
SENATE BILL 6103

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By Senators Nelson, Rasmussen, Thorsness, M. Kreidler, Sutherland and Erwin

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1 AN ACT Relating to using electronic monitoring as a condition of
2 release or condition of probation; amending RCW 9.95.210, 10.99.040,
3 26.50.010, 26.50.060, and 26.50.110; and prescribing penalties.

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

5 **Sec. 1.** RCW 9.95.210 and 1987 c 202 s 146 are each amended to read
6 as follows:

7 In granting probation, the court may suspend the imposition or the
8 execution of the sentence and may direct that the suspension may
9 continue upon such conditions and for such time as it shall designate,
10 not exceeding the maximum term of sentence or two years, whichever is
11 longer.

12 In the order granting probation and as a condition thereof, the
13 court may in its discretion imprison the defendant in the county jail
14 for a period not exceeding one year and may fine the defendant any sum

1 not exceeding the statutory limit for the offense committed, and court
2 costs. As a condition of probation, the court shall require the
3 payment of the penalty assessment required by RCW 7.68.035. The court
4 may also require the defendant to make such monetary payments, on such
5 terms as it deems appropriate under the circumstances, as are necessary
6 (1) to comply with any order of the court for the payment of family
7 support, (2) to make restitution to any person or persons who may have
8 suffered loss or damage by reason of the commission of the crime in
9 question or when the offender pleads guilty to a lesser offense or
10 fewer offenses and agrees with the prosecutor's recommendation that the
11 offender be required to pay restitution to a victim of an offense or
12 offenses which are not prosecuted pursuant to a plea agreement, (3) to
13 pay such fine as may be imposed and court costs, including
14 reimbursement of the state for costs of extradition if return to this
15 state by extradition was required, ~~((and))~~ (4) to pay for the costs of
16 electronic monitoring if that monitoring was required by the court as
17 a condition of release from custody or as a condition of probation, and
18 (5) to contribute to a county or interlocal drug fund, and may require
19 bonds for the faithful observance of any and all conditions imposed in
20 the probation. The court shall order the probationer to report to the
21 secretary of corrections or such officer as the secretary may designate
22 and as a condition of the probation to follow implicitly the
23 instructions of the secretary. If the probationer has been ordered to
24 make restitution, the officer supervising the probationer shall make a
25 reasonable effort to ascertain whether restitution has been made. If
26 restitution has not been made as ordered, the officer shall inform the
27 prosecutor of that violation of the terms of probation not less than
28 three months prior to the termination of the probation period. The
29 secretary of corrections will promulgate rules and regulations for the
30 conduct of the person during the term of probation. For defendants

1 found guilty in district court, like functions as the secretary
2 performs in regard to probation may be performed by probation officers
3 employed for that purpose by the county legislative authority of the
4 county wherein the court is located.

5 **Sec. 2.** RCW 10.99.040 and 1991 c 301 s 4 are each amended to read
6 as follows:

7 (1) Because of the serious nature of domestic violence, the court
8 in domestic violence actions:

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

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

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

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

20 (2) Because of the likelihood of repeated violence directed at
21 those who have been victims of domestic violence in the past, when any
22 person charged with or arrested for a crime involving domestic violence
23 is released from custody before arraignment or trial on bail or
24 personal recognizance, the court authorizing the release may prohibit
25 that person from having any contact with the victim. The jurisdiction
26 authorizing the release shall determine whether that person should be
27 prohibited from having any contact with the victim. If there is no
28 outstanding restraining or protective order prohibiting that person
29 from having contact with the victim, the court authorizing release may

1 issue, by telephone, a no-contact order prohibiting the person charged
2 or arrested from having contact with the victim. The no-contact order
3 shall also be issued in writing as soon as possible. If the court has
4 probable cause to believe that the person charged or arrested is likely
5 to use or display or threaten to use a deadly weapon as defined in RCW
6 9A.04.110 in any further acts of violence, the court may also require
7 that person to surrender any deadly weapon in that person's immediate
8 possession or control, or subject to that person's immediate possession
9 or control, to the sheriff of the county or chief of police of the
10 municipality in which that person resides or to the defendant's counsel
11 for safekeeping.

12 (3) At the time of arraignment the court shall determine whether a
13 no-contact order shall be issued or extended. If a no-contact order is
14 issued or extended, the court may also include in the conditions of
15 release a requirement that the defendant submit to electronic
16 monitoring. If electronic monitoring is ordered, the court shall
17 specify who shall provide the monitoring services, and the terms under
18 which the monitoring shall be performed. Upon conviction, the court
19 may require as a condition of the sentence that the defendant reimburse
20 the providing agency for the costs of the electronic monitoring.

