

Chapter 26.50 RCW

DOMESTIC VIOLENCE PREVENTION

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Abuse of children: Chapter 26.44 RCW.

Arrest without warrant: RCW 10.31.100(2).

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Domestic violence, official response: Chapter 10.99 RCW.

Shelters for victims of domestic violence: Chapter 70.123 RCW.

26.50.010 Definitions. (Effective until July 1, 2022.)

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

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

(2) "Dating relationship" means a social relationship of a romantic nature. Factors that the court may consider in mak-

ing this determination include: (a) The length of time the relationship has existed; (b) the nature of the relationship; and (c) the frequency of interaction between the parties.

(3) "Domestic violence" means: (a) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, sexual assault, or stalking as defined in RCW 9A.46.110 of one intimate partner by another intimate partner; or (b) physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, sexual assault, or stalking as defined in RCW 9A.46.110 of one family or household member by another family or household member.

(4) "Electronic monitoring" has the same meaning as in RCW 9.94A.030.

(5) "Essential personal effects" means those items necessary for a person's immediate health, welfare, and livelihood. "Essential personal effects" includes but is not limited to clothing, cribs, bedding, documents, medications, and personal hygiene items.

(6) "Family or household members" means: (a) Adult persons related by blood or marriage; (b) adult persons who are presently residing together or who have resided together in the past; and (c) persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.

(7) "Intimate partner" means: (a) Spouses, or domestic partners; (b) former spouses, or former domestic partners; (c) persons who have a child in common regardless of whether they have been married or have lived together at any time; (d) adult persons presently or previously residing together who have or have had a dating relationship; (e) persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship; and (f) persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship.

(8) "Judicial day" does not include Saturdays, Sundays, or legal holidays. [2019 c 263 § 204. Prior: 2015 c 287 § 8; 2008 c 6 § 406; 1999 c 184 § 13; 1995 c 246 § 1; prior: 1992 c 111 § 7; 1992 c 86 § 3; 1991 c 301 § 8; 1984 c 263 § 2.]

Findings—Intent—2019 c 263 §§ 202-803: See note following RCW 10.01.240.

Intent—Definition of domestic violence—2019 c 263 §§ 202-205: See note following RCW 10.01.240.

Findings—1992 c 111: See note following RCW 26.50.030.

Finding—1991 c 301: See note following RCW 10.99.020.

Domestic violence offenses defined: RCW 10.99.020.

Additional notes found at www.leg.wa.gov

26.50.020 Commencement of action—Jurisdiction—Venue. (Effective until July 1, 2022.) (1)(a) Any person may seek relief under this chapter by filing a petition with a court alleging that the person has been the victim of domestic

violence committed by the respondent. The person may petition for relief on behalf of himself or herself and on behalf of minor family or household members.

(b) Any person thirteen years of age or older may seek relief under this chapter by filing a petition with a court alleging that he or she has been the victim of violence in a dating relationship and the respondent is sixteen years of age or older.

(2)(a) A person under eighteen years of age who is sixteen years of age or older may seek relief under this chapter and is not required to seek relief by a guardian or next friend.

(b) A person under sixteen years of age who is seeking relief under subsection (1)(b) of this section is required to seek relief by a parent, guardian, guardian ad litem, or next friend.

(3) No guardian or guardian ad litem need be appointed on behalf of a respondent to an action under this chapter who is under eighteen years of age if such respondent is sixteen years of age or older.

(4) The court may, if it deems necessary, appoint a guardian ad litem for a petitioner or respondent who is a party to an action under this chapter.

(5) Any petition filed under this chapter must specify whether the victim and respondent of the alleged domestic violence are intimate partners or family or household members within the meaning of RCW 26.50.010.

(6) The courts defined in RCW 26.50.010 have jurisdiction over proceedings under this chapter. The jurisdiction of district and municipal courts under this chapter shall be limited to enforcement of RCW 26.50.110(1), or the equivalent municipal ordinance, and the issuance and enforcement of temporary orders for protection provided for in RCW 26.50.070 if: (a) A superior court has exercised or is exercising jurisdiction over a proceeding under this title or chapter 13.34 RCW involving the parties; (b) the petition for relief under this chapter presents issues of residential schedule of and contact with children of the parties; or (c) the petition for relief under this chapter requests the court to exclude a party from the dwelling which the parties share. When the jurisdiction of a district or municipal court is limited to the issuance and enforcement of a temporary order, the district or municipal court shall set the full hearing provided for in RCW 26.50.050 in superior court and transfer the case. If the notice and order are not served on the respondent in time for the full hearing, the issuing court shall have concurrent jurisdiction with the superior court to extend the order for protection.

(7) An action under this chapter shall be filed in the county or the municipality where the petitioner resides, unless the petitioner has left the residence or household to avoid abuse. In that case, the petitioner may bring an action in the county or municipality of the previous or the new household or residence.

(8) A person's right to petition for relief under this chapter is not affected by the person leaving the residence or household to avoid abuse.

(9) For the purposes of this section "next friend" means any competent individual, over eighteen years of age, chosen by the minor and who is capable of pursuing the minor's stated interest in the action. [2019 c 263 § 205; 2010 c 274 § 302; 1992 c 111 § 8; 1989 c 375 § 28; 1987 c 71 § 1; 1985 c 303 § 1; 1984 c 263 § 3.]

Findings—Intent—2019 c 263 §§ 202-803: See note following RCW 10.01.240.

Intent—Definition of domestic violence—2019 c 263 §§ 202-205: See note following RCW 10.01.240.

Intent—2010 c 274: See note following RCW 10.31.100.

Findings—1992 c 111: See note following RCW 26.50.030.

Additional notes found at www.leg.wa.gov

26.50.021 Actions on behalf of vulnerable adults—Authority of department of social and health services—Immunity from liability. (Effective until July 1, 2022.) The department of social and health services, in its discretion, may seek the relief provided in this chapter on behalf of and with the consent of any vulnerable adult as those persons are defined in RCW 74.34.020. Neither the department nor the state of Washington shall be liable for failure to seek relief on behalf of any persons under this section. [2000 c 119 § 1.]

Additional notes found at www.leg.wa.gov

26.50.025 Orders under this chapter and chapter 26.09, 26.10, 26.26A, or 26.26B RCW—Enforcement—Consolidation. (Effective until July 1, 2022.) (1) Any order available under this chapter may be issued in actions under chapter 26.09, *26.10, 26.26A, or 26.26B RCW. If an order for protection is issued in an action under chapter 26.09, *26.10, 26.26A, or 26.26B RCW, the order shall be issued on the forms mandated by RCW 26.50.035(1). An order issued in accordance with this subsection is fully enforceable and shall be enforced under the provisions of this chapter.

(2) If a party files an action under chapter 26.09, *26.10, 26.26A, or 26.26B RCW, an order issued previously under this chapter between the same parties may be consolidated by the court under that action and cause number. Any order issued under this chapter after consolidation shall contain the original cause number and the cause number of the action under chapter 26.09, *26.10, 26.26A, or 26.26B RCW. Relief under this chapter shall not be denied or delayed on the grounds that the relief is available in another action. [2019 c 46 § 5036; 1995 c 246 § 2.]

***Reviser's note:** Chapter 26.10 RCW, with the exception of RCW 26.10.115, was repealed by 2020 c 312 § 905, effective January 1, 2021.

