from civil liability for
26 damages arising from incidents involving persons who are placed on
27 electronic monitoring under this section, except upon a showing of
28 gross negligence or bad faith.

29 NEW SECTION. Sec. 4. A new section is added to chapter 2.56 RCW
30 to read as follows:

31 Subject to the availability of amounts appropriated for this
32 purpose, the administrative office of the courts must provide funding
33 to counties to cover the cost of electronic monitoring with victim
34 notification technology when a respondent is unable to pay for the
35 cost of electronic monitoring."

36 Correct the title.

EFFECT: (1) Retains provisions that: (a) Apply the Sentencing Reform Act definition of electronic monitoring to the chapter of the RCW addressing criminal proceedings involving domestic violence; (b) require, subject to appropriated funding, that the Administrative Office of the Courts provide funding to counties for electronic monitoring in cases in which the defendant is unable to pay; and (c) limit civil liability for governmental entities for damages arising from incidents involving persons who are placed on electronic monitoring as a condition of a domestic violence protection order or domestic violence no-contact order.

(2) Provides that electronic monitoring imposed as a condition of a domestic violence protection order or domestic violence no-contact order may include monitoring with real-time global positioning system monitoring with victim notification.

(3) Removes all other provisions.

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