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SENATE BILL 6263

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State of Washington

53rd Legislature

1994 Regular Session

By Senators A. Smith and Quigley

Read first time 01/18/94. Referred to Committee on Law & Justice.

1 AN ACT Relating to the surrender of deadly weapons in domestic  
2 violence situations; amending RCW 9A.46.050, 10.14.080, 10.99.040,  
3 10.99.045, 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.137, and  
4 26.50.070; reenacting and amending RCW 9.41.010, 26.26.130, and  
5 26.50.060; and adding a new section to chapter 9.41 RCW.

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

7 **Sec. 1.** RCW 9.41.010 and 1992 c 205 s 117 and 1992 c 145 s 5 are  
8 each reenacted and amended to read as follows:

9 Unless the context clearly requires otherwise, the definitions in  
10 this section apply throughout this chapter.

11 (1) "Short firearm" or "pistol" (~~as used in this chapter~~) means  
12 any firearm with a barrel less than twelve inches in length.

13 (2) "Crime of violence" (~~as used in this chapter~~) means:

14 (a) Any of the following felonies, as now existing or hereafter  
15 amended: Any felony defined under any law as a class A felony or an  
16 attempt to commit a class A felony, criminal solicitation of or  
17 criminal conspiracy to commit a class A felony, manslaughter in the  
18 first degree, manslaughter in the second degree, indecent liberties if  
19 committed by forcible compulsion, rape in the second degree, kidnapping

1 in the second degree, arson in the second degree, assault in the second  
2 degree, assault of a child in the second degree, extortion in the first  
3 degree, burglary in the second degree, ~~((and))~~ robbery in the second  
4 degree, child molestation in the second degree, controlled substance  
5 homicide, incest when committed against a child under age fourteen,  
6 indecent liberties, leading organized crime, promoting prostitution in  
7 the first degree, rape in the third degree, sexual exploitation,  
8 vehicular assault, vehicular homicide, when proximately caused by the  
9 driving of any vehicle by any person while under the influence of  
10 intoxicating liquor or any drug as defined by RCW 46.61.502, or by the  
11 operation of any vehicle in a reckless manner, any other class B felony  
12 offense with a finding of sexual motivation, as "sexual motivation" is  
13 defined under RCW 9.94A.030, and any other felony with a deadly weapon  
14 verdict under RCW 9.94A.125;

15 (b) Any conviction or adjudication for a felony offense in effect  
16 at any time prior to ~~((July 1, 1976))~~ the effective date of this act,  
17 which is comparable to a felony classified as a crime of violence in  
18 subsection (2)(a) of this section; and

19 (c) Any federal or out-of-state conviction or adjudication for an  
20 offense comparable to a felony classified as a crime of violence under  
21 subsection (2) (a) or (b) of this section.

22 (3) "Firearm" ~~((as used in this chapter))~~ means a weapon or device  
23 from which a projectile may be fired by an explosive such as gunpowder.

24 (4) "Commercial seller" ~~((as used in this chapter))~~ means a person  
25 who has a federal firearms license.

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

28 (1) Any court when entering an order authorized under RCW  
29 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060,  
30 26.10.040, 26.10.115, 26.26.130, 26.26.137, 26.50.060, or 26.50.070  
31 shall, upon a showing by clear and convincing evidence, that a party  
32 has: Used, displayed, or threatened to use a deadly weapon as defined  
33 in RCW 9A.04.110 in a crime of violence; threatened a party or witness  
34 to the action; or previously committed any offense which makes him or  
35 her ineligible to possess a pistol under the provisions of RCW  
36 9.41.040:

37 (a) Require the party to surrender any deadly weapon;

1 (b) Require the party to surrender any concealed pistol license  
2 issued under RCW 9.41.070;

3 (c) Prohibit the party from obtaining or possessing a deadly  
4 weapon;

5 (d) Prohibit the party from obtaining or possessing a concealed  
6 pistol license.

7 (2) The court may order temporary surrender of a deadly weapon  
8 without notice to the other party if it finds, on the basis of the  
9 moving affidavit or other evidence, that irreparable injury could  
10 result if an order is not issued until the time for response has  
11 elapsed.

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

18 (4) The requirements of subsections (1) and (3) of this section may  
19 be for a period less than the duration of the order.

20 (5) The court may require the party to surrender any deadly weapon  
21 in his or her immediate possession or control or subject to his or her  
22 immediate possession or control to the sheriff of the county having  
23 jurisdiction of the proceeding or to the restrained or enjoined party's  
24 counsel or to any person designated by the court.

