

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1786

Chapter 245, Laws of 2019

66th Legislature
2019 Regular Session

PROTECTION, NO-CONTACT, AND RESTRAINING ORDERS--FIREARMS AND WEAPONS

EFFECTIVE DATE: July 28, 2019

Passed by the House April 23, 2019
Yeas 54 Nays 42

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 13, 2019
Yeas 25 Nays 20

CYRUS HABIB

President of the Senate

Approved May 7, 2019 9:46 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1786** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 13, 2019

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1786

AS AMENDED BY THE SENATE

Passed Legislature - 2019 Regular Session

State of Washington 66th Legislature 2019 Regular Session

By House Civil Rights & Judiciary (originally sponsored by Representatives Jinkins, Wylie, Goodman, Macri, Bergquist, Cody, Ormsby, Valdez, Frame, Peterson, Tarleton, Davis, Robinson, Fey, Appleton, Santos, Kilduff, Lovick, Walen, Senn, and Pellicciotti)

READ FIRST TIME 02/22/19.

1 AN ACT Relating to improving procedures and strengthening laws
2 relating to protection orders, no-contact orders, and restraining
3 orders; amending RCW 9.41.800, 9.41.040, 7.90.090, 7.90.110,
4 7.90.140, 7.92.100, 7.92.120, 7.92.150, 7.92.190, 10.14.080,
5 10.14.100, 10.14.180, 26.50.070, 26.50.090, 26.50.130, 26.09.060, and
6 26.10.115; and adding a new section to chapter 9.41 RCW.

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

8 **Sec. 1.** RCW 9.41.800 and 2014 c 111 s 2 are each amended to read
9 as follows:

10 (1) Any court when entering an order authorized under chapter
11 7.92 RCW, RCW 7.90.090, 9A.46.080, 10.14.080, 10.99.040, 10.99.045,
12 26.09.050, 26.09.060, 26.10.040, 26.10.115, (~~(26.26.130)~~) 26.26B.020,
13 26.50.060, 26.50.070, or 26.26.590 shall, upon a showing by clear and
14 convincing evidence, that a party has: Used, displayed, or threatened
15 to use a firearm or other dangerous weapon in a felony, or
16 (~~previously committed any offense that makes him or her~~) is
17 ineligible to possess a firearm under the provisions of RCW 9.41.040:

18 (a) Require that the party (~~(to)~~) immediately surrender (~~(any)~~)
19 all firearms (~~(or)~~) and other dangerous weapons;

20 (b) Require that the party (~~(to)~~) immediately surrender any
21 concealed pistol license issued under RCW 9.41.070;

1 (c) Prohibit the party from accessing, obtaining, or possessing
2 ((a)) any firearms or other dangerous weapons;

3 (d) Prohibit the party from obtaining or possessing a concealed
4 pistol license.

5 (2) Any court when entering an order authorized under chapter
6 7.92 RCW, RCW 7.90.090, 9A.46.080, 10.14.080, 10.99.040, 10.99.045,
7 26.09.050, 26.09.060, 26.10.040, 26.10.115, ((26.26.130)) 26.26B.020,
8 26.50.060, 26.50.070, or 26.26.590 may, upon a showing by a
9 preponderance of the evidence but not by clear and convincing
10 evidence, that a party has: Used, displayed, or threatened to use a
11 firearm or other dangerous weapon in a felony, or ((previously
12 committed any offense that makes him or her)) is ineligible to
13 possess a firearm under the provisions of RCW 9.41.040:

14 (a) Require that the party ((~~to~~)) immediately surrender ((any))
15 all firearms ((~~or~~)) and other dangerous weapons;

16 (b) Require that the party ((~~to~~)) immediately surrender a
17 concealed pistol license issued under RCW 9.41.070;

18 (c) Prohibit the party from accessing, obtaining, or possessing
19 ((a)) any firearms or other dangerous weapons;

20 (d) Prohibit the party from obtaining or possessing a concealed
21 pistol license.

22 (3) During any period of time that the person is subject to a
23 court order issued under chapter 7.90, 7.92, 9A.46, 10.14, 10.99,
24 26.09, 26.10, ((26.26)) 26.26B, or 26.50 RCW that:

25 (a) Was issued after a hearing of which the person received
26 actual notice, and at which the person had an opportunity to
27 participate;

28 (b) Restrains the person from harassing, stalking, or threatening
29 an intimate partner of the person or child of the intimate partner or
30 person, or engaging in other conduct that would place an intimate
31 partner in reasonable fear of bodily injury to the partner or child;
32 and

33 (c) (i) Includes a finding that the person represents a credible
34 threat to the physical safety of the intimate partner or child; and

35 (ii) By its terms, explicitly prohibits the use, attempted use,
36 or threatened use of physical force against the intimate partner or
37 child that would reasonably be expected to cause bodily injury, the
38 court shall:

39 (A) Require that the party ((~~to~~)) immediately surrender ((any))
40 all firearms ((~~or~~)) and other dangerous weapons;

1 (B) Require that the party (~~(to)~~) immediately surrender a
2 concealed pistol license issued under RCW 9.41.070;

3 (C) Prohibit the party from accessing, obtaining, or possessing
4 ~~((a))~~ any firearms or other dangerous weapons; and

5 (D) Prohibit the party from obtaining or possessing a concealed
6 pistol license.

7 (4) The court may order temporary surrender of ~~((a))~~ all firearms
8 ~~((or))~~ and other dangerous weapons, and any concealed pistol license,
9 without notice to the other party if it finds, on the basis of the
10 moving affidavit or other evidence, that irreparable injury could
11 result if an order is not issued until the time for response has
12 elapsed.

13 (5) In addition to the provisions of subsections (1), (2), and
14 (4) of this section, the court may enter an order requiring a party
15 to comply with the provisions in subsection (1) of this section if it
16 finds that the possession of a firearm or other dangerous weapon by
17 any party presents a serious and imminent threat to public health or
18 safety, or to the health or safety of any individual.

19 (6) The requirements of subsections (1), (2), and (5) of this
20 section may be for a period of time less than the duration of the
21 order.

22 (7) The court may require the party to surrender ~~((any))~~ all
23 firearms ~~((or))~~ and other dangerous weapons in his or her immediate
24 possession or control or subject to his or her immediate possession
25 or control, and any concealed pistol license issued under RCW
26 9.41.070, to the ~~((sheriff of the county having jurisdiction of the~~
27 ~~proceeding, the chief of police of the municipality having~~
28 ~~jurisdiction, or to the restrained or enjoined party's counsel or to~~
29 ~~any person designated by the court))~~ local law enforcement agency.
30 Law enforcement officers shall use law enforcement databases to
31 assist in locating the respondent in situations where the protected
32 person does not know where the respondent lives or where there is
33 evidence that the respondent is trying to evade service.

34 (8) If the court enters a protection order, restraining order, or
35 no-contact order that includes an order to surrender firearms,
36 dangerous weapons, and any concealed pistol license under this
37 section, the order must be served by a law enforcement officer.

38 NEW SECTION. Sec. 2. A new section is added to chapter 9.41 RCW
39 to read as follows:

1 (1) Because of the heightened risk of lethality to petitioners
2 when respondents to protection orders become aware of court
3 involvement and continue to have access to firearms, and the
4 frequency of noncompliance with court orders prohibiting possession
5 of firearms, law enforcement and judicial processes must emphasize
6 swift and certain compliance with court orders prohibiting access,
7 possession, and ownership of firearms.

