

SHB 1786 - S COMM AMD

By Committee on Law & Justice

ADOPTED 04/13/2019

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

3 **"Sec. 1.** RCW 9.41.800 and 2014 c 111 s 2 are each amended to
4 read as follows:

5 (1) Any court when entering an order authorized under chapter
6 7.92 RCW, RCW 7.90.090, 9A.46.080, 10.14.080, 10.99.040, 10.99.045,
7 26.09.050, 26.09.060, 26.10.040, 26.10.115, (~~(26.26.130)~~) 26.26B.020,
8 26.50.060, 26.50.070, or 26.26.590 shall, upon a showing by clear and
9 convincing evidence, that a party has: Used, displayed, or threatened
10 to use a firearm or other dangerous weapon in a felony, or
11 (~~previously committed any offense that makes him or her~~) is
12 ineligible to possess a firearm under the provisions of RCW 9.41.040:

13 (a) Require that the party (~~(to)~~) immediately surrender (~~(any)~~)
14 all firearms (~~(or)~~) and other dangerous weapons;

15 (b) Require that the party (~~(to)~~) immediately surrender any
16 concealed pistol license issued under RCW 9.41.070;

17 (c) Prohibit the party from accessing, obtaining, or possessing
18 (~~(a)~~) any firearms or other dangerous weapons;

19 (d) Prohibit the party from obtaining or possessing a concealed
20 pistol license.

21 (2) Any court when entering an order authorized under chapter
22 7.92 RCW, RCW 7.90.090, 9A.46.080, 10.14.080, 10.99.040, 10.99.045,
23 26.09.050, 26.09.060, 26.10.040, 26.10.115, (~~(26.26.130)~~) 26.26B.020,
24 26.50.060, 26.50.070, or 26.26.590 may, upon a showing by a
25 preponderance of the evidence but not by clear and convincing
26 evidence, that a party has: Used, displayed, or threatened to use a
27 firearm or other dangerous weapon in a felony, or (~~previously~~
28 ~~committed any offense that makes him or her~~) is ineligible to
29 possess a firearm under the provisions of RCW 9.41.040:

30 (a) Require that the party (~~(to)~~) immediately surrender (~~(any)~~)
31 all firearms (~~(or)~~) and other dangerous weapons;

1 (b) Require that the party (~~(to)~~) immediately surrender a
2 concealed pistol license issued under RCW 9.41.070;

3 (c) Prohibit the party from accessing, obtaining, or possessing
4 (~~(a)~~) any firearms or other dangerous weapons;

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

7 (3) During any period of time that the person is subject to a
8 court order issued under chapter 7.90, 7.92, 9A.46, 10.14, 10.99,
9 26.09, 26.10, (~~(26.26)~~) 26.26B, or 26.50 RCW that:

10 (a) Was issued after a hearing of which the person received
11 actual notice, and at which the person had an opportunity to
12 participate;

13 (b) Restrains the person from harassing, stalking, or threatening
14 an intimate partner of the person or child of the intimate partner or
15 person, or engaging in other conduct that would place an intimate
16 partner in reasonable fear of bodily injury to the partner or child;
17 and

18 (c)(i) Includes a finding that the person represents a credible
19 threat to the physical safety of the intimate partner or child; and

20 (ii) By its terms, explicitly prohibits the use, attempted use,
21 or threatened use of physical force against the intimate partner or
22 child that would reasonably be expected to cause bodily injury, the
23 court shall:

24 (A) Require that the party (~~(to)~~) immediately surrender (~~(any)~~)
25 all firearms (~~(or)~~) and other dangerous weapons;

26 (B) Require that the party (~~(to)~~) immediately surrender a
27 concealed pistol license issued under RCW 9.41.070;

28 (C) Prohibit the party from accessing, obtaining, or possessing
29 (~~(a)~~) any firearms or other dangerous weapons; and

30 (D) Prohibit the party from obtaining or possessing a concealed
31 pistol license.

32 (4) The court may order temporary surrender of (~~(a)~~) all firearms
33 (~~(or)~~) and other dangerous weapons, and any concealed pistol license,
34 without notice to the other party if it finds, on the basis of the
35 moving affidavit or other evidence, that irreparable injury could
36 result if an order is not issued until the time for response has
37 elapsed.

38 (5) In addition to the provisions of subsections (1), (2), and
39 (4) of this section, the court may enter an order requiring a party
40 to comply with the provisions in subsection (1) of this section if it

1 finds that the possession of a firearm or other dangerous weapon by
2 any party presents a serious and imminent threat to public health or
3 safety, or to the health or safety of any individual.

4 (6) The requirements of subsections (1), (2), and (5) of this
5 section may be for a period of time less than the duration of the
6 order.

7 (7) The court may require the party to surrender ~~((any))~~ all
8 firearms ~~((or))~~ and other dangerous weapons in his or her immediate
9 possession or control or subject to his or her immediate possession
10 or control, and any concealed pistol license issued under RCW
11 9.41.070, to the ~~((sheriff of the county having jurisdiction of the~~
12 ~~proceeding, the chief of police of the municipality having~~
13 ~~jurisdiction, or to the restrained or enjoined party's counsel or to~~
14 ~~any person designated by the court))~~ local law enforcement agency.
15 Law enforcement officers shall use law enforcement databases to
16 assist in locating the respondent in situations where the protected
17 person does not know where the respondent lives or where there is
18 evidence that the respondent is trying to evade service.

19 (8) If the court enters a protection order, restraining order, or
20 no-contact order that includes an order to surrender firearms,
21 dangerous weapons, and any concealed pistol license under this
22 section, the order must be served by a law enforcement officer.

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

25 (1) Because of the heightened risk of lethality to petitioners
26 when respondents to protection orders become aware of court
27 involvement and continue to have access to firearms, and the
28 frequency of noncompliance with court orders prohibiting possession
29 of firearms, law enforcement and judicial processes must emphasize
30 swift and certain compliance with court orders prohibiting access,
31 possession, and ownership of firearms.

32 (2) A law enforcement officer serving a protection order, no-
33 contact order, or restraining order that includes an order to
34 surrender all firearms, dangerous weapons, and a concealed pistol
35 license under RCW 9.41.800 shall inform the respondent that the order
36 is effective upon service and the respondent must immediately
37 surrender all firearms and dangerous weapons in his or her custody,
38 control, or possession and any concealed pistol license issued under
39 RCW 9.41.070, and conduct any search permitted by law for such

1 firearms, dangerous weapons, and concealed pistol license. The law
2 enforcement officer shall take possession of all firearms, dangerous
3 weapons, and any concealed pistol license belonging to the respondent
4 that are surrendered, in plain sight, or discovered pursuant to a
5 lawful search. Alternatively, if personal service is not required
6 because the respondent was present at the hearing at which the order
7 was entered, the respondent must immediately surrender all firearms,
8 dangerous weapons, and any concealed pistol license in a safe manner
9 to the control of the local law enforcement agency on the day of the
10 hearing at which the respondent was present.

11 (3) At the time of surrender, a law enforcement officer taking
12 possession of firearms, dangerous weapons, and any concealed pistol
13 license shall issue a receipt identifying all firearms, dangerous
14 weapons, and any concealed pistol license that have been surrendered
15 and provide a copy of the receipt to the respondent. The law
16 enforcement agency shall file the original receipt with the court
17 within twenty-four hours after service of the order and retain a copy
18 of the receipt, electronically whenever electronic filing is
19 available.

20 (4) Upon the sworn statement or testimony of the petitioner or of
21 any law enforcement officer alleging that the respondent has failed
22 to comply with the surrender of firearms or dangerous weapons as
23 required by an order issued under RCW 9.41.800, the court shall
24 determine whether probable cause exists to believe that the
25 respondent has failed to surrender all firearms and dangerous weapons
26 in their possession, custody, or control. If probable cause exists,
27 the court shall issue a warrant describing the firearms or dangerous
28 weapons and authorizing a search of the locations where the firearms
29 and dangerous weapons are reasonably believed to be and the seizure
30 of all firearms and dangerous weapons discovered pursuant to such
31 search.

