
SUBSTITUTE HOUSE BILL 1949

State of Washington 58th Legislature 2004 Regular Session

By House Committee on Juvenile Justice & Family Law (originally sponsored by Representatives Nixon and Wood)

READ FIRST TIME 02/04/04.

1 AN ACT Relating to providing financial assistance for victims of
2 domestic violence seeking protection orders; amending RCW 26.50.060 and
3 26.50.070; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature recognizes that there are
6 numerous barriers that make it difficult for domestic violence victims
7 to leave their abusers. One such barrier is the lack of financial
8 resources for some domestic violence victims when domestic violence
9 perpetrators often control their victims by, among other things,
10 limiting the victim's access to money and other resources. The
11 legislature intends to provide courts discretion, when issuing
12 protection orders, to grant domestic violence victims temporary
13 financial assistance from the victim's abuser for the protection and
14 safety of the victim and other family or household members sought to be
15 protected.

16 **Sec. 2.** RCW 26.50.060 and 2000 c 119 s 15 are each amended to read
17 as follows:

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

3 (a) Restrain the respondent from committing acts of domestic
4 violence;

5 (b) Exclude the respondent from the dwelling that the parties
6 share, from the residence, workplace, or school of the petitioner, or
7 from the day care or school of a child;

8 (c) Prohibit the respondent from knowingly coming within, or
9 knowingly remaining within, a specified distance from a specified
10 location;

11 (d) On the same basis as is provided in chapter 26.09 RCW, the
12 court shall make residential provision with regard to minor children of
13 the parties. However, parenting plans as specified in chapter 26.09
14 RCW shall not be required under this chapter;

15 (e) Order the respondent to participate in a domestic violence
16 perpetrator treatment program approved under RCW 26.50.150;

17 (f) Order other relief as it deems necessary for the protection or
18 safety of the petitioner and other family or household members sought
19 to be protected, including orders or directives to a peace officer, as
20 allowed under this chapter;

21 (g) Require the respondent to pay the administrative court costs
22 and service fees, as established by the county or municipality
23 incurring the expense and to reimburse the petitioner for costs
24 incurred in bringing the action, including reasonable attorneys' fees;

25 (h) Restrain the respondent from having any contact with the victim
26 of domestic violence or the victim's children or members of the
27 victim's household;

28 (i) Require the respondent to submit to electronic monitoring. The
29 order shall specify who shall provide the electronic monitoring
30 services and the terms under which the monitoring must be performed.
31 The order also may include a requirement that the respondent pay the
32 costs of the monitoring. The court shall consider the ability of the
33 respondent to pay for electronic monitoring;

34 (j) Consider the provisions of RCW 9.41.800;

35 (k) Order possession and use of essential personal effects. The
36 court shall list the essential personal effects with sufficient
37 specificity to make it clear which property is included; (~~and~~)

1 (1) Order the respondent to pay the petitioner for reasonable
2 expenses related to the domestic violence committed by the respondent
3 and that the respondent provide temporary financial assistance to the
4 petitioner or other family member if the respondent customarily
5 provides for or contributes to the support of the petitioner or other
6 family member. The relief granted under this subsection (1)(1) shall
7 be a one-time, temporary order not to exceed ninety days. At any
8 subsequent proceeding for dissolution, legal separation, or invalidity
9 of the marriage, or any subsequent proceeding for the establishment or
10 modification of child support or maintenance, the petitioner shall
11 disclose the amount of temporary financial assistance provided under
12 this subsection and the court or agency shall consider the amount
13 provided in determining property distribution, support, or maintenance;
14 and

15 (m) Order use of a vehicle.