25 **Sec. 3.** RCW 9A.46.050 and 1985 c 288 s 5 are each amended to read  
26 as follows:

27 A defendant who is charged by citation, complaint, or information  
28 with an offense involving harassment and not arrested shall appear in  
29 court for arraignment in person as soon as practicable, but in no event  
30 later than fourteen days after the next day on which court is in  
31 session following the issuance of the citation or the filing of the  
32 complaint or information. At that appearance, the court shall  
33 determine the necessity of imposing a no-contact or no-harassment  
34 order, and consider the provisions of section 2 of this act, or other  
35 conditions of pretrial release according to the procedures established  
36 by court rule for preliminary appearance or an arraignment.

1       **Sec. 4.** RCW 10.14.080 and 1992 c 143 s 11 are each amended to read  
2 as follows:

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

12       (2) An ex parte temporary antiharassment protection order shall be  
13 effective for a fixed period not to exceed fourteen days or twenty-four  
14 days if the court has permitted service by publication under RCW  
15 10.14.085. The ex parte order may be reissued. A full hearing, as  
16 provided in this chapter, shall be set for not later than fourteen days  
17 from the issuance of the temporary order or not later than twenty-four  
18 days if service by publication is permitted. Except as provided in RCW  
19 10.14.070 and 10.14.085, the respondent shall be personally served with  
20 a copy of the ex parte order along with a copy of the petition and  
21 notice of the date set for the hearing.

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

25       (4) An order issued under this chapter shall be effective for not  
26 more than one year unless the court finds that the respondent is likely  
27 to resume unlawful harassment of the petitioner when the order expires.  
28 If so, the court may enter an order for a fixed time exceeding one year  
29 or may enter a permanent antiharassment protection order. The court  
30 shall not enter an order that is effective for more than one year if  
31 the order restrains the respondent from contacting the respondent's  
32 minor children. If the petitioner seeks relief for a period longer  
33 than one year on behalf of the respondent's minor children, the court  
34 shall advise the petitioner that the petitioner may apply for renewal  
35 of the order as provided in this chapter or if appropriate may seek  
36 relief pursuant to chapter 26.09 or 26.10 RCW.

37       (5) At any time within the three months before the expiration of  
38 the order, the petitioner may apply for a renewal of the order by  
39 filing a petition for renewal. The petition for renewal shall state

1 the reasons why the petitioner seeks to renew the protection order.  
2 Upon receipt of the petition for renewal, the court shall order a  
3 hearing which shall be not later than fourteen days from the date of  
4 the order. Except as provided in RCW 10.14.085, personal service shall  
5 be made upon the respondent not less than five days before the hearing.  
6 If timely service cannot be made the court shall set a new hearing date  
7 and shall either require additional attempts at obtaining personal  
8 service or permit service by publication as provided by RCW 10.14.085.  
9 If the court permits service by publication, the court shall set the  
10 new hearing date not later than twenty-four days from the date of the  
11 order. If the order expires because timely service cannot be made the  
12 court shall grant an ex parte order of protection as provided in this  
13 section. The court shall grant the petition for renewal unless the  
14 respondent proves by a preponderance of the evidence that the  
15 respondent will not resume harassment of the petitioner when the order  
16 expires. The court may renew the protection order for another fixed  
17 time period or may enter a permanent order as provided in subsection  
18 (4) of this section.

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

23 (a) Restraining the respondent from making any attempts to contact  
24 the petitioner;

25 (b) Restraining the respondent from making any attempts to keep the  
26 petitioner under surveillance; ~~((and))~~

27 (c) Requiring the respondent to stay a stated distance from the  
28 petitioner's residence and workplace; and

29 (d) Considering the provisions of section 2 of this act.

30 (7) A petitioner may not obtain an ex parte temporary  
31 antiharassment protection order against a respondent if the petitioner  
32 has previously obtained two such ex parte orders against the same  
33 respondent but has failed to obtain the issuance of a civil  
34 antiharassment protection order unless good cause for such failure can  
35 be shown.

36 (8) The court order shall specify the date an order issued pursuant  
37 to subsections (4) and (5) of this section expires if any. The court  
38 order shall also state whether the court issued the protection order  
39 following personal service or service by publication and whether the

1 court has approved service by publication of an order issued under this  
2 section.

3 **Sec. 5.** RCW 10.99.040 and 1992 c 86 s 2 are each amended to read  
4 as follows:

5 (1) Because of the serious nature of domestic violence, the court  
6 in domestic violence actions:

7 (a) Shall not dismiss any charge or delay disposition because of  
8 concurrent dissolution or other civil proceedings;

9 (b) Shall not require proof that either party is seeking a  
10 dissolution of marriage prior to instigation of criminal proceedings;

11 (c) Shall waive any requirement that the victim's location be  
12 disclosed to any person, other than the attorney of a criminal  
13 defendant, upon a showing that there is a possibility of further  
14 violence: PROVIDED, That the court may order a criminal defense  
15 attorney not to disclose to his or her client the victim's location;  
16 and

17 (d) Shall identify by any reasonable means on docket sheets those  
18 criminal actions arising from acts of domestic violence.

