

HB 1148 - S COMM AMD
By Committee on Judiciary

ADOPTED 04/17/2009

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that considerable
4 research shows a strong correlation between animal abuse, child abuse,
5 and domestic violence. The legislature intends that perpetrators of
6 domestic violence not be allowed to further terrorize and manipulate
7 their victims, or the children of their victims, by using the threat of
8 violence toward pets.

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

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

13 (a) Restrain the respondent from committing acts of domestic
14 violence;

15 (b) Exclude the respondent from the dwelling that the parties
16 share, from the residence, workplace, or school of the petitioner, or
17 from the day care or school of a child;

18 (c) Prohibit the respondent from knowingly coming within, or
19 knowingly remaining within, a specified distance from a specified
20 location;

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

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

27 (f) Order other relief as it deems necessary for the protection of
28 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 (g) Require the respondent to pay the administrative court costs
4 and service fees, as established by the county or municipality
5 incurring the expense and to reimburse the petitioner for costs
6 incurred in bringing the action, including reasonable attorneys' fees;

7 (h) Restrain the respondent from having any contact with the victim
8 of domestic violence or the victim's children or members of the
9 victim's household;

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

16 (j) Consider the provisions of RCW 9.41.800;

17 (k) Order possession and use of essential personal effects. The
18 court shall list the essential personal effects with sufficient
19 specificity to make it clear which property is included. Personal
20 effects may include pets. The court may order that a petitioner be
21 granted the exclusive custody or control of any pet owned, possessed,
22 leased, kept, or held by the petitioner, respondent, or minor child
23 residing with either the petitioner or respondent and may prohibit the
24 respondent from interfering with the petitioner's efforts to remove the
25 pet. The court may also prohibit the respondent from knowingly coming
26 within, or knowingly remaining within, a specified distance of
27 specified locations where the pet is regularly found; and

28 (1) Order use of a vehicle.

29 (2) If a protection order restrains the respondent from contacting
30 the respondent's minor children the restraint shall be for a fixed
31 period not to exceed one year. This limitation is not applicable to
32 orders for protection issued under chapter 26.09, 26.10, or 26.26 RCW.
33 With regard to other relief, if the petitioner has petitioned for
34 relief on his or her own behalf or on behalf of the petitioner's family
35 or household members or minor children, and the court finds that the
36 respondent is likely to resume acts of domestic violence against the
37 petitioner or the petitioner's family or household members or minor

1 children when the order expires, the court may either grant relief for
2 a fixed period or enter a permanent order of protection.

3 If the petitioner has petitioned for relief on behalf of the
4 respondent's minor children, the court shall advise the petitioner that
5 if the petitioner wants to continue protection for a period beyond one
6 year the petitioner may either petition for renewal pursuant to the
7 provisions of this chapter or may seek relief pursuant to the
8 provisions of chapter 26.09 or 26.26 RCW.

9 (3) If the court grants an order for a fixed time period, the
10 petitioner may apply for renewal of the order by filing a petition for
11 renewal at any time within the three months before the order expires.
12 The petition for renewal shall state the reasons why the petitioner
13 seeks to renew the protection order. Upon receipt of the petition for
14 renewal the court shall order a hearing which shall be not later than
15 fourteen days from the date of the order. Except as provided in RCW
16 26.50.085, personal service shall be made on the respondent not less
17 than five days before the hearing. If timely service cannot be made
18 the court shall set a new hearing date and shall either require
19 additional attempts at obtaining personal service or permit service by
20 publication as provided in RCW 26.50.085 or by mail as provided in RCW
21 26.50.123. If the court permits service by publication or mail, the
22 court shall set the new hearing date not later than twenty-four days
23 from the date of the order. If the order expires because timely
24 service cannot be made the court shall grant an ex parte order of
25 protection as provided in RCW 26.50.070. The court shall grant the
26 petition for renewal unless the respondent proves by a preponderance of
27 the evidence that the respondent will not resume acts of domestic
28 violence against the petitioner or the petitioner's children or family
29 or household members when the order expires. The court may renew the
30 protection order for another fixed time period or may enter a permanent
31 order as provided in this section. The court may award court costs,
32 service fees, and reasonable attorneys' fees as provided in subsection
33 (1)((+f+)) (g) of this section.

34 (4) In providing relief under this chapter, the court may realign
35 the designation of the parties as "petitioner" and "respondent" where
36 the court finds that the original petitioner is the abuser and the
37 original respondent is the victim of domestic violence and may issue an
38 ex parte temporary order for protection in accordance with RCW

1 26.50.070 on behalf of the victim until the victim is able to prepare
2 a petition for an order for protection in accordance with RCW
3 26.50.030.