Additional notes found at www.leg.wa.gov

26.50.030 Petition for an order for protection—Availability of forms and informational brochures—Bond not required. (Effective until July 1, 2022.) There shall exist an action known as a petition for an order for protection in cases of domestic violence.

(1) A petition for relief shall allege the existence of domestic violence, and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought. Petitioner and respondent shall disclose the existence of any other litigation concerning the custody or residential placement of a child of the parties as set forth in RCW 26.27.281 and the existence of any other restraining, protection, or no-contact orders between the parties.

(2) A petition for relief may be made regardless of whether or not there is a pending lawsuit, complaint, petition, or other action between the parties except in cases where the

court realigns petitioner and respondent in accordance with RCW 26.50.060(4).

(3) Within ninety days of receipt of the master copy from the administrative office of the courts, all court clerk's offices shall make available the standardized forms, instructions, and informational brochures required by RCW 26.50.035 and shall fill in and keep current specific program names and telephone numbers for community resources. Any assistance or information provided by clerks under this section does not constitute the practice of law and clerks are not responsible for incorrect information contained in a petition.

(4) No filing fee may be charged for proceedings under this section. Forms and instructional brochures shall be provided free of charge.

(5) A person is not required to post a bond to obtain relief in any proceeding under this section. [2005 c 282 § 39; 1996 c 248 § 12; 1995 c 246 § 3; 1992 c 111 § 2; 1985 c 303 § 2; 1984 c 263 § 4.]

Findings—1992 c 111: "The legislature finds that:

Domestic violence is a problem of immense proportions affecting individuals as well as communities. Domestic violence has long been recognized as being at the core of other major social problems: Child abuse, other crimes of violence against person or property, juvenile delinquency, and alcohol and drug abuse. Domestic violence costs millions of dollars each year in the state of Washington for health care, absence from work, services to children, and more. The crisis is growing.

While the existing protection order process can be a valuable tool to increase safety for victims and to hold batterers accountable, specific problems in its use have become evident. Victims have difficulty completing the paperwork required particularly if they have limited English proficiency; model forms have been modified to be inconsistent with statutory language; different forms create confusion for law enforcement agencies about the contents and enforceability of orders. Refinements are needed so that victims have the easy, quick, and effective access to the court system envisioned at the time the protection order process was first created.

When courts issue mutual protection orders without the filing of separate written petitions, notice to each respondent, and hearing on each petition, the original petitioner is deprived of due process. Mutual protection orders label both parties as violent and treat both as being equally at fault. Batterers conclude that the violence is excusable or provoked and victims who are not violent are confused and stigmatized. Enforcement may be ineffective and mutual orders may be used in other proceedings as evidence that the victim is equally at fault.

Valuable information about the reported incidents of domestic violence in the state of Washington is unobtainable without gathering data from all law enforcement agencies; without this information, it is difficult for policymakers, funders, and service providers to plan for the resources and services needed to address the issue.

Domestic violence must be addressed more widely and more effectively in our state: Greater knowledge by professionals who deal frequently with domestic violence is essential to enforce existing laws, to intervene in domestic violence situations that do not come to the attention of the law enforcement or judicial systems, and to reduce and prevent domestic violence by intervening before the violence becomes severe.

Adolescent dating violence is occurring at increasingly high rates: Preventing and confronting adolescent violence is important in preventing potential violence in future adult relationships." [1992 c 111 § 1.]

Child abuse, temporary restraining order: RCW 26.44.063.

Orders prohibiting contact: RCW 10.99.040.

Temporary restraining order: RCW 26.09.060.

Additional notes found at www.leg.wa.gov

26.50.035 Development of instructions, informational brochures, forms, and handbook by the administrative office of the courts—Community resource list—Distribution of master copy. (Effective until July 1, 2022.)

(1) The administrative office of the courts shall develop and prepare instructions and informational brochures required

under RCW 26.50.030(4), standard petition and order for protection forms, and a court staff handbook on domestic violence and the protection order process. The standard petition and order for protection forms must be used after September 1, 1994, for all petitions filed and orders issued under this chapter. The instructions, brochures, forms, and handbook shall be prepared in consultation with interested persons, including a representative of the state domestic violence coalition, judges, and law enforcement personnel.

(a) The instructions shall be designed to assist petitioners in completing the petition, and shall include a sample of standard petition and order for protection forms.

(b) The informational brochure shall describe the use of and the process for obtaining, modifying, and terminating a domestic violence protection order as provided under this chapter, an antiharassment no-contact order as provided under chapter 9A.46 RCW, a domestic violence no-contact order as provided under chapter 10.99 RCW, a restraining order as provided under chapters 26.09, *26.10, 26.26A, 26.26B, and 26.44 RCW, an antiharassment protection order as provided by chapter 10.14 RCW, a foreign protection order as defined in chapter 26.52 RCW, and a Canadian domestic violence protection order as defined in RCW 26.55.010.

(c) The order for protection form shall include, in a conspicuous location, notice of criminal penalties resulting from violation of the order, and the following statement: "You can be arrested even if the person or persons who obtained the order invite or allow you to violate the order's prohibitions. The respondent has the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order upon written application."

(d) The court staff handbook shall allow for the addition of a community resource list by the court clerk.

(2) All court clerks shall obtain a community resource list from a domestic violence program, defined in RCW 70.123.020, serving the county in which the court is located. The community resource list shall include the names and telephone numbers of domestic violence programs serving the community in which the court is located, including law enforcement agencies, domestic violence agencies, sexual assault agencies, legal assistance programs, interpreters, multicultural programs, and batterers' treatment programs. The court shall make the community resource list available as part of or in addition to the informational brochures described in subsection (1) of this section.

(3) The administrative office of the courts shall distribute a master copy of the petition and order forms, instructions, and informational brochures to all court clerks and shall distribute a master copy of the petition and order forms to all superior, district, and municipal courts.

(4) For purposes of this section, "court clerks" means court administrators in courts of limited jurisdiction and elected court clerks.

(5) The administrative office of the courts shall determine the significant non-English-speaking or limited English-speaking populations in the state. The administrator shall then arrange for translation of the instructions and informational brochures required by this section, which shall contain a sample of the standard petition and order for protection forms, into the languages spoken by those significant non-

English-speaking populations and shall distribute a master copy of the translated instructions and informational brochures to all court clerks by January 1, 1997.

(6) The administrative office of the courts shall update the instructions, brochures, standard petition and order for protection forms, and court staff handbook when changes in the law make an update necessary. [2019 c 263 § 912; 2019 c 46 § 5037; 2005 c 282 § 40; 2000 c 119 § 14; 1995 c 246 § 4; 1993 c 350 § 2; 1985 c 303 § 3; 1984 c 263 § 31.]

Reviser's note: *(1) Chapter 26.10 RCW, with the exception of RCW 26.10.115, was repealed by 2020 c 312 § 905, effective January 1, 2021.

(2) This section was amended by 2019 c 46 § 5037 and by 2019 c 263 § 912, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2019 c 263 §§ 901-915, 1001, and 1002: See RCW 26.55.903.

