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SENATE BILL 5718

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State of Washington

59th Legislature

2005 Regular Session

By Senators Hargrove, Kline, Shin, Rasmussen and Kohl-Welles

Read first time 02/03/2005. Referred to Committee on Human Services & Corrections.

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; adding new sections to chapter 26.50 RCW; adding a new  
4 section to chapter 74.08A RCW; creating a new section; and prescribing  
5 penalties.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 26.50 RCW  
8 to read as follows:

9 The legislature recognizes that there are numerous barriers that  
10 make it difficult for domestic violence victims to leave their abusers.  
11 One such barrier is the lack of financial resources for some domestic  
12 violence victims when domestic violence perpetrators often control  
13 their victims by, among other things, limiting the victim's access to  
14 money and other resources. The legislature intends that when courts  
15 issue protection orders for victims of domestic violence, victims  
16 receive information on and access to temporary, short-term financial  
17 assistance to assist victims with the immediate, necessary financial  
18 means to further safety of victims and their dependents.

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

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

5       (a) Restrain the respondent from committing acts of domestic  
6 violence;

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

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

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

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

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

23       (g) In appropriate cases, refer the petitioner to the department of  
24 social and health services' diversion assistance program as specified  
25 in sections 4 and 5 of this act;

26       (h) Require the respondent to pay the administrative court costs  
27 and service fees, as established by the county or municipality  
28 incurring the expense and to reimburse the petitioner for costs  
29 incurred in bringing the action, including reasonable attorneys' fees;

30       ~~((h))~~ (i) Restrain the respondent from having any contact with  
31 the victim of domestic violence or the victim's children or members of  
32 the victim's household;

33       ~~((i))~~ (j) Require the respondent to submit to electronic  
34 monitoring. The order shall specify who shall provide the electronic  
35 monitoring services and the terms under which the monitoring must be  
36 performed. The order also may include a requirement that the  
37 respondent pay the costs of the monitoring. The court shall consider  
38 the ability of the respondent to pay for electronic monitoring;

1           (~~(j)~~) (k) Consider the provisions of RCW 9.41.800;

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

5           (~~(l)~~) (m) Order use of a vehicle.

6           (2) If a protection order restrains the respondent from contacting  
7 the respondent's minor children the restraint shall be for a fixed  
8 period not to exceed one year. This limitation is not applicable to  
9 orders for protection issued under chapter 26.09, 26.10, or 26.26 RCW.  
10 With regard to other relief, if the petitioner has petitioned for  
11 relief on his or her own behalf or on behalf of the petitioner's family  
12 or household members or minor children, and the court finds that the  
13 respondent is likely to resume acts of domestic violence against the  
14 petitioner or the petitioner's family or household members or minor  
15 children when the order expires, the court may either grant relief for  
16 a fixed period or enter a permanent order of protection.

17           If the petitioner has petitioned for relief on behalf of the  
18 respondent's minor children, the court shall advise the petitioner that  
19 if the petitioner wants to continue protection for a period beyond one  
20 year the petitioner may either petition for renewal pursuant to the  
21 provisions of this chapter or may seek relief pursuant to the  
22 provisions of chapter 26.09 or 26.26 RCW.

23           (3) If the court grants an order for a fixed time period, the  
24 petitioner may apply for renewal of the order by filing a petition for  
25 renewal at any time within the three months before the order expires.  
26 The petition for renewal shall state the reasons why the petitioner  
27 seeks to renew the protection order. Upon receipt of the petition for  
28 renewal the court shall order a hearing which shall be not later than  
29 fourteen days from the date of the order. Except as provided in RCW  
30 26.50.085, personal service shall be made on the respondent not less  
31 than five days before the hearing. If timely service cannot be made  
32 the court shall set a new hearing date and shall either require  
33 additional attempts at obtaining personal service or permit service by  
34 publication as provided in RCW 26.50.085 or by mail as provided in RCW  
35 26.50.123. If the court permits service by publication or mail, the  
36 court shall set the new hearing date not later than twenty-four days  
37 from the date of the order. If the order expires because timely  
38 service cannot be made the court shall grant an ex parte order of

1 protection as provided in RCW 26.50.070. The court shall grant the  
2 petition for renewal unless the respondent proves by a preponderance of  
3 the evidence that the respondent will not resume acts of domestic  
4 violence against the petitioner or the petitioner's children or family  
5 or household members when the order expires. The court may renew the  
6 protection order for another fixed time period or may enter a permanent  
7 order as provided in this section. The court may award court costs,  
8 service fees, and reasonable attorneys' fees as provided in subsection  
9 (1)((+f+)) (h) of this section.

