

# FINAL BILL REPORT

## E2SSB 6400

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### PARTIAL VETO

C 119 L 00

Synopsis as Enacted

**Brief Description:** Changing provisions relating to domestic violence.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Wojahn, Costa, Kohl-Welles, Winsley, Rasmussen and McAuliffe; by request of Governor Locke).

**Senate Committee on Judiciary**

**Senate Committee on Ways & Means**

**House Committee on Criminal Justice & Corrections**

**House Committee on Appropriations**

**Background:** This bill is based on the recommendations of the Governor's Domestic Violence Action Group. It was formed to review the case of Linda David and recommend ways to improve the state's response to domestic violence.

Currently, penalties for violations of domestic violence court orders vary depending on whether the underlying case is criminal, civil, dissolution, custody or paternity. A violation of a criminal no-contact order or a domestic violence protection order is a gross misdemeanor. It is a felony if the violation involves an assault or act of reckless endangerment, or results in a third conviction for violating such an order. A violation of a restraining order issued in conjunction with a dissolution is always a simple misdemeanor. The proponents of this bill believe penalties for violating the restraint provisions of various types of orders should flow from the conduct violating the order rather than the type of order.

The Court of Appeals, Division II, recently held that a batterer who violates a prohibition in a court order against coming within a specified distance of a victim's house or other location is punishable with contempt of court. The violation however does not constitute a crime because such a prohibition is not a restraint provision— within the meaning of RCW 26.50.110.

Courts may issue protective orders in cases of abuse, neglect, exploitation, or abandonment of vulnerable adults; however, violations of these orders are not defined as crimes. A vulnerable adult— is defined in statute as including a person (1) 60 years or older who has the functional, mental, or physical inability to care for himself or herself; (2) has been found incapacitated by a superior court; (3) has a developmental disability as defined in statute; (4) is admitted to any facility— as defined in law; (5) is receiving services from home health, hospice, a licensed home care agency, or a state-funded individual provider.

**Summary:** The Department of Social and Health Services (DSHS) is authorized to seek orders for protection under RCW 26.50 on behalf of and with the consent of vulnerable adults. Such protection orders may prohibit a person from coming within a specified

distances of locations. Violation of the order is a criminal offense if the person to be restrained knows of the order.

Violations of restraint provisions of court orders related to domestic violence issued in all types of proceedings where authorized triggers arrest when a police officer has probable cause to believe an order was issued, the person restrained had knowledge of the order, and a violation has occurred. A prohibition against a person coming within a specified distance of a location is a restraint provision which, if violated, will lead to arrest. Courts are authorized to order parties not to come within specified distances of locations in the following proceedings: dissolution, paternity, nonparental actions for custody, and order for protection cases.

It is a class C felony to violate a no-contact order, a foreign protection order, or restraining order issued in a dissolution, paternity, or nonparental action for custody if the violation constituted an assault, not amounting to assault in the first or second degree, reckless endangerment, or the offender has two or more previous such convictions. A violation of a no-contact order, foreign protection order or restraining order that does not constitute a class C felony is a gross misdemeanor. Felony violations of domestic violence protection orders are assigned to a seriousness Level V.

Certificates of discharge received upon an offender's release from confinement must not terminate his or her duty to comply with a court order. Courts must also immediately notify the proper law enforcement agency any time a court order is modified or terminated. Upon receipt of an order that has been changed or terminated, the law enforcement agency must modify or remove the order from any computer-based system that is used to list outstanding warrants.

DSHS is directed to periodically evaluate domestic violence perpetrator programs previously approved for court referral to determine compliance with existing standards.

Foreign protection orders filed under RCW 26.52 and orders for protection of vulnerable adults must to be entered into the domestic violence database of the Judicial Information System.

DSHS is authorized to fund nonprofit organizations with expertise in the field of domestic violence to develop and provide advocacy, education, and specialized services to underserved victims of domestic violence.

The Office of the Administrator for the Courts must revise all informational brochures relating to court orders designed to assist petitioners, to specify the use of and process for obtaining, modifying, and terminating an order.

**Votes on Final Passage:**

Senate	37	7	
House	98	0	(House amended)
Senate	46	0	(Senate concurred)

**Effective:** June 8, 2000

July 1, 2000 (Section 17)

**Partial Veto Summary:** The section which makes the act null and void if specific funding is not provided by June 30, 2000, is removed.