19 (2) Because of the likelihood of repeated violence directed at  
20 those who have been victims of domestic violence in the past, when any  
21 person charged with or arrested for a crime involving domestic violence  
22 is released from custody before arraignment or trial on bail or  
23 personal recognizance, the court authorizing the release may prohibit  
24 that person from having any contact with the victim. The jurisdiction  
25 authorizing the release shall determine whether that person should be  
26 prohibited from having any contact with the victim. If there is no  
27 outstanding restraining or protective order prohibiting that person  
28 from having contact with the victim, the court authorizing release may  
29 issue, by telephone, a no-contact order prohibiting the person charged  
30 or arrested from having contact with the victim. In issuing the order,  
31 the court shall consider the provisions of section 2 of this act. The  
32 no-contact order shall also be issued in writing as soon as possible.  
33 ~~((If the court has probable cause to believe that the person charged or~~  
34 ~~arrested is likely to use or display or threaten to use a deadly weapon~~  
35 ~~as defined in RCW 9A.04.110 in any further acts of violence, the court~~  
36 ~~may also require that person to surrender any deadly weapon in that~~  
37 ~~person's immediate possession or control, or subject to that person's~~  
38 ~~immediate possession or control, to the sheriff of the county or chief~~

1 of police of the municipality in which that person resides or to the  
2 defendant's counsel for safekeeping.))

3 (3) At the time of arraignment the court shall determine whether a  
4 no-contact order shall be issued or extended. If a no-contact order is  
5 issued or extended, the court may also include in the conditions of  
6 release a requirement that the defendant submit to electronic  
7 monitoring. If electronic monitoring is ordered, the court shall  
8 specify who shall provide the monitoring services, and the terms under  
9 which the monitoring shall be performed. Upon conviction, the court  
10 may require as a condition of the sentence that the defendant reimburse  
11 the providing agency for the costs of the electronic monitoring.

12 (4)(a) Willful violation of a court order issued under subsection  
13 (2) or (3) of this section is a misdemeanor. Upon conviction and in  
14 addition to other penalties provided by law, the court may require that  
15 the defendant submit to electronic monitoring. The court shall specify  
16 who shall provide the electronic monitoring services and the terms  
17 under which the monitoring must be performed. The court also may  
18 include a requirement that the defendant pay the costs of the  
19 monitoring. The court shall consider the ability of the convicted  
20 person to pay for electronic monitoring.

21 (b) Any assault that is a violation of an order issued under this  
22 section and that does not amount to assault in the first or second  
23 degree under RCW 9A.36.011 or 9A.36.021 is a class C felony, and any  
24 conduct in violation of a protective order issued under this section  
25 that is reckless and creates a substantial risk of death or serious  
26 physical injury to another person is a class C felony.

27 (c) The written order releasing the person charged or arrested  
28 shall contain the court's directives and shall bear the legend:  
29 Violation of this order is a criminal offense under chapter 10.99 RCW  
30 and will subject a violator to arrest; any assault or reckless  
31 endangerment that is a violation of this order is a felony. A  
32 certified copy of the order shall be provided to the victim. If a no-  
33 contact order has been issued prior to charging, that order shall  
34 expire at arraignment or within seventy-two hours if charges are not  
35 filed. Such orders need not be entered into the computer information  
36 system in this state which is used by law enforcement agencies to list  
37 outstanding warrants.

38 (5) Whenever an order prohibiting contact is issued, modified, or  
39 terminated under subsection (2) or (3) of this section, the clerk of

1 the court shall forward a copy of the order on or before the next  
2 judicial day to the appropriate law enforcement agency specified in the  
3 order. Upon receipt of the copy of the order the law enforcement  
4 agency shall forthwith enter the order for one year or until the  
5 expiration date specified on the order into any computer information  
6 system available in this state used by law enforcement agencies to list  
7 outstanding warrants. Entry into the law enforcement information  
8 system constitutes notice to all law enforcement agencies of the  
9 existence of the order. The order is fully enforceable in any  
10 jurisdiction in the state.

11 **Sec. 6.** RCW 10.99.045 and 1984 c 263 s 23 are each amended to read  
12 as follows:

13 (1) A defendant arrested for an offense involving domestic violence  
14 as defined by RCW 10.99.020(2) shall be required to appear in person  
15 before a magistrate within one judicial day after the arrest.