8 (2) A law enforcement officer serving a protection order, no-
9 contact order, or restraining order that includes an order to
10 surrender all firearms, dangerous weapons, and a concealed pistol
11 license under RCW 9.41.800 shall inform the respondent that the order
12 is effective upon service and the respondent must immediately
13 surrender all firearms and dangerous weapons in his or her custody,
14 control, or possession and any concealed pistol license issued under
15 RCW 9.41.070, and conduct any search permitted by law for such
16 firearms, dangerous weapons, and concealed pistol license. The law
17 enforcement officer shall take possession of all firearms, dangerous
18 weapons, and any concealed pistol license belonging to the respondent
19 that are surrendered, in plain sight, or discovered pursuant to a
20 lawful search. Alternatively, if personal service is not required
21 because the respondent was present at the hearing at which the order
22 was entered, the respondent must immediately surrender all firearms,
23 dangerous weapons, and any concealed pistol license in a safe manner
24 to the control of the local law enforcement agency on the day of the
25 hearing at which the respondent was present.

26 (3) At the time of surrender, a law enforcement officer taking
27 possession of firearms, dangerous weapons, and any concealed pistol
28 license shall issue a receipt identifying all firearms, dangerous
29 weapons, and any concealed pistol license that have been surrendered
30 and provide a copy of the receipt to the respondent. The law
31 enforcement agency shall file the original receipt with the court
32 within twenty-four hours after service of the order and retain a copy
33 of the receipt, electronically whenever electronic filing is
34 available.

35 (4) Upon the sworn statement or testimony of the petitioner or of
36 any law enforcement officer alleging that the respondent has failed
37 to comply with the surrender of firearms or dangerous weapons as
38 required by an order issued under RCW 9.41.800, the court shall
39 determine whether probable cause exists to believe that the
40 respondent has failed to surrender all firearms and dangerous weapons

1 in their possession, custody, or control. If probable cause exists,
2 the court shall issue a warrant describing the firearms or dangerous
3 weapons and authorizing a search of the locations where the firearms
4 and dangerous weapons are reasonably believed to be and the seizure
5 of all firearms and dangerous weapons discovered pursuant to such
6 search.

7 (5) If a person other than the respondent claims title to any
8 firearms or dangerous weapons surrendered pursuant to this section,
9 and the person is determined by the law enforcement agency to be the
10 lawful owner of the firearm or dangerous weapon, the firearm or
11 dangerous weapon shall be returned to the lawful owner, provided
12 that:

13 (a) The firearm or dangerous weapon is removed from the
14 respondent's access, custody, control, or possession and the lawful
15 owner agrees by written document signed under penalty of perjury to
16 store the firearm or dangerous weapon in a manner such that the
17 respondent does not have access to or control of the firearm or
18 dangerous weapon;

19 (b) The firearm or dangerous weapon is not otherwise unlawfully
20 possessed by the owner; and

21 (c) The requirements of RCW 9.41.345 are met.

22 (6) Courts shall develop procedures to verify timely and complete
23 compliance with orders to surrender weapons under RCW 9.41.800,
24 including compliance review hearings to be held as soon as possible
25 upon receipt from law enforcement of proof of service. A compliance
26 review hearing is not required if the court can otherwise enter
27 findings on the record or enter written findings that the proof of
28 surrender or declaration of nonsurrender attested to by the person
29 subject to the order, along with verification from law enforcement
30 and any other relevant evidence, makes a sufficient showing that the
31 person has timely and completely surrendered all firearms and
32 dangerous weapons in their custody, control, or possession, and any
33 concealed pistol license issued under RCW 9.41.070, to a law
34 enforcement agency. If the court does not have a sufficient record
35 before it on which to make such a finding, the court must set a
36 review hearing to occur as soon as possible at which the respondent
37 must be present and provide testimony to the court under oath
38 verifying compliance with the court's order.

39 (7) All law enforcement agencies must have policies and
40 procedures to provide for the acceptance, storage, and return of

1 firearms, dangerous weapons, and concealed pistol licenses that a
2 court requires must be surrendered under RCW 9.41.800. A law
3 enforcement agency holding any firearm or concealed pistol license
4 that has been surrendered under RCW 9.41.800 shall comply with the
5 provisions of RCW 9.41.340 and 9.41.345 before the return of the
6 firearm or concealed pistol license to the owner or individual from
7 whom it was obtained.

8 (8) The administrative office of the courts shall create a
9 statewide pattern form to assist the courts in ensuring timely and
10 complete compliance in a consistent manner with orders issued under
11 this chapter. The administrative office of the courts shall report
12 annually on the number of orders issued under this chapter by each
13 court, the degree of compliance, and the number of firearms obtained,
14 and may make recommendations regarding additional procedures to
15 enhance compliance and victim safety.

16 **Sec. 3.** RCW 9.41.040 and 2018 c 234 s 1 are each amended to read
17 as follows:

18 (1)(a) A person, whether an adult or juvenile, is guilty of the
19 crime of unlawful possession of a firearm in the first degree, if the
20 person owns, has in his or her possession, or has in his or her
21 control any firearm after having previously been convicted or found
22 not guilty by reason of insanity in this state or elsewhere of any
23 serious offense as defined in this chapter.

24 (b) Unlawful possession of a firearm in the first degree is a
25 class B felony punishable according to chapter 9A.20 RCW.

26 (2)(a) A person, whether an adult or juvenile, is guilty of the
27 crime of unlawful possession of a firearm in the second degree, if
28 the person does not qualify under subsection (1) of this section for
29 the crime of unlawful possession of a firearm in the first degree and
30 the person owns, has in his or her possession, or has in his or her
31 control any firearm:

32 (i) After having previously been convicted or found not guilty by
33 reason of insanity in this state or elsewhere of any felony not
34 specifically listed as prohibiting firearm possession under
35 subsection (1) of this section, or any of the following crimes when
36 committed by one family or household member against another,
37 committed on or after July 1, 1993: Assault in the fourth degree,
38 coercion, stalking, reckless endangerment, criminal trespass in the
39 first degree, or violation of the provisions of a protection order or

1 no-contact order restraining the person or excluding the person from
2 a residence (RCW 26.50.060, 26.50.070, 26.50.130, or 10.99.040);

3 (ii) After having previously been convicted or found not guilty
4 by reason of insanity in this state or elsewhere of harassment when
5 committed by one family or household member against another,
6 committed on or after June 7, 2018;

7 (iii) During any period of time that the person is subject to a
8 court order issued under chapter 7.90, 7.92, 9A.46, 10.14, 10.99,
9 26.09, 26.10, (~~(26.26)~~) 26.26B, or 26.50 RCW that:

10 (A) Was issued after a hearing of which the person received
11 actual notice, and at which the person had an opportunity to
12 participate;

13 (B) Restrains the person from harassing, stalking, or threatening
14 (~~(an intimate partner of)~~) the person protected under the order or
15 child of the (~~(intimate partner)~~) person or protected person, or
16 engaging in other conduct that would place (~~(an intimate partner)~~)
17 the protected person in reasonable fear of bodily injury to the
18 (~~(partner)~~) protected person or child; and

19 (C) (I) Includes a finding that the person represents a credible
20 threat to the physical safety of the (~~(intimate partner)~~) protected
21 person or child(~~(+)~~) and (~~(+II)~~) by its terms(~~(+)~~) explicitly
22 prohibits the use, attempted use, or threatened use of physical force
23 against the (~~(intimate partner)~~) protected person or child that would
24 reasonably be expected to cause bodily injury; or

25 (II) Includes an order under RCW 9.41.800 requiring the person to
26 surrender all firearms and prohibiting the person from accessing,
27 obtaining, or possessing firearms;

28 (iv) After having previously been involuntarily committed for
29 mental health treatment under RCW 71.05.240, 71.05.320, 71.34.740,
30 71.34.750, chapter 10.77 RCW, or equivalent statutes of another
31 jurisdiction, unless his or her right to possess a firearm has been
32 restored as provided in RCW 9.41.047;

33 (v) If the person is under eighteen years of age, except as
34 provided in RCW 9.41.042; and/or

35 (vi) If the person is free on bond or personal recognizance
36 pending trial, appeal, or sentencing for a serious offense as defined
37 in RCW 9.41.010.