32 (5) If a person other than the respondent claims title to any
33 firearms or dangerous weapons surrendered pursuant to this section,
34 and the person is determined by the law enforcement agency to be the
35 lawful owner of the firearm or dangerous weapon, the firearm or
36 dangerous weapon shall be returned to the lawful owner, provided
37 that:

38 (a) The firearm or dangerous weapon is removed from the
39 respondent's access, custody, control, or possession and the lawful
40 owner agrees by written document signed under penalty of perjury to

1 store the firearm or dangerous weapon in a manner such that the
2 respondent does not have access to or control of the firearm or
3 dangerous weapon;

4 (b) The firearm or dangerous weapon is not otherwise unlawfully
5 possessed by the owner; and

6 (c) The requirements of RCW 9.41.345 are met.

7 (6) Courts shall develop procedures to verify timely and complete
8 compliance with orders to surrender weapons under RCW 9.41.800,
9 including compliance review hearings to be held as soon as possible
10 upon receipt from law enforcement of proof of service. A compliance
11 review hearing is not required if the court can otherwise enter
12 findings on the record or enter written findings that the proof of
13 surrender or declaration of nonsurrender attested to by the person
14 subject to the order, along with verification from law enforcement
15 and any other relevant evidence, makes a sufficient showing that the
16 person has timely and completely surrendered all firearms and
17 dangerous weapons in their custody, control, or possession, and any
18 concealed pistol license issued under RCW 9.41.070, to a law
19 enforcement agency. If the court does not have a sufficient record
20 before it on which to make such a finding, the court must set a
21 review hearing to occur as soon as possible at which the respondent
22 must be present and provide testimony to the court under oath
23 verifying compliance with the court's order.

24 (7) All law enforcement agencies must have policies and
25 procedures to provide for the acceptance, storage, and return of
26 firearms, dangerous weapons, and concealed pistol licenses that a
27 court requires must be surrendered under RCW 9.41.800. A law
28 enforcement agency holding any firearm or concealed pistol license
29 that has been surrendered under RCW 9.41.800 shall comply with the
30 provisions of RCW 9.41.340 and 9.41.345 before the return of the
31 firearm or concealed pistol license to the owner or individual from
32 whom it was obtained.

33 (8) The administrative office of the courts shall create a
34 statewide pattern form to assist the courts in ensuring timely and
35 complete compliance in a consistent manner with orders issued under
36 this chapter. The administrative office of the courts shall report
37 annually on the number of orders issued under this chapter by each
38 court, the degree of compliance, and the number of firearms obtained,
39 and may make recommendations regarding additional procedures to
40 enhance compliance and victim safety.

1 **Sec. 3.** RCW 9.41.040 and 2018 c 234 s 1 are each amended to read
2 as follows:

3 (1)(a) A person, whether an adult or juvenile, is guilty of the
4 crime of unlawful possession of a firearm in the first degree, if the
5 person owns, has in his or her possession, or has in his or her
6 control any firearm after having previously been convicted or found
7 not guilty by reason of insanity in this state or elsewhere of any
8 serious offense as defined in this chapter.

9 (b) Unlawful possession of a firearm in the first degree is a
10 class B felony punishable according to chapter 9A.20 RCW.

11 (2)(a) A person, whether an adult or juvenile, is guilty of the
12 crime of unlawful possession of a firearm in the second degree, if
13 the person does not qualify under subsection (1) of this section for
14 the crime of unlawful possession of a firearm in the first degree and
15 the person owns, has in his or her possession, or has in his or her
16 control any firearm:

17 (i) After having previously been convicted or found not guilty by
18 reason of insanity in this state or elsewhere of any felony not
19 specifically listed as prohibiting firearm possession under
20 subsection (1) of this section, or any of the following crimes when
21 committed by one family or household member against another,
22 committed on or after July 1, 1993: Assault in the fourth degree,
23 coercion, stalking, reckless endangerment, criminal trespass in the
24 first degree, or violation of the provisions of a protection order or
25 no-contact order restraining the person or excluding the person from
26 a residence (RCW 26.50.060, 26.50.070, 26.50.130, or 10.99.040);

27 (ii) After having previously been convicted or found not guilty
28 by reason of insanity in this state or elsewhere of harassment when
29 committed by one family or household member against another,
30 committed on or after June 7, 2018;

31 (iii) During any period of time that the person is subject to a
32 court order issued under chapter 7.90, 7.92, 9A.46, 10.14, 10.99,
33 26.09, 26.10, (~~26.26~~) 26.26B, or 26.50 RCW that:

34 (A) Was issued after a hearing of which the person received
35 actual notice, and at which the person had an opportunity to
36 participate;

37 (B) Restrains the person from harassing, stalking, or threatening
38 (~~(an intimate partner of)~~) the person protected under the order or
39 child of the (~~(intimate partner)~~) person or protected person, or
40 engaging in other conduct that would place (~~(an intimate partner)~~)

1 the protected person in reasonable fear of bodily injury to the
2 (~~partner~~) protected person or child; and

3 (C) (I) Includes a finding that the person represents a credible
4 threat to the physical safety of the (~~intimate partner~~) protected
5 person or child(~~)~~ and (~~(II)~~) by its terms(~~)~~ explicitly
6 prohibits the use, attempted use, or threatened use of physical force
7 against the (~~intimate partner~~) protected person or child that would
8 reasonably be expected to cause bodily injury; or

9 (II) Includes an order under RCW 9.41.800 requiring the person to
10 surrender all firearms and prohibiting the person from accessing,
11 obtaining, or possessing firearms;

12 (iv) After having previously been involuntarily committed for
13 mental health treatment under RCW 71.05.240, 71.05.320, 71.34.740,
14 71.34.750, chapter 10.77 RCW, or equivalent statutes of another
15 jurisdiction, unless his or her right to possess a firearm has been
16 restored as provided in RCW 9.41.047;

17 (v) If the person is under eighteen years of age, except as
18 provided in RCW 9.41.042; and/or

19 (vi) If the person is free on bond or personal recognizance
20 pending trial, appeal, or sentencing for a serious offense as defined
21 in RCW 9.41.010.

22 (b) (a)(iii) of this subsection does not apply to a sexual
23 assault protection order under chapter 7.90 RCW if the order has been
24 modified pursuant to RCW 7.90.170 to remove any restrictions on
25 firearm purchase, transfer, or possession.

26 (c) Unlawful possession of a firearm in the second degree is a
27 class C felony punishable according to chapter 9A.20 RCW.

28 (3) Notwithstanding RCW 9.41.047 or any other provisions of law,
29 as used in this chapter, a person has been "convicted", whether in an
30 adult court or adjudicated in a juvenile court, at such time as a
31 plea of guilty has been accepted, or a verdict of guilty has been
32 filed, notwithstanding the pendency of any future proceedings
33 including but not limited to sentencing or disposition, post-trial or
34 post-fact-finding motions, and appeals. Conviction includes a
35 dismissal entered after a period of probation, suspension or deferral
36 of sentence, and also includes equivalent dispositions by courts in
37 jurisdictions other than Washington state. A person shall not be
38 precluded from possession of a firearm if the conviction has been the
39 subject of a pardon, annulment, certificate of rehabilitation, or
40 other equivalent procedure based on a finding of the rehabilitation

1 of the person convicted or the conviction or disposition has been the
2 subject of a pardon, annulment, or other equivalent procedure based
3 on a finding of innocence. Where no record of the court's disposition
4 of the charges can be found, there shall be a rebuttable presumption
5 that the person was not convicted of the charge.