Findings—1993 c 350: "The legislature finds that domestic violence is a problem of immense proportions affecting individuals as well as communities. Domestic violence has long been recognized as being at the core of other major social problems including child abuse, crimes of violence against person or property, juvenile delinquency, and alcohol and drug abuse. Domestic violence costs include the loss of lives as well as millions of dollars each year in the state of Washington for health care, absence from work, and services to children. The crisis is growing.

While the existing protection order process can be a valuable tool to increase safety for victims and to hold batterers accountable, specific problems in its use have become evident. Victims have difficulty completing the paperwork required; model forms have been modified to be inconsistent with statutory language; different forms create confusion for law enforcement agencies about the contents and enforceability of orders. Refinements are needed so that victims have the easy, quick, and effective access to the court system envisioned at the time the protection order process was first created.

Valuable information about the reported incidents of domestic violence in the state of Washington is unobtainable without gathering data from all law enforcement agencies. Without this information, it is difficult for policymakers, funders, and service providers to plan for the resources and services needed to address the issue." [1993 c 350 § 1.]

Additional notes found at www.leg.wa.gov

26.50.040 Fees not permitted—Filing, service of process, certified copies. (Effective until July 1, 2022.) No fees for filing or service of process may be charged by a public agency to petitioners seeking relief under this chapter. Petitioners shall be provided the necessary number of certified copies at no cost. [1995 c 246 § 5; 1985 c 303 § 4; 1984 c 263 § 5.]

Additional notes found at www.leg.wa.gov

26.50.050 Hearing—Service—Time. (Effective until July 1, 2022.) Upon receipt of the petition, the court shall order a hearing which shall be held not later than fourteen days from the date of the order. The court may schedule a hearing by telephone pursuant to local court rule, to reasonably accommodate a disability, or in exceptional circumstances to protect a petitioner from further acts of domestic violence. The court shall require assurances of the petitioner's identity before conducting a telephonic hearing. Except as provided in RCW 26.50.085 and 26.50.123, personal service shall be made upon the respondent not less than five court days prior to the hearing. If timely personal service cannot be made, the court shall set a new hearing date and shall either require an additional attempt at obtaining personal service or permit service by publication as provided in RCW 26.50.085 or service by mail as provided in RCW 26.50.123. The court shall not require more than two attempts at obtaining per-

sonal service and shall permit service by publication or by mail unless the petitioner requests additional time to attempt personal service. If the court permits service by publication or by mail, the court shall set the hearing date not later than twenty-four days from the date of the order. The court may issue an ex parte order for protection pending the hearing as provided in RCW 26.50.070, 26.50.085, and 26.50.123. [2008 c 287 § 2; 1995 c 246 § 6; 1992 c 143 § 1; 1984 c 263 § 6.]

Additional notes found at www.leg.wa.gov

26.50.055 Appointment of interpreter. (Effective until July 1, 2022.) (1) Pursuant to chapter 2.42 RCW, an interpreter shall be appointed for any party who, because of a hearing or speech impairment, cannot readily understand or communicate in spoken language.

(2) Pursuant to chapter 2.43 RCW, an interpreter shall be appointed for any party who cannot readily speak or understand the English language.

(3) The interpreter shall translate or interpret for the party in preparing forms, participating in the hearing and court-ordered assessments, and translating any orders. [1995 c 246 § 11.]

Additional notes found at www.leg.wa.gov

26.50.060 Relief—Duration—Realignment of designation of parties—Award of costs, service fees, attorneys' fees, and limited license legal technician fees. (Effective until July 1, 2022.) (1) Upon notice and after hearing, the court may provide relief as follows:

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

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

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

(d) 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;

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

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

(g) Require the respondent to pay the administrative court costs and service fees, as established by the county or municipality incurring the expense and to reimburse the petitioner for costs incurred in bringing the action, including reasonable attorneys' fees or limited license legal technician fees when such fees are incurred by a person licensed and practicing in accordance with the state supreme court's admission to practice rule 28, the limited practice rule for limited license legal technicians;

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

(i) Restrain the respondent from harassing, following, keeping under physical or electronic surveillance, cyberstalking as defined in RCW 9.61.260, and using telephonic, audiovisual, or other electronic means to monitor the actions, location, or communication of a victim of domestic violence, the victim's children, or members of the victim's household. For the purposes of this subsection, "communication" includes both "wire communication" and "electronic communication" as defined in RCW 9.73.260;

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

(k) Consider the provisions of RCW 9.41.800;

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

(m) Order use of a vehicle; and

(n) Enter an order restricting the respondent from engaging in abusive litigation as set forth in chapter 26.51 RCW. A petitioner may request this relief in the petition or by separate motion. A petitioner may request this relief by separate motion at any time within five years of the date the order for protection is entered even if the order has since expired. A stand-alone motion for an order restricting abusive litigation may be brought by a party who meets the requirements of chapter 26.51 RCW regardless of whether the party has previously sought an order for protection under this chapter, provided the motion is made within five years of the date the order that made a finding of domestic violence was entered. In cases where a finding of domestic violence was entered pursuant to an order under chapter 26.09, *26.26, or 26.26A RCW, a motion for an order restricting abusive litigation may be brought under the family law case or as a stand-alone action filed under this chapter, when it is not reasonable or practical to file under the family law case.

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

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

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

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

(4) 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 and may issue an ex parte temporary order for protection in accordance with RCW 26.50.070 on behalf of the victim until the victim is able to prepare a petition for an order for protection in accordance with RCW 26.50.030.

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

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

(7) If the court declines to issue an order for protection or declines to renew an order for protection, the court shall state in writing on the order the particular reasons for the court's denial. [2020 c 311 § 9; 2019 c 46 § 5038; 2018 c 84 § 1;

2010 c 274 § 304; 2009 c 439 § 2; 2000 c 119 § 15; 1999 c 147 § 2; 1996 c 248 § 13; 1995 c 246 § 7; 1994 sp.s. c 7 § 457. Prior: 1992 c 143 § 2; 1992 c 111 § 4; 1992 c 86 § 4; 1989 c 411 § 1; 1987 c 460 § 55; 1985 c 303 § 5; 1984 c 263 § 7.]

Reviser's note: *(1) The majority of chapter 26.26 RCW was repealed by 2018 c 6 § 907. For later enactment of the uniform parentage act, see chapter 26.26A RCW.

***(2) Chapter 26.10 RCW, with the exception of RCW 26.10.115, was repealed by 2020 c 312 § 905, effective January 1, 2021.

Effective date—2020 c 311: See RCW 26.51.901.

Intent—2010 c 274: See note following RCW 10.31.100.

Finding—Intent—2009 c 439: "The legislature finds that considerable research shows a strong correlation between animal abuse, child abuse, and domestic violence. The legislature intends that perpetrators of domestic violence not be allowed to further terrorize and manipulate their victims, or the children of their victims, by using the threat of violence toward pets." [2009 c 439 § 1.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Findings—1992 c 111: See note following RCW 26.50.030.

Additional notes found at www.leg.wa.gov

26.50.070 Ex parte temporary order for protection. (Effective until July 1, 2022.) (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) Restraining any party from going onto the grounds of or entering the dwelling that the parties share, from the residence, workplace, or school of the other, or from the day care or school of a child until further order of the court;

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

(d) 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;

(e) 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; and

(f) Restraining the respondent from harassing, following, keeping under physical or electronic surveillance, cyberstalking as defined in RCW 9.61.260, and using telephonic, audiovisual, or other electronic means to monitor the actions, location, or communication of a victim of domestic violence, the victim's children, or members of the victim's household. For the purposes of this subsection, "communication" includes both "wire communication" and "electronic communication" as defined in RCW 9.73.260.