16 (2) A defendant who is charged by citation, complaint, or  
17 information with an offense involving domestic violence as defined by  
18 RCW 10.99.020(2) and not arrested shall appear in court for arraignment  
19 in person as soon as practicable, but in no event later than fourteen  
20 days after the next day on which court is in session following the  
21 issuance of the citation or the filing of the complaint or information.

22 (3) At the time of the appearances provided in subsection (1) or  
23 (2) of this section, the court shall determine the necessity of  
24 imposing a no contact order or other conditions of pretrial release  
25 according to the procedures established by court rule for a preliminary  
26 appearance or an arraignment. ~~((If the court has probable cause to  
27 believe that the defendant is likely to use or display or threaten to  
28 use a deadly weapon as defined in RCW 9A.04.110 in any further acts of  
29 violence, as one of the conditions of pretrial release, the court may  
30 require the defendant to surrender any deadly weapon in the defendant's  
31 immediate possession or control, or subject to the defendant's  
32 immediate possession or control, to the sheriff of the county or chief  
33 of police of the municipality in which the defendant resides or to the  
34 defendant's counsel for safekeeping. The decision of the judge and  
35 findings of fact in support thereof shall be in writing.)) The court  
36 may include in the order any conditions authorized under section 2 of  
37 this act.~~

1 (4) Appearances required pursuant to this section are mandatory and  
2 cannot be waived.

3 (5) The no-contact order shall be issued and entered with the  
4 appropriate law enforcement agency pursuant to the procedures outlined  
5 in RCW 10.99.040 (2) and (4).

6 **Sec. 7.** RCW 26.09.050 and 1989 c 375 s 29 are each amended to read  
7 as follows:

8 In entering a decree of dissolution of marriage, legal separation,  
9 or declaration of invalidity, the court shall determine the marital  
10 status of the parties, make provision for a parenting plan for any  
11 minor child of the marriage, make provision for the support of any  
12 child of the marriage entitled to support, consider or approve  
13 provision for the maintenance of either spouse, make provision for the  
14 disposition of property and liabilities of the parties, make provision  
15 for the allocation of the children as federal tax exemptions, make  
16 provision for any necessary continuing restraining orders including the  
17 provisions contained in section 2 of this act, and make provision for  
18 the change of name of any party.

19 **Sec. 8.** RCW 26.09.060 and 1992 c 229 s 9 are each amended to read  
20 as follows:

21 (1) In a proceeding for:

22 (a) Dissolution of marriage, legal separation, or a declaration of  
23 invalidity; or

24 (b) Disposition of property or liabilities, maintenance, or support  
25 following dissolution of the marriage by a court which lacked personal  
26 jurisdiction over the absent spouse; either party may move for  
27 temporary maintenance or for temporary support of children entitled to  
28 support. The motion shall be accompanied by an affidavit setting forth  
29 the factual basis for the motion and the amounts requested.

30 (2) As a part of a motion for temporary maintenance or support or  
31 by independent motion accompanied by affidavit, either party may  
32 request the court to issue a temporary restraining order or preliminary  
33 injunction, providing relief proper in the circumstances, and  
34 restraining or enjoining any person from:

35 (a) Transferring, removing, encumbering, concealing, or in any way  
36 disposing of any property except in the usual course of business or for  
37 the necessities of life, and, if so restrained or enjoined, requiring

1 him or her to notify the moving party of any proposed extraordinary  
2 expenditures made after the order is issued;

3 (b) ~~Molesting or disturbing the peace of the other party or of any  
4 child ((and, upon a showing by clear and convincing evidence that the  
5 party so restrained or enjoined has used or displayed or threatened to  
6 use a deadly weapon as defined in RCW 9A.04.110 in an act of violence  
7 or has previously committed acts of domestic violence and is likely to  
8 use or display or threaten to use a deadly weapon in an act of domestic  
9 violence, requiring the party to surrender any deadly weapon in his  
10 immediate possession or control or subject to his immediate possession  
11 or control to the sheriff of the county having jurisdiction of the  
12 proceeding or to the restrained or enjoined party's counsel or to any  
13 person designated by the court. The court may order temporary  
14 surrender of deadly weapons without notice to the other party only if  
15 it finds on the basis of the moving affidavit or other evidence that  
16 irreparable injury could result if an order is not issued until the  
17 time for response has elapsed))~~;

18 (c) Entering the family home or the home of the other party upon a  
19 showing of the necessity therefor;

20 (d) Removing a child from the jurisdiction of the court.

21 (3) In issuing the order, the court shall consider the provisions  
22 of section 2 of this act.

