

SUBSTITUTE HOUSE BILL 1786

State of Washington

66th Legislature

2019 Regular Session

By House Civil Rights & Judiciary (originally sponsored by Representatives Jenkins, Wylie, Goodman, Macri, Bergquist, Cody, Ormsby, Valdez, Frame, Peterson, Tarleton, Davis, Robinson, Fey, Appleton, Santos, Kilduff, Lovick, Walen, Senn, and Pellicciotti)

READ FIRST TIME 02/22/19.

1 AN ACT Relating to improving procedures and strengthening laws
2 relating to protection orders, no-contact orders, and restraining
3 orders; amending RCW 9.41.800, 9.41.040, 7.90.090, 7.90.110,
4 7.90.140, 7.92.100, 7.92.120, 7.92.150, 7.92.190, 10.14.080,
5 10.14.100, 10.14.180, 26.50.070, 26.50.090, 26.50.130, 26.09.060, and
6 26.10.115; adding a new section to chapter 9.41 RCW; and repealing
7 RCW 9.41.802 and 9.41.810.

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

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

11 (1) Any court when entering an order authorized under chapter
12 7.92 RCW, RCW 7.90.090, 9A.46.080, 10.14.080, 10.99.040, 10.99.045,
13 26.09.050, 26.09.060, 26.10.040, 26.10.115, (~~26.26.130~~) 26.26B.020,
14 26.50.060, 26.50.070, or 26.26.590 shall, upon a showing by clear and
15 convincing evidence, that a party has: Used, displayed, or threatened
16 to use a firearm or other dangerous weapon in a felony, or
17 (~~previously committed any offense that makes him or her~~) is
18 ineligible to possess a firearm under the provisions of RCW 9.41.040:

19 (a) Require the party immediately to surrender (~~any~~) all
20 firearms (~~or~~) and other dangerous weapons;

1 (b) Require the party to immediately surrender any concealed
2 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 (2) Any court when entering an order authorized under chapter
8 7.92 RCW, RCW 7.90.090, 9A.46.080, 10.14.080, 10.99.040, 10.99.045,
9 26.09.050, 26.09.060, 26.10.040, 26.10.115, ((26.26.130)) 26.26B.020,
10 26.50.060, 26.50.070, or 26.26.590 may, upon a showing by a
11 preponderance of the evidence but not by clear and convincing
12 evidence, that a party has: Used, displayed, or threatened to use a
13 firearm or other dangerous weapon in a felony, or ((previously
14 committed any offense that makes him or her)) is ineligible to
15 possess a firearm under the provisions of RCW 9.41.040:

16 (a) Require the party to surrender ((any)) all firearms ((or))
17 and other dangerous weapons;

18 (b) Require the party to surrender a concealed pistol license
19 issued under RCW 9.41.070;

20 (c) Prohibit the party from accessing, obtaining, or possessing
21 ((a)) any firearms or other dangerous weapons;

22 (d) Prohibit the party from obtaining or possessing a concealed
23 pistol license.

24 (3) During any period of time that the person is subject to a
25 court order issued under chapter 7.90, 7.92, 9A.46, 10.14, 10.99,
26 26.09, 26.10, ((26.26)) 26.26B, or 26.50 RCW that:

27 (a) Was issued after a hearing of which the person received
28 actual notice, and at which the person had an opportunity to
29 participate;

30 (b) Restrains the person from harassing, stalking, or threatening
31 an intimate partner of the person or child of the intimate partner or
32 person, or engaging in other conduct that would place an intimate
33 partner in reasonable fear of bodily injury to the partner or child;
34 and

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

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

1 (A) Require the party to immediately surrender ~~((any))~~ all
2 firearms ~~((or))~~ and other dangerous weapons;

3 (B) Require the party to immediately surrender a concealed pistol
4 license issued under RCW 9.41.070;

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

7 (D) Prohibit the party from obtaining or possessing a concealed
8 pistol license.

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

15 (5) In addition to the provisions of subsections (1), (2), and
16 (4) of this section, the court may enter an order requiring a party
17 to comply with the provisions in subsection (1) of this section if it
18 finds that the possession of a firearm or other dangerous weapon by
19 any party presents a serious and imminent threat to public health or
20 safety, or to the health or safety of any individual.