10 (4) In providing relief under this chapter, the court may realign  
11 the designation of the parties as "petitioner" and "respondent" where  
12 the court finds that the original petitioner is the abuser and the  
13 original respondent is the victim of domestic violence and may issue an  
14 ex parte temporary order for protection in accordance with RCW  
15 26.50.070 on behalf of the victim until the victim is able to prepare  
16 a petition for an order for protection in accordance with RCW  
17 26.50.030.

18 (5) Except as provided in subsection (4) of this section, no order  
19 for protection shall grant relief to any party except upon notice to  
20 the respondent and hearing pursuant to a petition or counter-petition  
21 filed and served by the party seeking relief in accordance with RCW  
22 26.50.050.

23 (6) The court order shall specify the date the order expires if  
24 any. The court order shall also state whether the court issued the  
25 protection order following personal service, service by publication, or  
26 service by mail and whether the court has approved service by  
27 publication or mail of an order issued under this section.

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

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

33 (1) Where an application under this section alleges that  
34 irreparable injury could result from domestic violence if an order is  
35 not issued immediately without prior notice to the respondent, the  
36 court may grant an ex parte temporary order for protection, pending a

1 full hearing, and grant relief as the court deems proper, including an  
2 order:

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

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

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

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

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

18 (f) Considering the provisions of RCW 9.41.800; and

19 (g) Restraining any party from transferring, removing, encumbering,  
20 concealing, or in any way disposing of any shared or joint property  
21 except in the usual course of business or for the necessities of life,  
22 and, if appropriate, requiring the person so restrained to notify the  
23 petitioner, in a manner deemed appropriate by the court, of any  
24 proposed extraordinary expenditure made after the order is issued.

25 (2) The court may also, in appropriate cases, refer the petitioner  
26 to the department of social and health services' diversion assistance  
27 program as specified in sections 4 and 5 of this act.

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

32 (~~(3)~~) (4) The court shall hold an ex parte hearing in person or  
33 by telephone on the day the petition is filed or on the following  
34 judicial day.

35 (~~(4)~~) (5) An ex parte temporary order for protection shall be  
36 effective for a fixed period not to exceed fourteen days or twenty-four  
37 days if the court has permitted service by publication under RCW  
38 26.50.085 or by mail under RCW 26.50.123. The ex parte order may be

1 reissued. A full hearing, as provided in this chapter, shall be set  
2 for not later than fourteen days from the issuance of the temporary  
3 order or not later than twenty-four days if service by publication or  
4 by mail is permitted. Except as provided in RCW 26.50.050, 26.50.085,  
5 and 26.50.123, the respondent shall be personally served with a copy of  
6 the ex parte order along with a copy of the petition and notice of the  
7 date set for the hearing.

8 ~~((+5))~~ (6) Any order issued under this section shall contain the  
9 date and time of issuance and the expiration date and shall be entered  
10 into a statewide judicial information system by the clerk of the court  
11 within one judicial day after issuance.

12 ~~((+6))~~ (7) If the court declines to issue an ex parte temporary  
13 order for protection the court shall state the particular reasons for  
14 the court's denial. The court's denial of a motion for an ex parte  
15 order of protection shall be filed with the court.

16 NEW SECTION. **Sec. 4.** A new section is added to chapter 26.50 RCW  
17 to read as follows:

18 (1) A person who receives an order granted under RCW 26.50.060 or  
19 26.50.070, in addition to any relief the court may provide, may receive  
20 at the court's discretion a referral to the department of social and  
21 health services' diversion assistance program under section 5 of this  
22 act.

23 (2) The court shall develop a referral form for petitioners who are  
24 granted an order of protection. At a minimum, referral shall include  
25 a declaration that the bearer has been granted an order of protection  
26 and provide appropriate contact information within the department for  
27 the diversion assistance program. To the extent possible within  
28 available resources the court shall provide the petitioners with a copy  
29 of the department's application form and provide a court facilitator or  
30 victim advocate to assist a petitioner with his or her referral and  
31 application to the diversion assistance program.

32 (3) The court clerk shall notify the department that it has given  
33 a referral to a petitioner as soon as practicable but not later than  
34 seventy-two hours following the issuance of the order for protection,  
35 excluding weekends and holidays.

