

# APPENDIX--CONTENTS

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## **RCW 4.28.185 Personal service out-of-state—Acts submitting person to jurisdiction of courts—Saving.**

(1) Any person, whether or not a citizen or resident of this state, who in person or through an agent does any of the acts in this section enumerated, thereby submits said person, and, if an individual, his or her personal representative, to the jurisdiction of the courts of this state as to any cause of action arising from the doing of any of said acts:

(a) The transaction of any business within this state;

(b) The commission of a tortious act within this state;

(c) The ownership, use, or possession of any property whether real or personal situated in this state;

(d) Contracting to insure any person, property, or risk located within this state at the time of contracting;

(e) The act of sexual intercourse within this state with respect to which a child may have been conceived;

(f) Living in a marital relationship within this state notwithstanding subsequent departure from this state, as to all proceedings authorized by chapter 26.09 RCW, so long as the petitioning party has continued to reside in this state or has continued to be a member of the armed forces stationed in this state.

(2) Service of process upon any person who is subject to the jurisdiction of the courts of this state, as provided in this section, may be made by personally serving the defendant outside this state, as provided in RCW 4.28.180, with the same force and effect as though personally served within this state.

(3) Only causes of action arising from acts enumerated herein may be asserted against a defendant in an action in which jurisdiction over him or her is based upon this section.

(4) Personal service outside the state shall be valid only when an affidavit is made and filed to the effect that service cannot be made within the state.

(5) In the event the defendant is personally served outside the state on causes of action enumerated in this section, and prevails in the action, there may be taxed and allowed to the defendant as part of the costs of defending the action a reasonable amount to be fixed by the court as attorneys' fees.

(6) Nothing herein contained limits or affects the right to serve any process in any other manner now or hereafter provided by law.

## **RCW 10.99 Domestic Violence—Official Response**

### **10.99.010 Purpose—Intent.**

The purpose of this chapter is to recognize the importance of domestic violence as a serious crime against society and to assure the victim of domestic violence the maximum protection from abuse which the law and those who enforce the law can provide. The legislature finds that the existing criminal statutes are adequate to provide protection for victims of domestic violence. However, previous societal attitudes have been reflected in policies and practices of law enforcement agencies and prosecutors which have resulted in differing treatment of crimes occurring between cohabitants and of the same crimes occurring between strangers. Only recently has public perception of the serious consequences of domestic violence to society and to the victims led to the recognition of the necessity for early intervention by law enforcement agencies. It is the intent of the legislature that the official response to cases of domestic violence shall stress the enforcement of the laws to protect the victim and shall communicate the attitude that violent behavior is not excused or tolerated. Furthermore, it is the intent of the legislature that criminal laws be enforced without regard to whether the persons involved are or were married, cohabiting, or involved in a relationship.

[ 1979 ex.s. c 105 § 1.]

### **10.99.020 Definitions.**

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agency" means a general authority Washington law enforcement agency as defined in RCW 10.93.020.

(2) "Association" means the Washington association of sheriffs and police chiefs.

(3) "Family or household members" means spouses, former spouses, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past, 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, persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship, and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.

(4) "Dating relationship" has the same meaning as in RCW 26.50.010.

(5) "Domestic violence" includes but is not limited to any of the following crimes when committed by one family or household member against another:

- (a) Assault in the first degree (RCW 9A.36.011);
- (b) Assault in the second degree (RCW 9A.36.021);
- (c) Assault in the third degree (RCW 9A.36.031);
- (d) Assault in the fourth degree (RCW 9A.36.041);
- (e) Drive-by shooting (RCW 9A.36.045);
- (f) Reckless endangerment (RCW 9A.36.050);
- (g) Coercion (RCW 9A.36.070);

- (h) Burglary in the first degree (RCW 9A.52.020);
  - (i) Burglary in the second degree (RCW 9A.52.030);
  - (j) Criminal trespass in the first degree (RCW 9A.52.070);
  - (k) Criminal trespass in the second degree (RCW 9A.52.080);
  - (l) Malicious mischief in the first degree (RCW 9A.48.070);
  - (m) Malicious mischief in the second degree (RCW 9A.48.080);
  - (n) Malicious mischief in the third degree (RCW 9A.48.090);
  - (o) Kidnapping in the first degree (RCW 9A.40.020);
  - (p) Kidnapping in the second degree (RCW 9A.40.030);
  - (q) Unlawful imprisonment (RCW 9A.40.040);
  - (r) Violation of the provisions of a restraining order, no-contact order, or protection order restraining or enjoining the person or restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.44.063, 26.44.150, 26.50.060, 26.50.070, 26.50.130, 26.52.070, or 74.34.145);
  - (s) Rape in the first degree (RCW 9A.44.040);
  - (t) Rape in the second degree (RCW 9A.44.050);
  - (u) Residential burglary (RCW 9A.52.025);
  - (v) Stalking (RCW 9A.46.110); and
  - (w) Interference with the reporting of domestic violence (RCW 9A.36.150).
- (6) "Employee" means any person currently employed with an agency.
- (7) "Sworn employee" means a general authority Washington peace officer as defined in RCW 10.93.020, any person appointed under RCW 35.21.333, and any person appointed or elected to carry out the duties of the sheriff under chapter 36.28 RCW.
- (8) "Victim" means a family or household member who has been subjected to domestic violence.
- [ 2004 c 18 § 2; 2000 c 119 § 5; 1997 c 338 § 53; 1996 c 248 § 5; 1995 c 246 § 21; 1994 c 121 § 4; 1991 c 301 § 3; 1986 c 257 § 8; 1984 c 263 § 20; 1979 ex.s. c 105 § 2.]

**NOTES:**

**Findings—Intent—2004 c 18:** "The legislature reaffirms its determination to reduce the incident rate of domestic violence. The legislature finds it is appropriate to help reduce the incident rate of domestic violence by addressing the need for improved coordination and accountability among general authority Washington law enforcement agencies and general authority Washington peace officers when reports of domestic violence are made and the alleged perpetrator is a general authority Washington peace officer. The legislature finds that coordination and accountability will be improved if general authority Washington law enforcement agencies adopt policies that meet statewide minimum requirements for training, reporting, interagency cooperation, investigation, and collaboration with groups serving victims of domestic violence. The legislature intends to provide maximum flexibility to general authority Washington law enforcement agencies, consistent with the purposes of this act, in their efforts to improve coordination and accountability when incidents of domestic violence committed or allegedly committed by general authority Washington peace officers are reported." [ 2004 c 18 § 1.]

**Application—2000 c 119:** See note following RCW 26.50.021.

**Finding—Evaluation—Report—1997 c 338:** See note following RCW 13.40.0357.

**Severability—Effective dates—1997 c 338:** See notes following RCW 5.60.060.

**Severability—1995 c 246:** See note following RCW 26.50.010.

**Finding—1991 c 301:** "The legislature finds that:

The collective costs to the community for domestic violence include the systematic destruction of individuals and their families, lost lives, lost productivity, and increased health care, criminal justice, and social service costs.

Children growing up in violent homes are deeply affected by the violence as it happens and could be the next generation of batterers and victims.

Many communities have made headway in addressing the effects of domestic violence and have devoted energy and resources to stopping this violence. However, the process for breaking the cycle of abuse is lengthy. No single system intervention is enough in itself.

An integrated system has not been adequately funded and structured to assure access to a wide range of services, including those of the law/safety/justice system, human service system, and health care system. These services need to be coordinated and multidisciplinary in approach and address the needs of victims, batterers, and children from violent homes.

Given the lethal nature of domestic violence and its effect on all within its range, the community has a vested interest in the methods used to stop and prevent future violence. Clear standards of quality are needed so that perpetrator treatment programs receiving public funds or court-ordered referrals can be required to comply with these standards.

While incidents of domestic violence are not caused by perpetrator's use of alcohol and illegal substances, substance abuse may be a contributing factor to domestic violence and the injuries and deaths that result from it.

There is a need for consistent training of professionals who deal frequently with domestic violence or are in a position to identify domestic violence and provide support and information.

Much has been learned about effective interventions in domestic violence situations; however, much is not yet known and further study is required to know how to best stop this violence." [ 1991 c 301 § 1.]

**Severability—1986 c 257:** See note following RCW 9A.56.010.

**Effective date—1986 c 257 §§ 3-10:** See note following RCW 9A.04.110.

**Effective date—1984 c 263:** See RCW 26.50.901.

*Domestic violence defined under the Domestic Violence Prevention Act: RCW 26.50.010.*

### **10.99.030 Law enforcement officers—Training, powers, duties— Domestic violence reports.**

(1) All training relating to the handling of domestic violence complaints by law enforcement officers shall stress enforcement of criminal laws in domestic situations, availability of community resources, and protection of the victim. Law enforcement agencies and community organizations with expertise in the issue of domestic violence shall cooperate in all aspects of such training.

(2) The criminal justice training commission shall implement by January 1, 1997, a course of instruction for the training of law enforcement officers in Washington in the handling of domestic violence complaints. The basic law enforcement curriculum of the criminal justice training commission shall include at least twenty hours of basic training instruction on the law enforcement response to domestic violence. The course of instruction, the learning and performance objectives, and the standards for the training shall be developed by the commission

and focus on enforcing the criminal laws, safety of the victim, and holding the perpetrator accountable for the violence. The curriculum shall include training on the extent and prevalence of domestic violence, the importance of criminal justice intervention, techniques for responding to incidents that minimize the likelihood of officer injury and that promote victim safety, investigation and interviewing skills, evidence gathering and report writing, assistance to and services for victims and children, verification and enforcement of court orders, liability, and any additional provisions that are necessary to carry out the intention of this subsection.

