**2542-S AMH NEAL H4590.1 - NOT FOR FLOOR USE**

**SHB 2542** - H AMD **747**

By Representative Nealey

Strike everything after the enacting clause and insert the following:

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

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

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

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

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

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

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

(f) Considering the provisions of RCW 9.41.800; and

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

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

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

(4) An ex parte temporary order for protection shall be effective for a fixed period not to exceed fourteen days or twenty-four days if the court has permitted service by publication under RCW 26.50.085 or by mail under RCW 26.50.123. The ex parte order may be reissued. A full hearing, as provided in this chapter, shall be set for not later than fourteen days from the issuance of the temporary order or not later than twenty-four days if service by publication or by mail is permitted. In the instance where an ex parte temporary order for protection is issued prior to the expiration of an emergency ex parte temporary domestic violence protection order pursuant to section 2 of this act, a full hearing shall be set for not later than fourteen days from the issuance of the emergency ex parte temporary domestic violence protection order or not later than twenty-four days if service by publication or by mail is permitted. Except as provided in RCW 26.50.050, 26.50.085, and 26.50.123, the respondent shall be personally served with a copy of the ex parte order along with a copy of the petition and notice of the date set for the hearing.

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

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

NEW SECTION. **Sec.**  A new section is added to chapter 26.50 RCW to read as follows:

There shall exist an action known as an emergency ex parte temporary domestic violence protection order.

(1) Where a law enforcement officer responds to an act of domestic violence which has occurred, an act of domestic violence which is occurring, or a credible threat of future domestic violence likely to occur outside of normal court hours and a party expresses a fear of imminent physical harm, bodily injury, or assault, between family or household members, a party may request to file an emergency ex parte temporary domestic violence protection order via telephone. The petitioning party alleging the domestic violence must present to the court by telephone under penalty of perjury a sworn petition setting forth the need for an emergency ex parte temporary domestic violence protection order. A court may issue an order if the court finds reasonable grounds that irreparable injury could result from domestic violence if an order is not issued without prior notice to the respondent. Sworn telephonic testimony may be considered by the court in determining whether there are sufficient grounds for issuing the order. The petition shall include the location and telephone number of the alleged perpetrator, if known. The petitioner shall disclose the existence of any other litigation or of any other restraining, protection, or no-contact orders between the parties. The court may grant any relief as the court deems proper, including any relief authorized under RCW 26.50.070. When an emergency ex parte temporary domestic violence protection order is granted pursuant to this subsection by the court via telephone, the responding law enforcement officer shall: (a) If necessary, pursuant to the on-call judicial officer's oral approval, write and sign the order on an approved form; (b) if possible, immediately serve a signed copy of the order on the respondent and complete the appropriate affidavit of service; (c) if the respondent is not available, immediately forward the order to the appropriate law enforcement agency specified in the order for service upon the respondent; (d) immediately provide the petitioner with a signed copy of the order; and (e) provide the original petition, order, and return of service to the court by the close of business on the next judicial day.

(2) A petition for relief may be made regardless of whether or not there is a pending lawsuit, complaint, petition, or other action between the parties.

(3) An emergency ex parte temporary domestic violence protection order is effective for a period of seventy-two hours. The petitioning party may petition for an ex parte temporary order for protection on the next judicial day pursuant to RCW 26.50.070."

Correct the title.

EFFECT: Makes the following changes:

(1) Creates a new emergency ex parte temporary domestic violence protection order that expires seventy-two hours from issuance. The court may grant any relief deemed proper, including any relief authorized under an ex parte temporary order for protection.

(2) Extends the ability to issue an emergency ex parte temporary domestic violence protection order to all courts of limited jurisdiction.

(3) Clarifies that the petitioning party alleging the domestic violence presents the telephonic petition under penalty of perjury.

(4) Requires the petitioner to disclose the existence of pending litigation or other restraining, protection, or no-contact orders between the parties.