

The juvenile has the burden to show cause why the transfer to an adult correctional facility should not occur.

(5) A juvenile offender transferred to an institution operated by the department of corrections shall not remain in such an institution beyond the maximum term of confinement imposed by the juvenile court.

((4)) (6) A juvenile offender who has been transferred to the department of corrections under this section may, in the discretion of the secretary of the department of social and health services and with the consent of the secretary of the department of corrections, be transferred from an institution operated by the department of corrections to a facility for juvenile offenders deemed appropriate by the secretary.

Passed the Senate April 17, 1989.

Passed the House April 13, 1989.

Approved by the Governor May 13, 1989.

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CHAPTER 411

[Senate Bill No. 6005]

DOMESTIC VIOLENCE—RESTRAINING ORDERS TO PROTECT VICTIMS

AN ACT Relating to the protection of victims of domestic violence; and amending RCW 10.22.010, 26.50.060 and 26.50.070.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 7, chapter 263, Laws of 1984 as last amended by section 55, chapter 460, Laws of 1987 and RCW 26.50.060 are each amended to read as follows:

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

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

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

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

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

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

(f) Require the respondent to pay the filing fee and court costs, including service fees, and to reimburse the petitioner for costs incurred in bringing the action, including a reasonable attorney's fee. If the petitioner

has been granted leave to proceed in forma pauperis, the court may require the respondent to pay the filing fee and costs, including services fees, to the county or municipality incurring the expense; and

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

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

(3) In providing relief under this chapter, the court may realign the designation of the parties as "petitioner" and "respondent" where the court finds that the original petitioner is the abuser and the original respondent is the victim of domestic violence.

Sec. 2. Section 8, chapter 263, Laws of 1984 and RCW 26.50.070 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) Excluding any party from the dwelling shared or from the residence of the other until further order of the court; ~~((and))~~

(c) 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; and

(d) 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.

(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, but 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. The respondent shall be 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.

Sec. 3. Section 84, page 115, Laws of 1854 as amended by section 1040 Code 1881, and RCW 10.22.010 are each amended to read as follows:

When a defendant is prosecuted in a criminal action for a misdemeanor, for which the person injured by the act constituting the offense has a

remedy by a civil action, the offense may be compromised as provided in RCW 10.22.020, except when it was committed:

- (1) By or upon an officer while in the execution of the duties of his office.
- (2) Riotously; ~~((or;))~~
- (3) With an intent to commit a felony; or
- (4) By one family or household member against another as defined in RCW 10.99.020(1) and was a crime of domestic violence as defined in RCW 10.99.020(2).

Passed the Senate April 17, 1989.

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CHAPTER 412

[Senate Bill No. 5233]

RESIDENTIAL BURGLARY

[Veto overridden: See chapter 1, 2nd Ex. Sess., infra.]

AN ACT Relating to burglary; amending RCW 9A.52.030; reenacting and amending RCW 9.94A.320; adding a new section to chapter 9A.52 RCW; prescribing penalties; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 9A.52 RCW to read as follows:

(1) A person is guilty of residential burglary if, with intent to commit a crime against a person or property therein, the person enters or remains unlawfully in a dwelling other than a vehicle.

(2) Residential burglary is a class B felony. In establishing sentencing guidelines and disposition standards, the sentencing guidelines commission and the juvenile disposition standards commission shall consider residential burglary as a more serious offense than second degree burglary.

Sec. 2. Section 9A.52.030, chapter 260, Laws of 1975 1st ex. sess. as amended by section 7, chapter 38, Laws of 1975-'76 2nd ex. sess. and RCW 9A.52.030 are each amended to read as follows:

(1) A person is guilty of burglary in the second degree if, with intent to commit a crime against a person or property therein, he enters or remains unlawfully in a building other than a vehicle or a dwelling.

(2) Burglary in the second degree is a class B felony.

***Sec. 3. Section 2, chapter 62, Laws of 1988, section 12, chapter 145, Laws of 1988, and section 2, chapter 218, Laws of 1988 and RCW 9.94A-.320 are each reenacted and amended to read as follows:**