23 (4) The court may issue a temporary restraining order without  
24 requiring notice to the other party only if it finds on the basis of  
25 the moving affidavit or other evidence that irreparable injury could  
26 result if an order is not issued until the time for responding has  
27 elapsed.

28 ~~((+4))~~ (5) The court may issue a temporary restraining order or  
29 preliminary injunction and an order for temporary maintenance or  
30 support in such amounts and on such terms as are just and proper in the  
31 circumstances. The court may in its discretion waive the filing of the  
32 bond or the posting of security.

33 ~~((+5))~~ (6) Restraining orders issued under this section  
34 restraining the person from molesting or disturbing another party or  
35 from entering a party's home shall bear the legend: VIOLATION OF THIS  
36 ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER  
37 CHAPTER 26.09 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

38 ~~((+6))~~ (7) The court may order that any temporary restraining  
39 order granted under this section be forwarded by the clerk of the court

1 on or before the next judicial day to the appropriate law enforcement  
2 agency specified in the order. Upon receipt of the order, the law  
3 enforcement agency shall forthwith enter the order for one year into  
4 any computer-based criminal intelligence information system available  
5 in this state used by law enforcement agencies to list outstanding  
6 warrants. Entry into the law enforcement information system  
7 constitutes notice to all law enforcement agencies of the existence of  
8 the order. The order is fully enforceable in any county in the state.

9 ~~((+7))~~ (8) A temporary order, temporary restraining order, or  
10 preliminary injunction:

11 (a) Does not prejudice the rights of a party or any child which are  
12 to be adjudicated at subsequent hearings in the proceeding;

13 (b) May be revoked or modified;

14 (c) Terminates when the final decree is entered, except as provided  
15 under subsection ~~((+8))~~ (9) of this section, or when the petition for  
16 dissolution, legal separation, or declaration of invalidity is  
17 dismissed;

18 (d) May be entered in a proceeding for the modification of an  
19 existing decree.

20 ~~((+8))~~ (9) Delinquent support payments accrued under an order for  
21 temporary support remain collectible and are not extinguished when a  
22 final decree is entered unless the decree contains specific language to  
23 the contrary. A support debt under a temporary order owed to the state  
24 for public assistance expenditures shall not be extinguished by the  
25 final decree if:

26 (a) The obligor was given notice of the state's interest under  
27 chapter 74.20A RCW; or

28 (b) The temporary order directs the obligor to make support  
29 payments to the office of support enforcement or the Washington state  
30 support registry.

31 **Sec. 9.** RCW 26.10.040 and 1989 c 375 s 31 are each amended to read  
32 as follows:

33 In entering an order under this chapter, the court shall consider,  
34 approve, or make provision for:

35 (1) Child custody, visitation, and the support of any child  
36 entitled to support;

37 (2) The allocation of the children as a federal tax exemption; and

1 (3) Any necessary continuing restraining orders, including the  
2 provisions contained in section 2 of this act.

3 **Sec. 10.** RCW 26.10.115 and 1989 c 375 s 32 are each amended to  
4 read as follows:

5 (1) In a proceeding under this chapter either party may file a  
6 motion for temporary support of children entitled to support. The  
7 motion shall be accompanied by an affidavit setting forth the factual  
8 basis for the motion and the amount requested.

9 (2) In a proceeding under this chapter either party may file a  
10 motion for a temporary restraining order or preliminary injunction,  
11 providing relief proper in the circumstances, and restraining or  
12 enjoining any person from:

13 (a) ~~Molesting or disturbing the peace of the other party or of any~~  
14 ~~child ((and, upon a showing by clear and convincing evidence that the~~  
15 ~~party so restrained or enjoined has used or displayed or threatened to~~  
16 ~~use a deadly weapon as defined in RCW 9A.04.110 in an act of violence~~  
17 ~~or has previously committed acts of domestic violence and is likely to~~  
18 ~~use or display or threaten to use a deadly weapon in an act of domestic~~  
19 ~~violence, requiring the party to surrender any deadly weapon in his~~  
20 ~~immediate possession or control or subject to his immediate possession~~  
21 ~~or control to the sheriff of the county having jurisdiction of the~~  
22 ~~proceeding or to the restrained or enjoined party's counsel or to any~~  
23 ~~person designated by the court. The court may order temporary~~  
24 ~~surrender of deadly weapons without notice to the other party only if~~  
25 ~~it finds on the basis of the moving affidavit or other evidence that~~  
26 ~~irreparable injury could result if an order is not issued until the~~  
27 ~~time for response has elapsed))~~;

28 (b) Entering the family home or the home of the other party upon a  
29 showing of the necessity therefor;

30 (c) Removing a child from the jurisdiction of the court.

