
SUBSTITUTE HOUSE BILL 2836

State of Washington

60th Legislature

2008 Regular Session

By House Judiciary (originally sponsored by Representatives Williams, Dickerson, Upthegrove, Rodne, Simpson, Dunshee, Morrell, Haigh, and Ormsby)

READ FIRST TIME 02/06/08.

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

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

4 **Sec. 1.** RCW 26.50.060 and 2000 c 119 s 15 are each amended to read
5 as follows:

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

8 (a) Restrain the respondent from committing acts of domestic
9 violence;

10 (b) Exclude the respondent from the dwelling that the parties
11 share, from the residence, workplace, or school of the petitioner, or
12 from the day care or school of a child;

13 (c) Prohibit the respondent from knowingly coming within, or
14 knowingly remaining within, a specified distance from a specified
15 location;

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

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

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

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

11 (h) Restrain the respondent from having any contact with the victim
12 of domestic violence or the victim's children or members of the
13 victim's household;

14 (i) Require the respondent to submit to electronic monitoring. The
15 order shall specify who shall provide the electronic monitoring
16 services and the terms under which the monitoring must be performed.
17 The order also may include a requirement that the respondent pay the
18 costs of the monitoring. The court shall consider the ability of the
19 respondent to pay for electronic monitoring;

20 (j) Consider the provisions of RCW 9.41.800;

21 (k) Order possession and use of essential personal effects. The
22 court shall list the essential personal effects with sufficient
23 specificity to make it clear which property is included; (~~and~~)

24 (l) Order use of a vehicle; and

25 (m) Order that the petitioner be granted the exclusive care,
26 custody, or control of any animal owned, possessed, leased, kept, or
27 held by the petitioner or the respondent or a minor child residing with
28 either the petitioner or the respondent. The court may also order the
29 respondent to stay away from the animal and forbid the respondent from
30 taking, transferring, concealing, attacking, striking, threatening,
31 harming, or otherwise disposing of the animal.

32 (2) If a protection order restrains the respondent from contacting
33 the respondent's minor children the restraint shall be for a fixed
34 period not to exceed one year. This limitation is not applicable to
35 orders for protection issued under chapter 26.09, 26.10, or 26.26 RCW.
36 With regard to other relief, if the petitioner has petitioned for
37 relief on his or her own behalf or on behalf of the petitioner's family
38 or household members or minor children, and the court finds that the

1 respondent is likely to resume acts of domestic violence against the
2 petitioner or the petitioner's family or household members or minor
3 children when the order expires, the court may either grant relief for
4 a fixed period or enter a permanent order of protection.

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

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

36 (4) In providing relief under this chapter, the court may realign
37 the designation of the parties as "petitioner" and "respondent" where
38 the court finds that the original petitioner is the abuser and the

1 original respondent is the victim of domestic violence and may issue an
2 ex parte temporary order for protection in accordance with RCW
3 26.50.070 on behalf of the victim until the victim is able to prepare
4 a petition for an order for protection in accordance with RCW
5 26.50.030.

6 (5) Except as provided in subsection (4) of this section, no order
7 for protection shall grant relief to any party except upon notice to
8 the respondent and hearing pursuant to a petition or counter-petition
9 filed and served by the party seeking relief in accordance with RCW
10 26.50.050.

11 (6) The court order shall specify the date the order expires if
12 any. The court order shall also state whether the court issued the
13 protection order following personal service, service by publication, or
14 service by mail and whether the court has approved service by
15 publication or mail of an order issued under this section.

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

19 **Sec. 2.** RCW 26.50.110 and 2007 c 173 s 2 are each amended to read
20 as follows:

21 (1)(a) Whenever an order is granted under this chapter, chapter
22 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or there is a valid
23 foreign protection order as defined in RCW 26.52.020, and the
24 respondent or person to be restrained knows of the order, a violation
25 of any of the following provisions of the order is a gross misdemeanor,
26 except as provided in subsections (4) and (5) of this section:

27 (i) The restraint provisions prohibiting acts or threats of
28 violence against, or stalking of, a protected party, or restraint
29 provisions prohibiting contact with a protected party;

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

32 (iii) A provision prohibiting a person from knowingly coming
33 within, or knowingly remaining within, a specified distance of a
34 location; (~~(e)~~)

35 (iv) A provision prohibiting acts of violence against, or the
36 harming of, or interfering with the petitioner's efforts to remove, a

1 protected animal owned, possessed, leased, kept, or held by the
2 petitioner or respondent or minor child residing with either the
3 petitioner or respondent; or

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

6 (b) Upon conviction, and in addition to any other penalties
7 provided by law, the court may require that the respondent submit to
8 electronic monitoring. The court shall specify who shall provide the
9 electronic monitoring services, and the terms under which the
10 monitoring shall be performed. The order also may include a
11 requirement that the respondent pay the costs of the monitoring. The
12 court shall consider the ability of the convicted person to pay for
13 electronic monitoring.

14 (2) A peace officer shall arrest without a warrant and take into
15 custody a person whom the peace officer has probable cause to believe
16 has violated an order issued under this chapter, chapter 7.90, 10.99,
17 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order
18 as defined in RCW 26.52.020, that restrains the person or excludes the
19 person from a residence, workplace, school, or day care, or prohibits
20 the person from knowingly coming within, or knowingly remaining within,
21 a specified distance of a location, if the person restrained knows of
22 the order. Presence of the order in the law enforcement computer-based
23 criminal intelligence information system is not the only means of
24 establishing knowledge of the order.

25 (3) A violation of an order issued under this chapter, chapter
26 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign
27 protection order as defined in RCW 26.52.020, shall also constitute
28 contempt of court, and is subject to the penalties prescribed by law.

29 (4) Any assault that is a violation of an order issued under this
30 chapter, chapter 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of
31 a valid foreign protection order as defined in RCW 26.52.020, and that
32 does not amount to assault in the first or second degree under RCW
33 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in
34 violation of such an order that is reckless and creates a substantial
35 risk of death or serious physical injury to another person is a class
36 C felony.

37 (5) A violation of a court order issued under this chapter, chapter
38 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign

1 protection order as defined in RCW 26.52.020, is a class C felony if
2 the offender has at least two previous convictions for violating the
3 provisions of an order issued under this chapter, chapter 7.90, 10.99,
4 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order
5 as defined in RCW 26.52.020. The previous convictions may involve the
6 same victim or other victims specifically protected by the orders the
7 offender violated.

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

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