(2) In issuing the order, the court shall consider the provisions of RCW 9.41.800, and shall order the respondent to surrender, and prohibit the respondent from possessing, all firearms, dangerous weapons, and any concealed pistol license as required in RCW 9.41.800.

(3) 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.

(4) 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.

(5) An ex parte temporary order for protection shall be effective for a fixed period not to exceed fourteen days or twenty-four days if the court has permitted service by publication under RCW 26.50.085 or by mail under RCW 26.50.123. The ex parte temporary order 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 ex parte temporary order or not later than twenty-four days if service by publication or by mail is permitted. Except as provided in RCW 26.50.050, 26.50.085, and 26.50.123, the respondent shall be personally served with a copy of the ex parte temporary order along with a copy of the petition and notice of the date set for the hearing.

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

(7) If the court declines to issue an ex parte temporary order for protection the court shall state the particular reasons for the court's denial. The court's denial of a motion for an ex parte temporary order for protection shall be filed with the court. [2019 c 245 § 14; 2018 c 22 § 9; 2010 c 274 § 305; 2000 c 119 § 16; 1996 c 248 § 14; 1995 c 246 § 8; 1994 sp.s. c 7 § 458; 1992 c 143 § 3; 1989 c 411 § 2; 1984 c 263 § 8.]

Explanatory statement—2018 c 22: See note following RCW 1.20.051.

Intent—2010 c 274: See note following RCW 10.31.100.

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Child abuse, temporary restraining order: RCW 26.44.063.

Orders prohibiting contact: RCW 10.99.040.

Temporary restraining order: RCW 26.09.060.

Additional notes found at www.leg.wa.gov

26.50.080 Issuance of order—Assistance of peace officer—Designation of appropriate law enforcement agency. (Effective until July 1, 2022.) (1) When an order is issued under this chapter upon request of the petitioner, the court may order a peace officer to accompany the petitioner and assist in placing the petitioner in possession of those items indicated in the order or to otherwise assist in the execution of the order of protection. The order shall list all items that are to be included with sufficient specificity to make it clear which property is included. Orders issued under this chapter shall include a designation of the appropriate law enforcement agency to execute, serve, or enforce the order.

(2) Upon order of a court, a peace officer shall accompany the petitioner in an order of protection and assist in placing the petitioner in possession of all items listed in the order and to otherwise assist in the execution of the order. [1995 c 246 § 9; 1984 c 263 § 9.]

Additional notes found at www.leg.wa.gov

26.50.085 Hearing reset after ex parte order—Service by publication—Circumstances. (Effective until July 1, 2022.) (1) If the respondent was not personally served

with the petition, notice of hearing, and ex parte order before the hearing, the court shall reset the hearing for twenty-four days from the date of entry of the order and may order service by publication instead of personal service under the following circumstances:

(a) The sheriff or municipal officer files an affidavit stating that the officer was unable to complete personal service upon the respondent. The affidavit must describe the number and types of attempts the officer made to complete service;

(b) The petitioner files an affidavit stating that the petitioner believes that the respondent is hiding from the server to avoid service. The petitioner's affidavit must state the reasons for the belief that the respondent is avoiding service;

(c) The server has deposited a copy of the summons, in substantially the form prescribed in subsection (3) of this section, notice of hearing, and the ex parte order of protection in the post office, directed to the respondent at the respondent's last known address, unless the server states that the server does not know the respondent's address; and

(d) The court finds reasonable grounds exist to believe that the respondent is concealing himself or herself to avoid service, and that further attempts to personally serve the respondent would be futile or unduly burdensome.

(2) The court shall reissue the temporary order of protection not to exceed another twenty-four days from the date of reissuing the ex parte protection order and order to provide service by publication.

(3) The publication shall be made in a newspaper of general circulation in the county where the petition was brought and in the county of the last known address of the respondent once a week for three consecutive weeks. The newspaper selected must be one of the three most widely circulated papers in the county. The publication of summons shall not be made until the court orders service by publication under this section. Service of the summons shall be considered complete when the publication has been made for three consecutive weeks. The summons must be signed by the petitioner. The summons shall contain the date of the first publication, and shall require the respondent upon whom service by publication is desired, to appear and answer the petition on the date set for the hearing. The summons shall also contain a brief statement of the reason for the petition and a summary of the provisions under the ex parte order. The summons shall be essentially in the following form:

In the court of the state of Washington for the county of
., Petitioner
vs. No.
., Respondent

The state of Washington to (respondent):

You are hereby summoned to appear on the day of, (year), at a.m./p.m., and respond to the petition. If you fail to respond, an order of protection will be issued against you pursuant to the provisions of the domestic violence protection act, chapter 26.50 RCW, for a minimum of one year from the date you are required to

appear. A temporary order of protection has been issued against you, restraining you from the following: (Insert a brief statement of the provisions of the ex parte order). A copy of the petition, notice of hearing, and ex parte order has been filed with the clerk of this court.

.....
Petitioner

[2016 c 202 § 25; 1992 c 143 § 4.]

26.50.090 Order—Service—Fees. (Effective until July 1, 2022.) (1) An order issued under this chapter shall be personally served upon the respondent, except as provided in subsections (6) and (8) of this section.

(2) The sheriff of the county or the peace officers of the municipality in which the respondent resides shall serve the respondent personally unless the petitioner elects to have the respondent served by a private party. If the order includes a requirement under RCW 9.41.800 for the immediate surrender of all firearms, dangerous weapons, and any concealed pistol license, the order must be served by a law enforcement officer.

(3) If service by a sheriff or municipal peace officer is to be used, the clerk of the court shall have a copy of any order issued under this chapter electronically forwarded on or before the next judicial day to the appropriate law enforcement agency specified in the order for service upon the respondent. Service of an order issued under this chapter shall take precedence over the service of other documents unless they are of a similar emergency nature.

(4) If the sheriff or municipal peace officer cannot complete service upon the respondent within ten days, the sheriff or municipal peace officer shall notify the petitioner. The petitioner shall provide information sufficient to permit notification.

(5) Returns of service under this chapter shall be made in accordance with the applicable court rules.

(6) If an order entered by the court recites that the respondent appeared in person before the court, the necessity for further service is waived and proof of service of that order is not necessary.

(7) Municipal police departments serving documents as required under this chapter may collect from respondents ordered to pay fees under RCW 26.50.060 the same fees for service and mileage authorized by RCW 36.18.040 to be collected by sheriffs.

(8) If the court previously entered an order allowing service of the notice of hearing and temporary order of protection by publication pursuant to RCW 26.50.085 or by mail pursuant to RCW 26.50.123, the court may permit service by publication or by mail of the order of protection issued under RCW 26.50.060. Service by publication must comply with the requirements of RCW 26.50.085 and service by mail must comply with the requirements of RCW 26.50.123. The court order must state whether the court permitted service by publication or by mail. [2019 c 245 § 15; 1995 c 246 § 10; 1992 c 143 § 6; 1985 c 303 § 6; 1984 c 263 § 10.]