31 (3) In issuing the order, the court shall consider the provisions  
32 of section 2 of this act.

33 (4) The court may issue a temporary restraining order without  
34 requiring notice to the other party only if it finds on the basis of  
35 the moving affidavit or other evidence that irreparable injury could  
36 result if an order is not issued until the time for responding has  
37 elapsed.

1       (~~(4)~~) (5) The court may issue a temporary restraining order or  
2 preliminary injunction and an order for temporary support in such  
3 amounts and on such terms as are just and proper in the circumstances.

4       (~~(5)~~) (6) Restraining orders issued under this section  
5 restraining the person from molesting or disturbing another party or  
6 from entering a party's home shall bear the legend: VIOLATION OF THIS  
7 ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER  
8 CHAPTER 26.10 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

9       (~~(6)~~) (7) The court may order that any temporary restraining  
10 order granted under this section be forwarded by the clerk of the court  
11 on or before the next judicial day to the appropriate law enforcement  
12 agency specified in the order. Upon receipt of the order, the law  
13 enforcement agency shall forthwith enter the order for one year into  
14 any computer-based criminal intelligence information system available  
15 in this state used by law enforcement agencies to list outstanding  
16 warrants. Entry into the law enforcement information system  
17 constitutes notice to all law enforcement agencies of the existence of  
18 the order. The order is fully enforceable in any county in the state.

19       (~~(7)~~) (8) A temporary order, temporary restraining order, or  
20 preliminary injunction:

21       (a) Does not prejudice the rights of a party or any child which are  
22 to be adjudicated at subsequent hearings in the proceeding;

23       (b) May be revoked or modified;

24       (c) Terminates when the final order is entered or when the motion  
25 is dismissed;

26       (d) May be entered in a proceeding for the modification of an  
27 existing order.

28       (~~(8)~~) (9) A support debt owed to the state for public assistance  
29 expenditures which has been charged against a party pursuant to RCW  
30 74.20A.040 and/or 74.20A.055 shall not be merged in, or otherwise  
31 extinguished by, the final decree or order, unless the office of  
32 support enforcement has been given notice of the final proceeding and  
33 an opportunity to present its claim for the support debt to the court  
34 and has failed to file an affidavit as provided in this subsection.  
35 Notice of the proceeding shall be served upon the office of support  
36 enforcement personally, or by certified mail, and shall be given no  
37 fewer than thirty days prior to the date of the final proceeding. An  
38 original copy of the notice shall be filed with the court either before  
39 service or within a reasonable time thereafter. The office of support

1 enforcement may present its claim, and thereby preserve the support  
2 debt, by filing an affidavit setting forth the amount of the debt with  
3 the court, and by mailing a copy of the affidavit to the parties or  
4 their attorney prior to the date of the final proceeding.

5 **Sec. 11.** RCW 26.26.130 and 1989 c 375 s 23 and 1989 c 360 s 18 are  
6 each reenacted and amended to read as follows:

7 (1) The judgment and order of the court determining the existence  
8 or nonexistence of the parent and child relationship shall be  
9 determinative for all purposes.

10 (2) If the judgment and order of the court is at variance with the  
11 child's birth certificate, the court shall order that an amended birth  
12 certificate be issued.

13 (3) The judgment and order shall contain other appropriate  
14 provisions directed to the appropriate parties to the proceeding,  
15 concerning the duty of current and future support, the extent of any  
16 liability for past support furnished to the child if that issue is  
17 before the court, the furnishing of bond or other security for the  
18 payment of the judgment, or any other matter in the best interest of  
19 the child. The judgment and order may direct the father to pay the  
20 reasonable expenses of the mother's pregnancy and confinement. The  
21 judgment and order may include a continuing restraining order or  
22 injunction. In issuing the order, the court shall consider the  
23 provisions of section 2 of this act.

24 (4) Support judgment and orders shall be for periodic payments  
25 which may vary in amount. The court may limit the father's liability  
26 for the past support to the child to the proportion of the expenses  
27 already incurred as the court deems just. The court shall not limit or  
28 affect in any manner the right of nonparties including the state of  
29 Washington to seek reimbursement for support and other services  
30 previously furnished to the child.

31 (5) After considering all relevant factors, the court shall order  
32 either or both parents to pay an amount determined pursuant to the  
33 schedule and standards (~~adopted under RCW 26.19.040~~) contained in  
34 chapter 26.19 RCW.

35 (6) On the same basis as provided in chapter 26.09 RCW, the court  
36 shall make residential provisions with regard to minor children of the  
37 parties, except that a parenting plan shall not be required unless  
38 requested by a party.