6 (4) (a) Notwithstanding subsection (1) or (2) of this section, a
7 person convicted or found not guilty by reason of insanity of an
8 offense prohibiting the possession of a firearm under this section
9 other than murder, manslaughter, robbery, rape, indecent liberties,
10 arson, assault, kidnapping, extortion, burglary, or violations with
11 respect to controlled substances under RCW 69.50.401 and 69.50.410,
12 who received a probationary sentence under RCW 9.95.200, and who
13 received a dismissal of the charge under RCW 9.95.240, shall not be
14 precluded from possession of a firearm as a result of the conviction
15 or finding of not guilty by reason of insanity. Notwithstanding any
16 other provisions of this section, if a person is prohibited from
17 possession of a firearm under subsection (1) or (2) of this section
18 and has not previously been convicted or found not guilty by reason
19 of insanity of a sex offense prohibiting firearm ownership under
20 subsection (1) or (2) of this section and/or any felony defined under
21 any law as a class A felony or with a maximum sentence of at least
22 twenty years, or both, the individual may petition a court of record
23 to have his or her right to possess a firearm restored:

24 (i) Under RCW 9.41.047; and/or

25 (ii) (A) If the conviction or finding of not guilty by reason of
26 insanity was for a felony offense, after five or more consecutive
27 years in the community without being convicted or found not guilty by
28 reason of insanity or currently charged with any felony, gross
29 misdemeanor, or misdemeanor crimes, if the individual has no prior
30 felony convictions that prohibit the possession of a firearm counted
31 as part of the offender score under RCW 9.94A.525; or

32 (B) If the conviction or finding of not guilty by reason of
33 insanity was for a nonfelony offense, after three or more consecutive
34 years in the community without being convicted or found not guilty by
35 reason of insanity or currently charged with any felony, gross
36 misdemeanor, or misdemeanor crimes, if the individual has no prior
37 felony convictions that prohibit the possession of a firearm counted
38 as part of the offender score under RCW 9.94A.525 and the individual
39 has completed all conditions of the sentence.

1 (b) An individual may petition a court of record to have his or
2 her right to possess a firearm restored under (a) of this subsection
3 (4) only at:

4 (i) The court of record that ordered the petitioner's prohibition
5 on possession of a firearm; or

6 (ii) The superior court in the county in which the petitioner
7 resides.

8 (5) In addition to any other penalty provided for by law, if a
9 person under the age of eighteen years is found by a court to have
10 possessed a firearm in a vehicle in violation of subsection (1) or
11 (2) of this section or to have committed an offense while armed with
12 a firearm during which offense a motor vehicle served an integral
13 function, the court shall notify the department of licensing within
14 twenty-four hours and the person's privilege to drive shall be
15 revoked under RCW 46.20.265, unless the offense is the juvenile's
16 first offense in violation of this section and has not committed an
17 offense while armed with a firearm, an unlawful possession of a
18 firearm offense, or an offense in violation of chapter 66.44, 69.52,
19 69.41, or 69.50 RCW.

20 (6) Nothing in chapter 129, Laws of 1995 shall ever be construed
21 or interpreted as preventing an offender from being charged and
22 subsequently convicted for the separate felony crimes of theft of a
23 firearm or possession of a stolen firearm, or both, in addition to
24 being charged and subsequently convicted under this section for
25 unlawful possession of a firearm in the first or second degree.
26 Notwithstanding any other law, if the offender is convicted under
27 this section for unlawful possession of a firearm in the first or
28 second degree and for the felony crimes of theft of a firearm or
29 possession of a stolen firearm, or both, then the offender shall
30 serve consecutive sentences for each of the felony crimes of
31 conviction listed in this subsection.

32 (7) Each firearm unlawfully possessed under this section shall be
33 a separate offense.

34 ~~((8) For purposes of this section, "intimate partner" includes:~~
35 ~~A spouse, a domestic partner, a former spouse, a former domestic~~
36 ~~partner, a person with whom the restrained person has a child in~~
37 ~~common, or a person with whom the restrained person has cohabitated~~
38 ~~or is cohabitating as part of a dating relationship.))~~

1 **Sec. 4.** RCW 7.90.090 and 2006 c 138 s 10 are each amended to
2 read as follows:

3 (1) (a) If the court finds by a preponderance of the evidence that
4 the petitioner has been a victim of nonconsensual sexual conduct or
5 nonconsensual sexual penetration by the respondent, the court shall
6 issue a sexual assault protection order; provided that the petitioner
7 must also satisfy the requirements of RCW 7.90.110 for ex parte
8 temporary orders or RCW 7.90.120 for final orders.

9 (b) The petitioner shall not be denied a sexual assault
10 protection order because the petitioner or the respondent is a minor
11 or because the petitioner did not report the assault to law
12 enforcement. The court, when determining whether or not to issue a
13 sexual assault protection order, may not require proof of physical
14 injury on the person of the victim or proof that the petitioner has
15 reported the sexual assault to law enforcement. Modification and
16 extension of prior sexual assault protection orders shall be in
17 accordance with this chapter.

18 (2) The court may provide relief as follows:

19 (a) Restrain the respondent from having any contact, including
20 nonphysical contact, with the petitioner directly, indirectly, or
21 through third parties regardless of whether those third parties know
22 of the order;

23 (b) Exclude the respondent from the petitioner's residence,
24 workplace, or school, or from the day care or school of a child, if
25 the victim is a child;

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

29 (d) Order any other injunctive relief as necessary or appropriate
30 for the protection of the petitioner.

31 (3) In issuing the order, the court shall consider the provisions
32 of RCW 9.41.800, and shall order the respondent to surrender, and
33 prohibit the respondent from possessing, all firearms, dangerous
34 weapons, and any concealed pistol license as required in RCW
35 9.41.800.

36 (4) In cases where the petitioner and the respondent are under
37 the age of eighteen and attend the same public or private elementary,
38 middle, or high school, the court, when issuing a protection order
39 and providing relief, shall consider, among the other facts of the
40 case, the severity of the act, any continuing physical danger or

1 emotional distress to the petitioner, and the expense difficulty, and
2 educational disruption that would be caused by a transfer of the
3 respondent to another school. The court may order that the person
4 restrained in the order not attend the public or approved private
5 elementary, middle, or high school attended by the person under the
6 age of eighteen protected by the order. In the event the court orders
7 a transfer of the restrained person to another school, the parents or
8 legal guardians of the person restrained in the order are responsible
9 for transportation and other costs associated with the change of
10 school by the person restrained in the order. The court shall send
11 notice of the restriction on attending the same school as the person
12 protected by the order to the public or approved private school the
13 person restrained by the order will attend and to the school the
14 person protected by the order attends.

15 ~~((4))~~ (5) Denial of a remedy may not be based, in whole or in
16 part, on evidence that:

- 17 (a) The respondent was voluntarily intoxicated;
- 18 (b) The petitioner was voluntarily intoxicated; or
- 19 (c) The petitioner engaged in limited consensual sexual touching.

20 ~~((5))~~ (6) Monetary damages are not recoverable as a remedy.

21 ~~((6))~~ (7) A knowing violation of a court order issued under
22 this section is punishable under RCW 26.50.110.

23 **Sec. 5.** RCW 7.90.110 and 2007 c 212 s 3 are each amended to read
24 as follows:

25 (1) An ex parte temporary sexual assault protection order shall
26 issue if the petitioner satisfies the requirements of this subsection
27 by a preponderance of the evidence. The petitioner shall establish
28 that:

29 (a) The petitioner has been a victim of nonconsensual sexual
30 conduct or nonconsensual sexual penetration by the respondent; and

31 (b) There is good cause to grant the remedy, regardless of the
32 lack of prior service of process or of notice upon the respondent,
33 because the harm which that remedy is intended to prevent would be
34 likely to occur if the respondent were given any prior notice, or
35 greater notice than was actually given, of the petitioner's efforts
36 to obtain judicial relief.

37 (2) In issuing the order, the court shall consider the provisions
38 of RCW 9.41.800, and shall order the respondent to surrender, and
39 prohibit the respondent from possessing, all firearms, dangerous

1 weapons, and any concealed pistol license as required in RCW
2 9.41.800.

3 (3) If the respondent appears in court for this hearing for an ex
4 parte temporary order, he or she may elect to file a general
5 appearance and testify under oath. Any resulting order may be an ex
6 parte temporary order, governed by this section.

7 ~~((3))~~ (4) If the court declines to issue an ex parte temporary
8 sexual assault protection order, the court shall state the particular
9 reasons for the court's denial. The court's denial of a motion for an
10 ex parte temporary order shall be filed with the court.

11 ~~((4))~~ (5) A knowing violation of a court order issued under
12 this section is punishable under RCW 26.50.110.

13 **Sec. 6.** RCW 7.90.140 and 2013 c 74 s 5 are each amended to read
14 as follows:

15 (1) An order issued under this chapter shall be personally served
16 upon the respondent, except as provided in subsection (6) of this
17 section.