Additional notes found at www.leg.wa.gov

26.50.095 Order following service by publication. (Effective until July 1, 2022.) Following completion of ser-

vice by publication as provided in RCW 26.50.085 or by mail as provided in RCW 26.50.123, if the respondent fails to appear at the hearing, the court may issue an order of protection as provided in RCW 26.50.060. That order must be served pursuant to RCW 26.50.090, and forwarded to the appropriate law enforcement agency pursuant to RCW 26.50.100. [1995 c 246 § 12; 1992 c 143 § 5.]

Additional notes found at www.leg.wa.gov

26.50.100 Order—Transmittal to law enforcement agency—Record in law enforcement information system—Enforceability. (Effective until July 1, 2022.) (1) A copy of an order for protection granted under this chapter shall be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order.

Upon receipt of the order, the law enforcement agency shall forthwith enter the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. The order shall remain in the computer for the period stated in the order. The law enforcement agency shall only expunge from the computer-based criminal intelligence information system orders that are expired, vacated, or superseded. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state.

(2) The information entered into the computer-based criminal intelligence information system shall include notice to law enforcement whether the order was personally served, served by publication, or served by mail. [1996 c 248 § 15; 1995 c 246 § 13; 1992 c 143 § 7; 1984 c 263 § 11.]

Additional notes found at www.leg.wa.gov

26.50.110 Violation of order—Penalties. (Effective until July 1, 2022.) (1)(a) Whenever an order is granted under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, *26.10, 26.26A, 26.26B, or 74.34 RCW, any temporary order for protection is granted under chapter 7.40 RCW pursuant to chapter 74.34 RCW, there is a valid foreign protection order as defined in RCW 26.52.020, or there is a valid Canadian domestic violence protection order as defined in RCW 26.55.010, and the respondent or person to be restrained knows of the order, a violation of any of the following provisions of the order is a gross misdemeanor, except as provided in subsections (4) and (5) of this section:

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

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

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

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

(v) A provision of a foreign protection order or a Canadian domestic violence protection order specifically indicating that a violation will be a crime.

(b) Upon conviction, and in addition to any other penalties provided by law, the court:

(i) May require that the respondent submit to electronic monitoring. The court shall specify who shall provide the electronic monitoring services, and the terms under which the monitoring shall be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the convicted person to pay for electronic monitoring.

(ii) Shall impose a fine of fifteen dollars, in addition to any penalty or fine imposed, for a violation of a domestic violence protection order issued under this chapter. Revenue from the fifteen dollar fine must be remitted monthly to the state treasury for deposit in the domestic violence prevention account.

(2) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order issued under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, *26.10, 26.26A, 26.26B, or 74.34 RCW, any temporary order for protection granted under chapter 7.40 RCW pursuant to chapter 74.34 RCW, a valid foreign protection order as defined in RCW 26.52.020, or a valid Canadian domestic violence protection order as defined in RCW 26.55.010, that restrains the person or excludes the person from a residence, workplace, school, or day care, or prohibits the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, if the person restrained knows of the order. Presence of the order in the law enforcement computer-based criminal intelligence information system is not the only means of establishing knowledge of the order.

(3) A violation of an order issued under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, *26.10, 26.26A, 26.26B, or 74.34 RCW, a valid foreign protection order as defined in RCW 26.52.020, or a valid Canadian domestic violence protection order as defined in RCW 26.55.010, shall also constitute contempt of court, and is subject to the penalties prescribed by law.

(4) Any assault that is a violation of an order issued under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, *26.10, 26.26A, 26.26B, or 74.34 RCW, a valid foreign protection order as defined in RCW 26.52.020, or a valid Canadian domestic violence protection order as defined in RCW 26.55.010, and that does not amount to assault in the first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in violation of such an order that is reckless and creates a substantial risk of death or serious physical injury to another person is a class C felony.

(5) A violation of a court order issued under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, *26.10, 26.26A, 26.26B, or 74.34 RCW, a valid foreign protection order as defined in RCW 26.52.020, or a valid Canadian domestic violence protection order as defined in RCW 26.55.010, is a class C felony if the offender has at least two previous convictions for violating the provisions of an order issued under this chapter, chapter 7.90, 9A.40, 9A.46,

9A.88, 9.94A, 10.99, 26.09, *26.10, 26.26A, 26.26B, or 74.34 RCW, a valid foreign protection order as defined in RCW 26.52.020 or a valid Canadian domestic violence protection order as defined in RCW 26.55.010. The previous convictions may involve the same victim or other victims specifically protected by the orders the offender violated.

(6) Upon the filing of an affidavit by the petitioner or any peace officer alleging that the respondent has violated an order granted under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, *26.10, 26.26A, 26.26B, or 74.34 RCW, a valid foreign protection order as defined in RCW 26.52.020, or a valid Canadian domestic violence protection order as defined in RCW 26.55.010, the court may issue an order to the respondent, requiring the respondent to appear and show cause within fourteen days why the respondent should not be found in contempt of court and punished accordingly. The hearing may be held in the court of any county or municipality in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation. [2019 c 263 § 913; 2019 c 46 § 5039; 2017 c 230 § 9. Prior: 2015 c 275 § 15; 2015 c 248 § 1; 2013 c 84 § 31; prior: 2009 c 439 § 3; 2009 c 288 § 3; 2007 c 173 § 2; 2006 c 138 § 25; 2000 c 119 § 24; 1996 c 248 § 16; 1995 c 246 § 14; 1992 c 86 § 5; 1991 c 301 § 6; 1984 c 263 § 12.]

Reviser's note: *(1) Chapter 26.10 RCW, with the exception of RCW 26.10.115, was repealed by 2020 c 312 § 905, effective January 1, 2021.

(2) This section was amended by 2019 c 46 § 5039 and by 2019 c 263 § 913, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2019 c 263 §§ 901-915, 1001, and 1002: See RCW 26.55.903.

Finding—Intent—2009 c 439: See note following RCW 26.50.060.

Findings—2009 c 288: See note following RCW 9.94A.637.

Finding—Intent—2007 c 173: "The legislature finds this act necessary to restore and make clear its intent that a willful violation of a no-contact provision of a court order is a criminal offense and shall be enforced accordingly to preserve the integrity and intent of the domestic violence act. This act is not intended to broaden the scope of law enforcement power or effectuate any substantive change to any criminal provision in the Revised Code of Washington." [2007 c 173 § 1.]

Finding—1991 c 301: See note following RCW 10.99.020.

Violation of order protecting vulnerable adult: RCW 74.34.145.

Additional notes found at www.leg.wa.gov

26.50.115 Enforcement of ex parte order—Knowledge of order prerequisite to penalties—Reasonable efforts to serve copy of order. (Effective until July 1, 2022.) (1) When the court issues an ex parte order pursuant to RCW 26.50.070 or an order of protection pursuant to RCW 26.50.060, the court shall advise the petitioner that the respondent may not be subjected to the penalties set forth in RCW 26.50.110 for a violation of the order unless the respondent knows of the order.

(2) When a peace officer investigates a report of an alleged violation of an order for protection issued under this chapter the officer shall attempt to determine whether the respondent knew of the existence of the protection order. If the law enforcement officer determines that the respondent did not or probably did not know about the protection order and the officer is provided a current copy of the order, the officer shall serve the order on the respondent if the respondent is present. If the respondent is not present, the officer

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shall make reasonable efforts to serve a copy of the order on the respondent. If the officer serves the respondent with the petitioner's copy of the order, the officer shall give petitioner a receipt indicating that petitioner's copy has been served on the respondent. After the officer has served the order on the respondent, the officer shall enforce prospective compliance with the order.