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

24 (7) The court may require the party to surrender ~~((any))~~ all
25 firearms ~~((or))~~ and other dangerous weapons in his or her immediate
26 possession or control or subject to his or her immediate possession
27 or control, and any concealed pistol license issued under RCW
28 9.41.070, to the ~~((sheriff of the county having jurisdiction of the~~
29 ~~proceeding, the chief of police of the municipality having~~
30 ~~jurisdiction, or to the restrained or enjoined party's counsel or to~~
31 ~~any person designated by the court))~~ local law enforcement agency.
32 Law enforcement officers shall use law enforcement databases to
33 assist in locating the respondent in situations where the protected
34 person does not know where the respondent lives or where there is
35 evidence that the respondent is trying to evade service.

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

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

3 (1) A law enforcement officer serving a protection order, no-
4 contact order, or restraining order that includes an order to
5 surrender all firearms, dangerous weapons, and a concealed pistol
6 license under RCW 9.41.800 shall inform the respondent that the order
7 is effective upon service and the respondent must immediately
8 surrender all firearms and dangerous weapons in his or her custody,
9 control, or possession and any concealed pistol license issued under
10 RCW 9.41.070, and conduct any search permitted by law for such
11 firearms, dangerous weapons, and concealed pistol license. The law
12 enforcement officer shall take possession of all firearms, dangerous
13 weapons, and any concealed pistol license belonging to the respondent
14 that are surrendered, in plain sight, or discovered pursuant to a
15 lawful search. Alternatively, if personal service of the order by a
16 law enforcement officer is not possible, or not required because the
17 respondent was present at the hearing at which the order was entered,
18 the respondent shall immediately surrender all firearms, dangerous
19 weapons, and any concealed pistol license in a safe manner to the
20 control of the local law enforcement agency within forty-eight hours
21 of being served with the order by alternate service or within forty-
22 eight hours of the hearing at which the respondent was present.

23 (2) At the time of surrender, a law enforcement officer taking
24 possession of firearms, dangerous weapons, and any concealed pistol
25 license shall issue a receipt identifying all firearms, dangerous
26 weapons, and any concealed pistol license that have been surrendered
27 and provide a copy of the receipt to the respondent. The law
28 enforcement agency shall file the original receipt with the court
29 within seventy-two hours after service of the order and retain a copy
30 of the receipt.

31 (3) Upon the sworn statement or testimony of the petitioner or of
32 any law enforcement officer alleging that the respondent has failed
33 to comply with the surrender of firearms or dangerous weapons as
34 required by an order issued under RCW 9.41.800, the court shall
35 determine whether probable cause exists to believe that the
36 respondent has failed to surrender all firearms and dangerous weapons
37 in his or her possession, custody, or control. If probable cause
38 exists, the court shall issue a warrant describing the firearms or
39 dangerous weapons and authorizing a search of the locations where the
40 firearms or dangerous weapons are reasonably believed to be and the

1 seizure of any firearms or dangerous weapons discovered pursuant to
2 such search.

3 (4) If a person other than the respondent claims title to any
4 firearms or dangerous weapons surrendered pursuant to this section,
5 and he or she is determined by the law enforcement agency to be the
6 lawful owner of the firearm or dangerous weapon, the firearm or
7 dangerous weapon shall be returned to him or her, provided that:

8 (a) The firearm or dangerous weapon is removed from the
9 respondent's access, custody, control, or possession and the lawful
10 owner agrees to store the firearm or dangerous weapon in a manner
11 such that the respondent does not have access to or control of the
12 firearm or dangerous weapon; and

13 (b) The firearm or dangerous weapon is not otherwise unlawfully
14 possessed by the owner.

15 (5) Upon the issuance of a protection order, no-contact order, or
16 restraining order that includes an order to surrender weapons under
17 RCW 9.41.800, the court shall order a new hearing date and require
18 the respondent to appear not later than three judicial days from the
19 issuance of the order. The court shall require a showing that the
20 person subject to the order has surrendered all firearms and
21 dangerous weapons in his or her custody, control, or possession, and
22 any concealed pistol license issued under RCW 9.41.070, to a law
23 enforcement agency. The court may dismiss the hearing upon a
24 satisfactory showing that the respondent is in compliance with the
25 order.

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

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

37 (1)(a) A person, whether an adult or juvenile, is guilty of the
38 crime of unlawful possession of a firearm in the first degree, if the
39 person owns, has in his or her possession, or has in his or her

1 control any firearm after having previously been convicted or found
2 not guilty by reason of insanity in this state or elsewhere of any
3 serious offense as defined in this chapter.