16 (2) If a protection order restrains the respondent from contacting
17 the respondent's minor children the restraint shall be for a fixed
18 period not to exceed one year. This limitation is not applicable to
19 orders for protection issued under chapter 26.09, 26.10, or 26.26 RCW.
20 With regard to other relief, if the petitioner has petitioned for
21 relief on his or her own behalf or on behalf of the petitioner's family
22 or household members or minor children, and the court finds that the
23 respondent is likely to resume acts of domestic violence against the
24 petitioner or the petitioner's family or household members or minor
25 children when the order expires, the court may either grant relief for
26 a fixed period or enter a permanent order of protection.

27 If the petitioner has petitioned for relief on behalf of the
28 respondent's minor children, the court shall advise the petitioner that
29 if the petitioner wants to continue protection for a period beyond one
30 year the petitioner may either petition for renewal pursuant to the
31 provisions of this chapter or may seek relief pursuant to the
32 provisions of chapter 26.09 or 26.26 RCW.

33 (3) If the court grants an order for a fixed time period, the
34 petitioner may apply for renewal of the order by filing a petition for
35 renewal at any time within the three months before the order expires.
36 The petition for renewal shall state the reasons why the petitioner
37 seeks to renew the protection order. Upon receipt of the petition for
38 renewal the court shall order a hearing which shall be not later than

1 fourteen days from the date of the order. Except as provided in RCW
2 26.50.085, personal service shall be made on the respondent not less
3 than five days before the hearing. If timely service cannot be made
4 the court shall set a new hearing date and shall either require
5 additional attempts at obtaining personal service or permit service by
6 publication as provided in RCW 26.50.085 or by mail as provided in RCW
7 26.50.123. If the court permits service by publication or mail, the
8 court shall set the new hearing date not later than twenty-four days
9 from the date of the order. If the order expires because timely
10 service cannot be made the court shall grant an ex parte order of
11 protection as provided in RCW 26.50.070. The court shall grant the
12 petition for renewal unless the respondent proves by a preponderance of
13 the evidence that the respondent will not resume acts of domestic
14 violence against the petitioner or the petitioner's children or family
15 or household members when the order expires. The court may renew the
16 protection order for another fixed time period or may enter a permanent
17 order as provided in this section. The court may award court costs,
18 service fees, and reasonable attorneys' fees as provided in subsection
19 (1)((+f+)) (g) of this section.

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

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

33 (6) The court order shall specify the date the order expires if
34 any. The court order shall also state whether the court issued the
35 protection order following personal service, service by publication, or
36 service by mail and whether the court has approved service by
37 publication or mail of an order issued under this section.

1 (7) If the court declines to issue an order for protection or
2 declines to renew an order for protection, the court shall state in
3 writing on the order the particular reasons for the court's denial.

4 **Sec. 3.** RCW 26.50.070 and 2000 c 119 s 16 are each amended to read
5 as follows:

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

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

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

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

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

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

27 (f) Restraining any party from transferring, removing, encumbering,
28 concealing, or in any way disposing of any shared or joint property
29 except in the usual course of business or for the necessities of life,
30 and, if appropriate, requiring the person so restrained to notify the
31 petitioner, in a manner deemed appropriate by the court, of any
32 proposed extraordinary expenditures made after the order is issued; and

33 (g) Considering the provisions of RCW 9.41.800.

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

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

4 (4) An ex parte temporary order for protection shall be effective
5 for a fixed period not to exceed fourteen days or twenty-four days if
6 the court has permitted service by publication under RCW 26.50.085 or
7 by mail under RCW 26.50.123. The ex parte order may be reissued. A
8 full hearing, as provided in this chapter, shall be set for not later
9 than fourteen days from the issuance of the temporary order or not
10 later than twenty-four days if service by publication or by mail is
11 permitted. Except as provided in RCW 26.50.050, 26.50.085, and
12 26.50.123, the respondent shall be personally served with a copy of the
13 ex parte order along with a copy of the petition and notice of the date
14 set for the hearing.

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

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

23 NEW SECTION. **Sec. 4.** If any provision of this act or its
24 application to any person or circumstance is held invalid, the
25 remainder of the act or the application of the provision to other
26 persons or circumstances is not affected.

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