(3) Presentation of an unexpired, certified copy of a protection order with proof of service is sufficient for a law enforcement officer to enforce the order regardless of the presence of the order in the law enforcement computer-based criminal intelligence information system. [1996 c 248 § 17; 1995 c 246 § 15; 1992 c 143 § 8.]

Additional notes found at www.leg.wa.gov

26.50.120 Violation of order—Prosecuting attorney or attorney for municipality may be requested to assist—Costs and attorney's fee. (Effective until July 1, 2022.) When a party alleging a violation of an order for protection issued under this chapter states that the party is unable to afford private counsel and asks the prosecuting attorney for the county or the attorney for the municipality in which the order was issued for assistance, the attorney shall initiate and prosecute a contempt proceeding if there is probable cause to believe that the violation occurred. In this action, the court may require the violator of the order to pay the costs incurred in bringing the action, including a reasonable attorney's fee. [1984 c 263 § 13.]

26.50.123 Service by mail. (Effective until July 1, 2022.) (1) In circumstances justifying service by publication under RCW 26.50.085(1), if the serving party files an affidavit stating facts from which the court determines that service by mail is just as likely to give actual notice as service by publication and that the serving party is unable to afford the cost of service by publication, the court may order that service be made by mail. Such service shall be made by any person over eighteen years of age, who is competent to be a witness, other than a party, by mailing copies of the order and other process to the party to be served at his or her last known address or any other address determined by the court to be appropriate. Two copies shall be mailed, postage prepaid, one by ordinary first-class mail and the other by a form of mail requiring a signed receipt showing when and to whom it was delivered. The envelopes must bear the return address of the sender.

(2) Proof of service under this section shall be consistent with court rules for civil proceedings.

(3) Service under this section may be used in the same manner and shall have the same jurisdictional effect as service by publication for purposes of this chapter. Service shall be deemed complete upon the mailing of two copies as prescribed in this section. [1995 c 246 § 16.]

Additional notes found at www.leg.wa.gov

26.50.125 Service by publication or mailing—Costs. (Effective until July 1, 2022.) Except as provided in RCW 10.14.055, the court may permit service by publication or by mail under this chapter only if the petitioner pays the cost of publication or mailing unless the county legislative authority allocates funds for service of process by publication or by

mail for indigent petitioners. [2002 c 117 § 5; 1995 c 246 § 17; 1992 c 143 § 9.]

Additional notes found at www.leg.wa.gov

26.50.130 Order for protection—Modification or termination—Service—Transmittal. (Effective until July 1, 2022.) (1) Upon a motion with notice to all parties and after a hearing, the court may modify the terms of an existing order for protection or may terminate an existing order for protection.

(2) A respondent's motion to modify or terminate an order for protection that is permanent or issued for a fixed period exceeding two years must include a declaration setting forth facts supporting the requested order for termination or modification. The motion and declaration must be served according to subsection (8) of this section. The nonmoving parties to the proceeding may file opposing declarations. The court shall deny the motion unless it finds that adequate cause for hearing the motion is established by the declarations. If the court finds that the respondent established adequate cause, the court shall set a date for hearing the respondent's motion.

(3)(a) The court may not terminate an order for protection that is permanent or issued for a fixed period exceeding two years upon a motion of the respondent unless the respondent proves by a preponderance of the evidence that there has been a substantial change in circumstances such that the respondent is not likely to resume acts of domestic violence against the petitioner or those persons protected by the protection order if the order is terminated. In a motion by the respondent for termination of an order for protection that is permanent or issued for a fixed period exceeding two years, the petitioner bears no burden of proving that he or she has a current reasonable fear of imminent harm by the respondent.

(b) For the purposes of this subsection, a court shall determine whether there has been a "substantial change in circumstances" by considering only factors which address whether the respondent is likely to commit future acts of domestic violence against the petitioner or those persons protected by the protection order.

(c) In determining whether there has been a substantial change in circumstances the court may consider the following unweighted factors, and no inference is to be drawn from the order in which the factors are listed:

(i) Whether the respondent has committed or threatened domestic violence, sexual assault, stalking, or other violent acts since the protection order was entered;

(ii) Whether the respondent has violated the terms of the protection order, and the time that has passed since the entry of the order;

(iii) Whether the respondent has exhibited suicidal ideation or attempts since the protection order was entered;

(iv) Whether the respondent has been convicted of criminal activity since the protection order was entered;

(v) Whether the respondent has either acknowledged responsibility for the acts of domestic violence that resulted in entry of the protection order or successfully completed domestic violence perpetrator treatment or counseling since the protection order was entered;

(vi) Whether the respondent has a continuing involvement with drug or alcohol abuse, if such abuse was a factor in the protection order;

(vii) Whether the petitioner consents to terminating the protection order, provided that consent is given voluntarily and knowingly;

(viii) Whether the respondent or petitioner has relocated to an area more distant from the other party, giving due consideration to the fact that acts of domestic violence may be committed from any distance;

(ix) Other factors relating to a substantial change in circumstances.

(d) In determining whether there has been a substantial change in circumstances, the court may not base its determination solely on: (i) The fact that time has passed without a violation of the order; or (ii) the fact that the respondent or petitioner has relocated to an area more distant from the other party.

(e) Regardless of whether there is a substantial change in circumstances, the court may decline to terminate a protection order if it finds that the acts of domestic violence that resulted in the issuance of the protection order were of such severity that the order should not be terminated.

(4) The court may not modify an order for protection that is permanent or issued for a fixed period exceeding two years upon a motion of the respondent unless the respondent proves by a preponderance of the evidence that the requested modification is warranted. If the requested modification would reduce the duration of the protection order or would eliminate provisions in the protection order restraining the respondent from harassing, stalking, threatening, or committing other acts of domestic violence against the petitioner or the petitioner's children or family or household members or other persons protected by the order, the court shall consider the factors in subsection (3)(c) of this section in determining whether the protection order should be modified. Upon a motion by the respondent for modification of an order for protection that is permanent or issued for a fixed period exceeding two years, the petitioner bears no burden of proving that he or she has a current reasonable fear of imminent harm by the respondent.

(5) A respondent may file a motion to terminate or modify an order no more than once in every twelve-month period that the order is in effect, starting from the date of the order and continuing through any renewal.

(6) Upon a motion by a petitioner, the court may modify or terminate an existing order for protection. The court shall hear the motion without an adequate cause hearing.

(7) A court may require the respondent to pay court costs and service fees, as established by the county or municipality incurring the expense and to pay the petitioner for costs incurred in responding to a motion to terminate or modify a protection order, including reasonable attorneys' fees.

(8) Except as provided in RCW 26.50.085 and 26.50.123, a motion to modify or terminate an order for protection must be personally served on the nonmoving party not less than five court days prior to the hearing.

(a) If a moving party seeks to modify or terminate an order for protection that is permanent or issued for a fixed period exceeding two years, the sheriff of the county or the peace officers of the municipality in which the nonmoving

party resides or a licensed process server shall serve the non-moving party personally except when a petitioner is the moving party and elects to have the nonmoving party served by a private party. If the order includes a requirement under RCW 9A.41.800 for the immediate surrender of all firearms, dangerous weapons, and any concealed pistol license, the order must be served by a law enforcement officer.