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

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

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

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

26 (iii) During any period of time that the person is subject to a
27 court order issued under chapter 7.90, 7.92, 9A.46, 10.14, 10.99,
28 26.09, 26.10, (~~(26.26)~~) 26.26B, or 26.50 RCW that:

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

32 (B) Restrains the person from harassing, stalking, or threatening
33 (~~((an intimate partner of))~~) the person protected under the order or
34 child of the (~~((intimate partner))~~) person or protected person, or
35 engaging in other conduct that would place (~~((an intimate partner))~~)
36 the protected person in reasonable fear of bodily injury to the
37 (~~((partner))~~) protected person or child; and

38 (C) (I) Includes a finding that the person represents a credible
39 threat to the physical safety of the (~~((intimate partner))~~) protected
40 person or child(~~((+))~~) and (~~((+II))~~) by its terms(~~((+))~~) explicitly

1 prohibits the use, attempted use, or threatened use of physical force
2 against the (~~intimate partner~~) protected person or child that would
3 reasonably be expected to cause bodily injury; or

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

7 (iv) After having previously been involuntarily committed for
8 mental health treatment under RCW 71.05.240, 71.05.320, 71.34.740,
9 71.34.750, chapter 10.77 RCW, or equivalent statutes of another
10 jurisdiction, unless his or her right to possess a firearm has been
11 restored as provided in RCW 9.41.047;

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

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

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

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

23 (3) Notwithstanding RCW 9.41.047 or any other provisions of law,
24 as used in this chapter, a person has been "convicted", whether in an
25 adult court or adjudicated in a juvenile court, at such time as a
26 plea of guilty has been accepted, or a verdict of guilty has been
27 filed, notwithstanding the pendency of any future proceedings
28 including but not limited to sentencing or disposition, post-trial or
29 post-fact-finding motions, and appeals. Conviction includes a
30 dismissal entered after a period of probation, suspension or deferral
31 of sentence, and also includes equivalent dispositions by courts in
32 jurisdictions other than Washington state. A person shall not be
33 precluded from possession of a firearm if the conviction has been the
34 subject of a pardon, annulment, certificate of rehabilitation, or
35 other equivalent procedure based on a finding of the rehabilitation
36 of the person convicted or the conviction or disposition has been the
37 subject of a pardon, annulment, or other equivalent procedure based
38 on a finding of innocence. Where no record of the court's disposition
39 of the charges can be found, there shall be a rebuttable presumption
40 that the person was not convicted of the charge.

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

19 (i) Under RCW 9.41.047; and/or

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

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

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

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

1 (ii) The superior court in the county in which the petitioner
2 resides.

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

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

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

29 ~~((8) For purposes of this section, "intimate partner" includes:~~
30 ~~A spouse, a domestic partner, a former spouse, a former domestic~~
31 ~~partner, a person with whom the restrained person has a child in~~
32 ~~common, or a person with whom the restrained person has cohabitated~~
33 ~~or is cohabitating as part of a dating relationship.))~~

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

36 (1)(a) If the court finds by a preponderance of the evidence that
37 the petitioner has been a victim of nonconsensual sexual conduct or
38 nonconsensual sexual penetration by the respondent, the court shall
39 issue a sexual assault protection order; provided that the petitioner

1 must also satisfy the requirements of RCW 7.90.110 for ex parte
2 temporary orders or RCW 7.90.120 for final orders.

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

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

13 (a) Restrain the respondent from having any contact, including
14 nonphysical contact, with the petitioner directly, indirectly, or
15 through third parties regardless of whether those third parties know
16 of the order;

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

20 (c) Prohibit the respondent from knowingly coming within, or
21 knowingly remaining within, a specified distance from a specified
22 location; and

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

25 (3) In issuing the order, the court shall consider the provisions
26 of RCW 9.41.800, and shall order the respondent to surrender, and
27 prohibit the respondent from possessing, all firearms, dangerous
28 weapons, and any concealed pistol license as required in RCW
29 9.41.800.

30 (4) In cases where the petitioner and the respondent are under
31 the age of eighteen and attend the same public or private elementary,
32 middle, or high school, the court, when issuing a protection order
33 and providing relief, shall consider, among the other facts of the
34 case, the severity of the act, any continuing physical danger or
35 emotional distress to the petitioner, and the expense difficulty, and
36 educational disruption that would be caused by a transfer of the
37 respondent to another school. The court may order that the person
38 restrained in the order not attend the public or approved private
39 elementary, middle, or high school attended by the person under the
40 age of eighteen protected by the order. In the event the court orders

1 a transfer of the restrained person to another school, the parents or
2 legal guardians of the person restrained in the order are responsible
3 for transportation and other costs associated with the change of
4 school by the person restrained in the order. The court shall send
5 notice of the restriction on attending the same school as the person
6 protected by the order to the public or approved private school the
7 person restrained by the order will attend and to the school the
8 person protected by the order attends.