38 (b) (a)(iii) of this subsection does not apply to a sexual
39 assault protection order under chapter 7.90 RCW if the order has been

1 modified pursuant to RCW 7.90.170 to remove any restrictions on
2 firearm purchase, transfer, or possession.

3 (c) Unlawful possession of a firearm in the second degree is a
4 class C felony punishable according to chapter 9A.20 RCW.

5 (3) Notwithstanding RCW 9.41.047 or any other provisions of law,
6 as used in this chapter, a person has been "convicted", whether in an
7 adult court or adjudicated in a juvenile court, at such time as a
8 plea of guilty has been accepted, or a verdict of guilty has been
9 filed, notwithstanding the pendency of any future proceedings
10 including but not limited to sentencing or disposition, post-trial or
11 post-fact-finding motions, and appeals. Conviction includes a
12 dismissal entered after a period of probation, suspension or deferral
13 of sentence, and also includes equivalent dispositions by courts in
14 jurisdictions other than Washington state. A person shall not be
15 precluded from possession of a firearm if the conviction has been the
16 subject of a pardon, annulment, certificate of rehabilitation, or
17 other equivalent procedure based on a finding of the rehabilitation
18 of the person convicted or the conviction or disposition has been the
19 subject of a pardon, annulment, or other equivalent procedure based
20 on a finding of innocence. Where no record of the court's disposition
21 of the charges can be found, there shall be a rebuttable presumption
22 that the person was not convicted of the charge.

23 (4)(a) Notwithstanding subsection (1) or (2) of this section, a
24 person convicted or found not guilty by reason of insanity of an
25 offense prohibiting the possession of a firearm under this section
26 other than murder, manslaughter, robbery, rape, indecent liberties,
27 arson, assault, kidnapping, extortion, burglary, or violations with
28 respect to controlled substances under RCW 69.50.401 and 69.50.410,
29 who received a probationary sentence under RCW 9.95.200, and who
30 received a dismissal of the charge under RCW 9.95.240, shall not be
31 precluded from possession of a firearm as a result of the conviction
32 or finding of not guilty by reason of insanity. Notwithstanding any
33 other provisions of this section, if a person is prohibited from
34 possession of a firearm under subsection (1) or (2) of this section
35 and has not previously been convicted or found not guilty by reason
36 of insanity of a sex offense prohibiting firearm ownership under
37 subsection (1) or (2) of this section and/or any felony defined under
38 any law as a class A felony or with a maximum sentence of at least
39 twenty years, or both, the individual may petition a court of record
40 to have his or her right to possess a firearm restored:

1 (i) Under RCW 9.41.047; and/or

2 (ii)(A) If the conviction or finding of not guilty by reason of
3 insanity was for a felony offense, after five or more consecutive
4 years in the community without being convicted or found not guilty by
5 reason of insanity or currently charged with any felony, gross
6 misdemeanor, or misdemeanor crimes, if the individual has no prior
7 felony convictions that prohibit the possession of a firearm counted
8 as part of the offender score under RCW 9.94A.525; or

9 (B) If the conviction or finding of not guilty by reason of
10 insanity was for a nonfelony offense, after three or more consecutive
11 years in the community without being convicted or found not guilty by
12 reason of insanity or currently charged with any felony, gross
13 misdemeanor, or misdemeanor crimes, if the individual has no prior
14 felony convictions that prohibit the possession of a firearm counted
15 as part of the offender score under RCW 9.94A.525 and the individual
16 has completed all conditions of the sentence.

17 (b) An individual may petition a court of record to have his or
18 her right to possess a firearm restored under (a) of this subsection

19 (4) only at:

20 (i) The court of record that ordered the petitioner's prohibition
21 on possession of a firearm; or

22 (ii) The superior court in the county in which the petitioner
23 resides.

24 (5) In addition to any other penalty provided for by law, if a
25 person under the age of eighteen years is found by a court to have
26 possessed a firearm in a vehicle in violation of subsection (1) or
27 (2) of this section or to have committed an offense while armed with
28 a firearm during which offense a motor vehicle served an integral
29 function, the court shall notify the department of licensing within
30 twenty-four hours and the person's privilege to drive shall be
31 revoked under RCW 46.20.265, unless the offense is the juvenile's
32 first offense in violation of this section and has not committed an
33 offense while armed with a firearm, an unlawful possession of a
34 firearm offense, or an offense in violation of chapter 66.44, 69.52,
35 69.41, or 69.50 RCW.

36 (6) Nothing in chapter 129, Laws of 1995 shall ever be construed
37 or interpreted as preventing an offender from being charged and
38 subsequently convicted for the separate felony crimes of theft of a
39 firearm or possession of a stolen firearm, or both, in addition to
40 being charged and subsequently convicted under this section for

1 unlawful possession of a firearm in the first or second degree.
2 Notwithstanding any other law, if the offender is convicted under
3 this section for unlawful possession of a firearm in the first or
4 second degree and for the felony crimes of theft of a firearm or
5 possession of a stolen firearm, or both, then the offender shall
6 serve consecutive sentences for each of the felony crimes of
7 conviction listed in this subsection.

8 (7) Each firearm unlawfully possessed under this section shall be
9 a separate offense.

10 ~~((8) For purposes of this section, "intimate partner" includes:~~
11 ~~A spouse, a domestic partner, a former spouse, a former domestic~~
12 ~~partner, a person with whom the restrained person has a child in~~
13 ~~common, or a person with whom the restrained person has cohabitated~~
14 ~~or is cohabitating as part of a dating relationship.))~~

15 **Sec. 4.** RCW 7.90.090 and 2006 c 138 s 10 are each amended to
16 read as follows:

17 (1) (a) If the court finds by a preponderance of the evidence that
18 the petitioner has been a victim of nonconsensual sexual conduct or
19 nonconsensual sexual penetration by the respondent, the court shall
20 issue a sexual assault protection order; provided that the petitioner
21 must also satisfy the requirements of RCW 7.90.110 for ex parte
22 temporary orders or RCW 7.90.120 for final orders.

23 (b) The petitioner shall not be denied a sexual assault
24 protection order because the petitioner or the respondent is a minor
25 or because the petitioner did not report the assault to law
26 enforcement. The court, when determining whether or not to issue a
27 sexual assault protection order, may not require proof of physical
28 injury on the person of the victim or proof that the petitioner has
29 reported the sexual assault to law enforcement. Modification and
30 extension of prior sexual assault protection orders shall be in
31 accordance with this chapter.

32 (2) The court may provide relief as follows:

33 (a) Restrain the respondent from having any contact, including
34 nonphysical contact, with the petitioner directly, indirectly, or
35 through third parties regardless of whether those third parties know
36 of the order;

37 (b) Exclude the respondent from the petitioner's residence,
38 workplace, or school, or from the day care or school of a child, if
39 the victim is a child;

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

4 (d) Order any other injunctive relief as necessary or appropriate
5 for the protection of the petitioner.

6 (3) In issuing the order, the court shall consider the provisions
7 of RCW 9.41.800, and shall order the respondent to surrender, and
8 prohibit the respondent from possessing, all firearms, dangerous
9 weapons, and any concealed pistol license as required in RCW
10 9.41.800.