(b) If the sheriff, municipal peace officer, or licensed process server cannot complete service upon the nonmoving party within ten days, the sheriff, municipal peace officer, or licensed process server shall notify the moving party. The moving party shall provide information sufficient to permit notification by the sheriff, municipal peace officer, or licensed process server.

(c) If timely personal service cannot be made, the court shall set a new hearing date and shall either require an additional attempt at obtaining personal service or permit service by publication as provided in RCW 26.50.085 or service by mail as provided in RCW 26.50.123.

(d) The court shall not require more than two attempts at obtaining personal service and shall permit service by publication or by mail unless the moving party requests additional time to attempt personal service.

(e) If the court permits service by publication or by mail, the court shall set the hearing date not later than twenty-four days from the date of the order permitting service by publication or by mail.

(9) Municipal police departments serving documents as required under this chapter may recover from a respondent ordered to pay fees under subsection (7) of this section the same fees for service and mileage authorized by RCW 36.18.040 to be collected by sheriffs.

(10) In any situation where an order is terminated or modified before its expiration date, the clerk of the court shall forward on or before the next judicial day a true copy of the modified order or the termination order to the appropriate law enforcement agency specified in the modified or termination order. Upon receipt of the order, the law enforcement agency shall promptly enter it in the law enforcement information system. [2019 c 245 § 16; 2011 c 137 § 2; 2008 c 287 § 3; 1984 c 263 § 14.]

Findings—2011 c 137: "The legislature finds that civil domestic violence protection orders are an essential tool for interrupting an abuser's ability to perpetrate domestic violence. The legislature has authorized courts to enter permanent or fixed term domestic violence protection orders if the court finds that the respondent is likely to resume acts of domestic violence when the order expires. However, the legislature has not established procedures or guidelines for terminating or modifying a protection order after it is entered.

The legislature finds that some of the factors articulated in the Washington supreme court's decision in *In re Marriage of Freeman*, 169 Wn.2d 664, 239 P.3d 557 (2010), for terminating or modifying domestic violence protection orders do not demonstrate that a restrained person is unlikely to resume acts of domestic violence when the order expires, and place an improper burden on the person protected by the order. By this act, the legislature establishes procedures and guidelines for determining whether a domestic violence protection order should be terminated or modified." [2011 c 137 § 1.]

Additional notes found at www.leg.wa.gov

26.50.135 Residential placement or custody of a child—Prerequisite. (Effective until July 1, 2022.) (1) Before granting an order under this chapter directing residential placement of a child or restraining or limiting a party's contact with a child, the court shall consult the judicial infor-

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mation system, if available, to determine the pendency of other proceedings involving the residential placement of any child of the parties for whom residential placement has been requested.

(2) Jurisdictional issues regarding out-of-state proceedings involving the custody or residential placement of any child of the parties shall be governed by the uniform child custody jurisdiction [and enforcement] act, chapter 26.27 RCW. [1995 c 246 § 19.]

Additional notes found at www.leg.wa.gov

26.50.140 Peace officers—Immunity. (Effective until July 1, 2022.) No peace officer may be held criminally or civilly liable for making an arrest under RCW 26.50.110 if the police officer acts in good faith and without malice. [1984 c 263 § 17.]

26.50.150 Domestic violence perpetrator programs. (Effective until July 1, 2022. Recodified as RCW 43.20A.735.) Any program that provides domestic violence treatment to perpetrators of domestic violence must be certified by the department of social and health services and meet minimum standards for domestic violence treatment purposes. The department of social and health services shall adopt rules for standards of approval of domestic violence perpetrator programs. The treatment must meet the following minimum qualifications:

(1) All treatment must be based upon a full, complete clinical intake including but not limited to: Current and past violence history; a lethality risk assessment; history of treatment from past domestic violence perpetrator treatment programs; a complete diagnostic evaluation; a substance abuse assessment; criminal history; assessment of cultural issues, learning disabilities, literacy, and special language needs; and a treatment plan that adequately and appropriately addresses the treatment needs of the individual.

(2) To facilitate communication necessary for periodic safety checks and case monitoring, the program must require the perpetrator to sign the following releases:

(a) A release for the program to inform the victim and victim's community and legal advocates that the perpetrator is in treatment with the program, and to provide information, for safety purposes, to the victim and victim's community and legal advocates;

(b) A release to prior and current treatment agencies to provide information on the perpetrator to the program; and

(c) A release for the program to provide information on the perpetrator to relevant legal entities including: Lawyers, courts, parole, probation, child protective services, and child welfare services.

(3) Treatment must be for a minimum treatment period defined by the secretary of the department of social and health services by rule. The weekly treatment sessions must be in a group unless there is a documented, clinical reason for another modality. Any other therapies, such as individual, marital, or family therapy, substance abuse evaluations or therapy, medication reviews, or psychiatric interviews, may be concomitant with the weekly group treatment sessions described in this section but not a substitute for it.

(4) The treatment must focus primarily on ending the violence, holding the perpetrator accountable for his or her

violence, and changing his or her behavior. The treatment must be based on nonvictim-blaming strategies and philosophies and shall include education about the individual, family, and cultural dynamics of domestic violence. If the perpetrator or the victim has a minor child, treatment must specifically include education regarding the effects of domestic violence on children, such as the emotional impacts of domestic violence on children and the long-term consequences that exposure to incidents of domestic violence may have on children.

(5) Satisfactory completion of treatment must be contingent upon the perpetrator meeting specific criteria, defined by rule by the secretary of the department of social and health services, and not just upon the end of a certain period of time or a certain number of sessions.

(6) The program must have policies and procedures for dealing with reoffenses and noncompliance.

(7) All evaluation and treatment services must be provided by, or under the supervision of, qualified personnel.

(8) The secretary of the department of social and health services may adopt rules and establish fees as necessary to implement this section.

(9) The department of social and health services may conduct on-site monitoring visits as part of its plan for certifying domestic violence perpetrator programs and monitoring implementation of the rules adopted by the secretary of the department of social and health services to determine compliance with the minimum qualifications for domestic violence perpetrator programs. The applicant or certified domestic violence perpetrator program shall cooperate fully with the department of social and health services in the monitoring visit and provide all program and management records requested by the department of social and health services to determine the program's compliance with the minimum certification qualifications and rules adopted by the department of social and health services. [2019 c 470 § 5; 2017 3rd sp.s. c 6 § 334; 2010 c 274 § 501; 1999 c 147 § 1; 1991 c 301 § 7.]

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Intent—2010 c 274: See note following RCW 10.31.100.

Finding—1991 c 301: See note following RCW 10.99.020.