9 ~~((4))~~ (5) Denial of a remedy may not be based, in whole or in
10 part, on evidence that:

11 (a) The respondent was voluntarily intoxicated;

12 (b) The petitioner was voluntarily intoxicated; or

13 (c) The petitioner engaged in limited consensual sexual touching.

14 ~~((5))~~ (6) Monetary damages are not recoverable as a remedy.

15 ~~((6))~~ (7) A knowing violation of a court order issued under
16 this section is punishable under RCW 26.50.110.

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

19 (1) An ex parte temporary sexual assault protection order shall
20 issue if the petitioner satisfies the requirements of this subsection
21 by a preponderance of the evidence. The petitioner shall establish
22 that:

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

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

31 (2) 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 (3) If the respondent appears in court for this hearing for an ex
37 parte temporary order, he or she may elect to file a general
38 appearance and testify under oath. Any resulting order may be an ex
39 parte temporary order, governed by this section.

1 ~~((3))~~ (4) If the court declines to issue an ex parte temporary
2 sexual assault protection order, the court shall state the particular
3 reasons for the court's denial. The court's denial of a motion for an
4 ex parte temporary order shall be filed with the court.

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

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

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

12 (2) The sheriff of the county or the peace officers of the
13 municipality in which the respondent resides shall serve the
14 respondent personally unless the petitioner elects to have the
15 respondent served by a private party. If the order includes an order
16 under RCW 9.41.800 to immediately surrender all firearms, dangerous
17 weapons, and any concealed pistol license, the order must be served
18 by a law enforcement officer.

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

26 (4) If the sheriff or municipal peace officer cannot complete
27 service upon the respondent within ten days, the sheriff or municipal
28 peace officer shall notify the petitioner. The petitioner shall
29 provide information sufficient to permit notification.

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

32 (6) If an order entered by the court recites that the respondent
33 appeared in person before the court, the necessity for further
34 service is waived and proof of service of that order is not
35 necessary.

36 (7) If the court previously entered an order allowing service of
37 the notice of hearing and temporary order of protection by
38 publication under RCW 7.90.052 or service by mail under RCW 7.90.053,
39 the court may permit service by publication or service by mail of the

1 order of protection issued under this chapter. Service by publication
2 must comply with the requirements of RCW 7.90.052 and service by mail
3 must comply with the requirements of RCW 7.90.053. The court order
4 must state whether the court permitted service by publication or
5 service by mail.

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

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

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

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

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

24 (b) Exclude the respondent from the petitioner's residence,
25 workplace, or school, or from the day care, workplace, or school of
26 the petitioner's minor children;

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

30 (d) Prohibit the respondent from keeping the petitioner and/or
31 the petitioner's minor children under surveillance, to include
32 electronic surveillance;

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

36 (f) Require the respondent to pay the administrative court costs
37 and service fees, as established by the county or municipality
38 incurring the expense and to reimburse the petitioner for costs

1 incurred in bringing the action, including reasonable attorneys'
2 fees.

3 (3) 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 (4) Unless otherwise stated in the order, when a person is
9 petitioning on behalf of a minor child or vulnerable adult, the
10 relief authorized in this section shall apply only for the protection
11 of the victim, and not the petitioner.

12 ((+4)) (5) In cases where the petitioner and the respondent
13 attend the same public or private elementary, middle, or high school,
14 the court, when issuing a protection order and providing relief,
15 shall consider, among the other facts of the case, the severity of
16 the act, any continuing physical danger or emotional distress to the
17 petitioner, and the expense difficulty, and educational disruption
18 that would be caused by a transfer of the respondent to another
19 school. The court may order that the person restrained in the order
20 not attend the public or approved private elementary, middle, or high
21 school attended by the person protected by the order. In the event
22 the court orders a transfer of the restrained person to another
23 school, the parents or legal guardians of the person restrained in
24 the order are responsible for transportation and other costs
25 associated with the change of school by the person restrained in the
26 order. The court shall send notice of the restriction on attending
27 the same school as the person protected by the order to the public or
28 approved private school the person restrained by the order will
29 attend and to the school the person protected by the order attends.