(3) The criminal justice training commission shall develop and update annually an in-service training program to familiarize law enforcement officers with the domestic violence laws. The program shall include techniques for handling incidents of domestic violence that minimize the likelihood of injury to the officer and that promote the safety of all parties. The commission shall make the training program available to all law enforcement agencies in the state.

(4) Development of the training in subsections (2) and (3) of this section shall be conducted in conjunction with agencies having a primary responsibility for serving victims of domestic violence with emergency shelter and other services, and representatives to the statewide organization providing training and education to these organizations and to the general public.

(5) The primary duty of peace officers, when responding to a domestic violence situation, is to enforce the laws allegedly violated and to protect the complaining party.

(6)(a) When a peace officer responds to a domestic violence call and has probable cause to believe that a crime has been committed, the peace officer shall exercise arrest powers with reference to the criteria in RCW 10.31.100. The officer shall notify the victim of the victim's right to initiate a criminal proceeding in all cases where the officer has not exercised arrest powers or decided to initiate criminal proceedings by citation or otherwise. The parties in such cases shall also be advised of the importance of preserving evidence.

(b) A peace officer responding to a domestic violence call shall take a complete offense report including the officer's disposition of the case.

(7) When a peace officer responds to a domestic violence call, the officer shall advise victims of all reasonable means to prevent further abuse, including advising each person of the availability of a shelter or other services in the community, and giving each person immediate notice of the legal rights and remedies available. The notice shall include handing each person a copy of the following statement:

"IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you can ask the city or county prosecuting attorney to file a criminal complaint. You also have the right to file a petition in superior, district, or municipal court requesting an order for protection from domestic abuse which could include any of the following: (a) An order restraining your abuser from further acts of abuse; (b) an order directing your abuser to leave your household; (c) an order preventing your abuser from entering your residence, school, business, or place of employment; (d) an order awarding you or the other parent custody of or visitation with your minor child or children; and (e) an order restraining your abuser from molesting or interfering with minor children in your custody. The forms you need to obtain a protection order are available in any municipal, district, or superior court.

Information about shelters and alternatives to domestic violence is available from a statewide twenty-four-hour toll-free hot line at (include appropriate phone number). The battered women's shelter and other resources in your area are . . . . (include local information)"

(8) The peace officer may offer, arrange, or facilitate transportation for the victim to a hospital for treatment of injuries or to a place of safety or shelter.

(9) The law enforcement agency shall forward the offense report to the appropriate prosecutor within ten days of making such report if there is probable cause to believe that an offense has been committed, unless the case is under active investigation. Upon receiving the offense report, the prosecuting agency may, in its discretion, choose not to file the information as a domestic violence offense, if the offense was committed against a sibling, parent, stepparent, or grandparent.

(10) Each law enforcement agency shall make as soon as practicable a written record and shall maintain records of all incidents of domestic violence reported to it.

(11) Records kept pursuant to subsections (6) and (10) of this section shall be made identifiable by means of a departmental code for domestic violence.

(12) Commencing January 1, 1994, records of incidents of domestic violence shall be submitted, in accordance with procedures described in this subsection, to the Washington association of sheriffs and police chiefs by all law enforcement agencies. The Washington criminal justice training commission shall amend its contract for collection of statewide crime data with the Washington association of sheriffs and police chiefs:

(a) To include a table, in the annual report of crime in Washington produced by the Washington association of sheriffs and police chiefs pursuant to the contract, showing the total number of actual offenses and the number and percent of the offenses that are domestic violence incidents for the following crimes: (i) Criminal homicide, with subtotals for murder and nonnegligent homicide and manslaughter by negligence; (ii) forcible rape, with subtotals for rape by force and attempted forcible rape; (iii) robbery, with subtotals for firearm, knife or cutting instrument, or other dangerous weapon, and strongarm robbery; (iv) assault, with subtotals for firearm, knife or cutting instrument, other dangerous weapon, hands, feet, aggravated, and other nonaggravated assaults; (v) burglary, with subtotals for forcible entry, nonforcible unlawful entry, and attempted forcible entry; (vi) larceny theft, except motor vehicle theft; (vii) motor vehicle theft, with subtotals for autos, trucks and buses, and other vehicles; (viii) arson; and (ix) violations of the provisions of a protection order or no-contact order restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care, provided that specific appropriations are subsequently made for the collection and compilation of data regarding violations of protection orders or no-contact orders;

(b) To require that the table shall continue to be prepared and contained in the annual report of crime in Washington until that time as comparable or more detailed information about domestic violence incidents is available through the Washington state incident based reporting system and the information is prepared and contained in the annual report of crime in Washington; and

(c) To require that, in consultation with interested persons, the Washington association of sheriffs and police chiefs prepare and disseminate procedures to all law enforcement agencies in the state as to how the agencies shall code and report domestic violence incidents to the Washington association of sheriffs and police chiefs.

[ 2016 c 136 § 5; 1996 c 248 § 6; 1995 c 246 § 22; 1993 c 350 § 3; 1984 c 263 § 21; 1981 c 145 § 5; 1979 ex.s. c 105 § 3.]

**NOTES:**

**Severability—1995 c 246:** See note following RCW 26.50.010.

**Findings—Severability—1993 c 350:** See notes following RCW 26.50.035.

**Effective date—1984 c 263:** See RCW 26.50.901.

### **10.99.040 Duties of court—No-contact order.**

(1) Because of the serious nature of domestic violence, the court in domestic violence actions:

(a) Shall not dismiss any charge or delay disposition because of concurrent dissolution or other civil proceedings;

(b) Shall not require proof that either party is seeking a dissolution of marriage prior to instigation of criminal proceedings;

(c) Shall waive any requirement that the victim's location be disclosed to any person, other than the attorney of a criminal defendant, upon a showing that there is a possibility of further violence: PROVIDED, That the court may order a criminal defense attorney not to disclose to his or her client the victim's location; and

(d) Shall identify by any reasonable means on docket sheets those criminal actions arising from acts of domestic violence.

(2)(a) Because of the likelihood of repeated violence directed at those who have been victims of domestic violence in the past, when any person charged with or arrested for a crime involving domestic violence is released from custody before arraignment or trial on bail or personal recognizance, the court authorizing the release may prohibit that person from having any contact with the victim. The jurisdiction authorizing the release shall determine whether that person should be prohibited from having any contact with the victim. If there is no outstanding restraining or protective order prohibiting that person from having contact with the victim, the court authorizing release may issue, by telephone, a no-contact order prohibiting the person charged or arrested from having contact with the victim or from knowingly coming within, or knowingly remaining within, a specified distance of a location.

(b) In issuing the order, the court shall consider the provisions of RCW 9.41.800.

(c) The no-contact order shall also be issued in writing as soon as possible, and shall state that it may be extended as provided in subsection (3) of this section. By January 1, 2011, the administrative office of the courts shall develop a pattern form for all no-contact orders issued under this chapter. A no-contact order issued under this chapter must substantially comply with the pattern form developed by the administrative office of the courts.

(3) At the time of arraignment the court shall determine whether a no-contact order shall be issued or extended. So long as the court finds probable cause, the court may issue or extend a no-contact order even if the defendant fails to appear at arraignment. The no-contact order shall terminate if the defendant is acquitted or the charges are dismissed. If a no-contact order is issued or extended, the court may also include in the conditions of release a requirement that the defendant submit to electronic monitoring as defined in RCW 9.94A.030. If electronic monitoring is ordered, the court shall specify who shall provide the monitoring services, and the terms under which the monitoring shall be performed. Upon conviction, the court may require as a condition of the sentence that the defendant reimburse the providing agency for the costs of the electronic monitoring.

(4)(a) Willful violation of a court order issued under subsection (2), (3), or (7) of this section is punishable under RCW 26.50.110.

(b) The written order releasing the person charged or arrested shall contain the court's directives and shall bear the legend: "Violation of this order is a criminal offense under chapter 26.50 RCW and will subject a violator to arrest; any assault, drive-by shooting, or reckless endangerment that is a violation of this order is a felony. You can be arrested even if any person

protected by the order invites or allows you to violate the order's prohibitions. You have the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order."

(c) A certified copy of the order shall be provided to the victim.

(5) If a no-contact order has been issued prior to charging, that order shall expire at arraignment or within seventy-two hours if charges are not filed.

(6) Whenever a no-contact order is issued, modified, or terminated under subsection (2) or (3) of this section, the clerk of the court shall forward a copy of the order on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order the law enforcement agency shall enter the order for one year or until the expiration date specified on the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the computer-based criminal intelligence information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any jurisdiction in the state. Upon receipt of notice that an order has been terminated under subsection (3) of this section, the law enforcement agency shall remove the order from the computer-based criminal intelligence information system.

(7) All courts shall develop policies and procedures by January 1, 2011, to grant victims a process to modify or rescind a no-contact order issued under this chapter. The administrative office of the courts shall develop a model policy to assist the courts in implementing the requirements of this subsection.

[ 2015 c 287 § 9; 2012 c 223 § 3; 2010 c 274 § 309; 2000 c 119 § 18; 1997 c 338 § 54; 1996 c 248 § 7; 1995 c 246 § 23; 1994 sp.s. c 7 § 449; 1992 c 86 § 2; 1991 c 301 § 4; 1985 c 303 § 10; 1984 c 263 § 22; 1983 c 232 § 7; 1981 c 145 § 6; 1979 ex.s. c 105 § 4.]