26.50.160 Judicial information system—Database. (Effective until July 1, 2022.) To prevent the issuance of competing protection orders in different courts and to give courts needed information for issuance of orders, the judicial information system shall be available in each district, municipal, and superior court by July 1, 1997, and shall include a database containing the following information:

(1) The names of the parties and the cause number for every order of protection issued under this title, every sexual assault protection order issued under chapter 7.90 RCW, every criminal no-contact order issued under chapters 9A.46 and 10.99 RCW, every antiharassment order issued under chapter 10.14 RCW, every dissolution action under chapter 26.09 RCW, every third-party custody action under *chapter 26.10 RCW, every parentage action under chapter 26.26A or

26.26B RCW, every restraining order issued on behalf of an abused child or adult dependent person under chapter 26.44 RCW, every foreign protection order filed under chapter 26.52 RCW, every Canadian domestic violence protection order filed under chapter 26.55 RCW, and every order for protection of a vulnerable adult under chapter 74.34 RCW. When a guardian or the department of social and health services or department of children, youth, and families has petitioned for relief on behalf of an abused child, adult dependent person, or vulnerable adult, the name of the person on whose behalf relief was sought shall be included in the database as a party rather than the guardian or appropriate department;

(2) A criminal history of the parties; and

(3) Other relevant information necessary to assist courts in issuing orders under this chapter as determined by the judicial information system committee. [2019 c 263 § 914; 2019 c 46 § 5040; 2017 3rd sp.s. c 6 § 335; 2006 c 138 § 26. Prior: 2000 c 119 § 25; 2000 c 51 § 1; 1995 c 246 § 18.]

Reviser's note: *(1) Chapter 26.10 RCW, with the exception of RCW 26.10.115, was repealed by 2020 c 312 § 905, effective January 1, 2021.

(2) This section was amended by 2019 c 46 § 5040 and by 2019 c 263 § 914, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2019 c 263 §§ 901-915, 1001, and 1002: See RCW 26.55.903.

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Additional notes found at www.leg.wa.gov

26.50.165 Judicial information system—Names of adult cohabitants in third-party custody actions. (Effective until July 1, 2022.) In addition to the information required to be included in the judicial information system under RCW 26.50.160, the database shall contain the names of any adult cohabitant of a petitioner to a third-party custody action under *chapter 26.10 RCW. [2003 c 105 § 4.]

***Reviser's note:** Chapter 26.10 RCW, with the exception of RCW 26.10.115, was repealed by 2020 c 312 § 905, effective January 1, 2021.

26.50.200 Title to real estate—Effect. (Effective until July 1, 2022.) Nothing in this chapter may affect the title to real estate: PROVIDED, That a judgment for costs or fees awarded under this chapter shall constitute a lien on real estate to the extent provided in chapter 4.56 RCW. [1985 c 303 § 7; 1984 c 263 § 15.]

26.50.210 Proceedings additional. (Effective until July 1, 2022.) Any proceeding under chapter 263, Laws of 1984 is in addition to other civil or criminal remedies. [1984 c 263 § 16.]

26.50.220 Parenting plan—Designation of parent for other state and federal purposes. (Effective until July 1, 2022.) Solely for the purposes of all other state and federal statutes which require a designation or determination of custody, a parenting plan shall designate the parent with whom the child is scheduled to reside a majority of the time as the custodian of the child. However, this designation shall not

affect either parent's rights and responsibilities under the parenting plan. In the absence of such a designation, the parent with whom the child is scheduled to reside the majority of the time shall be deemed to be the custodian of the child for the purposes of such federal and state statutes. [1989 c 375 § 26.]

26.50.230 Protection order against person with a disability, brain injury, or impairment. (Effective until July 1, 2022.) (1) The administrative office of the courts shall update the law enforcement information form which it provides for the use of a petitioner who is seeking an ex parte protection order in such a fashion as to prompt the person to disclose on the form whether the person who the petitioner is seeking to restrain has a disability, brain injury, or impairment requiring special assistance.

(2) Any peace officer who serves a protection order on a respondent with the knowledge that the respondent requires special assistance due to a disability, brain injury, or impairment shall make a reasonable effort to accommodate the needs of the respondent to the extent practicable without compromise to the safety of the petitioner. [2010 c 274 § 303.]

Intent—2010 c 274: See note following RCW 10.31.100.

26.50.240 Personal jurisdiction—Nonresident individuals. (Effective until July 1, 2022.) (1) In a proceeding in which a petition for an order for protection under this chapter is sought, a court of this state may exercise personal jurisdiction over a nonresident individual if:

(a) The individual is personally served with a petition within this state;

(b) The individual submits to the jurisdiction of this state by consent, entering a general appearance, or filing a responsive document having the effect of waiving any objection to consent to personal jurisdiction;

(c) The act or acts of the individual or the individual's agent giving rise to the petition or enforcement of an order for protection occurred within this state;

(d)(i) The act or acts of the individual or the individual's agent giving rise to the petition or enforcement of an order for protection occurred outside this state and are part of an ongoing pattern of domestic violence or stalking that has an adverse effect on the petitioner or a member of the petitioner's family or household and the petitioner resides in this state; or

(ii) As a result of acts of domestic violence or stalking, the petitioner or a member of the petitioner's family or household has sought safety or protection in this state and currently resides in this state; or

(e) There is any other basis consistent with RCW 4.28.185 or with the Constitutions of this state and the United States.

(2) For jurisdiction to be exercised under subsection (1)(d)(i) or (ii) of this section, the individual must have communicated with the petitioner or a member of the petitioner's family, directly or indirectly, or made known a threat to the safety of the petitioner or member of the petitioner's family while the petitioner or family member resides in this state. For the purposes of subsection (1)(d)(i) or (ii) of this section, "communicated or made known" includes, but is not limited to, through the mail, telephonically, or a posting on an elec-

tronic communication site or medium. Communication on any electronic medium that is generally available to any individual residing in the state shall be sufficient to exercise jurisdiction under subsection (1)(d)(i) or (ii) of this section.

(3) For the purposes of this section, an act or acts that "occurred within this state" includes, but is not limited to, an oral or written statement made or published by a person outside of this state to any person in this state by means of the mail, interstate commerce, or foreign commerce. Oral or written statements sent by electronic mail or the internet are deemed to have "occurred within this state." [2010 c 274 § 306.]

Intent—2010 c 274: See note following RCW 10.31.100.

26.50.250 Disclosure of information. (Effective until July 1, 2022. Recodified as RCW 70.123.078.) (1)(a) No court or administrative body may compel any person or domestic violence program as defined in RCW 70.123.020 to disclose the name, address, or location of any domestic violence program, including a shelter or transitional housing facility location, in any civil or criminal case or in any administrative proceeding unless the court finds by clear and convincing evidence that disclosure is necessary for the implementation of justice after consideration of safety and confidentiality concerns of the parties and other residents of the domestic violence program, and other alternatives to disclosure that would protect the interests of the parties.

(b) The court's findings shall be made following a hearing in which the domestic violence program has been provided notice of the request for disclosure and an opportunity to respond.

(2) In any proceeding where the confidential name, address, or location of a domestic violence program is ordered to be disclosed, the court shall order that the parties be prohibited from further dissemination of the confidential information, and that any portion of any records containing such confidential information be sealed.

(3) Any person who obtains access to and intentionally and maliciously releases confidential information about the location of a domestic violence program for any purpose other than required by a court proceeding is guilty of a gross misdemeanor. [2012 c 223 § 9.]

26.50.900 Short title. (Effective until July 1, 2022.) This chapter may be cited as the "Domestic Violence Prevention Act". [1984 c 263 § 1.]

26.50.901 Effective date—1984 c 263. (Effective until July 1, 2022.) Sections 1 through 29 of this act shall take effect on September 1, 1984. [1984 c 263 § 32.]