1 (7) In any dispute between the natural parents of a child and a  
2 person or persons who have (a) commenced adoption proceedings or who  
3 have been granted an order of adoption, and (b) pursuant to a court  
4 order, or placement by the department of social and health services or  
5 by a licensed agency, have had actual custody of the child for a period  
6 of one year or more before court action is commenced by the natural  
7 parent or parents, the court shall consider the best welfare and  
8 interests of the child, including the child's need for situation  
9 stability, in determining the matter of custody, and the parent or  
10 person who is more fit shall have the superior right to custody.

11 **Sec. 12.** RCW 26.26.137 and 1983 1st ex.s. c 41 s 12 are each  
12 amended to read as follows:

13 (1) If the court has made a finding as to the paternity of a child,  
14 or if a party's acknowledgment of paternity has been filed with the  
15 court, or a party alleges he is the father of the child, any party may  
16 move for temporary support for the child prior to the date of entry of  
17 the final order. The motion shall be accompanied by an affidavit  
18 setting forth the factual basis for the motion and the amounts  
19 requested.

20 (2) Any party may request the court to issue a temporary  
21 restraining order or preliminary injunction, providing relief proper in  
22 the circumstances, and restraining or enjoining any party from:

- 23 (a) Molesting or disturbing the peace of another party;  
24 (b) Entering the home of another party; or  
25 (c) Removing a child from the jurisdiction of the court.

26 (3) The court may issue a temporary restraining order without  
27 requiring notice to the other party only if it finds on the basis of  
28 the moving affidavit or other evidence that irreparable injury could  
29 result if an order is not issued until the time for responding has  
30 elapsed.

31 (4) The court may issue a temporary restraining order or  
32 preliminary injunction and an order for temporary support in such  
33 amounts and on such terms as are just and proper in the circumstances.  
34 In issuing the order, the court shall consider the provisions of  
35 section 2 of this act.

36 (5) A temporary order, temporary restraining order, or preliminary  
37 injunction:

1 (a) Does not prejudice the rights of a party or any child which are  
2 to be adjudicated at subsequent hearings in the proceeding;

3 (b) May be revoked or modified;

4 (c) Terminates when the final order is entered or when the petition  
5 is dismissed; and

6 (d) May be entered in a proceeding for the modification of an  
7 existing order.

8 (6) A support debt owed to the state for public assistance  
9 expenditures which has been charged against a party pursuant to RCW  
10 74.20A.040 and/or 74.20A.055 shall not be merged in, or otherwise  
11 extinguished by, the final decree or order, unless the office of  
12 support enforcement has been given notice of the final proceeding and  
13 an opportunity to present its claim for the support debt to the court  
14 and has failed to file an affidavit as provided in this subsection.  
15 Notice of the proceeding shall be served upon the office of support  
16 enforcement personally, or by certified mail, and shall be given no  
17 fewer than thirty days prior to the date of the final proceeding. An  
18 original copy of the notice shall be filed with the court either before  
19 service or within a reasonable time thereafter. The office of support  
20 enforcement may present its claim, and thereby preserve the support  
21 debt, by filing an affidavit setting forth the amount of the debt with  
22 the court, and by mailing a copy of the affidavit to the parties or  
23 their attorney prior to the date of the final proceeding.

24 **Sec. 13.** RCW 26.50.060 and 1992 c 143 s 2, 1992 c 111 s 4, and  
25 1992 c 86 s 4 are each reenacted and amended to read as follows:

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

28 (a) Restrain the respondent from committing acts of domestic  
29 violence;

30 (b) Exclude the respondent from the dwelling which the parties  
31 share or from the residence of the petitioner;

32 (c) On the same basis as is provided in chapter 26.09 RCW, the  
33 court shall make residential provision with regard to minor children of  
34 the parties. However, parenting plans as specified in chapter 26.09  
35 RCW shall not be required under this chapter;

36 (d) Order the respondent to participate in batterers' treatment;

37 (e) Order other relief as it deems necessary for the protection of  
38 the petitioner and other family or household members sought to be

1 protected, including orders or directives to a peace officer, as  
2 allowed under this chapter;

3 (f) Require the respondent to pay the filing fee and court costs,  
4 including service fees, and to reimburse the petitioner for costs  
5 incurred in bringing the action, including a reasonable attorney's fee.  
6 If the petitioner has been granted leave to proceed in forma pauperis,  
7 the court may require the respondent to pay the filing fee and costs,  
8 including services fees, to the county or municipality incurring the  
9 expense;

10 (g) Restrain the respondent from having any contact with the victim  
11 of domestic violence or the victim's children or members of the  
12 victim's household; (~~and~~)

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

19 (i) Consider the provisions of section 2 of this act.