#### NOTES:

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

**Application—2000 c 119:** See note following RCW 26.50.021.

**Finding—Evaluation—Report—1997 c 338:** See note following RCW 13.40.0357.

**Severability—Effective dates—1997 c 338:** See notes following RCW 5.60.060.

**Severability—1995 c 246:** See note following RCW 26.50.010.

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

**Effective date—1994 sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460:** See note following RCW 9.41.010.

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

**Effective date—1984 c 263:** See RCW 26.50.901.

**Severability—1983 c 232:** See note following RCW 9.41.010.

*Child abuse, temporary restraining order:* RCW 26.44.063.

*Orders for protection in cases of domestic violence:* RCW 26.50.030, 26.50.070.

*Temporary restraining order:* RCW 26.09.060.

### **10.99.045 Appearances by defendant—Defendant's history—No-contact order.**

(1) A defendant arrested for an offense involving domestic violence as defined by RCW 10.99.020 shall be required to appear in person before a magistrate within one judicial day after the arrest.

(2) A defendant who is charged by citation, complaint, or information with an offense involving domestic violence as defined by RCW 10.99.020 and not arrested shall appear in court for arraignment in person as soon as practicable, but in no event later than fourteen days after the next day on which court is in session following the issuance of the citation or the filing of the complaint or information.

(3)(a) At the time of the appearances provided in subsection (1) or (2) of this section, the court shall determine the necessity of imposing a no-contact order or other conditions of pretrial release according to the procedures established by court rule for a preliminary appearance or an arraignment. The court may include in the order any conditions authorized under RCW 9.41.800 and 10.99.040.

(b) For the purposes of (a) of this subsection, the prosecutor shall provide for the court's review:

- (i) The defendant's criminal history, if any, that occurred in Washington or any other state;
- (ii) If available, the defendant's criminal history that occurred in any tribal jurisdiction; and
- (iii) The defendant's individual order history.

(c) For the purposes of (b) of this subsection, criminal history includes all previous convictions and orders of deferred prosecution, as reported through the judicial information system or otherwise available to the court or prosecutor, current to within the period specified in (d) of this subsection before the date of the appearance.

(d) The periods applicable to previous convictions and orders of deferred prosecution are:

(i) One working day, in the case of previous actions of courts that fully participate in the state judicial information system; and

(ii) Seven calendar days, in the case of previous actions of courts that do not fully participate in the judicial information system. For the purposes of this subsection, "fully participate" means regularly providing records to and receiving records from the system by electronic means on a daily basis.

(4) Appearances required pursuant to this section are mandatory and cannot be waived.

(5) The no-contact order shall be issued and entered with the appropriate law enforcement agency pursuant to the procedures outlined in RCW 10.99.040 (2) and (6).

[ 2010 c 274 § 301; 2000 c 119 § 19; 1998 c 55 § 2; 1994 sp.s. c 7 § 450; 1984 c 263 § 23; 1983 c 232 § 8; 1981 c 145 § 7.]

#### **NOTES:**

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

**Application—2000 c 119:** See note following RCW 26.50.021.

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

**Effective date—1994 sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460:** See note following RCW 9.41.010.

**Effective date—1984 c 263:** See RCW 26.50.901.

**Severability—1983 c 232:** See note following RCW 9.41.010.

### **10.99.050 Victim contact—Restriction, prohibition—Violation, penalties—Written order—Procedures—Notice of change.**

(1) When a defendant is found guilty of a crime and a condition of the sentence restricts the defendant's ability to have contact with the victim, such condition shall be recorded and a written certified copy of that order shall be provided to the victim.

(2)(a) Willful violation of a court order issued under this section is punishable under RCW 26.50.110.

(b) The written order shall contain the court's directives and shall bear the legend: Violation of this order is a criminal offense under chapter 26.50 RCW and will subject a violator to arrest; any assault, drive-by shooting, or reckless endangerment that is a violation of this order is a felony.

(3) Whenever an order prohibiting contact is issued pursuant to this section, the clerk of the court shall forward a copy of the order on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order the law enforcement agency shall enter the order for one year or until the expiration date specified on the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the computer-based criminal intelligence information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any jurisdiction in the state.

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

[ 2000 c 119 § 20; 1997 c 338 § 55; 1996 c 248 § 8; 1991 c 301 § 5; 1985 c 303 § 12; 1984 c 263 § 24; 1979 ex.s. c 105 § 5.]

**NOTES:**

**Application—2000 c 119:** See note following RCW 26.50.021.

**Finding—Evaluation—Report—1997 c 338:** See note following RCW 13.40.0357.

**Severability—Effective dates—1997 c 338:** See notes following RCW 5.60.060.

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

**Effective date—1984 c 263:** See RCW 26.50.901.

### **10.99.055 Enforcement of orders.**

A peace officer in this state shall enforce an order issued by any court in this state restricting a defendant's ability to have contact with a victim by arresting and taking the defendant into custody, pending release on bail, personal recognizance, or court order, when the officer has probable cause to believe that the defendant has violated the terms of that order.

[ 1984 c 263 § 25; 1983 c 232 § 9; 1981 c 145 § 8.]

**NOTES:**

**Effective date—1984 c 263:** See RCW 26.50.901.

**Severability—1983 c 232:** See note following RCW 9.41.010.

### **10.99.060 Prosecutor's notice to victim—Description of available procedures.**

The public attorney responsible for making the decision whether or not to prosecute shall advise the victim of that decision within five days, and, prior to making that decision shall advise the victim, upon the victim's request, of the status of the case. Notification to the victim that

charges will not be filed shall include a description of the procedures available to the victim in that jurisdiction to initiate a criminal proceeding.

[ 1979 ex.s. c 105 § 6.]

### **10.99.070 Liability of peace officers.**

A peace officer shall not be held liable in any civil action for an arrest based on probable cause, enforcement in good faith of a court order, or any other action or omission in good faith under this chapter arising from an alleged incident of domestic violence brought by any party to the incident.

[ 1979 ex.s. c 105 § 7.]

### **10.99.080 Penalty assessment (as amended by 2015 c 265).**

(1) All superior courts, and courts organized under Title 3 or 35 RCW, may impose a penalty assessment not to exceed one hundred dollars on any ~~((person))~~ adult offender convicted of a crime involving domestic violence. The assessment shall be in addition to, and shall not supersede, any other penalty, restitution, fines, or costs provided by law.

(2) Revenue from the assessment shall be used solely for the purposes of establishing and funding domestic violence advocacy and domestic violence prevention and prosecution programs in the city or county of the court imposing the assessment. Revenue from the assessment shall not be used for indigent criminal defense. If the city or county does not have domestic violence advocacy or domestic violence prevention and prosecution programs, cities and counties may use the revenue collected from the assessment to contract with recognized community-based domestic violence program providers.

(3) The assessment imposed under this section shall not be subject to any state or local remittance requirements under chapter 3.46, 3.50, 3.62, 7.68, 10.82, or 35.20 RCW.

(4) For the purposes of this section, "convicted" includes a plea of guilty, a finding of guilt regardless of whether the imposition of the sentence is deferred or any part of the penalty is suspended, or the levying of a fine. For the purposes of this section, "domestic violence" has the same meaning as that term is defined under RCW 10.99.020 and includes violations of equivalent local ordinances.

(5) When determining whether to impose a penalty assessment under this section, judges are encouraged to solicit input from the victim or representatives for the victim in assessing the ability of the convicted offender to pay the penalty, including information regarding current financial obligations, family circumstances, and ongoing restitution.

[ 2015 c 265 § 24; 2004 c 15 § 2.]

#### **NOTES:**

**Finding—Intent—2015 c 265:** See note following RCW 13.50.010.

### **10.99.080 Penalty assessment (as amended by 2015 c 275).**

(1) All superior courts, and courts organized under Title 3 or 35 RCW, may impose a penalty of one hundred dollars, plus an additional fifteen dollars on any person convicted of a crime involving domestic violence; in no case shall a penalty assessment ~~((not to))~~ exceed one hundred

fifteen dollars on any person convicted of a crime involving domestic violence. The assessment shall be in addition to, and shall not supersede, any other penalty, restitution, fines, or costs provided by law.

(2) Revenue from the:

(a) One hundred dollar assessment shall be used solely for the purposes of establishing and funding domestic violence advocacy and domestic violence prevention and prosecution programs in the city or county of the court imposing the assessment. Such revenue from the assessment shall not be used for indigent criminal defense. If the city or county does not have domestic violence advocacy or domestic violence prevention and prosecution programs, cities and counties may use the revenue collected from the assessment to contract with recognized community-based domestic violence program providers.

(b) Fifteen dollar assessment must be remitted monthly to the state treasury for deposit in the domestic violence prevention account.

(3) The one hundred dollar assessment imposed under this section shall not be subject to any state or local remittance requirements under chapter 3.46, 3.50, 3.62, 7.68, 10.82, or 35.20 RCW.

(4) For the purposes of this section, "convicted" includes a plea of guilty, a finding of guilt regardless of whether the imposition of the sentence is deferred or any part of the penalty is suspended, or the levying of a fine. For the purposes of this section, "domestic violence" has the same meaning as that term is defined under RCW 10.99.020 and includes violations of equivalent local ordinances.

(5) When determining whether to impose a penalty assessment under this section, judges are encouraged to solicit input from the victim or representatives for the victim in assessing the ability of the convicted offender to pay the penalty, including information regarding current financial obligations, family circumstances, and ongoing restitution.

[ 2015 c 275 § 14; 2004 c 15 § 2.]

**NOTES:**

**Reviser's note:** RCW 10.99.080 was amended twice during the 2015 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

**Intent—2004 c 15:** "The legislature recognizes that domestic violence is a growing and more visible public safety problem in Washington state than ever before, and that domestic violence-related incidents have a significant bearing on overall law enforcement and court caseloads. The legislature further recognizes the growing costs associated with domestic violence prevention and advocacy programs established by local governments and by community-based organizations.