18 (2) The sheriff of the county or the peace officers of the
19 municipality in which the respondent resides shall serve the
20 respondent personally unless the petitioner elects to have the
21 respondent served by a private party. If the order includes a
22 requirement under RCW 9.41.800 for the immediate surrender of all
23 firearms, dangerous weapons, and any concealed pistol license, the
24 order must be served by a law enforcement officer.

25 (3) If service by a sheriff or municipal peace officer is to be
26 used, the clerk of the court shall have a copy of any order issued
27 under this chapter electronically forwarded on or before the next
28 judicial day to the appropriate law enforcement agency specified in
29 the order for service upon the respondent. Service of an order issued
30 under this chapter shall take precedence over the service of other
31 documents unless they are of a similar emergency nature.

32 (4) If the sheriff or municipal peace officer cannot complete
33 service upon the respondent within ten days, the sheriff or municipal
34 peace officer shall notify the petitioner. The petitioner shall
35 provide information sufficient to permit notification.

36 (5) Returns of service under this chapter shall be made in
37 accordance with the applicable court rules.

38 (6) If an order entered by the court recites that the respondent
39 appeared in person before the court, the necessity for further

1 service is waived and proof of service of that order is not
2 necessary.

3 (7) If the court previously entered an order allowing service of
4 the notice of hearing and temporary order of protection by
5 publication under RCW 7.90.052 or service by mail under RCW 7.90.053,
6 the court may permit service by publication or service by mail of the
7 order of protection issued under this chapter. Service by publication
8 must comply with the requirements of RCW 7.90.052 and service by mail
9 must comply with the requirements of RCW 7.90.053. The court order
10 must state whether the court permitted service by publication or
11 service by mail.

12 **Sec. 7.** RCW 7.92.100 and 2013 c 84 s 10 are each amended to read
13 as follows:

14 (1) (a) If the court finds by a preponderance of the evidence that
15 the petitioner has been a victim of stalking conduct by the
16 respondent, the court shall issue a stalking protection order.

17 (b) The petitioner shall not be denied a stalking protection
18 order because the petitioner or the respondent is a minor or because
19 the petitioner did not report the stalking conduct to law
20 enforcement. The court, when determining whether or not to issue a
21 stalking protection order, may not require proof of the respondent's
22 intentions regarding the acts alleged by the petitioner. Modification
23 and extension of prior stalking protection orders shall be in
24 accordance with this chapter.

25 (2) The court may provide relief as follows:

26 (a) Restrain the respondent from having any contact, including
27 nonphysical contact, with the petitioner directly, indirectly, or
28 through third parties regardless of whether those third parties know
29 of the order;

30 (b) Exclude the respondent from the petitioner's residence,
31 workplace, or school, or from the day care, workplace, or school of
32 the petitioner's minor children;

33 (c) Prohibit the respondent from knowingly coming within, or
34 knowingly remaining within, a specified distance from a specified
35 location;

36 (d) Prohibit the respondent from keeping the petitioner and/or
37 the petitioner's minor children under surveillance, to include
38 electronic surveillance;

1 (e) Order any other injunctive relief as necessary or appropriate
2 for the protection of the petitioner, to include a mental health
3 and/or chemical dependency evaluation; and

4 (f) Require the respondent to pay the administrative court costs
5 and service fees, as established by the county or municipality
6 incurring the expense and to reimburse the petitioner for costs
7 incurred in bringing the action, including reasonable attorneys'
8 fees.

9 (3) In issuing the order, the court shall consider the provisions
10 of RCW 9.41.800, and shall order the respondent to surrender, and
11 prohibit the respondent from possessing, all firearms, dangerous
12 weapons, and any concealed pistol license as required in RCW
13 9.41.800.

14 (4) Unless otherwise stated in the order, when a person is
15 petitioning on behalf of a minor child or vulnerable adult, the
16 relief authorized in this section shall apply only for the protection
17 of the victim, and not the petitioner.

18 ((4)) (5) In cases where the petitioner and the respondent
19 attend the same public or private elementary, middle, or high school,
20 the court, when issuing a protection order and providing relief,
21 shall consider, among the other facts of the case, the severity of
22 the act, any continuing physical danger or emotional distress to the
23 petitioner, and the expense difficulty, and educational disruption
24 that would be caused by a transfer of the respondent to another
25 school. The court may order that the person restrained in the order
26 not attend the public or approved private elementary, middle, or high
27 school attended by the person protected by the order. In the event
28 the court orders a transfer of the restrained person to another
29 school, the parents or legal guardians of the person restrained in
30 the order are responsible for transportation and other costs
31 associated with the change of school by the person restrained in the
32 order. The court shall send notice of the restriction on attending
33 the same school as the person protected by the order to the public or
34 approved private school the person restrained by the order will
35 attend and to the school the person protected by the order attends.

36 **Sec. 8.** RCW 7.92.120 and 2013 c 84 s 12 are each amended to read
37 as follows:

38 (1) Where it appears from the petition and any additional
39 evidence that the respondent has engaged in stalking conduct and that

1 irreparable injury could result if an order is not issued immediately
2 without prior notice, the court may grant an ex parte temporary order
3 for protection, pending a full hearing and grant such injunctive
4 relief as it deems proper, including the relief as specified under
5 RCW 7.92.100 (2) (a) through (d) and (4).

6 (2) Irreparable injury under this section includes, but is not
7 limited to, situations in which the respondent has recently
8 threatened the petitioner with bodily injury or has engaged in acts
9 of stalking conduct against the petitioner.

10 (3) In issuing the order, the court shall consider the provisions
11 of RCW 9.41.800, and shall order the respondent to surrender, and
12 prohibit the respondent from possessing, all firearms, dangerous
13 weapons, and any concealed pistol license as required in RCW
14 9.41.800.

15 (4) The court shall hold an ex parte hearing in person or by
16 telephone on the day the petition is filed or on the following
17 judicial day.

18 ~~((4))~~ (5) An ex parte temporary stalking protection order shall
19 be effective for a fixed period not to exceed fourteen days or
20 twenty-four days if the court has permitted service by publication or
21 mail. The ex parte order may be reissued. A full hearing, as provided
22 in this chapter, shall be set for not later than fourteen days from
23 the issuance of the temporary order or not later than twenty-four
24 days if service by publication or by mail is permitted. Unless the
25 court has permitted service by publication or mail, the respondent
26 shall be personally served with a copy of the ex parte order along
27 with a copy of the petition and notice of the date set for the
28 hearing.

29 ~~((5))~~ (6) Any order issued under this section shall contain the
30 date and time of issuance and the expiration date and shall be
31 entered into a statewide judicial information system by the clerk of
32 the court within one judicial day after issuance.

33 ~~((6))~~ (7) If the court declines to issue an ex parte temporary
34 stalking protection order, the court shall state the particular
35 reasons for the court's denial. The court's denial of a motion for an
36 ex parte temporary order shall be filed with the court.

37 ~~((7))~~ (8) A knowing violation of a court order issued under
38 this section is punishable under RCW 26.50.110.

1 **Sec. 9.** RCW 7.92.150 and 2013 c 84 s 15 are each amended to read
2 as follows:

3 (1) An order issued under this chapter shall be personally served
4 upon the respondent, except as provided in subsection (6), (7), or
5 (8) of this section. If the respondent is a minor, the respondent's
6 parent or legal custodian shall also be personally served.

7 (2) The sheriff of the county or the peace officers of the
8 municipality in which the respondent resides shall serve the
9 respondent personally unless the petitioner elects to have the
10 respondent served by a private party. If the order includes a
11 requirement under RCW 9.41.800 for the immediate surrender of all
12 firearms, dangerous weapons, and any concealed pistol license, the
13 order must be served by a law enforcement officer.

14 (3) If service by a sheriff or municipal peace officer is to be
15 used, the clerk of the court shall have a copy of any order issued
16 under this chapter electronically forwarded on or before the next
17 judicial day to the appropriate law enforcement agency specified in
18 the order for service upon the respondent. Service of an order issued
19 under this chapter shall take precedence over the service of other
20 documents unless they are of a similar emergency nature.