21 (4)(a) Willful violation of a court order issued under subsection
22 (2) or (3) of this section is a misdemeanor. Upon conviction and in
23 addition to other penalties provided by law, the court may require that
24 the defendant submit to electronic monitoring. The court shall specify
25 who shall provide the electronic monitoring services and the terms
26 under which the monitoring must be performed. The court also may
27 include a requirement that the defendant pay the costs of the
28 monitoring.

29 (b) Any assault that is a violation of an order issued under this
30 section and that does not amount to assault in the first or second

1 degree under RCW 9A.36.011 or 9A.36.021 is a class C felony, and any
2 conduct in violation of a protective order issued under this section
3 that is reckless and creates a substantial risk of death or serious
4 physical injury to another person is a class C felony.

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

16 (5) Whenever an order prohibiting contact is issued, modified, or
17 terminated under subsection (2) or (3) of this section, the clerk of
18 the court shall forward a copy of the order on or before the next
19 judicial day to the appropriate law enforcement agency specified in the
20 order. Upon receipt of the copy of the order the law enforcement
21 agency shall forthwith enter the order for one year or until the
22 expiration date specified on the order into any computer information
23 system available in this state used by law enforcement agencies to list
24 outstanding warrants. Entry into the law enforcement information
25 system constitutes notice to all law enforcement agencies of the
26 existence of the order. The order is fully enforceable in any
27 jurisdiction in the state.

28 **Sec. 3.** RCW 26.50.010 and 1991 c 301 s 8 are each amended to read
29 as follows:

1 As used in this chapter, the following terms shall have the
2 meanings given them:

3 (1) "Domestic violence" means: (a) Physical harm, bodily injury,
4 assault, or the infliction of fear of imminent physical harm, bodily
5 injury or assault, between family or household members; or (b) sexual
6 assault of one family or household member by another.

7 (2) "Family or household members" means spouses, former spouses,
8 persons who have a child in common regardless of whether they have been
9 married or have lived together at any time, adult persons related by
10 blood or marriage, and adult persons who are presently residing
11 together or who have resided together in the past.

12 (3) "Court" includes the superior, district, and municipal courts
13 of the state of Washington.

14 (4) "Judicial day" does not include Saturdays, Sundays, or legal
15 holidays.

16 (5) "Electronic monitoring" means a program in which a person's
17 presence at a particular location is monitored from a remote location
18 by use of electronic equipment.

19 **Sec. 4.** RCW 26.50.060 and 1989 c 411 s 1 are each amended to read
20 as follows:

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

23 (a) Restrain a party from committing acts of domestic violence;

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

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

1 (d) Order the respondent to participate in treatment or counseling
2 services;

3 (e) Order other relief as it deems necessary for the protection of
4 a family or household member, including orders or directives to a peace
5 officer, as allowed under this chapter;

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

13 (g) Restrain any party from having any contact with the victim of
14 domestic violence or the victim's children or members of the victim's
15 household.

16 (h) Require the respondent to submit to electronic monitoring. The
17 order shall specify who shall provide the electronic monitoring
18 services and the terms under which the monitoring must be performed.
19 The order also may include a requirement that the respondent pay the
20 costs of the monitoring.

21 (2) Any relief granted by the order for protection, other than a
22 judgment for costs, shall be for a fixed period not to exceed one year.

23 (3) 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.

27 **Sec. 5.** RCW 26.50.110 and 1991 c 301 s 6 are each amended to read
28 as follows:

1 (1) Whenever an order for protection is granted under this chapter
2 and the respondent or person to be restrained knows of the order, a
3 violation of the restraint provisions or of a provision excluding the
4 person from a residence is a misdemeanor. Upon conviction, and in
5 addition to any other penalties provided by law, the court may require
6 that the respondent submit to electronic monitoring. The court shall
7 specify who shall provide the electronic monitoring services, and the
8 terms under which the monitoring shall be performed. The order also
9 may include a requirement that the respondent pay the costs of the
10 monitoring.

11 (2) A peace officer shall arrest without a warrant and take into
12 custody a person whom the peace officer has probable cause to believe
13 has violated an order issued under this chapter that restrains the
14 person or excludes the person from a residence, if the person
15 restrained knows of the order.

16 (3) A violation of an order for protection shall also constitute
17 contempt of court, and is subject to the penalties prescribed by law.

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

24 (5) Upon the filing of an affidavit by the petitioner or any peace
25 officer alleging that the respondent has violated an order for
26 protection granted under this chapter, the court may issue an order to
27 the respondent, requiring the respondent to appear and show cause
28 within fourteen days why the respondent should not be found in contempt
29 of court and punished accordingly. The hearing may be held in the
30 court of any county or municipality in which the petitioner or

1 respondent temporarily or permanently resides at the time of the
2 alleged violation.