It is the legislature's intent to establish a penalty in law that will hold convicted domestic violence offenders accountable while requiring them to pay penalties to offset the costs of domestic violence advocacy and prevention programs. It is the legislature's intent that the penalties imposed against convicted domestic violence offenders under section 2 of this act be used for established domestic violence prevention and prosecution programs. It is the legislature's intent that the revenue from the penalty assessment shall be in addition to existing sources of funding to enhance or help prevent the reduction and elimination of domestic violence prevention and prosecution programs." [ 2004 c 15 § 1.]

## **10.99.090 Policy adoption and implementation.**

(1) By December 1, 2004, the association shall develop a written model policy on domestic violence committed or allegedly committed by sworn employees of agencies. In developing the policy, the association shall convene a work group consisting of representatives from the following entities and professions:

(a) Statewide organizations representing state and local enforcement officers;

(b) A statewide organization providing training and education for agencies having the primary responsibility of serving victims of domestic violence with emergency shelter and other services; and

(c) Any other organization or profession the association determines to be appropriate.

(2) Members of the work group shall serve without compensation.

(3) The model policy shall provide due process for employees and, at a minimum, meet the following standards:

(a) Provide prehire screening procedures reasonably calculated to disclose whether an applicant for a sworn employee position:

(i) Has committed or, based on credible sources, has been accused of committing an act of domestic violence;

(ii) Is currently being investigated for an allegation of child abuse or neglect or has previously been investigated for founded allegations of child abuse or neglect; or

(iii) Is currently or has previously been subject to any order under RCW 26.44.063, this chapter, chapter 10.14 or 26.50 RCW, or any equivalent order issued by another state or tribal court;

(b) Provide for the mandatory, immediate response to acts or allegations of domestic violence committed or allegedly committed by a sworn employee of an agency;

(c) Provide to a sworn employee, upon the request of the sworn employee or when the sworn employee has been alleged to have committed an act of domestic violence, information on programs under RCW 26.50.150;

(d) Provide for the mandatory, immediate reporting by employees when an employee becomes aware of an allegation of domestic violence committed or allegedly committed by a sworn employee of the agency employing the sworn employee;

(e) Provide procedures to address reporting by an employee who is the victim of domestic violence committed or allegedly committed by a sworn employee of an agency;

(f) Provide for the mandatory, immediate self-reporting by a sworn employee to his or her employing agency when an agency in any jurisdiction has responded to a domestic violence call in which the sworn employee committed or allegedly committed an act of domestic violence;

(g) Provide for the mandatory, immediate self-reporting by a sworn employee to his or her employing agency if the employee is currently being investigated for an allegation of child abuse or neglect or has previously been investigated for founded allegations of child abuse or neglect, or is currently or has previously been subject to any order under RCW 26.44.063, this chapter, chapter 10.14 or 26.50 RCW, or any equivalent order issued by another state or tribal court;

(h) Provide for the performance of prompt separate and impartial administrative and criminal investigations of acts or allegations of domestic violence committed or allegedly committed by a sworn employee of an agency;

(i) Provide for appropriate action to be taken during an administrative or criminal investigation of acts or allegations of domestic violence committed or allegedly committed by a sworn employee of an agency. The policy shall provide procedures to address, in a manner consistent with applicable law and the agency's ability to maintain public safety within its

jurisdiction, whether to relieve the sworn employee of agency-issued weapons and other agency-issued property and whether to suspend the sworn employee's power of arrest or other police powers pending resolution of any investigation;

(j) Provide for prompt and appropriate discipline or sanctions when, after an agency investigation, it is determined that a sworn employee has committed an act of domestic violence;

(k) Provide that, when there has been an allegation of domestic violence committed or allegedly committed by a sworn employee, the agency immediately make available to the alleged victim the following information:

(i) The agency's written policy on domestic violence committed or allegedly committed by sworn employees;

(ii) Information, including but not limited to contact information, about public and private nonprofit domestic violence advocates and services; and

(iii) Information regarding relevant confidentiality policies related to the victim's information;

(l) Provide procedures for the timely response, consistent with chapters 42.56 and 10.97 RCW, to an alleged victim's inquiries into the status of the administrative investigation and the procedures the agency will follow in an investigation of domestic violence committed or allegedly committed by a sworn employee;

(m) Provide procedures requiring an agency to immediately notify the employing agency of a sworn employee when the notifying agency becomes aware of acts or allegations of domestic violence committed or allegedly committed by the sworn employee within the jurisdiction of the notifying agency; and

(n) Provide procedures for agencies to access and share domestic violence training within their jurisdiction and with other jurisdictions.

(4) By June 1, 2005, every agency shall adopt and implement a written policy on domestic violence committed or allegedly committed by sworn employees of the agency that meet the minimum standards specified in this section. In lieu of developing its own policy, the agency may adopt the model policy developed by the association under this section. In developing its own policy, or before adopting the model policy, the agency shall consult public and private nonprofit domestic violence advocates and any other organizations and professions the agency finds appropriate.

(5)(a) Except as provided in this section, not later than June 30, 2006, every sworn employee of an agency shall be trained by the agency on the agency's policy required under this section.

(b) Sworn employees hired by an agency on or after March 1, 2006, shall, within six months of beginning employment, be trained by the agency on the agency's policy required under this section.

(6)(a) By June 1, 2005, every agency shall provide a copy of its policy developed under this section to the association and shall provide a statement notifying the association of whether the agency has complied with the training required under this section. The copy and statement shall be provided in electronic format unless the agency is unable to do so. The agency shall provide the association with any revisions to the policy upon adoption.

(b) The association shall maintain a copy of each agency's policy and shall provide to the governor and legislature not later than January 1, 2006, a list of those agencies that have not developed and submitted policies and those agencies that have not stated their compliance with the training required under this section.

(c) The association shall, upon request and within its resources, provide technical assistance to agencies in developing their policies.

[ 2005 c 274 § 209; 2004 c 18 § 3.]

**NOTES:**

**Part headings not law—Effective date—2005 c 274:** See RCW 42.56.901 and 42.56.902.

**Findings—Intent—2004 c 18:** See note following RCW 10.99.020.

### **10.99.100 Sentencing—Factors—Defendant's criminal history.**

(1) In sentencing for a crime of domestic violence as defined in this chapter, courts of limited jurisdiction shall consider, among other factors, whether:

(a) The defendant suffered a continuing pattern of coercion, control, or abuse by the victim of the offense and the offense is a response to that coercion, control, or abuse;

(b) The offense was part of an ongoing pattern of psychological, physical, or sexual abuse of a victim or multiple victims manifested by multiple incidents over a prolonged period of time; and

(c) The offense occurred within sight or sound of the victim's or the offender's minor children under the age of eighteen years.

(2)(a) In sentencing for a crime of domestic violence as defined in this chapter, the prosecutor shall provide for the court's review:

(i) The defendant's criminal history, if any, that occurred in Washington or any other state;

(ii) If available, the defendant's prior criminal history that occurred in any tribal jurisdiction; and

(iii) The defendant's individual order history.

(b) For the purposes of (a) of this subsection, criminal history includes all previous convictions and orders of deferred prosecution, as reported through the judicial information system or otherwise available to the court or prosecutor, current to within the period specified in (c) of this subsection before the date of sentencing.

(c) The periods applicable to previous convictions and orders of deferred prosecution are:

(i) One working day, in the case of previous actions of courts that fully participate in the state judicial information system; and

(ii) Seven calendar days, in the case of previous actions of courts that do not fully participate in the judicial information system. For the purposes of this subsection, "fully participate" means regularly providing records to and receiving records from the system by electronic means on a daily basis.

[ 2010 c 274 § 404.]

**NOTES:**

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

### **10.99.901 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.**

For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered

domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships.

[ 2009 c 521 § 29.]

# RCW 26.27 Uniform Child Custody Jurisdiction and Enforcement Act

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- 26.27.541 Role of prosecutor or attorney general.
- 26.27.551 Role of law enforcement.
- 26.27.561 Costs and expenses.

ARTICLE 4  
MISCELLANEOUS PROVISIONS

- 26.27.901 Application—Construction.
- 26.27.921 Transitional provision.
- 26.27.941 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.

### **26.27.011 Short title.**

This chapter may be cited as the uniform child custody jurisdiction and enforcement act. [ 2001 c 65 § 101.]

### **26.27.021 Definitions.**

The definitions in this section apply throughout this chapter, unless the context clearly requires otherwise.

- (1) "Abandoned" means left without provision for reasonable and necessary care or supervision.
- (2) "Child" means an individual who has not attained eighteen years of age.
- (3) "Child custody determination" means a judgment, decree, parenting plan, or other order of a court providing for the legal custody, physical custody, or visitation with respect to a child. The term includes a permanent, temporary, initial, and modification order. The term does not include an order relating to child support or other monetary obligation of an individual.
- (4) "Child custody proceeding" means a proceeding in which legal custody, physical custody, a parenting plan, or visitation with respect to a child is an issue. The term includes a proceeding for dissolution, divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence, in which the issue may appear. The term does not include a proceeding involving juvenile delinquency, emancipation proceedings under chapter 13.64 RCW, proceedings under chapter 13.32A RCW, or enforcement under Article 3.
- (5) "Commencement" means the filing of the first pleading in a proceeding.
- (6) "Court" means an entity authorized under the law of a state to establish, enforce, or modify a child custody determination.
- (7) "Home state" means the state in which a child lived with a parent or a person acting as a parent for at least six consecutive months immediately before the commencement of a child custody proceeding. In the case of a child less than six months of age, the term means the state in which the child lived from birth with a parent or person acting as a parent. A period of temporary absence of a child, parent, or person acting as a parent is part of the period.
- (8) "Initial determination" means the first child custody determination concerning a particular child.
- (9) "Issuing court" means the court that makes a child custody determination for which enforcement is sought under this chapter.
- (10) "Issuing state" means the state in which a child custody determination is made.