21 (4) If the sheriff or municipal peace officer cannot complete
22 service upon the respondent within ten days, the sheriff or municipal
23 peace officer shall notify the petitioner. The petitioner shall
24 provide information sufficient to permit notification.

25 (5) Returns of service under this chapter shall be made in
26 accordance with the applicable court rules.

27 (6) If an order entered by the court recites that the respondent
28 appeared in person before the court, the necessity for further
29 service is waived and proof of service of that order is not
30 necessary.

31 (7) If the respondent was not personally served with the
32 petition, notice of hearing, and ex parte order before the hearing,
33 the court shall reset the hearing for twenty-four days from the date
34 of entry of the order and may order service by publication instead of
35 personal service under the following circumstances:

36 (a) The sheriff or municipal officer or private process server
37 files an affidavit stating that the officer or private process server
38 was unable to complete personal service upon the respondent. The
39 affidavit must describe the number and types of attempts the officer
40 or private process server made to complete service;

1 (b) The petitioner files an affidavit stating that the petitioner
2 believes that the respondent is hiding from the server to avoid
3 service. The petitioner's affidavit must state the reasons for the
4 belief that the respondent is avoiding service;

5 (c) The server has deposited a copy of the petition, notice of
6 hearing, and the ex parte order of protection in the post office,
7 directed to the respondent at the respondent's last known address,
8 unless the server states that the server does not know the
9 respondent's address;

10 (d) The court finds reasonable grounds exist to believe that the
11 respondent is concealing himself or herself to avoid service, and
12 that further attempts to personally serve the respondent would be
13 futile or unduly burdensome;

14 (e) The court shall reissue the temporary order of protection not
15 to exceed another twenty-four days from the date of reissuing the ex
16 parte protection order and order to provide service by publication;
17 and

18 (f) The publication shall be made in a newspaper of general
19 circulation in the county where the petition was brought and in the
20 county of the last known address of the respondent once a week for
21 three consecutive weeks. The newspaper selected must be one of the
22 three most widely circulated papers in the county. The publication of
23 summons shall not be made until the court orders service by
24 publication under this section. Service of the summons shall be
25 considered complete when the publication has been made for three
26 consecutive weeks. The summons must be signed by the petitioner. The
27 summons shall contain the date of the first publication, and shall
28 require the respondent upon whom service by publication is desired,
29 to appear and answer the petition on the date set for the hearing.
30 The summons shall also contain a brief statement of the reason for
31 the petition and a summary of the provisions under the ex parte
32 order. The summons shall be essentially in the following form:

33 In the court of the state of Washington
34 for the county of
35, Petitioner
36 vs. No.
37, Respondent

1 The state of Washington to
2 (respondent):

3 You are hereby summoned to appear on the
4 day of, 20, at a.m./p.m., and respond to
5 the petition. If you fail to respond, an order of protection
6 will be issued against you pursuant to the provisions of
7 the stalking protection order act, chapter 7.92 RCW, for a
8 minimum of one year from the date you are required to
9 appear. A temporary order of protection has been issued
10 against you, restraining you from the following: (Insert a
11 brief statement of the provisions of the ex parte order.) A
12 copy of the petition, notice of hearing, and ex parte order
13 has been filed with the clerk of this court.

14
15 Petitioner

16 (8) In circumstances justifying service by publication under
17 subsection (7) of this section, if the serving party files an
18 affidavit stating facts from which the court determines that service
19 by mail is just as likely to give actual notice as service by
20 publication and that the serving party is unable to afford the cost
21 of service by publication, the court may order that service be made
22 by mail. Such service shall be made by any person over eighteen years
23 of age, who is competent to be a witness, other than a party, by
24 mailing copies of the order and other process to the party to be
25 served at his or her last known address or any other address
26 determined by the court to be appropriate. Two copies shall be
27 mailed, postage prepaid, one by ordinary first-class mail and the
28 other by a form of mail requiring a signed receipt showing when and
29 to whom it was delivered. The envelopes must bear the return address
30 of the sender.

31 (a) Proof of service under this section shall be consistent with
32 court rules for civil proceedings.

33 (b) Service under this section may be used in the same manner and
34 shall have the same jurisdictional effect as service by publication
35 for purposes of this chapter. Service shall be deemed complete upon
36 the mailing of two copies as prescribed in this section.

1 **Sec. 10.** RCW 7.92.190 and 2013 c 84 s 19 are each amended to
2 read as follows:

3 (1) Upon application with notice to all parties and after a
4 hearing, the court may modify the terms of an existing stalking
5 protection order.

6 (2) A respondent's motion to modify or terminate an existing
7 stalking protection order must include a declaration setting forth
8 facts supporting the requested order for termination or modification.
9 The nonmoving parties to the proceeding may file opposing
10 declarations. The court shall deny the motion unless it finds that
11 adequate cause for hearing the motion is established by the
12 declarations. If the court finds that the respondent established
13 adequate cause, the court shall set a date for hearing the
14 respondent's motion.

15 (3) The court may not terminate or modify an existing stalking
16 protection order unless the respondent proves by a preponderance of
17 the evidence that there has been a substantial change in
18 circumstances such that the respondent will not resume acts of
19 stalking conduct against the petitioner or those persons protected by
20 the protection order if the order is terminated or modified. The
21 petitioner bears no burden of proving that he or she has a current
22 reasonable fear of harm by the respondent.

23 (4) A respondent may file a motion to terminate or modify an
24 order no more than once in every twelve-month period that the order
25 is in effect, starting from the date of the order and continuing
26 through any renewal.

27 (5) A court may require the respondent to pay the petitioner for
28 costs incurred in responding to a motion to terminate or modify a
29 stalking protection order, including reasonable attorneys' fees.

30 ~~((+5))~~ (6) In any situation where an order is terminated or
31 modified before its expiration date, the clerk of the court shall
32 forward on or before the next judicial day a true copy of the
33 modified order or the termination order to the appropriate law
34 enforcement agency specified in the modified or termination order.
35 Upon receipt of the order, the law enforcement agency shall promptly
36 enter it in the computer-based criminal intelligence information
37 system, or if the order is terminated, remove the order from the
38 computer-based criminal intelligence information system.

1 **Sec. 11.** RCW 10.14.080 and 2011 c 307 s 3 are each amended to
2 read 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
9 petitioner by the respondent and that great or irreparable harm will
10 result to the petitioner if the temporary antiharassment protection
11 order is not granted. If the court declines to issue an ex parte
12 temporary antiharassment protection order, the court shall state the
13 particular reasons for the court's denial. The court's denial of a
14 motion for an ex parte temporary order shall be filed with the court.

15 (2) An ex parte temporary antiharassment protection order shall
16 be effective for a fixed period not to exceed fourteen days or
17 twenty-four days if the court has permitted service by publication
18 under RCW 10.14.085. The ex parte order may be reissued. A full
19 hearing, as provided in this chapter, shall be set for not later than
20 fourteen days from the issuance of the temporary order or not later
21 than twenty-four days if service by publication is permitted. Except
22 as provided in RCW 10.14.070 and 10.14.085, the respondent shall be
23 personally served with a copy of the ex parte order along with a copy
24 of the petition and notice of the date set for the hearing. The ex
25 parte order and notice of hearing shall include at a minimum the date
26 and time of the hearing set by the court to determine if the
27 temporary order should be made effective for one year or more, and
28 notice that if the respondent should fail to appear or otherwise not
29 respond, an order for protection will be issued against the
30 respondent pursuant to the provisions of this chapter, for a minimum
31 of one year from the date of the hearing. The notice shall also
32 include a brief statement of the provisions of the ex parte order and
33 notify the respondent that a copy of the ex parte order and notice of
34 hearing has been filed with the clerk of the court.

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

38 (4) An order issued under this chapter shall be effective for not
39 more than one year unless the court finds that the respondent is
40 likely to resume unlawful harassment of the petitioner when the order

1 expires. If so, the court may enter an order for a fixed time
2 exceeding one year or may enter a permanent antiharassment protection
3 order. The court shall not enter an order that is effective for more
4 than one year if the order restrains the respondent from contacting
5 the respondent's minor children. This limitation is not applicable to
6 civil antiharassment protection orders issued under chapter 26.09,
7 26.10, or (~~26.26~~) 26.26B RCW. If the petitioner seeks relief for a
8 period longer than one year on behalf of the respondent's minor
9 children, the court shall advise the petitioner that the petitioner
10 may apply for renewal of the order as provided in this chapter or if
11 appropriate may seek relief pursuant to chapter 26.09 or 26.10 RCW.