11 (4) In cases where the petitioner and the respondent are under
12 the age of eighteen and attend the same public or private elementary,
13 middle, or high school, the court, when issuing a protection order
14 and providing relief, shall consider, among the other facts of the
15 case, the severity of the act, any continuing physical danger or
16 emotional distress to the petitioner, and the expense difficulty, and
17 educational disruption that would be caused by a transfer of the
18 respondent to another school. The court may order that the person
19 restrained in the order not attend the public or approved private
20 elementary, middle, or high school attended by the person under the
21 age of eighteen protected by the order. In the event the court orders
22 a transfer of the restrained person to another school, the parents or
23 legal guardians of the person restrained in the order are responsible
24 for transportation and other costs associated with the change of
25 school by the person restrained in the order. The court shall send
26 notice of the restriction on attending the same school as the person
27 protected by the order to the public or approved private school the
28 person restrained by the order will attend and to the school the
29 person protected by the order attends.

30 ~~((4))~~ (5) Denial of a remedy may not be based, in whole or in
31 part, on evidence that:

32 (a) The respondent was voluntarily intoxicated;

33 (b) The petitioner was voluntarily intoxicated; or

34 (c) The petitioner engaged in limited consensual sexual touching.

35 ~~((5))~~ (6) Monetary damages are not recoverable as a remedy.

36 ~~((6))~~ (7) A knowing violation of a court order issued under
37 this section is punishable under RCW 26.50.110.

38 **Sec. 5.** RCW 7.90.110 and 2007 c 212 s 3 are each amended to read
39 as follows:

1 (1) An ex parte temporary sexual assault protection order shall
2 issue if the petitioner satisfies the requirements of this subsection
3 by a preponderance of the evidence. The petitioner shall establish
4 that:

5 (a) The petitioner has been a victim of nonconsensual sexual
6 conduct or nonconsensual sexual penetration by the respondent; and

7 (b) There is good cause to grant the remedy, regardless of the
8 lack of prior service of process or of notice upon the respondent,
9 because the harm which that remedy is intended to prevent would be
10 likely to occur if the respondent were given any prior notice, or
11 greater notice than was actually given, of the petitioner's efforts
12 to obtain judicial relief.

13 (2) In issuing the order, the court shall consider the provisions
14 of RCW 9.41.800, and shall order the respondent to surrender, and
15 prohibit the respondent from possessing, all firearms, dangerous
16 weapons, and any concealed pistol license as required in RCW
17 9.41.800.

18 (3) If the respondent appears in court for this hearing for an ex
19 parte temporary order, he or she may elect to file a general
20 appearance and testify under oath. Any resulting order may be an ex
21 parte temporary order, governed by this section.

22 ~~((3))~~ (4) If the court declines to issue an ex parte temporary
23 sexual assault protection order, the court shall state the particular
24 reasons for the court's denial. The court's denial of a motion for an
25 ex parte temporary order shall be filed with the court.

26 ~~((4))~~ (5) A knowing violation of a court order issued under
27 this section is punishable under RCW 26.50.110.

28 **Sec. 6.** RCW 7.90.140 and 2013 c 74 s 5 are each amended to read
29 as follows:

30 (1) An order issued under this chapter shall be personally served
31 upon the respondent, except as provided in subsection (6) of this
32 section.

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

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

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

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

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

18 (7) If the court previously entered an order allowing service of
19 the notice of hearing and temporary order of protection by
20 publication under RCW 7.90.052 or service by mail under RCW 7.90.053,
21 the court may permit service by publication or service by mail of the
22 order of protection issued under this chapter. Service by publication
23 must comply with the requirements of RCW 7.90.052 and service by mail
24 must comply with the requirements of RCW 7.90.053. The court order
25 must state whether the court permitted service by publication or
26 service by mail.

27 **Sec. 7.** RCW 7.92.100 and 2013 c 84 s 10 are each amended to read
28 as follows:

29 (1) (a) If the court finds by a preponderance of the evidence that
30 the petitioner has been a victim of stalking conduct by the
31 respondent, the court shall issue a stalking protection order.

32 (b) The petitioner shall not be denied a stalking protection
33 order because the petitioner or the respondent is a minor or because
34 the petitioner did not report the stalking conduct to law
35 enforcement. The court, when determining whether or not to issue a
36 stalking protection order, may not require proof of the respondent's
37 intentions regarding the acts alleged by the petitioner. Modification
38 and extension of prior stalking protection orders shall be in
39 accordance with this chapter.

1 (2) The court may provide relief as follows:

2 (a) Restrain the respondent from having any contact, including
3 nonphysical contact, with the petitioner directly, indirectly, or
4 through third parties regardless of whether those third parties know
5 of the order;

6 (b) Exclude the respondent from the petitioner's residence,
7 workplace, or school, or from the day care, workplace, or school of
8 the petitioner's minor children;

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

12 (d) Prohibit the respondent from keeping the petitioner and/or
13 the petitioner's minor children under surveillance, to include
14 electronic surveillance;

15 (e) Order any other injunctive relief as necessary or appropriate
16 for the protection of the petitioner, to include a mental health
17 and/or chemical dependency evaluation; and

18 (f) Require the respondent to pay the administrative court costs
19 and service fees, as established by the county or municipality
20 incurring the expense and to reimburse the petitioner for costs
21 incurred in bringing the action, including reasonable attorneys'
22 fees.

23 (3) In issuing the order, the court shall consider the provisions
24 of RCW 9.41.800, and shall order the respondent to surrender, and
25 prohibit the respondent from possessing, all firearms, dangerous
26 weapons, and any concealed pistol license as required in RCW
27 9.41.800.

28 (4) Unless otherwise stated in the order, when a person is
29 petitioning on behalf of a minor child or vulnerable adult, the
30 relief authorized in this section shall apply only for the protection
31 of the victim, and not the petitioner.

32 ((4)) (5) In cases where the petitioner and the respondent
33 attend the same public or private elementary, middle, or high school,
34 the court, when issuing a protection order and providing relief,
35 shall consider, among the other facts of the case, the severity of
36 the act, any continuing physical danger or emotional distress to the
37 petitioner, and the expense difficulty, and educational disruption
38 that would be caused by a transfer of the respondent to another
39 school. The court may order that the person restrained in the order
40 not attend the public or approved private elementary, middle, or high

1 school attended by the person protected by the order. In the event
2 the court orders a transfer of the restrained person to another
3 school, the parents or legal guardians of the person restrained in
4 the order are responsible for transportation and other costs
5 associated with the change of school by the person restrained in the
6 order. The court shall send notice of the restriction on attending
7 the same school as the person protected by the order to the public or
8 approved private school the person restrained by the order will
9 attend and to the school the person protected by the order attends.

10 **Sec. 8.** RCW 7.92.120 and 2013 c 84 s 12 are each amended to read
11 as follows:

12 (1) Where it appears from the petition and any additional
13 evidence that the respondent has engaged in stalking conduct and that
14 irreparable injury could result if an order is not issued immediately
15 without prior notice, the court may grant an ex parte temporary order
16 for protection, pending a full hearing and grant such injunctive
17 relief as it deems proper, including the relief as specified under
18 RCW 7.92.100 (2) (a) through (d) and (4).

19 (2) Irreparable injury under this section includes, but is not
20 limited to, situations in which the respondent has recently
21 threatened the petitioner with bodily injury or has engaged in acts
22 of stalking conduct against the petitioner.

23 (3) In issuing the order, the court shall consider the provisions
24 of RCW 9.41.800, and shall order the respondent to surrender, and
25 prohibit the respondent from possessing, all firearms, dangerous
26 weapons, and any concealed pistol license as required in RCW
27 9.41.800.