(11) "Modification" means a child custody determination that changes, replaces, supersedes, or is otherwise made after a previous determination concerning the same child, whether or not it is made by the court that made the previous determination.

(12) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.

(13) "Person acting as a parent" means a person, other than a parent, who:

(a) Has physical custody of the child or has had physical custody for a period of six consecutive months, including any temporary absence, within one year immediately before the commencement of a child custody proceeding; and

(b) Has been awarded legal custody by a court or claims a right to legal custody under the law of this state.

(14) "Physical custody" means the physical care and supervision of a child.

(15) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(16) "Tribe" means an Indian tribe or band, or Alaskan Native village, that is recognized by federal law or formally acknowledged by a state.

(17) "Warrant" means an order issued by a court authorizing law enforcement officers to take physical custody of a child.

[ 2001 c 65 § 102.]

### **26.27.031 Proceedings governed by other law.**

This chapter does not govern an adoption proceeding or a proceeding pertaining to the authorization of emergency medical care for a child.

[ 2001 c 65 § 103.]

### **26.27.041 Application to Indian tribes.**

(1) A child custody proceeding that pertains to an Indian child as defined in the federal Indian child welfare act, 25 U.S.C. Sec. 1901 et seq., is not subject to this chapter to the extent that it is governed by the federal Indian child welfare act.

(2) A court of this state shall treat a tribe as if it were a state of the United States for the purpose of applying Articles 1 and 2.

(3) A child custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of this chapter must be recognized and enforced under Article 3.

[ 2001 c 65 § 104.]

### **26.27.051 International application of chapter.**

(1) A court of this state shall treat a foreign country as if it were a state of the United States for the purpose of applying Articles 1 and 2.

(2) Except as otherwise provided in subsection (3) of this section, a child custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of this chapter must be recognized and enforced under Article 3.

(3) A court of this state need not apply this chapter if the child custody law of a foreign country violates fundamental principles of human rights.

[ 2001 c 65 § 105.]

### **26.27.061 Effect of child custody determination.**

A child custody determination made by a court of this state that had jurisdiction under this chapter binds all persons who have been served in accordance with the laws of this state or notified in accordance with RCW 26.27.081 or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to those persons, the determination is conclusive as to all decided issues of law and fact except to the extent the determination is modified.

[ 2001 c 65 § 106.]

### **26.27.071 Priority.**

If a question of existence or exercise of jurisdiction under this chapter is raised in a child custody proceeding, the question, upon proper motion, must be given priority on the calendar and handled expeditiously.

[ 2001 c 65 § 107.]

### **26.27.081 Notice to persons outside state.**

(1) Notice required for the exercise of jurisdiction when a person is outside this state may be given in a manner prescribed for service of process by the law of the state in which the service is made or given in a manner reasonably calculated to give actual notice, and may be made in any of the following ways:

(a) Personal delivery outside this state in the manner prescribed for service of process within this state;

(b) By any form of mail addressed to the person to be served and requesting a receipt; or

(c) As directed by the court, including publication if other means of notification are ineffective.

(2) Proof of service outside this state may be made:

(a) By affidavit of the individual who made the service;

(b) In the manner prescribed by the law of this state or the law of the state in which the service is made; or

(c) As directed by the order under which the service is made.

If service is made by mail, proof may be a receipt signed by the addressee or other evidence of delivery to the addressee.

(3) Notice is not required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court.

[ 2001 c 65 § 108.]

### **26.27.091 Appearance and limited immunity.**

(1) Except as provided in subsection (2) of this section, a party to a child custody proceeding, including a modification proceeding, or a petitioner or respondent in a proceeding to enforce or register a child custody determination, is not subject to personal jurisdiction in this state for another proceeding or purpose solely by reason of having participated, or of having been physically present for the purpose of participating, in the proceeding.

(2) A person who is subject to personal jurisdiction in this state on a basis other than physical presence is not immune from service of process in this state. A party present in this state who is subject to the jurisdiction of another state is not immune from service of process allowable under the laws of that state.

(3) The immunity granted by subsection (1) of this section does not extend to civil litigation based on acts unrelated to the participation in a proceeding under this chapter committed by an individual while present in this state.

[ 2001 c 65 § 109.]

### **26.27.101 Communication between courts.**

(1) A court of this state may communicate with a court in another state concerning a proceeding arising under this chapter.

(2) The court may allow the parties to participate in the communication. If the parties are not able to participate in the communication, they must be given the opportunity to present facts and legal arguments before a decision on jurisdiction is made.

(3) Communication between courts on schedules, calendars, court records, and similar matters may occur without informing the parties. A record need not be made of the communication.

(4) Except as otherwise provided in subsection (3) of this section, a record must be made of a communication under this section. The parties must be informed promptly of the communication and granted access to the record.

(5) For the purposes of this section, "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

[ 2001 c 65 § 110.]

### **26.27.111 Taking testimony in another state.**

(1) In addition to other procedures available to a party, a party to a child custody proceeding may offer testimony of witnesses who are located in another state, including testimony of the parties and the child, by deposition or other means allowable in this state for testimony taken in another state. The court on its own motion may order that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony is taken.

(2) A court of this state may permit an individual residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means before a designated court or at another location in that state. A court of this state shall cooperate with courts of other states in designating an appropriate location for the deposition or testimony.

(3) Documentary evidence transmitted from another state to a court of this state by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the means of transmission.

[ 2001 c 65 § 111.]

### **26.27.121 Cooperation between courts—Preservation of records.**

(1) A court of this state may request the appropriate court of another state to:

(a) Hold an evidentiary hearing;

(b) Order a person to produce or give evidence pursuant to procedures of that state;

(c) Order that an evaluation be made with respect to the custody of a child involved in a pending proceeding;

(d) Forward to the court of this state a certified copy of the transcript of the record of the hearing, the evidence otherwise presented, and any evaluation prepared in compliance with the request; and

(e) Order a party to a child custody proceeding or any person having physical custody of the child to appear in the proceeding with or without the child.

(2) Upon request of a court of another state, a court of this state may hold a hearing or enter an order described in subsection (1) of this section.

(3) Travel and other necessary and reasonable expenses incurred under subsections (1) and (2) of this section may be assessed against the parties according to the law of this state.

(4) A court of this state shall preserve the pleadings, orders, decrees, records of hearings, evaluations, and other pertinent records with respect to a child custody proceeding until the child attains eighteen years of age. Upon appropriate request by a court or law enforcement official of another state, the court shall forward a certified copy of those records.

[ 2001 c 65 § 112.]

### **26.27.201 Initial child custody jurisdiction.**

(1) Except as otherwise provided in RCW 26.27.231, a court of this state has jurisdiction to make an initial child custody determination only if:

(a) This state is the home state of the child on the date of the commencement of the proceeding, or was the home state of the child within six months before the commencement of the proceeding and the child is absent from this state but a parent or person acting as a parent continues to live in this state;

(b) A court of another state does not have jurisdiction under (a) of this subsection, or a court of the home state of the child has declined to exercise jurisdiction on the ground that this state is the more appropriate forum under RCW 26.27.261 or 26.27.271, and:

(i) The child and the child's parents, or the child and at least one parent or a person acting as a parent, have a significant connection with this state other than mere physical presence; and

(ii) Substantial evidence is available in this state concerning the child's care, protection, training, and personal relationships;

(c) All courts having jurisdiction under (a) of this subsection have declined to exercise jurisdiction on the ground that a court of this state is the more appropriate forum to determine the custody of the child under RCW 26.27.261 or 26.27.271; or

(d) No court of any other state would have jurisdiction under the criteria specified in (a), (b), or (c) of this subsection.

(2) Subsection (1) of this section is the exclusive jurisdictional basis for making a child custody determination by a court of this state.

(3) Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child custody determination.

[ 2001 c 65 § 201.]

### **26.27.211 Exclusive, continuing jurisdiction.**

(1) Except as otherwise provided in RCW 26.27.231, a court of this state that has made a child custody determination consistent with RCW 26.27.201 or 26.27.221 has exclusive, continuing jurisdiction over the determination until:

(a) A court of this state determines that neither the child, the child's parents, and any person acting as a parent do not have a significant connection with this state and that substantial evidence is no longer available in this state concerning the child's care, protection, training, and personal relationships; or

(b) A court of this state or a court of another state determines that the child, the child's parents, and any person acting as a parent do not presently reside in this state.

(2) A court of this state that has made a child custody determination and does not have exclusive, continuing jurisdiction under this section may modify that determination only if it has jurisdiction to make an initial determination under RCW 26.27.201.

[ 2001 c 65 § 202.]

### **26.27.221 Jurisdiction to modify determination.**

Except as otherwise provided in RCW 26.27.231, a court of this state may not modify a child custody determination made by a court of another state unless a court of this state has jurisdiction to make an initial determination under RCW 26.27.201(1) (a) or (b) and:

(1) The court of the other state determines it no longer has exclusive, continuing jurisdiction under RCW 26.27.211 or that a court of this state would be a more convenient forum under RCW 26.27.261; or

(2) A court of this state or a court of the other state determines that the child, the child's parents, and any person acting as a parent do not presently reside in the other state.

[ 2001 c 65 § 203.]

### **26.27.231 Temporary emergency jurisdiction.**

(1) A court of this state has temporary emergency jurisdiction if the child is present in this state and the child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with abuse.