12 (5) At any time within the three months before the expiration of
13 the order, the petitioner may apply for a renewal of the order by
14 filing a petition for renewal. The petition for renewal shall state
15 the reasons why the petitioner seeks to renew the protection order.
16 Upon receipt of the petition for renewal, the court shall order a
17 hearing which shall be not later than fourteen days from the date of
18 the order. Except as provided in RCW 10.14.085, personal service
19 shall be made upon the respondent not less than five days before the
20 hearing. If timely service cannot be made the court shall set a new
21 hearing date and shall either require additional attempts at
22 obtaining personal service or permit service by publication as
23 provided by RCW 10.14.085. If the court permits service by
24 publication, the court shall set the new hearing date not later than
25 twenty-four days from the date of the order. If the order expires
26 because timely service cannot be made the court shall grant an ex
27 parte order of protection as provided in this section. The court
28 shall grant the petition for renewal unless the respondent proves by
29 a preponderance of the evidence that the respondent will not resume
30 harassment of the petitioner when the order expires. The court may
31 renew the protection order for another fixed time period or may enter
32 a permanent order as provided in subsection (4) of this section.

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

37 (a) Restraining the respondent from making any attempts to
38 contact the petitioner;

39 (b) Restraining the respondent from making any attempts to keep
40 the petitioner under surveillance; and

1 (c) Requiring the respondent to stay a stated distance from the
2 petitioner's residence and workplace(~~(7)~~and

3 ~~(d) Considering the provisions of RCW 9.41.800~~)).

4 (7) In issuing the order, the court shall consider the provisions
5 of RCW 9.41.800, and shall order the respondent to surrender, and
6 prohibit the respondent from possessing, all firearms, dangerous
7 weapons, and any concealed pistol license as required in RCW
8 9.41.800.

9 (8) The court in granting an ex parte temporary antiharassment
10 protection order or a civil antiharassment protection order(~~(7)~~)
11 shall not prohibit the respondent from exercising constitutionally
12 protected free speech. Nothing in this section prohibits the
13 petitioner from utilizing other civil or criminal remedies to
14 restrain conduct or communications not otherwise constitutionally
15 protected.

16 (~~(8)~~) (9) The court in granting an ex parte temporary
17 antiharassment protection order or a civil antiharassment protection
18 order(~~(7)~~) shall not prohibit the respondent from the use or
19 enjoyment of real property to which the respondent has a cognizable
20 claim unless that order is issued under chapter 26.09 RCW or under a
21 separate action commenced with a summons and complaint to determine
22 title or possession of real property.

23 (~~(9)~~) (10) The court in granting an ex parte temporary
24 antiharassment protection order or a civil antiharassment protection
25 order(~~(7)~~) shall not limit the respondent's right to care, control,
26 or custody of the respondent's minor child, unless that order is
27 issued under chapter 13.32A, 26.09, 26.10, or (~~(26.26)~~) 26.26B RCW.

28 (~~(10)~~) (11) A petitioner may not obtain an ex parte temporary
29 antiharassment protection order against a respondent if the
30 petitioner has previously obtained two such ex parte orders against
31 the same respondent but has failed to obtain the issuance of a civil
32 antiharassment protection order unless good cause for such failure
33 can be shown.

34 (~~(11)~~) (12) The court order shall specify the date an order
35 issued pursuant to subsections (4) and (5) of this section expires if
36 any. The court order shall also state whether the court issued the
37 protection order following personal service or service by publication
38 and whether the court has approved service by publication of an order
39 issued under this section.

1 **Sec. 12.** RCW 10.14.100 and 2002 c 117 s 3 are each amended to
2 read as follows:

3 (1) An order issued under this chapter shall be personally served
4 upon the respondent, except as provided in subsections (5) and (7) of
5 this section.

6 (2) The sheriff of the county or the peace officers of the
7 municipality in which the respondent resides shall serve the
8 respondent personally unless the petitioner elects to have the
9 respondent served by a private party. If the order includes a
10 requirement under RCW 9.41.800 for the immediate surrender of all
11 firearms, dangerous weapons, and any concealed pistol license, the
12 order must be served by a law enforcement officer.

13 (3) If the sheriff or municipal peace officer cannot complete
14 service upon the respondent within ten days, the sheriff or municipal
15 peace officer shall notify the petitioner.

16 (4) Returns of service under this chapter shall be made in
17 accordance with the applicable court rules.

18 (5) If an order entered by the court recites that the respondent
19 appeared in person before the court, the necessity for further
20 service is waived and proof of service of that order is not
21 necessary. The court's order, entered after a hearing, need not be
22 served on a respondent who fails to appear before the court, if
23 material terms of the order have not changed from those contained in
24 the temporary order, and it is shown to the court's satisfaction that
25 the respondent has previously been personally served with the
26 temporary order.

27 (6) Except in cases where the petitioner has fees waived under
28 RCW 10.14.055 or is granted leave to proceed in forma pauperis,
29 municipal police departments serving documents as required under this
30 chapter may collect the same fees for service and mileage authorized
31 by RCW 36.18.040 to be collected by sheriffs.

32 (7) If the court previously entered an order allowing service by
33 publication of the notice of hearing and temporary order of
34 protection pursuant to RCW 10.14.085, the court may permit service by
35 publication of the order of protection issued under RCW 10.14.080.
36 Service by publication must comply with the requirements of RCW
37 10.14.085.

38 **Sec. 13.** RCW 10.14.180 and 1987 c 280 s 18 are each amended to
39 read as follows:

1 Upon application with notice to all parties and after a hearing,
2 the court may modify the terms of an existing order under this
3 chapter. A respondent may file a motion to terminate or modify an
4 order no more than once in every twelve-month period that the order
5 is in effect, starting from the date of the order and continuing
6 through any renewal. In any situation where an order is terminated or
7 modified before its expiration date, the clerk of the court shall
8 forward on or before the next judicial day a true copy of the
9 modified order or the termination order to the appropriate law
10 enforcement agency specified in the modified order or termination
11 order. Upon receipt of the order, the law enforcement agency shall
12 promptly enter it in the law enforcement information system.

13 **Sec. 14.** RCW 26.50.070 and 2018 c 22 s 9 are each amended to
14 read as follows:

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

21 (a) Restraining any party from committing acts of domestic
22 violence;

23 (b) Restraining any party from going onto the grounds of or
24 entering the dwelling that the parties share, from the residence,
25 workplace, or school of the other, or from the day care or school of
26 a child until further order of the court;

27 (c) Prohibiting any party from knowingly coming within, or
28 knowingly remaining within, a specified distance from a specified
29 location;

30 (d) Restraining any party from interfering with the other's
31 custody of the minor children or from removing the children from the
32 jurisdiction of the court;

33 (e) Restraining any party from having any contact with the victim
34 of domestic violence or the victim's children or members of the
35 victim's household; and

36 (f) (~~Considering the provisions of RCW 9.41.800; and~~
37 ~~(g)~~) Restraining the respondent from harassing, following,
38 keeping under physical or electronic surveillance, cyberstalking as
39 defined in RCW 9.61.260, and using telephonic, audiovisual, or other

1 electronic means to monitor the actions, location, or communication
2 of a victim of domestic violence, the victim's children, or members
3 of the victim's household. For the purposes of this subsection,
4 "communication" includes both "wire communication" and "electronic
5 communication" as defined in RCW 9.73.260.

6 (2) In issuing the order, the court shall consider the provisions
7 of RCW 9.41.800, and shall order the respondent to surrender, and
8 prohibit the respondent from possessing, all firearms, dangerous
9 weapons, and any concealed pistol license as required in RCW
10 9.41.800.

11 (3) Irreparable injury under this section includes but is not
12 limited to situations in which the respondent has recently threatened
13 petitioner with bodily injury or has engaged in acts of domestic
14 violence against the petitioner.

15 ~~((3))~~ (4) The court shall hold an ex parte hearing in person or
16 by telephone on the day the petition is filed or on the following
17 judicial day.

