H-3508.2

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**HOUSE BILL 2542**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Representatives Nealey, Goodman, Jenkin, Klippert, Haler, Smith, and Hansen

AN ACT Relating to obtaining ex parte temporary orders outside of normal court hours; and amending RCW 26.50.070.

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

**Sec.**  RCW 26.50.070 and 2010 c 274 s 305 are each amended to read as follows:

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

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

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

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

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

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

(f) Considering the provisions of RCW 9.41.800; and

(g) Restraining the respondent from harassing, following, keeping under physical or electronic surveillance, cyberstalking as defined in RCW 9.61.260, and using telephonic, audiovisual, or other electronic means to monitor the actions, location, or communication of a victim of domestic violence, the victim's children, or members of the victim's household. For the purposes of this subsection, "communication" includes both "wire communication" and "electronic communication" as defined in RCW 9.73.260.

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

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

(b) Where a law enforcement officer responds to an act of domestic violence which has occurred, is occurring, or is likely to occur outside of normal court hours and a party expresses a fear of imminent physical harm, bodily injury, or abduction or assault, between family or household members, a district court may issue an ex parte temporary order for protection when a law enforcement officer presents to the court by telephone, a sworn petition setting forth the need for an ex parte temporary order for protection and the court finds reasonable grounds that irreparable injury could result from domestic violence if an order is not issued without prior notice to the respondent. Sworn telephonic testimony may be considered by the court in determining whether there are sufficient grounds for issuing the order. The petition shall include the location and telephone number of the alleged perpetrator, if known. A law enforcement officer who receives an ex parte emergency order for protection from the court by telephone shall: (i) If necessary, pursuant to the on-call judicial officer's oral approval, write and sign the order on an approved form; (ii) if possible, immediately serve a signed copy of the order on the respondent and complete the appropriate affidavit of service; (iii) if the respondent is not available, immediately forward the order to the appropriate law enforcement agency specified in the order for service upon the respondent; (iv) immediately provide the petitioner with a signed copy of the order; and (v) provide the original petition, order, and return of service to the court by the close of business on the next judicial day.

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

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

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

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