(2) If there is no previous child custody determination that is entitled to be enforced under this chapter and a child custody proceeding has not been commenced in a court of a state having jurisdiction under RCW 26.27.201 through 26.27.221, a child custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under RCW 26.27.201 through 26.27.221. If a child custody proceeding has not been or is not

commenced in a court of a state having jurisdiction under RCW 26.27.201 through 26.27.221, a child custody determination made under this section becomes a final determination, if it so provides and this state becomes the home state of the child.

(3) If there is a previous child custody determination that is entitled to be enforced under this chapter, or a child custody proceeding has been commenced in a court of a state having jurisdiction under RCW 26.27.201 through 26.27.221, any order issued by a court of this state under this section must specify in the order a period that the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under RCW 26.27.201 through 26.27.221. The order issued in this state remains in effect until an order is obtained from the other state within the period specified or the period expires.

(4) A court of this state that has been asked to make a child custody determination under this section, upon being informed that a child custody proceeding has been commenced in, or a child custody determination has been made by, a court of a state having jurisdiction under RCW 26.27.201 through 26.27.221, shall immediately communicate with the other court. A court of this state that is exercising jurisdiction pursuant to RCW 26.27.201 through 26.27.221, upon being informed that a child custody proceeding has been commenced in, or a child custody determination has been made by, a court of another state under a statute similar to this section shall immediately communicate with the court of that state to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order. [ 2001 c 65 § 204.]

### **26.27.241 Notice—Opportunity to be heard—Joinder.**

(1) Before a child custody determination is made under this chapter, notice and an opportunity to be heard in accordance with the standards of RCW 26.27.081 must be given to: (a) All persons entitled to notice under the law of this state as in child custody proceedings between residents of this state; (b) any parent whose parental rights have not been previously terminated; and (c) any person having physical custody of the child.

(2) This chapter does not govern the enforceability of a child custody determination made without notice or an opportunity to be heard.

(3) The obligation to join a party and the right to intervene as a party in a child custody proceeding under this chapter are governed by the law of this state as in child custody proceedings between residents of this state.

[ 2001 c 65 § 205.]

### **26.27.251 Simultaneous proceedings.**

(1) Except as otherwise provided in RCW 26.27.231, a court of this state may not exercise its jurisdiction under this article if, at the time of the commencement of the proceeding, a proceeding concerning the custody of the child has been commenced in a court of another state having jurisdiction substantially in conformity with this chapter, unless the proceeding has been terminated or is stayed by the court of the other state because a court of this state is a more convenient forum under RCW 26.27.261.

(2) Except as otherwise provided in RCW 26.27.231, a court of this state, before hearing a child custody proceeding, shall examine the court documents and other information supplied by the parties pursuant to RCW 26.27.281. If the court determines that a child custody proceeding

has been commenced in a court in another state having jurisdiction substantially in accordance with this chapter, the court of this state shall stay its proceeding and communicate with the court of the other state. If the court of the state having jurisdiction substantially in accordance with this chapter does not determine that the court of this state is a more appropriate forum, the court of this state shall dismiss the proceeding.

(3) In a proceeding to modify a child custody determination, a court of this state shall determine whether a proceeding to enforce the determination has been commenced in another state. If a proceeding to enforce a child custody determination has been commenced in another state, the court may:

(a) Stay the proceeding for modification pending the entry of an order of a court of the other state enforcing, staying, denying, or dismissing the proceeding for enforcement;

(b) Enjoin the parties from continuing with the proceeding for enforcement; or

(c) Proceed with the modification under conditions it considers appropriate.

[ 2001 c 65 § 206.]

### **26.27.261 Inconvenient forum.**

(1) A court of this state which has jurisdiction under this chapter to make a child custody determination may decline to exercise its jurisdiction at any time if it determines that it is an inconvenient forum under the circumstances and that a court of another state is a more appropriate forum. The issue of inconvenient forum may be raised upon motion of a party, the court's own motion, or request of another court.

(2) Before determining whether it is an inconvenient forum, a court of this state shall consider whether it is appropriate for a court of another state to exercise jurisdiction. For this purpose, the court shall allow the parties to submit information and shall consider all relevant factors, including:

(a) Whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the child;

(b) The length of time the child has resided outside this state;

(c) The distance between the court in this state and the court in the state that would assume jurisdiction;

(d) The relative financial circumstances of the parties;

(e) Any agreement of the parties as to which state should assume jurisdiction;

(f) The nature and location of the evidence required to resolve the pending litigation, including testimony of the child;

(g) The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence; and

(h) The familiarity of the court of each state with the facts and issues in the pending litigation.

(3) If a court of this state determines that it is an inconvenient forum and that a court of another state is a more appropriate forum, it shall stay the proceedings upon condition that a child custody proceeding be promptly commenced in another designated state and may impose any other condition the court considers just and proper.

(4) A court of this state may decline to exercise its jurisdiction under this chapter if a child custody determination is incidental to an action for dissolution or another proceeding while still retaining jurisdiction over the dissolution or other proceeding.

[ 2001 c 65 § 207.]

### **26.27.271 Jurisdiction declined by reason of conduct.**

(1) Except as otherwise provided in RCW 26.27.231 or by other law of this state, if a court of this state has jurisdiction under this chapter because a person seeking to invoke its jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless:

(a) The parents and all persons acting as parents have acquiesced in the exercise of jurisdiction;

(b) A court of the state otherwise having jurisdiction under RCW 26.27.201 through 26.27.221 determines that this state is a more appropriate forum under RCW 26.27.261; or

(c) No court of any other state would have jurisdiction under the criteria specified in RCW 26.27.201 through 26.27.221.

(2) If a court of this state declines to exercise its jurisdiction pursuant to subsection (1) of this section, it may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition of the unjustifiable conduct, including staying the proceeding until a child custody proceeding is commenced in a court having jurisdiction under RCW 26.27.201 through 26.27.221.

(3) If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction pursuant to subsection (1) of this section, it shall assess against the party seeking to invoke its jurisdiction necessary and reasonable expenses including costs, communication expenses, attorneys' fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees are sought establishes that the assessment would be clearly inappropriate. The court may not assess fees, costs, or expenses against this state unless authorized by law other than this chapter.

[ 2001 c 65 § 208.]

### **26.27.281 Information to be submitted to court.**

(1) Subject to laws providing for the confidentiality of procedures, addresses, and other identifying information, in a child custody proceeding, each party, in its first pleading or in an attached affidavit, shall give information, if reasonably ascertainable, under oath as to the child's present address or whereabouts, the places where the child has lived during the last five years, and the names and present addresses of the persons with whom the child has lived during that period. The pleading or affidavit must state whether the party:

(a) Has participated, as a party or witness or in any other capacity, in any other proceeding concerning the custody of or visitation with the child and, if so, identify the court, the case number, and the date of the child custody determination, if any;

(b) Knows of any proceeding that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding; and

(c) Knows the names and addresses of any person not a party to the proceeding who has physical custody of the child or claims rights of legal custody or physical custody of, or visitation with, the child and, if so, the names and addresses of those persons.

(2) If the information required by subsection (1) of this section is not furnished, the court, upon motion of a party or its own motion, may stay the proceeding until the information is furnished.

(3) If the declaration as to any of the items described in subsection (1)(a) through (c) of this section is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and other matters pertinent to the court's jurisdiction and the disposition of the case.

(4) Each party has a continuing duty to inform the court of any proceeding in this or any other state that could affect the current proceeding.

(5) If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of identifying information, the information must be sealed and may not be disclosed to the other party or the public unless the court orders the disclosure to be made after a hearing in which the court takes into consideration the health, safety, or liberty of the party or child and determines that the disclosure is in the interest of justice.

[ 2001 c 65 § 209.]

### **26.27.291 Appearance of parties and child.**

(1) In a child custody proceeding in this state, the court may order a party to the proceeding who is in this state to appear before the court in person with or without the child. The court may order any person who is in this state and who has physical custody or control of the child to appear in person with the child.

(2) If a party to a child custody proceeding whose presence is desired by the court is outside this state, the court may order that a notice given pursuant to RCW 26.27.081 include a statement directing the party to appear in person with or without the child and informing the party that failure to appear may result in a decision adverse to the party.

(3) The court may enter any orders necessary to ensure the safety of the child and of any person ordered to appear under this section.

(4) If a party to a child custody proceeding who is outside this state is directed to appear under subsection (2) of this section or desires to appear personally before the court with or without the child, the court may require another party to pay reasonable and necessary travel and other expenses of the party so appearing and of the child.

[ 2001 c 65 § 210.]

### **26.27.401 Definitions.**

The definitions in this section apply throughout this article, unless the context clearly requires otherwise.

(1) "Petitioner" means a person who seeks enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child custody determination.

(2) "Respondent" means a person against whom a proceeding has been commenced for enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child custody determination.

[ 2001 c 65 § 301.]

### **26.27.411 Enforcement under Hague Convention.**

Under this article a court of this state may enforce an order for the return of the child made under the Hague Convention on the Civil Aspects of International Child Abduction as if it were a child custody determination.

[ 2001 c 65 § 302.]

### **26.27.421 Duty to enforce.**

(1) A court of this state shall recognize and enforce a child custody determination of a court of another state if the latter court exercised jurisdiction in substantial conformity with this chapter or the determination was made under factual circumstances meeting the jurisdictional standards of this chapter and the determination has not been modified in accordance with this chapter.

(2) A court of this state may use any remedy available under other law of this state including writs of habeas corpus under chapter 7.36 RCW and enforcement proceedings under Title 26 RCW to enforce a child custody determination made by a court of another state. The remedies provided in this article are cumulative and do not affect the availability of other remedies to enforce a child custody determination.

[ 2001 c 65 § 303.]