28 (4) The court shall hold an ex parte hearing in person or by
29 telephone on the day the petition is filed or on the following
30 judicial day.

31 ~~((4))~~ (5) An ex parte temporary stalking protection order shall
32 be effective for a fixed period not to exceed fourteen days or
33 twenty-four days if the court has permitted service by publication or
34 mail. The ex parte order may be reissued. A full hearing, as provided
35 in this chapter, shall be set for not later than fourteen days from
36 the issuance of the temporary order or not later than twenty-four
37 days if service by publication or by mail is permitted. Unless the
38 court has permitted service by publication or mail, the respondent
39 shall be personally served with a copy of the ex parte order along

1 with a copy of the petition and notice of the date set for the
2 hearing.

3 ~~((+5))~~ (6) Any order issued under this section shall contain the
4 date and time of issuance and the expiration date and shall be
5 entered into a statewide judicial information system by the clerk of
6 the court within one judicial day after issuance.

7 ~~((+6))~~ (7) If the court declines to issue an ex parte temporary
8 stalking protection order, the court shall state the particular
9 reasons for the court's denial. The court's denial of a motion for an
10 ex parte temporary order shall be filed with the court.

11 ~~((+7))~~ (8) A knowing violation of a court order issued under
12 this section is punishable under RCW 26.50.110.

13 **Sec. 9.** RCW 7.92.150 and 2013 c 84 s 15 are each amended to read
14 as follows:

15 (1) An order issued under this chapter shall be personally served
16 upon the respondent, except as provided in subsection (6), (7), or
17 (8) of this section. If the respondent is a minor, the respondent's
18 parent or legal custodian shall also be personally served.

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

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

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

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

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

5 (7) If the respondent was not personally served with the
6 petition, notice of hearing, and ex parte order before the hearing,
7 the court shall reset the hearing for twenty-four days from the date
8 of entry of the order and may order service by publication instead of
9 personal service under the following circumstances:

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

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

19 (c) The server has deposited a copy of the petition, notice of
20 hearing, and the ex parte order of protection in the post office,
21 directed to the respondent at the respondent's last known address,
22 unless the server states that the server does not know the
23 respondent's address;

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

28 (e) The court shall reissue the temporary order of protection not
29 to exceed another twenty-four days from the date of reissuing the ex
30 parte protection order and order to provide service by publication;
31 and

32 (f) The publication shall be made in a newspaper of general
33 circulation in the county where the petition was brought and in the
34 county of the last known address of the respondent once a week for
35 three consecutive weeks. The newspaper selected must be one of the
36 three most widely circulated papers in the county. The publication of
37 summons shall not be made until the court orders service by
38 publication under this section. Service of the summons shall be
39 considered complete when the publication has been made for three
40 consecutive weeks. The summons must be signed by the petitioner. The

1 mailed, postage prepaid, one by ordinary first-class mail and the
2 other by a form of mail requiring a signed receipt showing when and
3 to whom it was delivered. The envelopes must bear the return address
4 of the sender.

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

7 (b) Service under this section may be used in the same manner and
8 shall have the same jurisdictional effect as service by publication
9 for purposes of this chapter. Service shall be deemed complete upon
10 the mailing of two copies as prescribed in this section.

11 **Sec. 10.** RCW 7.92.190 and 2013 c 84 s 19 are each amended to
12 read as follows:

13 (1) Upon application with notice to all parties and after a
14 hearing, the court may modify the terms of an existing stalking
15 protection order.

16 (2) A respondent's motion to modify or terminate an existing
17 stalking protection order must include a declaration setting forth
18 facts supporting the requested order for termination or modification.
19 The nonmoving parties to the proceeding may file opposing
20 declarations. The court shall deny the motion unless it finds that
21 adequate cause for hearing the motion is established by the
22 declarations. If the court finds that the respondent established
23 adequate cause, the court shall set a date for hearing the
24 respondent's motion.

25 (3) The court may not terminate or modify an existing stalking
26 protection order unless the respondent proves by a preponderance of
27 the evidence that there has been a substantial change in
28 circumstances such that the respondent will not resume acts of
29 stalking conduct against the petitioner or those persons protected by
30 the protection order if the order is terminated or modified. The
31 petitioner bears no burden of proving that he or she has a current
32 reasonable fear of harm by the respondent.

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

37 (5) A court may require the respondent to pay the petitioner for
38 costs incurred in responding to a motion to terminate or modify a
39 stalking protection order, including reasonable attorneys' fees.

1 ~~((5))~~ (6) In any situation where an order is terminated or
2 modified before its expiration date, the clerk of the court shall
3 forward on or before the next judicial day a true copy of the
4 modified order or the termination order to the appropriate law
5 enforcement agency specified in the modified or termination order.
6 Upon receipt of the order, the law enforcement agency shall promptly
7 enter it in the computer-based criminal intelligence information
8 system, or if the order is terminated, remove the order from the
9 computer-based criminal intelligence information system.

10 **Sec. 11.** RCW 10.14.080 and 2011 c 307 s 3 are each amended to
11 read as follows:

12 (1) Upon filing a petition for a civil antiharassment protection
13 order under this chapter, the petitioner may obtain an ex parte
14 temporary antiharassment protection order. An ex parte temporary
15 antiharassment protection order may be granted with or without notice
16 upon the filing of an affidavit which, to the satisfaction of the
17 court, shows reasonable proof of unlawful harassment of the
18 petitioner by the respondent and that great or irreparable harm will
19 result to the petitioner if the temporary antiharassment protection
20 order is not granted. If the court declines to issue an ex parte
21 temporary antiharassment protection order, the court shall state the
22 particular reasons for the court's denial. The court's denial of a
23 motion for an ex parte temporary order shall be filed with the court.

24 (2) An ex parte temporary antiharassment protection order shall
25 be effective for a fixed period not to exceed fourteen days or
26 twenty-four days if the court has permitted service by publication
27 under RCW 10.14.085. The ex parte order may be reissued. A full
28 hearing, as provided in this chapter, shall be set for not later than
29 fourteen days from the issuance of the temporary order or not later
30 than twenty-four days if service by publication is permitted. Except
31 as provided in RCW 10.14.070 and 10.14.085, the respondent shall be
32 personally served with a copy of the ex parte order along with a copy
33 of the petition and notice of the date set for the hearing. The ex
34 parte order and notice of hearing shall include at a minimum the date
35 and time of the hearing set by the court to determine if the
36 temporary order should be made effective for one year or more, and
37 notice that if the respondent should fail to appear or otherwise not
38 respond, an order for protection will be issued against the
39 respondent pursuant to the provisions of this chapter, for a minimum

1 of one year from the date of the hearing. The notice shall also
2 include a brief statement of the provisions of the ex parte order and
3 notify the respondent that a copy of the ex parte order and notice of
4 hearing has been filed with the clerk of the court.

5 (3) At the hearing, if the court finds by a preponderance of the
6 evidence that unlawful harassment exists, a civil antiharassment
7 protection order shall issue prohibiting such unlawful harassment.

8 (4) An order issued under this chapter shall be effective for not
9 more than one year unless the court finds that the respondent is
10 likely to resume unlawful harassment of the petitioner when the order
11 expires. If so, the court may enter an order for a fixed time
12 exceeding one year or may enter a permanent antiharassment protection
13 order. The court shall not enter an order that is effective for more
14 than one year if the order restrains the respondent from contacting
15 the respondent's minor children. This limitation is not applicable to
16 civil antiharassment protection orders issued under chapter 26.09,
17 26.10, or ((26.26)) 26.26B RCW. If the petitioner seeks relief for a
18 period longer than one year on behalf of the respondent's minor
19 children, the court shall advise the petitioner that the petitioner
20 may apply for renewal of the order as provided in this chapter or if
21 appropriate may seek relief pursuant to chapter 26.09 or 26.10 RCW.