18 ~~((4))~~ (5) An ex parte temporary order for protection shall be
19 effective for a fixed period not to exceed fourteen days or twenty-
20 four days if the court has permitted service by publication under RCW
21 26.50.085 or by mail under RCW 26.50.123. The ex parte temporary
22 order may be reissued. A full hearing, as provided in this chapter,
23 shall be set for not later than fourteen days from the issuance of
24 the ex parte temporary order or not later than twenty-four days if
25 service by publication or by mail is permitted. Except as provided in
26 RCW 26.50.050, 26.50.085, and 26.50.123, the respondent shall be
27 personally served with a copy of the ex parte temporary order along
28 with a copy of the petition and notice of the date set for the
29 hearing.

30 ~~((5))~~ (6) Any order issued under this section shall contain the
31 date and time of issuance and the expiration date and shall be
32 entered into a statewide judicial information system by the clerk of
33 the court within one judicial day after issuance.

34 ~~((6))~~ (7) If the court declines to issue an ex parte temporary
35 order for protection the court shall state the particular reasons for
36 the court's denial. The court's denial of a motion for an ex parte
37 temporary order ~~((f))~~ for protection shall be filed with the court.

38 **Sec. 15.** RCW 26.50.090 and 1995 c 246 s 10 are each amended to
39 read as follows:

1 (1) An order issued under this chapter shall be personally served
2 upon the respondent, except as provided in subsections (6) and (8) of
3 this section.

4 (2) The sheriff of the county or the peace officers of the
5 municipality in which the respondent resides shall serve the
6 respondent personally unless the petitioner elects to have the
7 respondent served by a private party. If the order includes a
8 requirement under RCW 9.41.800 for the immediate surrender of all
9 firearms, dangerous weapons, and any concealed pistol license, the
10 order must be served by a law enforcement officer.

11 (3) If service by a sheriff or municipal peace officer is to be
12 used, the clerk of the court shall have a copy of any order issued
13 under this chapter electronically forwarded on or before the next
14 judicial day to the appropriate law enforcement agency specified in
15 the order for service upon the respondent. Service of an order issued
16 under this chapter shall take precedence over the service of other
17 documents unless they are of a similar emergency nature.

18 (4) If the sheriff or municipal peace officer cannot complete
19 service upon the respondent within ten days, the sheriff or municipal
20 peace officer shall notify the petitioner. The petitioner shall
21 provide information sufficient to permit notification.

22 (5) Returns of service under this chapter shall be made in
23 accordance with the applicable court rules.

24 (6) If an order entered by the court recites that the respondent
25 appeared in person before the court, the necessity for further
26 service is waived and proof of service of that order is not
27 necessary.

28 (7) Municipal police departments serving documents as required
29 under this chapter may collect from respondents ordered to pay fees
30 under RCW 26.50.060 the same fees for service and mileage authorized
31 by RCW 36.18.040 to be collected by sheriffs.

32 (8) If the court previously entered an order allowing service of
33 the notice of hearing and temporary order of protection by
34 publication pursuant to RCW 26.50.085 or by mail pursuant to RCW
35 26.50.123, the court may permit service by publication or by mail of
36 the order of protection issued under RCW 26.50.060. Service by
37 publication must comply with the requirements of RCW 26.50.085 and
38 service by mail must comply with the requirements of RCW 26.50.123.
39 The court order must state whether the court permitted service by
40 publication or by mail.

1 **Sec. 16.** RCW 26.50.130 and 2011 c 137 s 2 are each amended to
2 read as follows:

3 (1) Upon a motion with notice to all parties and after a hearing,
4 the court may modify the terms of an existing order for protection or
5 may terminate an existing order for protection.

6 (2) A respondent's motion to modify or terminate an order for
7 protection that is permanent or issued for a fixed period exceeding
8 two years must include a declaration setting forth facts supporting
9 the requested order for termination or modification. The motion and
10 declaration must be served according to subsection (~~((7))~~) (8) of
11 this section. The nonmoving parties to the proceeding may file
12 opposing declarations. The court shall deny the motion unless it
13 finds that adequate cause for hearing the motion is established by
14 the declarations. If the court finds that the respondent established
15 adequate cause, the court shall set a date for hearing the
16 respondent's motion.

17 (3) (a) The court may not terminate an order for protection that
18 is permanent or issued for a fixed period exceeding two years upon a
19 motion of the respondent unless the respondent proves by a
20 preponderance of the evidence that there has been a substantial
21 change in circumstances such that the respondent is not likely to
22 resume acts of domestic violence against the petitioner or those
23 persons protected by the protection order if the order is terminated.
24 In a motion by the respondent for termination of an order for
25 protection that is permanent or issued for a fixed period exceeding
26 two years, the petitioner bears no burden of proving that he or she
27 has a current reasonable fear of imminent harm by the respondent.

28 (b) For the purposes of this subsection, a court shall determine
29 whether there has been a "substantial change in circumstances" by
30 considering only factors which address whether the respondent is
31 likely to commit future acts of domestic violence against the
32 petitioner or those persons protected by the protection order.

33 (c) In determining whether there has been a substantial change in
34 circumstances the court may consider the following unweighted
35 factors, and no inference is to be drawn from the order in which the
36 factors are listed:

37 (i) Whether the respondent has committed or threatened domestic
38 violence, sexual assault, stalking, or other violent acts since the
39 protection order was entered;

1 (ii) Whether the respondent has violated the terms of the
2 protection order, and the time that has passed since the entry of the
3 order;

4 (iii) Whether the respondent has exhibited suicidal ideation or
5 attempts since the protection order was entered;

6 (iv) Whether the respondent has been convicted of criminal
7 activity since the protection order was entered;

8 (v) Whether the respondent has either acknowledged responsibility
9 for the acts of domestic violence that resulted in entry of the
10 protection order or successfully completed domestic violence
11 perpetrator treatment or counseling since the protection order was
12 entered;

13 (vi) Whether the respondent has a continuing involvement with
14 drug or alcohol abuse, if such abuse was a factor in the protection
15 order;

16 (vii) Whether the petitioner consents to terminating the
17 protection order, provided that consent is given voluntarily and
18 knowingly;

19 (viii) Whether the respondent or petitioner has relocated to an
20 area more distant from the other party, giving due consideration to
21 the fact that acts of domestic violence may be committed from any
22 distance;

23 (ix) Other factors relating to a substantial change in
24 circumstances.

25 (d) In determining whether there has been a substantial change in
26 circumstances, the court may not base its determination solely on:

27 (i) The fact that time has passed without a violation of the order;
28 or (ii) the fact that the respondent or petitioner has relocated to
29 an area more distant from the other party.

30 (e) Regardless of whether there is a substantial change in
31 circumstances, the court may decline to terminate a protection order
32 if it finds that the acts of domestic violence that resulted in the
33 issuance of the protection order were of such severity that the order
34 should not be terminated.

35 (4) The court may not modify an order for protection that is
36 permanent or issued for a fixed period exceeding two years upon a
37 motion of the respondent unless the respondent proves by a
38 preponderance of the evidence that the requested modification is
39 warranted. If the requested modification would reduce the duration of
40 the protection order or would eliminate provisions in the protection

1 order restraining the respondent from harassing, stalking,
2 threatening, or committing other acts of domestic violence against
3 the petitioner or the petitioner's children or family or household
4 members or other persons protected by the order, the court shall
5 consider the factors in subsection (3)(c) of this section in
6 determining whether the protection order should be modified. Upon a
7 motion by the respondent for modification of an order for protection
8 that is permanent or issued for a fixed period exceeding two years,
9 the petitioner bears no burden of proving that he or she has a
10 current reasonable fear of imminent harm by the respondent.

11 (5) A respondent may file a motion to terminate or modify an
12 order no more than once in every twelve-month period that the order
13 is in effect, starting from the date of the order and continuing
14 through any renewal.

15 (6) Upon a motion by a petitioner, the court may modify or
16 terminate an existing order for protection. The court shall hear the
17 motion without an adequate cause hearing.

18 ~~((+6))~~ (7) A court may require the respondent to pay court costs
19 and service fees, as established by the county or municipality
20 incurring the expense and to pay the petitioner for costs incurred in
21 responding to a motion to terminate or modify a protection order,
22 including reasonable attorneys' fees.