20 (2) Any relief granted by the order for protection, other than a  
21 judgment for costs, shall be for a fixed period not to exceed one year  
22 if the restraining order restrains the respondent from contacting the  
23 respondent's minor children. If the petitioner has petitioned for  
24 relief on his or her own behalf or on behalf of the petitioner's family  
25 or household members or minor children that are not also the  
26 respondent's minor children, and the court finds that the respondent is  
27 likely to resume acts of domestic violence against the petitioner or  
28 the petitioner's family or household members or minor children when the  
29 order expires, the court may either (a) grant relief for a fixed period  
30 not to exceed one year; (b) grant relief for a fixed period in excess  
31 of one year; or (c) enter a permanent order of protection.

32 If the petitioner has petitioned for relief on behalf of the  
33 respondent's minor children, the court shall advise the petitioner that  
34 if the petitioner wants to continue protection for a period beyond one  
35 year the petitioner may either petition for renewal pursuant to the  
36 provisions of this chapter or may seek relief pursuant to the  
37 provisions of chapter 26.09 RCW.

38 (3) If the court grants an order for a fixed time period, the  
39 petitioner may apply for renewal of the order by filing a petition for

1 renewal at any time within the three months before the order expires.  
2 The petition for renewal shall state the reasons why the petitioner  
3 seeks to renew the protection order. Upon receipt of the petition for  
4 renewal the court shall order a hearing which shall be not later than  
5 fourteen days from the date of the order. Except as provided in RCW  
6 26.50.085, personal service shall be made on the respondent not less  
7 than five days before the hearing. If timely service cannot be made  
8 the court shall set a new hearing date and shall either require  
9 additional attempts at obtaining personal service or permit service by  
10 publication as provided in RCW 26.50.085. If the court permits service  
11 by publication, the court shall set the new hearing date not later than  
12 twenty-four days from the date of the order. If the order expires  
13 because timely service cannot be made the court shall grant an ex parte  
14 order of protection as provided in RCW 26.50.070. The court shall  
15 grant the petition for renewal unless the respondent proves by a  
16 preponderance of the evidence that the respondent will not resume acts  
17 of domestic violence against the petitioner or the petitioner's  
18 children or family or household members when the order expires. The  
19 court may renew the protection order for another fixed time period or  
20 may enter a permanent order as provided in this section. The court may  
21 award court costs, service fees, and reasonable attorneys' fees as  
22 provided in subsection (1)(f) of this section.

23 (4) In providing relief under this chapter, the court may realign  
24 the designation of the parties as "petitioner" and "respondent" where  
25 the court finds that the original petitioner is the abuser and the  
26 original respondent is the victim of domestic violence and may issue an  
27 ex parte temporary order for protection in accordance with RCW  
28 26.50.070 on behalf of the victim until the victim is able to prepare  
29 a petition for an order for protection in accordance with RCW  
30 26.50.030.

31 (5) Except as provided in subsection (4) of this section, no order  
32 for protection shall grant relief to any party except upon notice to  
33 the respondent and hearing pursuant to a petition or counter-petition  
34 filed and served by the party seeking relief in accordance with RCW  
35 26.50.050.

36 (6) The court order shall specify the date the order expires if  
37 any. The court order shall also state whether the court issued the  
38 protection order following personal service or service by publication

1 and whether the court has approved service by publication of an order  
2 issued under this section.

3 **Sec. 14.** RCW 26.50.070 and 1992 c 143 s 3 are each amended to read  
4 as follows:

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

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

13 (b) Excluding any party from the dwelling shared or from the  
14 residence of the other until further order of the court;

15 (c) Restraining any party from interfering with the other's custody  
16 of the minor children or from removing the children from the  
17 jurisdiction of the court; ((and))

18 (d) Restraining any party from having any contact with the victim  
19 of domestic violence or the victim's children or members of the  
20 victim's household; and

21 (e) Considering the provisions of section 2 of this act.

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

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

29 (4) An ex parte temporary order for protection shall be effective  
30 for a fixed period not to exceed fourteen days or twenty-four days if  
31 the court has permitted service by publication under RCW 26.50.085.  
32 The ex parte order may be reissued. A full hearing, as provided in  
33 this chapter, shall be set for not later than fourteen days from the  
34 issuance of the temporary order or not later than twenty-four days if  
35 service by publication is permitted. Except as provided in RCW  
36 26.50.050 and 26.50.085, the respondent shall be personally served with

- 1 a copy of the ex parte order along with a copy of the petition and
- 2 notice of the date set for the hearing.

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