### **26.27.431 Temporary visitation.**

(1) A court of this state that does not have jurisdiction to modify a child custody determination may issue a temporary order enforcing:

(a) A visitation schedule made by a court of another state; or

(b) The visitation provisions of a child custody determination of another state that does not provide for a specific visitation schedule.

(2) If a court of this state makes an order under subsection (1)(b) of this section, it shall specify in the order a period that it considers adequate to allow the petitioner to obtain an order from a court having jurisdiction under the criteria specified in Article 2. The order remains in effect until an order is obtained from the other court or the period expires.

[ 2001 c 65 § 304.]

### **26.27.441 Registration of child custody determination.**

(1) A child custody determination issued by a court of another state may be registered in this state, with or without a simultaneous request for enforcement, by sending to the appropriate court in this state:

(a) A letter or other document requesting registration;

(b) Two copies, including one certified copy, of the determination sought to be registered, and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration, the determination has not been modified; and

(c) Except as otherwise provided in RCW 26.27.281, the name and address of the person seeking registration and any parent or person acting as a parent who has been awarded custody or visitation in the child custody determination sought to be registered.

(2) On receipt of the documents required by subsection (1) of this section, the registering court shall:

(a) Cause the determination to be filed as a foreign judgment, together with one copy of any accompanying documents and information, regardless of their form; and

(b) Serve notice upon the persons named pursuant to subsection (1)(c) of this section and provide them with an opportunity to contest the registration in accordance with this section.

(3) The notice required by subsection (2)(b) of this section must state that:

(a) A registered determination is enforceable as of the date of the registration in the same manner as a determination issued by a court of this state;

(b) A hearing to contest the validity of the registered determination must be requested within twenty days after service of notice; and

(c) Failure to contest the registration will result in confirmation of the child custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.

(4) A person seeking to contest the validity of a registered determination must request a hearing within twenty days after service of the notice. At that hearing, the court shall confirm the registered determination unless the person contesting registration establishes that:

(a) The issuing court did not have jurisdiction under Article 2;

(b) The child custody determination sought to be registered has been vacated, stayed, or modified by a court having jurisdiction to do so under Article 2; or

(c) The person contesting registration was entitled to notice, but notice was not given in accordance with the standards of RCW 26.27.081, in the proceedings before the court that issued the determination for which registration is sought.

(5) If a timely request for a hearing to contest the validity of the registration is not made, the registration is confirmed as a matter of law and the person requesting registration and all persons served must be notified of the confirmation.

(6) Confirmation of a registered determination, whether by operation of law or after notice and hearing, precludes further contest of the determination with respect to any matter that could have been asserted at the time of registration.

[ 2001 c 65 § 305.]

### **26.27.451 Enforcement of registered determination.**

(1) A court of this state may grant any relief normally available under the law of this state to enforce a registered child custody determination made by a court of another state.

(2) A court of this state shall recognize and enforce, but may not modify, except in accordance with Article 2, a registered child custody determination of a court of another state.

[ 2001 c 65 § 306.]

### **26.27.461 Simultaneous proceedings.**

If a proceeding for enforcement under this article is commenced in a court of this state and the court determines that a proceeding to modify the determination is pending in a court of

another state having jurisdiction to modify the determination under Article 2, the enforcing court shall immediately communicate with the modifying court. The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

[ 2001 c 65 § 307.]

### **26.27.471 Expedited enforcement of child custody determination.**

(1) A petition under this article must be verified. Certified copies of all orders sought to be enforced and of any order confirming registration must be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

(2) A petition for enforcement of a child custody determination must state:

(a) Whether the court that issued the determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was;

(b) Whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision must be enforced under this chapter and, if so, identify the court, the case number, and the nature of the proceeding;

(c) Whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding;

(d) The present physical address of the child and the respondent, if known;

(e) Whether relief in addition to the immediate physical custody of the child and attorneys' fees is sought, including a request for assistance from law enforcement officials and, if so, the relief sought; and

(f) If the child custody determination has been registered and confirmed under RCW 26.27.441, the date and place of registration.

(3) Upon the filing of a petition, the court shall issue an order directing the respondent to appear in person with or without the child at a hearing and may enter any order necessary to ensure the safety of the parties and the child. The hearing must be held on the next judicial day after service of the order unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The court may extend the date of hearing at the request of the petitioner.

(4) An order issued under subsection (3) of this section must state the time and place of the hearing and advise the respondent that at the hearing the court will order that the petitioner may take immediate physical custody of the child and the payment of fees, costs, and expenses under RCW 26.27.511, and may schedule a hearing to determine whether further relief is appropriate, unless the respondent appears and establishes that:

(a) The child custody determination has not been registered and confirmed under RCW 26.27.441 and that:

(i) The issuing court did not have jurisdiction under Article 2;

(ii) The child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court having jurisdiction to do so under Article 2;

(iii) The respondent was entitled to notice, but notice was not given in accordance with the standards of RCW 26.27.081, in the proceedings before the court that issued the order for which enforcement is sought; or

(b) The child custody determination for which enforcement is sought was registered and confirmed under RCW 26.27.431, but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Article 2.

[ 2001 c 65 § 308.]

### **26.27.481 Service of petition and order.**

Except as otherwise provided in RCW 26.27.501, the petition and order must be served, by any method authorized by the law of this state, upon the respondent and any person who has physical custody of the child.

[ 2001 c 65 § 309.]

### **26.27.491 Hearing and order.**

(1) Unless the court issues a temporary emergency order pursuant to RCW 26.27.231, upon a finding that a petitioner is entitled to immediate physical custody of the child, the court shall order that the petitioner may take immediate physical custody of the child unless the respondent establishes that:

(a) The child custody determination has not been registered and confirmed under RCW 26.27.441 and that:

(i) The issuing court did not have jurisdiction under Article 2;

(ii) The child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Article 2; or

(iii) The respondent was entitled to notice, but notice was not given in accordance with the standards of RCW 26.27.081, in the proceedings before the court that issued the order for which enforcement is sought; or

(b) The child custody determination for which enforcement is sought was registered and confirmed under RCW 26.27.441 but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Article 2.

(2) The court shall award the fees, costs, and expenses authorized under RCW 26.27.511 and may grant additional relief, including a request for the assistance of law enforcement officials, and set a further hearing to determine whether additional relief is appropriate.

(3) If a party called to testify refuses to answer on the ground that the testimony may be self-incriminating, the court may draw an adverse inference from the refusal.

(4) A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and child may not be invoked in a proceeding under this article.

[ 2001 c 65 § 310.]

### **26.27.501 Authorization to take physical custody of child.**

An order under this chapter directing law enforcement to obtain physical custody of the child from the other parent or a third party holding the child may only be sought pursuant to a writ of habeas corpus under chapter 7.36 RCW.

[ 2001 c 65 § 311.]

### **26.27.511 Costs, fees, and expenses.**

(1) The court shall award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the party, including costs, communication expenses, attorneys' fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees or expenses are sought establishes that the award would be clearly inappropriate.

(2) The court may not assess fees, costs, or expenses against a state unless authorized by law other than this chapter.

[ 2001 c 65 § 312.]

### **26.27.521 Recognition and enforcement.**

A court of this state shall accord full faith and credit to an order issued by another state and consistent with this chapter that enforces a child custody determination by a court of another state unless the order has been vacated, stayed, or modified by a court having jurisdiction to do so under Article 2.

[ 2001 c 65 § 313.]

### **26.27.531 Appeals.**

An appeal may be taken from a final order in a proceeding under this article in accordance with expedited appellate procedures in other civil cases relating to minor children. Unless the court enters a temporary emergency order under RCW 26.27.231, the enforcing court may not stay an order enforcing a child custody determination pending appeal.

[ 2001 c 65 § 314.]

### **26.27.541 Role of prosecutor or attorney general.**

(1) In a case arising under this chapter or involving the Hague Convention on the Civil Aspects of International Child Abduction, the prosecutor or attorney general may take any lawful action, including resorting to a proceeding under this article or any other available civil proceeding to locate a child, obtain the return of a child, or enforce a child custody determination if there is:

- (a) An existing child custody determination;
- (b) A request to do so from a court in a pending child custody proceeding;
- (c) A reasonable belief that a criminal statute has been violated; or
- (d) A reasonable belief that the child has been wrongfully removed or retained in violation of the Hague Convention on the Civil Aspects of International Child Abduction.

(2) A prosecutor or attorney general acting under this section acts on behalf of the court and may not represent any party.

[ 2001 c 65 § 315.]

### **26.27.551 Role of law enforcement.**

At the request of a prosecutor or attorney general acting under RCW 26.27.541, a law enforcement officer may take any lawful action reasonably necessary to locate a child or a party and assist a prosecutor or attorney general with responsibilities under RCW 26.27.541.  
[ 2001 c 65 § 316.]

### **26.27.561 Costs and expenses.**

If the respondent is not the prevailing party, the court may assess against the respondent all direct expenses and costs incurred by the prosecutor or attorney general and law enforcement officers under RCW 26.27.541 or 26.27.551.  
[ 2001 c 65 § 317.]

### **26.27.901 Application—Construction.**

In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.  
[ 2001 c 65 § 401.]

### **26.27.921 Transitional provision.**

A motion or other request for relief made in a child custody proceeding or to enforce a child custody determination that was commenced before July 22, 2001, is governed by the law in effect at the time the motion or other request was made.  
[ 2001 c 65 § 404.]

### **26.27.941 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.**

For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships.  
[ 2009 c 521 § 68.]

## **RCW 26.50 Domestic Violence Protection**

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- 26.50.250 Disclosure of information.
- 26.50.800 Recidivism study.
- 26.50.900 Short title.
- 26.50.901 Effective date—1984 c 263.