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

32 (1) Where it appears from the petition and any additional
33 evidence that the respondent has engaged in stalking conduct and that
34 irreparable injury could result if an order is not issued immediately
35 without prior notice, the court may grant an ex parte temporary order
36 for protection, pending a full hearing and grant such injunctive
37 relief as it deems proper, including the relief as specified under
38 RCW 7.92.100 (2) (a) through (d) and (4).

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

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

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

13 ~~((4))~~ (5) An ex parte temporary stalking protection order shall
14 be effective for a fixed period not to exceed fourteen days or
15 twenty-four days if the court has permitted service by publication or
16 mail. The ex parte order may be reissued. A full hearing, as provided
17 in this chapter, shall be set for not later than fourteen days from
18 the issuance of the temporary order or not later than twenty-four
19 days if service by publication or by mail is permitted. Unless the
20 court has permitted service by publication or mail, the respondent
21 shall be personally served with a copy of the ex parte order along
22 with a copy of the petition and notice of the date set for the
23 hearing.

24 ~~((5))~~ (6) Any order issued under this section shall contain the
25 date and time of issuance and the expiration date and shall be
26 entered into a statewide judicial information system by the clerk of
27 the court within one judicial day after issuance.

28 ~~((6))~~ (7) If the court declines to issue an ex parte temporary
29 stalking protection order, the court shall state the particular
30 reasons for the court's denial. The court's denial of a motion for an
31 ex parte temporary order shall be filed with the court.

32 ~~((7))~~ (8) A knowing violation of a court order issued under
33 this section is punishable under RCW 26.50.110.

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

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

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

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

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

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

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

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

30 (a) The sheriff or municipal officer or private process server
31 files an affidavit stating that the officer or private process server
32 was unable to complete personal service upon the respondent. The
33 affidavit must describe the number and types of attempts the officer
34 or private process server made to complete service;

35 (b) The petitioner files an affidavit stating that the petitioner
36 believes that the respondent is hiding from the server to avoid
37 service. The petitioner's affidavit must state the reasons for the
38 belief that the respondent is avoiding service;

39 (c) The server has deposited a copy of the petition, notice of
40 hearing, and the ex parte order of protection in the post office,

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

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

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

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

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

28 ~~((+5))~~ (6) In any situation where an order is terminated or
29 modified before its expiration date, the clerk of the court shall
30 forward on or before the next judicial day a true copy of the
31 modified order or the termination order to the appropriate law
32 enforcement agency specified in the modified or termination order.
33 Upon receipt of the order, the law enforcement agency shall promptly
34 enter it in the computer-based criminal intelligence information
35 system, or if the order is terminated, remove the order from the
36 computer-based criminal intelligence information system.

37 **Sec. 11.** RCW 10.14.080 and 2011 c 307 s 3 are each amended to
38 read as follows:

1 (1) Upon filing a petition for a civil antiharassment protection
2 order under this chapter, the petitioner may obtain an ex parte
3 temporary antiharassment protection order. An ex parte temporary
4 antiharassment protection order may be granted with or without notice
5 upon the filing of an affidavit which, to the satisfaction of the
6 court, shows reasonable proof of unlawful harassment of the
7 petitioner by the respondent and that great or irreparable harm will
8 result to the petitioner if the temporary antiharassment protection
9 order is not granted. If the court declines to issue an ex parte
10 temporary antiharassment protection order, the court shall state the
11 particular reasons for the court's denial. The court's denial of a
12 motion for an ex parte temporary order shall be filed with the court.

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

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

36 (4) An order issued under this chapter shall be effective for not
37 more than one year unless the court finds that the respondent is
38 likely to resume unlawful harassment of the petitioner when the order
39 expires. If so, the court may enter an order for a fixed time
40 exceeding one year or may enter a permanent antiharassment protection

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

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

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

35 (a) Restraining the respondent from making any attempts to
36 contact the petitioner;

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

39 (c) Requiring the respondent to stay a stated distance from the
40 petitioner's residence and workplace (~~and~~

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

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

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

14 ((8)) (9) The court in granting an ex parte temporary
15 antiharassment protection order or a civil antiharassment protection
16 order((7)) shall not prohibit the respondent from the use or
17 enjoyment of real property to which the respondent has a cognizable
18 claim unless that order is issued under chapter 26.09 RCW or under a
19 separate action commenced with a summons and complaint to determine
20 title or possession of real property.