23 ~~((+7))~~ (8) Except as provided in RCW 26.50.085 and 26.50.123, a
24 motion to modify or terminate an order for protection must be
25 personally served on the nonmoving party not less than five court
26 days prior to the hearing.

27 (a) If a moving party seeks to modify or terminate an order for
28 protection that is permanent or issued for a fixed period exceeding
29 two years, the sheriff of the county or the peace officers of the
30 municipality in which the nonmoving party resides or a licensed
31 process server shall serve the nonmoving party personally except when
32 a petitioner is the moving party and elects to have the nonmoving
33 party served by a private party. If the order includes a requirement
34 under RCW 9.41.800 for the immediate surrender of all firearms,
35 dangerous weapons, and any concealed pistol license, the order must
36 be served by a law enforcement officer.

37 (b) If the sheriff, municipal peace officer, or licensed process
38 server cannot complete service upon the nonmoving party within ten
39 days, the sheriff, municipal peace officer, or licensed process
40 server shall notify the moving party. The moving party shall provide

1 information sufficient to permit notification by the sheriff,
2 municipal peace officer, or licensed process server.

3 (c) If timely personal service cannot be made, the court shall
4 set a new hearing date and shall either require an additional attempt
5 at obtaining personal service or permit service by publication as
6 provided in RCW 26.50.085 or service by mail as provided in RCW
7 26.50.123.

8 (d) The court shall not require more than two attempts at
9 obtaining personal service and shall permit service by publication or
10 by mail unless the moving party requests additional time to attempt
11 personal service.

12 (e) If the court permits service by publication or by mail, the
13 court shall set the hearing date not later than twenty-four days from
14 the date of the order permitting service by publication or by mail.

15 ~~((+8))~~ (9) Municipal police departments serving documents as
16 required under this chapter may recover from a respondent ordered to
17 pay fees under subsection ~~((+6))~~ (7) of this section the same fees
18 for service and mileage authorized by RCW 36.18.040 to be collected
19 by sheriffs.

20 (10) ~~((+9))~~ In any situation where an order is terminated or
21 modified before its expiration date, the clerk of the court shall
22 forward on or before the next judicial day a true copy of the
23 modified order or the termination order to the appropriate law
24 enforcement agency specified in the modified or termination order.
25 Upon receipt of the order, the law enforcement agency shall promptly
26 enter it in the law enforcement information system.

27 **Sec. 17.** RCW 26.09.060 and 2008 c 6 s 1009 are each amended to
28 read as follows:

29 (1) In a proceeding for:

30 (a) Dissolution of marriage or domestic partnership, legal
31 separation, or a declaration of invalidity; or

32 (b) Disposition of property or liabilities, maintenance, or
33 support following dissolution of the marriage or the domestic
34 partnership by a court which lacked personal jurisdiction over the
35 absent spouse or absent domestic partner; either party may move for
36 temporary maintenance or for temporary support of children entitled
37 to support. The motion shall be accompanied by an affidavit setting
38 forth the factual basis for the motion and the amounts requested.

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

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

11 (b) Molesting or disturbing the peace of the other party or of
12 any child;

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

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

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

19 (3) Either party may request a domestic violence protection order
20 under chapter 26.50 RCW or an antiharassment protection order under
21 chapter 10.14 RCW on a temporary basis. The court may grant any of
22 the relief provided in RCW 26.50.060 except relief pertaining to
23 residential provisions for the children which provisions shall be
24 provided for under this chapter, and any of the relief provided in
25 RCW 10.14.080. Ex parte orders issued under this subsection shall be
26 effective for a fixed period not to exceed fourteen days, or upon
27 court order, not to exceed twenty-four days if necessary to ensure
28 that all temporary motions in the case can be heard at the same time.

29 (4) In issuing the order, the court shall consider the provisions
30 of RCW 9.41.800, and shall order the respondent to surrender, and
31 prohibit the respondent from possessing, all firearms, dangerous
32 weapons, and any concealed pistol license as required in RCW
33 9.41.800.

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

39 (6) The court may issue a temporary restraining order or
40 preliminary injunction and an order for temporary maintenance or

1 support in such amounts and on such terms as are just and proper in
2 the circumstances. The court may in its discretion waive the filing
3 of the bond or the posting of security.

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

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

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

31 (10) A temporary order, temporary restraining order, or
32 preliminary injunction:

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

35 (b) May be revoked or modified;

36 (c) Terminates when the final decree is entered, except as
37 provided under subsection (11) of this section, or when the petition
38 for dissolution, legal separation, or declaration of invalidity is
39 dismissed;

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

3 (11) Delinquent support payments accrued under an order for
4 temporary support remain collectible and are not extinguished when a
5 final decree is entered unless the decree contains specific language
6 to the contrary. A support debt under a temporary order owed to the
7 state for public assistance expenditures shall not be extinguished by
8 the final decree if:

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

11 (b) The temporary order directs the obligor to make support
12 payments to the office of support enforcement or the Washington state
13 support registry.

14 **Sec. 18.** RCW 26.10.115 and 2000 c 119 s 9 are each amended to
15 read as follows:

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

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

24 (a) Molesting or disturbing the peace of the other party or of
25 any child;

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

28 (c) Knowingly coming within, or knowingly remaining within, a
29 specified distance from a specified location; and

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

31 (3) Either party may request a domestic violence protection order
32 under chapter 26.50 RCW or an antiharassment protection order under
33 chapter 10.14 RCW on a temporary basis. The court may grant any of
34 the relief provided in RCW 26.50.060 except relief pertaining to
35 residential provisions for the children which provisions shall be
36 provided for under this chapter, and any of the relief provided in
37 RCW 10.14.080. Ex parte orders issued under this subsection shall be
38 effective for a fixed period not to exceed fourteen days, or upon

1 court order, not to exceed twenty-four days if necessary to ensure
2 that all temporary motions in the case can be heard at the same time.

3 (4) In issuing the order, the court shall consider the provisions
4 of RCW 9.41.800, and shall order the respondent to surrender, and
5 prohibit the respondent from possessing, all firearms, dangerous
6 weapons, and any concealed pistol license as required in RCW
7 9.41.800.

8 (5) The court may issue a temporary restraining order without
9 requiring notice to the other party only if it finds on the basis of
10 the moving affidavit or other evidence that irreparable injury could
11 result if an order is not issued until the time for responding has
12 elapsed.

13 (6) The court may issue a temporary restraining order or
14 preliminary injunction and an order for temporary support in such
15 amounts and on such terms as are just and proper in the
16 circumstances.

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

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

38 (9) If a restraining order issued pursuant to this section is
39 modified or terminated, the clerk of the court shall notify the law
40 enforcement agency specified in the order on or before the next

1 judicial day. Upon receipt of notice that an order has been
2 terminated, the law enforcement agency shall remove the order from
3 any computer-based criminal intelligence system.

4 (10) A temporary order, temporary restraining order, or
5 preliminary injunction:

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

8 (b) May be revoked or modified;

9 (c) Terminates when the final order is entered or when the motion
10 is dismissed;

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

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

SHB 1786 - S COMM AMD

By Committee on Law & Justice

ADOPTED 04/13/2019

29 On page 1, line 3 of the title, after "orders;" strike the
30 remainder of the title and insert "amending RCW 9.41.800, 9.41.040,
31 7.90.090, 7.90.110, 7.90.140, 7.92.100, 7.92.120, 7.92.150, 7.92.190,
32 10.14.080, 10.14.100, 10.14.180, 26.50.070, 26.50.090, 26.50.130,
33 26.09.060, and 26.10.115; and adding a new section to chapter 9.41
34 RCW."

EFFECT: Requires a respondent who is present at a hearing for a protective order to surrender all firearms to law enforcement on the day of the hearing. The law enforcement agency must file the original receipt with the court within twenty-four hours of receiving the surrendered firearms using electronic filing, if available. Revises court procedures for hearings to verify surrender of firearms. Adds language emphasizing the need for swift and certain compliance by respondents who are ordered by the court to surrender firearms, dangerous weapons, and concealed pistol permits.

--- END ---