22 (5) At any time within the three months before the expiration of
23 the order, the petitioner may apply for a renewal of the order by
24 filing a petition for renewal. The petition for renewal shall state
25 the reasons why the petitioner seeks to renew the protection order.
26 Upon receipt of the petition for renewal, the court shall order a
27 hearing which shall be not later than fourteen days from the date of
28 the order. Except as provided in RCW 10.14.085, personal service
29 shall be made upon the respondent not less than five days before the
30 hearing. If timely service cannot be made the court shall set a new
31 hearing date and shall either require additional attempts at
32 obtaining personal service or permit service by publication as
33 provided by RCW 10.14.085. If the court permits service by
34 publication, the court shall set the new hearing date not later than
35 twenty-four days from the date of the order. If the order expires
36 because timely service cannot be made the court shall grant an ex
37 parte order of protection as provided in this section. The court
38 shall grant the petition for renewal unless the respondent proves by
39 a preponderance of the evidence that the respondent will not resume
40 harassment of the petitioner when the order expires. The court may

1 renew the protection order for another fixed time period or may enter
2 a permanent order as provided in subsection (4) of this section.

3 (6) The court, in granting an ex parte temporary antiharassment
4 protection order or a civil antiharassment protection order, shall
5 have broad discretion to grant such relief as the court deems proper,
6 including an order:

7 (a) Restraining the respondent from making any attempts to
8 contact the petitioner;

9 (b) Restraining the respondent from making any attempts to keep
10 the petitioner under surveillance; and

11 (c) Requiring the respondent to stay a stated distance from the
12 petitioner's residence and workplace(~~(7) and~~

13 ~~(d) Considering the provisions of RCW 9.41.800)).~~

14 (7) In issuing the order, the court shall consider the provisions
15 of RCW 9.41.800, and shall order the respondent to surrender, and
16 prohibit the respondent from possessing, all firearms, dangerous
17 weapons, and any concealed pistol license as required in RCW
18 9.41.800.

19 (8) The court in granting an ex parte temporary antiharassment
20 protection order or a civil antiharassment protection order(~~(7)~~)
21 shall not prohibit the respondent from exercising constitutionally
22 protected free speech. Nothing in this section prohibits the
23 petitioner from utilizing other civil or criminal remedies to
24 restrain conduct or communications not otherwise constitutionally
25 protected.

26 (~~(8)~~) (9) The court in granting an ex parte temporary
27 antiharassment protection order or a civil antiharassment protection
28 order(~~(7)~~) shall not prohibit the respondent from the use or
29 enjoyment of real property to which the respondent has a cognizable
30 claim unless that order is issued under chapter 26.09 RCW or under a
31 separate action commenced with a summons and complaint to determine
32 title or possession of real property.

33 (~~(9)~~) (10) The court in granting an ex parte temporary
34 antiharassment protection order or a civil antiharassment protection
35 order(~~(7)~~) shall not limit the respondent's right to care, control,
36 or custody of the respondent's minor child, unless that order is
37 issued under chapter 13.32A, 26.09, 26.10, or (~~(26.26)~~) 26.26B RCW.

38 (~~(10)~~) (11) A petitioner may not obtain an ex parte temporary
39 antiharassment protection order against a respondent if the
40 petitioner has previously obtained two such ex parte orders against

1 the same respondent but has failed to obtain the issuance of a civil
2 antiharassment protection order unless good cause for such failure
3 can be shown.

4 ~~((11))~~ (12) The court order shall specify the date an order
5 issued pursuant to subsections (4) and (5) of this section expires if
6 any. The court order shall also state whether the court issued the
7 protection order following personal service or service by publication
8 and whether the court has approved service by publication of an order
9 issued under this section.

10 **Sec. 12.** RCW 10.14.100 and 2002 c 117 s 3 are each amended to
11 read as follows:

12 (1) An order issued under this chapter shall be personally served
13 upon the respondent, except as provided in subsections (5) and (7) of
14 this section.

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

22 (3) If the sheriff or municipal peace officer cannot complete
23 service upon the respondent within ten days, the sheriff or municipal
24 peace officer shall notify the petitioner.

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

27 (5) If an order entered by the court recites that the respondent
28 appeared in person before the court, the necessity for further
29 service is waived and proof of service of that order is not
30 necessary. The court's order, entered after a hearing, need not be
31 served on a respondent who fails to appear before the court, if
32 material terms of the order have not changed from those contained in
33 the temporary order, and it is shown to the court's satisfaction that
34 the respondent has previously been personally served with the
35 temporary order.

36 (6) Except in cases where the petitioner has fees waived under
37 RCW 10.14.055 or is granted leave to proceed in forma pauperis,
38 municipal police departments serving documents as required under this

1 chapter may collect the same fees for service and mileage authorized
2 by RCW 36.18.040 to be collected by sheriffs.

3 (7) If the court previously entered an order allowing service by
4 publication of the notice of hearing and temporary order of
5 protection pursuant to RCW 10.14.085, the court may permit service by
6 publication of the order of protection issued under RCW 10.14.080.
7 Service by publication must comply with the requirements of RCW
8 10.14.085.

9 **Sec. 13.** RCW 10.14.180 and 1987 c 280 s 18 are each amended to
10 read as follows:

11 Upon application with notice to all parties and after a hearing,
12 the court may modify the terms of an existing order under this
13 chapter. A respondent may file a motion to terminate or modify an
14 order no more than once in every twelve-month period that the order
15 is in effect, starting from the date of the order and continuing
16 through any renewal. In any situation where an order is terminated or
17 modified before its expiration date, the clerk of the court shall
18 forward on or before the next judicial day a true copy of the
19 modified order or the termination order to the appropriate law
20 enforcement agency specified in the modified order or termination
21 order. Upon receipt of the order, the law enforcement agency shall
22 promptly enter it in the law enforcement information system.

23 **Sec. 14.** RCW 26.50.070 and 2018 c 22 s 9 are each amended to
24 read as follows:

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

31 (a) Restraining any party from committing acts of domestic
32 violence;

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

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

4 (d) Restraining any party from interfering with the other's
5 custody of the minor children or from removing the children from the
6 jurisdiction of the court;

7 (e) Restraining any party from having any contact with the victim
8 of domestic violence or the victim's children or members of the
9 victim's household; and

10 (f) (~~Considering the provisions of RCW 9.41.800; and~~
11 ~~(g)~~) Restraining the respondent from harassing, following,
12 keeping under physical or electronic surveillance, cyberstalking as
13 defined in RCW 9.61.260, and using telephonic, audiovisual, or other
14 electronic means to monitor the actions, location, or communication
15 of a victim of domestic violence, the victim's children, or members
16 of the victim's household. For the purposes of this subsection,
17 "communication" includes both "wire communication" and "electronic
18 communication" as defined in RCW 9.73.260.

19 (2) In issuing the order, the court shall consider the provisions
20 of RCW 9.41.800, and shall order the respondent to surrender, and
21 prohibit the respondent from possessing, all firearms, dangerous
22 weapons, and any concealed pistol license as required in RCW
23 9.41.800.

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

28 (~~(3)~~) (4) The court shall hold an ex parte hearing in person or
29 by telephone on the day the petition is filed or on the following
30 judicial day.