21 ((9)) (10) The court in granting an ex parte temporary
22 antiharassment protection order or a civil antiharassment protection
23 order((7)) shall not limit the respondent's right to care, control,
24 or custody of the respondent's minor child, unless that order is
25 issued under chapter 13.32A, 26.09, 26.10, or ((26.26)) 26.26B RCW.

26 ((10)) (11) A petitioner may not obtain an ex parte temporary
27 antiharassment protection order against a respondent if the
28 petitioner has previously obtained two such ex parte orders against
29 the same respondent but has failed to obtain the issuance of a civil
30 antiharassment protection order unless good cause for such failure
31 can be shown.

32 ((11)) (12) The court order shall specify the date an order
33 issued pursuant to subsections (4) and (5) of this section expires if
34 any. The court order shall also state whether the court issued the
35 protection order following personal service or service by publication
36 and whether the court has approved service by publication of an order
37 issued under this section.

38 **Sec. 12.** RCW 10.14.100 and 2002 c 117 s 3 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 (5) and (7) 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 an order
8 under RCW 9.41.800 to immediately surrender all firearms, dangerous
9 weapons, and any concealed pistol license, the order must be served
10 by a law enforcement officer.

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

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

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

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

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

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

38 Upon application with notice to all parties and after a hearing,
39 the court may modify the terms of an existing order under this

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

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

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

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

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

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

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

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

34 (~~(f) ((Considering the provisions of RCW 9.41.800; and~~
35 ~~(g))~~) Restraining the respondent from harassing, following,
36 keeping under physical or electronic surveillance, cyberstalking as
37 defined in RCW 9.61.260, and using telephonic, audiovisual, or other
38 electronic means to monitor the actions, location, or communication
39 of a victim of domestic violence, the victim's children, or members

1 of the victim's household. For the purposes of this subsection,
2 "communication" includes both "wire communication" and "electronic
3 communication" as defined in RCW 9.73.260.

4 (2) 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 (3) Irreparable injury under this section includes but is not
10 limited to situations in which the respondent has recently threatened
11 petitioner with bodily injury or has engaged in acts of domestic
12 violence against the petitioner.

13 ~~((3))~~ (4) The court shall hold an ex parte hearing in person or
14 by telephone on the day the petition is filed or on the following
15 judicial day.

16 ~~((4))~~ (5) An ex parte temporary order for protection shall be
17 effective for a fixed period not to exceed fourteen days or twenty-
18 four days if the court has permitted service by publication under RCW
19 26.50.085 or by mail under RCW 26.50.123. The ex parte temporary
20 order may be reissued. A full hearing, as provided in this chapter,
21 shall be set for not later than fourteen days from the issuance of
22 the ex parte temporary order or not later than twenty-four days if
23 service by publication or by mail is permitted. Except as provided in
24 RCW 26.50.050, 26.50.085, and 26.50.123, the respondent shall be
25 personally served with a copy of the ex parte temporary order along
26 with a copy of the petition and notice of the date set for the
27 hearing.

28 ~~((5))~~ (6) Any order issued under this section shall contain the
29 date and time of issuance and the expiration date and shall be
30 entered into a statewide judicial information system by the clerk of
31 the court within one judicial day after issuance.

32 ~~((6))~~ (7) If the court declines to issue an ex parte temporary
33 order for protection the court shall state the particular reasons for
34 the court's denial. The court's denial of a motion for an ex parte
35 temporary order ~~((e))~~ for protection shall be filed with the court.

36 **Sec. 15.** RCW 26.50.090 and 1995 c 246 s 10 are each amended to
37 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 an order
8 under RCW 9.41.800 to immediately surrender all firearms, dangerous
9 weapons, and any concealed pistol license, the order must be served
10 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 an order under
34 RCW 9.41.800 to immediately surrender all firearms, dangerous
35 weapons, and any concealed pistol license, the order must be served
36 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 ~~((9))~~ (10) 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.

29 NEW SECTION. **Sec. 19.** The following acts or parts of acts are
30 each repealed:

31 (1) RCW 9.41.802 (Proof of surrender and receipt pattern form—
32 Declaration of nonsurrender pattern form—Administrative office of the
33 courts to develop) and 2014 c 111 s 4; and

34 (2) RCW 9.41.810 (Penalty) and 1984 c 258 s 312, 1983 c 232 s 11,
35 1983 c 3 s 7, 1961 c 124 s 12, & 1935 c 172 s 16.

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