1        NEW SECTION.    **Sec. 5.**    A new section is added to chapter 74.08A RCW  
2 to read as follows:

3        (1) In order to provide some victims of domestic violence who have  
4 sought orders of protection with financial resources when domestic  
5 violence perpetrators control the victim's access to money and other  
6 resources, the department shall administer a diversion assistance  
7 program for qualified domestic violence victims.

8        (2) The department shall provide an applicant under this section  
9 with a cash grant through the department's diversion assistance program  
10 provided that:

11        (a) The applicant presents a copy of a valid court order of  
12 protection issued under chapter 26.50 RCW;

13        (b) The applicant presents a copy of a valid referral to the  
14 diversion assistance program from the courts;

15        (c) The applicant alleges that he or she does not have access to  
16 financial resources due to the domestic violence.

17        (3) At the time of application, an applicant shall not be required  
18 to provide documentation of his or her inability to access financial  
19 resources prior to the approval of the application.

20        (4) An applicant shall not be required to meet eligibility  
21 requirements, including income, resource, and family unit requirements,  
22 otherwise required for an applicant to the diversion assistance  
23 program.

24        (5) The department shall develop an application form for the  
25 diversion assistance program specifically for victims of domestic  
26 violence with a court order under chapter 26.50 RCW. The department  
27 shall make available to the court a copy of the application and shall  
28 post the application on the department's web site.

29        (6) The maximum amount of allowable assistance provided to a  
30 petitioner under this section shall be the same as that established for  
31 other categories of recipients of the diversion assistance program.

32        (7) Diversion assistance shall include a cash payment, based on  
33 alleged need, to enable the petitioner to obtain emergency relief  
34 including, but not limited to:

35        (a) Housing;

36        (b) Food;

37        (c) Child care;

38        (d) Medical costs;

1 (e) Transportation-related expenses;

2 (f) Attorneys' fees reasonably related to the domestic violence;

3 and

4 (g) Employment-related expenses which are necessary to keep or  
5 obtain paid employment.

6 (8) The department shall process an application under this section  
7 within seventy-two hours, excluding Saturdays, Sundays, and holidays.  
8 Upon approval, the department shall immediately provide an applicant  
9 with cash assistance.

10 (9) The department may initiate, continue, maintain, or execute an  
11 action to collect a repayment of a cash grant made under this section  
12 in the following manner and in the following order:

13 (a) If the department has reasonable cause to believe that the  
14 recipient intentionally, knowingly, or willfully misrepresented his or  
15 her access to financial resources, the department may collect repayment  
16 from the recipient. The recipient shall be entitled to an adjudicative  
17 proceeding as provided for a public assistance applicant or recipient  
18 under RCW 74.08.080;

19 (b) If the recipient is placed on the temporary assistance for  
20 needy families program within twelve months of receiving diversion  
21 assistance, the prorated dollar value of the assistance shall be  
22 treated as a loan from the state, and recovered by a deduction from the  
23 recipient's cash grant; and

24 (c) The department may seek repayment from the respondent of record  
25 to the order of protection issued to the recipient under chapter 26.50  
26 RCW.

27 (i) The department shall move to collect payment only from a  
28 respondent who has a legal duty to support any party sought to be  
29 protected in an order issued under chapter 26.50 RCW. A duty to  
30 support includes, but is not limited to, a legal obligation to support  
31 a spouse, a minor child, or other person legally dependent on the  
32 respondent.

33 (ii) The respondent is entitled to an adjudicative proceeding as  
34 provided in chapter 74.08 RCW, including notice, an administrative  
35 hearing, and a finding of a legal obligation to support.

36 (iii) If the department finds that the respondent is unable to make  
37 payment or is not reasonably expected to be able to make payment in the



1 foreseeable future, the department may waive collection or establish a  
2 payment schedule.

3 (iv) The repayment amount sought shall not exceed the amount of the  
4 diversion assistance paid to the petitioner sought to be protected in  
5 an order.

6 (10) Any applicant for or recipient of a cash grant as provided  
7 under this act who intentionally, knowingly, or willfully misrepresents  
8 his or her access to financial resources is subject to the same  
9 penalties of perjury as provided for any applicant for or recipient of  
10 public assistance as provided in RCW 74.08.055.

11 (11) The department shall have all the powers and duties necessary  
12 to carry out the purposes of this section.

13 NEW SECTION. **Sec. 6.** The department of social and health services  
14 shall collect data on the domestic violence recipients of the diversion  
15 assistance program. The department shall analyze the data collected  
16 and present a report to the appropriate committees of the legislature  
17 no later than December 1, 2007.

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