31 (~~(4)~~) (5) An ex parte temporary order for protection shall be
32 effective for a fixed period not to exceed fourteen days or twenty-
33 four days if the court has permitted service by publication under RCW
34 26.50.085 or by mail under RCW 26.50.123. The ex parte temporary
35 order may be reissued. A full hearing, as provided in this chapter,
36 shall be set for not later than fourteen days from the issuance of
37 the ex parte temporary order or not later than twenty-four days if
38 service by publication or by mail is permitted. Except as provided in
39 RCW 26.50.050, 26.50.085, and 26.50.123, the respondent shall be
40 personally served with a copy of the ex parte temporary order along

1 with a copy of the petition and notice of the date set for the
2 hearing.

3 ~~((+5))~~ (6) Any order issued under this section shall contain the
4 date and time of issuance and the expiration date and shall be
5 entered into a statewide judicial information system by the clerk of
6 the court within one judicial day after issuance.

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

11 **Sec. 15.** RCW 26.50.090 and 1995 c 246 s 10 are each amended to
12 read as follows:

13 (1) An order issued under this chapter shall be personally served
14 upon the respondent, except as provided in subsections (6) and (8) of
15 this section.

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

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

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

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

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

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

5 (8) If the court previously entered an order allowing service of
6 the notice of hearing and temporary order of protection by
7 publication pursuant to RCW 26.50.085 or by mail pursuant to RCW
8 26.50.123, the court may permit service by publication or by mail of
9 the order of protection issued under RCW 26.50.060. Service by
10 publication must comply with the requirements of RCW 26.50.085 and
11 service by mail must comply with the requirements of RCW 26.50.123.
12 The court order must state whether the court permitted service by
13 publication or by mail.

14 **Sec. 16.** RCW 26.50.130 and 2011 c 137 s 2 are each amended to
15 read as follows:

16 (1) Upon a motion with notice to all parties and after a hearing,
17 the court may modify the terms of an existing order for protection or
18 may terminate an existing order for protection.

19 (2) A respondent's motion to modify or terminate an order for
20 protection that is permanent or issued for a fixed period exceeding
21 two years must include a declaration setting forth facts supporting
22 the requested order for termination or modification. The motion and
23 declaration must be served according to subsection (~~((7))~~) (8) of
24 this section. The nonmoving parties to the proceeding may file
25 opposing declarations. The court shall deny the motion unless it
26 finds that adequate cause for hearing the motion is established by
27 the declarations. If the court finds that the respondent established
28 adequate cause, the court shall set a date for hearing the
29 respondent's motion.

30 (3) (a) The court may not terminate an order for protection that
31 is permanent or issued for a fixed period exceeding two years upon a
32 motion of the respondent unless the respondent proves by a
33 preponderance of the evidence that there has been a substantial
34 change in circumstances such that the respondent is not likely to
35 resume acts of domestic violence against the petitioner or those
36 persons protected by the protection order if the order is terminated.
37 In a motion by the respondent for termination of an order for
38 protection that is permanent or issued for a fixed period exceeding

1 two years, the petitioner bears no burden of proving that he or she
2 has a current reasonable fear of imminent harm by the respondent.

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

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

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

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

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

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

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

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

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

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

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

39 (d) In determining whether there has been a substantial change in
40 circumstances, the court may not base its determination solely on:

1 (i) The fact that time has passed without a violation of the order;
2 or (ii) the fact that the respondent or petitioner has relocated to
3 an area more distant from the other party.

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

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

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

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

32 ~~((+6))~~ (7) A court may require the respondent to pay court costs
33 and service fees, as established by the county or municipality
34 incurring the expense and to pay the petitioner for costs incurred in
35 responding to a motion to terminate or modify a protection order,
36 including reasonable attorneys' fees.

37 ~~((+7))~~ (8) Except as provided in RCW 26.50.085 and 26.50.123, a
38 motion to modify or terminate an order for protection must be
39 personally served on the nonmoving party not less than five court
40 days prior to the hearing.

1 (a) If a moving party seeks to modify or terminate an order for
2 protection that is permanent or issued for a fixed period exceeding
3 two years, the sheriff of the county or the peace officers of the
4 municipality in which the nonmoving party resides or a licensed
5 process server shall serve the nonmoving party personally except when
6 a petitioner is the moving party and elects to have the nonmoving
7 party served by a private party. If the order includes a requirement
8 under RCW 9.41.800 for the immediate surrender of all firearms,
9 dangerous weapons, and any concealed pistol license, the order must
10 be served by a law enforcement officer.

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

17 (c) If timely personal service cannot be made, the court shall
18 set a new hearing date and shall either require an additional attempt
19 at obtaining personal service or permit service by publication as
20 provided in RCW 26.50.085 or service by mail as provided in RCW
21 26.50.123.

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

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

29 ~~((+8))~~ (9) Municipal police departments serving documents as
30 required under this chapter may recover from a respondent ordered to
31 pay fees under subsection ~~((+6))~~ (7) of this section the same fees
32 for service and mileage authorized by RCW 36.18.040 to be collected
33 by sheriffs.

34 ~~((+9))~~ (10) In any situation where an order is terminated or
35 modified before its expiration date, the clerk of the court shall
36 forward on or before the next judicial day a true copy of the
37 modified order or the termination order to the appropriate law
38 enforcement agency specified in the modified or termination order.
39 Upon receipt of the order, the law enforcement agency shall promptly
40 enter it in the law enforcement information system.

1 **Sec. 17.** RCW 26.09.060 and 2008 c 6 s 1009 are each amended to
2 read as follows:

3 (1) In a proceeding for:

4 (a) Dissolution of marriage or domestic partnership, legal
5 separation, or a declaration of invalidity; or

6 (b) Disposition of property or liabilities, maintenance, or
7 support following dissolution of the marriage or the domestic
8 partnership by a court which lacked personal jurisdiction over the
9 absent spouse or absent domestic partner; either party may move for
10 temporary maintenance or for temporary support of children entitled
11 to support. The motion shall be accompanied by an affidavit setting
12 forth the factual basis for the motion and the amounts requested.

13 (2) As a part of a motion for temporary maintenance or support or
14 by independent motion accompanied by affidavit, either party may
15 request the court to issue a temporary restraining order or
16 preliminary injunction, providing relief proper in the circumstances,
17 and restraining or enjoining any person from:

18 (a) Transferring, removing, encumbering, concealing, or in any
19 way disposing of any property except in the usual course of business
20 or for the necessities of life, and, if so restrained or enjoined,
21 requiring him or her to notify the moving party of any proposed
22 extraordinary expenditures made after the order is issued;

23 (b) Molesting or disturbing the peace of the other party or of
24 any child;

25 (c) Going onto the grounds of or entering the home, workplace, or
26 school of the other party or the day care or school of any child upon
27 a showing of the necessity therefor;

28 (d) Knowingly coming within, or knowingly remaining within, a
29 specified distance from a specified location; and

30 (e) Removing a child from the jurisdiction of the court.

31 (3) Either party may request a domestic violence protection order
32 under chapter 26.50 RCW or an antiharassment protection order under
33 chapter 10.14 RCW on a temporary basis. The court may grant any of
34 the relief provided in RCW 26.50.060 except relief pertaining to
35 residential provisions for the children which provisions shall be
36 provided for under this chapter, and any of the relief provided in
37 RCW 10.14.080. Ex parte orders issued under this subsection shall be
38 effective for a fixed period not to exceed fourteen days, or upon
39 court order, not to exceed twenty-four days if necessary to ensure
40 that all temporary motions in the case can be heard at the same time.

1 (4) In issuing the order, the court shall consider the provisions
2 of RCW 9.41.800, and shall order the respondent to surrender, and
3 prohibit the respondent from possessing, all firearms, dangerous
4 weapons, and any concealed pistol license as required in RCW
5 9.41.800.