4 (5) Except as provided in subsection (4) of this section, no order
5 for protection shall grant relief to any party except upon notice to
6 the respondent and hearing pursuant to a petition or counter-petition
7 filed and served by the party seeking relief in accordance with RCW
8 26.50.050.

9 (6) The court order shall specify the date the order expires if
10 any. The court order shall also state whether the court issued the
11 protection order following personal service, service by publication, or
12 service by mail and whether the court has approved service by
13 publication or mail of an order issued under this section.

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

17 **Sec. 3.** RCW 26.50.110 and 2007 c 173 s 2 are each amended to read
18 as follows:

19 (1)(a) Whenever an order is granted under this chapter, chapter
20 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or there is a valid
21 foreign protection order as defined in RCW 26.52.020, and the
22 respondent or person to be restrained knows of the order, a violation
23 of any of the following provisions of the order is a gross misdemeanor,
24 except as provided in subsections (4) and (5) of this section:

25 (i) The restraint provisions prohibiting acts or threats of
26 violence against, or stalking of, a protected party, or restraint
27 provisions prohibiting contact with a protected party;

28 (ii) A provision excluding the person from a residence, workplace,
29 school, or day care;

30 (iii) A provision prohibiting a person from knowingly coming
31 within, or knowingly remaining within, a specified distance of a
32 location; (~~or~~)

33 (iv) A provision prohibiting interfering with the protected party's
34 efforts to remove a pet owned, possessed, leased, kept, or held by the
35 petitioner, respondent, or a minor child residing with either the
36 petitioner or the respondent; or

1 (v) A provision of a foreign protection order specifically
2 indicating that a violation will be a crime.

3 (b) Upon conviction, and in addition to any other penalties
4 provided by law, the court may require that the respondent submit to
5 electronic monitoring. The court shall specify who shall provide the
6 electronic monitoring services, and the terms under which the
7 monitoring shall be performed. The order also may include a
8 requirement that the respondent pay the costs of the monitoring. The
9 court shall consider the ability of the convicted person to pay for
10 electronic 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, chapter 7.90, 10.99,
14 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order
15 as defined in RCW 26.52.020, that restrains the person or excludes the
16 person from a residence, workplace, school, or day care, or prohibits
17 the person from knowingly coming within, or knowingly remaining within,
18 a specified distance of a location, if the person restrained knows of
19 the order. Presence of the order in the law enforcement computer-based
20 criminal intelligence information system is not the only means of
21 establishing knowledge of the order.

22 (3) A violation of an order issued under this chapter, chapter
23 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign
24 protection order as defined in RCW 26.52.020, shall also constitute
25 contempt of court, and is subject to the penalties prescribed by law.

26 (4) Any assault that is a violation of an order issued under this
27 chapter, chapter 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of
28 a valid foreign protection order as defined in RCW 26.52.020, and that
29 does not amount to assault in the first or second degree under RCW
30 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in
31 violation of such an order that is reckless and creates a substantial
32 risk of death or serious physical injury to another person is a class
33 C felony.

34 (5) A violation of a court order issued under this chapter, chapter
35 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign
36 protection order as defined in RCW 26.52.020, is a class C felony if
37 the offender has at least two previous convictions for violating the
38 provisions of an order issued under this chapter, chapter 7.90, 10.99,

1 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order
2 as defined in RCW 26.52.020. The previous convictions may involve the
3 same victim or other victims specifically protected by the orders the
4 offender violated.

5 (6) Upon the filing of an affidavit by the petitioner or any peace
6 officer alleging that the respondent has violated an order granted
7 under this chapter, chapter 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34
8 RCW, or a valid foreign protection order as defined in RCW 26.52.020,
9 the court may issue an order to the respondent, requiring the
10 respondent to appear and show cause within fourteen days why the
11 respondent should not be found in contempt of court and punished
12 accordingly. The hearing may be held in the court of any county or
13 municipality in which the petitioner or respondent temporarily or
14 permanently resides at the time of the alleged violation."

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15 On page 1, line 2 of the title, after "violence;" strike the
16 remainder of the title and insert "amending RCW 26.50.060 and
17 26.50.110; and creating a new section."

EFFECT: Provides consistency between the kind of conduct the court
is authorized to prohibit in a protection order regarding pets, and the
kind of conduct that violates the order and is defined as a gross
misdemeanor.

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