
HOUSE BILL 1148

State of Washington

61st Legislature

2009 Regular Session

By Representatives Williams, Rodne, Simpson, Upthegrove, Haigh, Nelson, Rolfes, Sullivan, Hunt, Lias, Chase, Moeller, Goodman, Ormsby, Hurst, Kenney, Kirby, Eddy, Conway, Pedersen, Dunshee, Dickerson, Hasegawa, Sells, Appleton, Campbell, and Herrera

Read first time 01/14/09. Referred to Committee on Judiciary.

1 AN ACT Relating to protecting animals from perpetrators of domestic
2 violence; amending RCW 26.50.060 and 26.50.110; and creating a new
3 section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that considerable
6 research shows a strong correlation between animal abuse, child abuse,
7 and domestic violence. The legislature intends that perpetrators of
8 domestic violence not be allowed to further terrorize and manipulate
9 their victims, or the children of their victims, by using the threat of
10 violence toward pets.

11 **Sec. 2.** RCW 26.50.060 and 2000 c 119 s 15 are each amended to read
12 as follows:

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

15 (a) Restrain the respondent from committing acts of domestic
16 violence;

17 (b) Exclude the respondent from the dwelling that the parties

1 share, from the residence, workplace, or school of the petitioner, or
2 from the day care or school of a child;

3 (c) Prohibit the respondent from knowingly coming within, or
4 knowingly remaining within, a specified distance from a specified
5 location;

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

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

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

16 (g) Require the respondent to pay the administrative court costs
17 and service fees, as established by the county or municipality
18 incurring the expense and to reimburse the petitioner for costs
19 incurred in bringing the action, including reasonable attorneys' fees;

20 (h) Restrain the respondent from having any contact with the victim
21 of domestic violence or the victim's children or members of the
22 victim's household;

23 (i) Require the respondent to submit to electronic monitoring. The
24 order shall specify who shall provide the electronic monitoring
25 services and the terms under which the monitoring must be performed.
26 The order also may include a requirement that the respondent pay the
27 costs of the monitoring. The court shall consider the ability of the
28 respondent to pay for electronic monitoring;

29 (j) Consider the provisions of RCW 9.41.800;

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

1 (1) Order use of a vehicle.

2 (2) If a protection order restrains the respondent from contacting
3 the respondent's minor children the restraint shall be for a fixed
4 period not to exceed one year. This limitation is not applicable to
5 orders for protection issued under chapter 26.09, 26.10, or 26.26 RCW.
6 With regard to other relief, if the petitioner has petitioned for
7 relief on his or her own behalf or on behalf of the petitioner's family
8 or household members or minor children, and the court finds that the
9 respondent is likely to resume acts of domestic violence against the
10 petitioner or the petitioner's family or household members or minor
11 children when the order expires, the court may either grant relief for
12 a fixed period or enter a permanent order of protection.

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

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

1 or household members when the order expires. The court may renew the
2 protection order for another fixed time period or may enter a permanent
3 order as provided in this section. The court may award court costs,
4 service fees, and reasonable attorneys' fees as provided in subsection
5 (1)((+f+)) (g) of this section.

6 (4) In providing relief under this chapter, the court may realign
7 the designation of the parties as "petitioner" and "respondent" where
8 the court finds that the original petitioner is the abuser and the
9 original respondent is the victim of domestic violence and may issue an
10 ex parte temporary order for protection in accordance with RCW
11 26.50.070 on behalf of the victim until the victim is able to prepare
12 a petition for an order for protection in accordance with RCW
13 26.50.030.

14 (5) Except as provided in subsection (4) of this section, no order
15 for protection shall grant relief to any party except upon notice to
16 the respondent and hearing pursuant to a petition or counter-petition
17 filed and served by the party seeking relief in accordance with RCW
18 26.50.050.

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

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

27 **Sec. 3.** RCW 26.50.110 and 2007 c 173 s 2 are each amended to read
28 as follows:

29 (1)(a) Whenever an order is granted under this chapter, chapter
30 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or there is a valid
31 foreign protection order as defined in RCW 26.52.020, and the
32 respondent or person to be restrained knows of the order, a violation
33 of any of the following provisions of the order is a gross misdemeanor,
34 except as provided in subsections (4) and (5) of this section:

35 (i) The restraint provisions prohibiting acts or threats of
36 violence against, or stalking of, a protected party, or restraint
37 provisions prohibiting contact with a protected party;

1 (ii) A provision excluding the person from a residence, workplace,
2 school, or day care;

3 (iii) A provision prohibiting a person from knowingly coming
4 within, or knowingly remaining within, a specified distance of a
5 location; (~~or~~)

6 (iv) A provision prohibiting acts of violence against, or the
7 harming of, or interfering with the petitioner's efforts to remove, a
8 protected animal owned, possessed, leased, kept, or held by the
9 petitioner or respondent or minor child residing with either the
10 petitioner or respondent; or

11 (v) A provision of a foreign protection order specifically
12 indicating that a violation will be a crime.

13 (b) Upon conviction, and in addition to any other penalties
14 provided by law, the court may require that the respondent submit to
15 electronic monitoring. The court shall specify who shall provide the
16 electronic monitoring services, and the terms under which the
17 monitoring shall be performed. The order also may include a
18 requirement that the respondent pay the costs of the monitoring. The
19 court shall consider the ability of the convicted person to pay for
20 electronic monitoring.

21 (2) A peace officer shall arrest without a warrant and take into
22 custody a person whom the peace officer has probable cause to believe
23 has violated an order issued under this chapter, chapter 7.90, 10.99,
24 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order
25 as defined in RCW 26.52.020, that restrains the person or excludes the
26 person from a residence, workplace, school, or day care, or prohibits
27 the person from knowingly coming within, or knowingly remaining within,
28 a specified distance of a location, if the person restrained knows of
29 the order. Presence of the order in the law enforcement computer-based
30 criminal intelligence information system is not the only means of
31 establishing knowledge of the order.

32 (3) A violation of an order issued under this chapter, chapter
33 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign
34 protection order as defined in RCW 26.52.020, shall also constitute
35 contempt of court, and is subject to the penalties prescribed by law.

36 (4) Any assault that is a violation of an order issued under this
37 chapter, chapter 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of
38 a valid foreign protection order as defined in RCW 26.52.020, and that

1 does not amount to assault in the first or second degree under RCW
2 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in
3 violation of such an order that is reckless and creates a substantial
4 risk of death or serious physical injury to another person is a class
5 C felony.

6 (5) A violation of a court order issued under this chapter, chapter
7 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign
8 protection order as defined in RCW 26.52.020, is a class C felony if
9 the offender has at least two previous convictions for violating the
10 provisions of an order issued under this chapter, chapter 7.90, 10.99,
11 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order
12 as defined in RCW 26.52.020. The previous convictions may involve the
13 same victim or other victims specifically protected by the orders the
14 offender violated.

15 (6) Upon the filing of an affidavit by the petitioner or any peace
16 officer alleging that the respondent has violated an order granted
17 under this chapter, chapter 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34
18 RCW, or a valid foreign protection order as defined in RCW 26.52.020,
19 the court may issue an order to the respondent, requiring the
20 respondent to appear and show cause within fourteen days why the
21 respondent should not be found in contempt of court and punished
22 accordingly. The hearing may be held in the court of any county or
23 municipality in which the petitioner or respondent temporarily or
24 permanently resides at the time of the alleged violation.

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