6 (5) The court may issue a temporary restraining order without
7 requiring notice to the other party only if it finds on the basis of
8 the moving affidavit or other evidence that irreparable injury could
9 result if an order is not issued until the time for responding has
10 elapsed.

11 (6) The court may issue a temporary restraining order or
12 preliminary injunction and an order for temporary maintenance or
13 support in such amounts and on such terms as are just and proper in
14 the circumstances. The court may in its discretion waive the filing
15 of the bond or the posting of security.

16 (7) Restraining orders issued under this section restraining the
17 person from molesting or disturbing another party, or from going onto
18 the grounds of or entering the home, workplace, or school of the
19 other party or the day care or school of any child, or prohibiting
20 the person from knowingly coming within, or knowingly remaining
21 within, a specified distance of a location, shall prominently bear on
22 the front page of the order the legend: VIOLATION OF THIS ORDER WITH
23 ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.50
24 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

25 (8) The court shall order that any temporary restraining order
26 bearing a criminal offense legend, any domestic violence protection
27 order, or any antiharassment protection order granted under this
28 section be forwarded by the clerk of the court on or before the next
29 judicial day to the appropriate law enforcement agency specified in
30 the order. Upon receipt of the order, the law enforcement agency
31 shall enter the order into any computer-based criminal intelligence
32 information system available in this state used by law enforcement
33 agencies to list outstanding warrants. Entry into the computer-based
34 criminal intelligence information system constitutes notice to all
35 law enforcement agencies of the existence of the order. The order is
36 fully enforceable in any county in the state.

37 (9) If a restraining order issued pursuant to this section is
38 modified or terminated, the clerk of the court shall notify the law
39 enforcement agency specified in the order on or before the next
40 judicial day. Upon receipt of notice that an order has been

1 terminated, the law enforcement agency shall remove the order from
2 any computer-based criminal intelligence system.

3 (10) A temporary order, temporary restraining order, or
4 preliminary injunction:

5 (a) Does not prejudice the rights of a party or any child which
6 are to be adjudicated at subsequent hearings in the proceeding;

7 (b) May be revoked or modified;

8 (c) Terminates when the final decree is entered, except as
9 provided under subsection (11) of this section, or when the petition
10 for dissolution, legal separation, or declaration of invalidity is
11 dismissed;

12 (d) May be entered in a proceeding for the modification of an
13 existing decree.

14 (11) Delinquent support payments accrued under an order for
15 temporary support remain collectible and are not extinguished when a
16 final decree is entered unless the decree contains specific language
17 to the contrary. A support debt under a temporary order owed to the
18 state for public assistance expenditures shall not be extinguished by
19 the final decree if:

20 (a) The obligor was given notice of the state's interest under
21 chapter 74.20A RCW; or

22 (b) The temporary order directs the obligor to make support
23 payments to the office of support enforcement or the Washington state
24 support registry.

25 **Sec. 18.** RCW 26.10.115 and 2000 c 119 s 9 are each amended to
26 read as follows:

27 (1) In a proceeding under this chapter either party may file a
28 motion for temporary support of children entitled to support. The
29 motion shall be accompanied by an affidavit setting forth the factual
30 basis for the motion and the amount requested.

31 (2) In a proceeding under this chapter either party may file a
32 motion for a temporary restraining order or preliminary injunction,
33 providing relief proper in the circumstances, and restraining or
34 enjoining any person from:

35 (a) Molesting or disturbing the peace of the other party or of
36 any child;

37 (b) Entering the family home or the home of the other party upon
38 a showing of the necessity therefor;

1 (c) Knowingly coming within, or knowingly remaining within, a
2 specified distance from a specified location; and

3 (d) Removing a child from the jurisdiction of the court.

4 (3) Either party may request a domestic violence protection order
5 under chapter 26.50 RCW or an antiharassment protection order under
6 chapter 10.14 RCW on a temporary basis. The court may grant any of
7 the relief provided in RCW 26.50.060 except relief pertaining to
8 residential provisions for the children which provisions shall be
9 provided for under this chapter, and any of the relief provided in
10 RCW 10.14.080. Ex parte orders issued under this subsection shall be
11 effective for a fixed period not to exceed fourteen days, or upon
12 court order, not to exceed twenty-four days if necessary to ensure
13 that all temporary motions in the case can be heard at the same time.

14 (4) In issuing the order, the court shall consider the provisions
15 of RCW 9.41.800, and shall order the respondent to surrender, and
16 prohibit the respondent from possessing, all firearms, dangerous
17 weapons, and any concealed pistol license as required in RCW
18 9.41.800.

19 (5) The court may issue a temporary restraining order without
20 requiring notice to the other party only if it finds on the basis of
21 the moving affidavit or other evidence that irreparable injury could
22 result if an order is not issued until the time for responding has
23 elapsed.

24 (6) The court may issue a temporary restraining order or
25 preliminary injunction and an order for temporary support in such
26 amounts and on such terms as are just and proper in the
27 circumstances.

28 (7) Restraining orders issued under this section restraining or
29 enjoining the person from molesting or disturbing another party, or
30 from going onto the grounds of or entering the home, workplace, or
31 school of the other party or the day care or school of any child, or
32 prohibiting the person from knowingly coming within, or knowingly
33 remaining within, a specified distance of a location, shall
34 prominently bear on the front page of the order the legend: VIOLATION
35 OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE
36 UNDER CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

37 (8) The court shall order that any temporary restraining order
38 bearing a criminal offense legend, any domestic violence protection
39 order, or any antiharassment protection order granted under this
40 section be forwarded by the clerk of the court on or before the next

1 judicial day to the appropriate law enforcement agency specified in
2 the order. Upon receipt of the order, the law enforcement agency
3 shall enter the order into any computer-based criminal intelligence
4 information system available in this state used by law enforcement
5 agencies to list outstanding warrants. Entry into the computer-based
6 criminal intelligence information system constitutes notice to all
7 law enforcement agencies of the existence of the order. The order is
8 fully enforceable in any county in the state.

9 (9) If a restraining order issued pursuant to this section is
10 modified or terminated, the clerk of the court shall notify the law
11 enforcement agency specified in the order on or before the next
12 judicial day. Upon receipt of notice that an order has been
13 terminated, the law enforcement agency shall remove the order from
14 any computer-based criminal intelligence system.

15 (10) A temporary order, temporary restraining order, or
16 preliminary injunction:

17 (a) Does not prejudice the rights of a party or any child which
18 are to be adjudicated at subsequent hearings in the proceeding;

19 (b) May be revoked or modified;

20 (c) Terminates when the final order is entered or when the motion
21 is dismissed;

22 (d) May be entered in a proceeding for the modification of an
23 existing order.

24 (11) A support debt owed to the state for public assistance
25 expenditures which has been charged against a party pursuant to RCW
26 74.20A.040 and/or 74.20A.055 shall not be merged in, or otherwise
27 extinguished by, the final decree or order, unless the office of
28 support enforcement has been given notice of the final proceeding and
29 an opportunity to present its claim for the support debt to the court
30 and has failed to file an affidavit as provided in this subsection.
31 Notice of the proceeding shall be served upon the office of support
32 enforcement personally, or by certified mail, and shall be given no
33 fewer than thirty days prior to the date of the final proceeding. An
34 original copy of the notice shall be filed with the court either
35 before service or within a reasonable time thereafter. The office of
36 support enforcement may present its claim, and thereby preserve the
37 support debt, by filing an affidavit setting forth the amount of the
38 debt with the court, and by mailing a copy of the affidavit to the
39 parties or their attorney prior to the date of the final proceeding.

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