## 26.50.010 Definitions.

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 making 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, between family or household members; (b) sexual assault of one family or household member by another; or (c) 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 spouses, domestic partners, former spouses, former domestic partners, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past, 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, persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship, and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.

(7) "Judicial day" does not include Saturdays, Sundays, or legal holidays.

[ 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.]

### NOTES:

**Reviser's note:** The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

**Part headings not law—Severability—2008 c 6:** See RCW 26.60.900 and 26.60.901.

**Short title—1999 c 184:** See RCW 26.52.900.

**Severability—1995 c 246:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [ 1995 c 246 § 40.]

**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.*

## 26.50.020 Commencement of action—Jurisdiction—Venue.

(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) The courts defined in \*RCW 26.50.010(4) 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.

(6) 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.

(7) 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.

(8) 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.

[ 2010 c 274 § 302; 1992 c 111 § 8; 1989 c 375 § 28; 1987 c 71 § 1; 1985 c 303 § 1; 1984 c 263 § 3.]

**NOTES:**

**\*Reviser's note:** RCW 26.50.010 was alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (4) to subsection (1).

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

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

**Effective date—1985 c 303 §§ 1, 2:** "Sections 1 and 2 of this act shall take effect September 1, 1985." [ 1985 c 303 § 15.]

### **26.50.021 Actions on behalf of vulnerable adults—Authority of department of social and health services—Immunity from liability.**

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.]

#### **NOTES:**

**Application—2000 c 119:** "The penalties prescribed in this act apply to violations of court orders which occur on or after July 1, 2000, regardless of the date the court issued the order." [ 2000 c 119 § 31.]

### **26.50.025 Orders under this chapter and chapter 26.09, 26.10, or 26.26 RCW—Enforcement—Consolidation.**

(1) Any order available under this chapter may be issued in actions under chapter 26.09, 26.10, or 26.26 RCW. If an order for protection is issued in an action under chapter 26.09, 26.10, or 26.26 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, or 26.26 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, or 26.26 RCW. Relief under this chapter shall not be denied or delayed on the grounds that the relief is available in another action.

[ 1995 c 246 § 2.]

#### **NOTES:**

**Severability—1995 c 246:** See note following RCW 26.50.010.

### **26.50.030 Petition for an order for protection—Availability of forms and informational brochures—Bond not required.**

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.]

**NOTES:**

**Severability—1995 c 246:** See note following RCW 26.50.010.

**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.]

**Effective date—1985 c 303 §§ 1, 2:** See note following RCW 26.50.020.

*Child abuse, temporary restraining order: RCW 26.44.063.*

*Orders prohibiting contact: RCW 10.99.040.*

*Temporary restraining order: RCW 26.09.060.*

### **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.**

(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, 26.26, and 26.44 RCW, an antiharassment protection order as provided by chapter 10.14 RCW, and a foreign protection order as defined in chapter 26.52 RCW.

(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.

[ 2005 c 282 § 40; 2000 c 119 § 14; 1995 c 246 § 4; 1993 c 350 § 2; 1985 c 303 § 3; 1984 c 263 § 31.]

**NOTES:**

**Application—2000 c 119:** See note following RCW 26.50.021.

**Severability—1995 c 246:** See note following RCW 26.50.010.

**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.]

**Severability—1993 c 350:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [ 1993 c 350 § 9.]

## **26.50.040 Fees not permitted—Filing, service of process, certified copies.**

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.]

**NOTES:**

**Severability—1995 c 246:** See note following RCW 26.50.010.

**26.50.050 Hearing—Service—Time.**

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 personal 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.]

**NOTES:**

**Short title—2008 c 287:** "This act shall be known as the Rebecca Jane Griego act. Recent tragic events have demonstrated the need to find ways to make legal protections for domestic violence victims more accessible. On March 6, 2007, Rebecca Jane Griego, an employee at the University of Washington, had obtained a temporary protection order against the man who eventually shot her and then himself in a murder-suicide on April 2, 2007. However, because her stalker had evaded the police and service of process, Ms. Griego had to return to court numerous times and did not have the opportunity to have a hearing for a permanent protection order. Under current court rules, which vary by court, if a process server fails to serve process after an unspecified number of times, process may be served by publication or by mail. Establishing greater uniformity in the service of process of petitions for orders for protection or modifications of protection orders in domestic violence cases may help to protect the safety of future domestic violence victims." [ 2008 c 287 § 1.]

**Severability—1995 c 246:** See note following RCW 26.50.010.

**26.50.055 Appointment of interpreter.**

(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.]

**NOTES:**

**Severability—1995 c 246:** See note following RCW 26.50.010.

**26.50.060 Relief—Duration—Realignment of designation of parties—Award of costs, service fees, and attorneys' fees.**

(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;

(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; and

(m) Order use of a vehicle.

(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, or 26.26 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 or 26.26 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.

[ 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.]

**NOTES:**

**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.]

**Application—2000 c 119:** See note following RCW 26.50.021.

**Severability—1995 c 246:** See note following RCW 26.50.010.

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

**Effective date—1994 sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460:** See note following RCW 9.41.010.

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

**Short title—Section captions—Effective date—1987 c 460:** See RCW 26.09.910 through 26.09.912.

## **26.50.070 Ex parte temporary order for protection.**

(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;

(f) Considering the provisions of RCW 9.41.800; and

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

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

(4) An ex parte temporary order for protection shall be effective for a fixed period not to exceed fourteen days 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 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 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 order along with a copy of the petition and notice of the date set for the hearing.

(5) 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.

(6) 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 order of protection shall be filed with the court.

[ 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.]

**NOTES:**

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

**Application—2000 c 119:** See note following RCW 26.50.021.

**Severability—1995 c 246:** See note following RCW 26.50.010.

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

**Effective date—1994 sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460:** See note following RCW 9.41.010.

*Child abuse, temporary restraining order: RCW 26.44.063.*

*Orders prohibiting contact: RCW 10.99.040.*

*Temporary restraining order: RCW 26.09.060.*

## **26.50.080 Issuance of order—Assistance of peace officer— Designation of appropriate law enforcement agency.**

(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.]

**NOTES:**

**Severability—1995 c 246:** See note following RCW 26.50.010.



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.**

(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.

(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 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.

[ 1995 c 246 § 10; 1992 c 143 § 6; 1985 c 303 § 6; 1984 c 263 § 10.]

#### **NOTES:**

**Severability—1995 c 246:** See note following RCW 26.50.010.

### **26.50.095 Order following service by publication.**

Following completion of service 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.]

**NOTES:**

**Severability—1995 c 246:** See note following RCW 26.50.010.

### **26.50.100 Order—Transmittal to law enforcement agency—Record in law enforcement information system—Enforceability.**

(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.]

**NOTES:**

**Severability—1995 c 246:** See note following RCW 26.50.010.

### **26.50.110 Violation of order—Penalties.**

(1)(a) Whenever an order is granted under this chapter, chapter 7.92, 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, any temporary order for protection granted under chapter 7.40 RCW pursuant to chapter 74.34 RCW, or there is a valid foreign protection order as defined in RCW 26.52.020, 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 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.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, any temporary order for protection granted under chapter 7.40 RCW pursuant to chapter 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020, 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.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, 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.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, 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.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, 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.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020. 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.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020, 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.

[ 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.]

**NOTES:**

**Reviser's note:** This section was amended by 2015 c 248 § 1 and by 2015 c 275 § 15, 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).

**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.]

**Short title—2006 c 138:** See RCW 7.90.900.

**Application—2000 c 119:** See note following RCW 26.50.021.

**Severability—1995 c 246:** See note following RCW 26.50.010.

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

*Violation of order protecting vulnerable adult: RCW 74.34.145.*

## **26.50.115 Enforcement of ex parte order—Knowledge of order prerequisite to penalties—Reasonable efforts to serve copy of order.**

(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 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.]

**NOTES:**

**Severability—1995 c 246:** See note following RCW 26.50.010.

### **26.50.120 Violation of order—Prosecuting attorney or attorney for municipality may be requested to assist—Costs and attorney's fee.**

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.**

(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.]

#### **NOTES:**

**Severability—1995 c 246:** See note following RCW 26.50.010.

### **26.50.125 Service by publication or mailing—Costs.**

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.]

#### **NOTES:**

**Severability—1995 c 246:** See note following RCW 26.50.010.

### **26.50.130 Order for protection—Modification or termination—Service—Transmittal.**

(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 (7) 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) 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.

(6) 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.

(7) 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 nonmoving party personally except when a petitioner is the moving party and elects to have the nonmoving party served by a private party.

(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.

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

(10) [(9)] 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.

[ 2011 c 137 § 2; 2008 c 287 § 3; 1984 c 263 § 14.]

**NOTES:**

**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.]

**Short title—2008 c 287:** See note following RCW 26.50.050.

## **26.50.135 Residential placement or custody of a child— Prerequisite.**

(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 information 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.]

**NOTES:**

**Severability—1995 c 246:** See note following RCW 26.50.010.

## **26.50.140 Peace officers—Immunity.**

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.**

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 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, 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 may adopt rules and establish fees as necessary to implement this section.

(9) The department 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 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 in the monitoring visit and provide all program and management records requested by the department to determine the program's compliance with the minimum certification qualifications and rules adopted by the department. [ 2010 c 274 § 501; 1999 c 147 § 1; 1991 c 301 § 7.]

**NOTES:**

**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.**

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 26.26 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, 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 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 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.

[ 2006 c 138 § 26. Prior: 2000 c 119 § 25; 2000 c 51 § 1; 1995 c 246 § 18.]

**NOTES:**

**Short title—2006 c 138:** See RCW 7.90.900.

**Application—2000 c 119:** See note following RCW 26.50.021.

**Severability—1995 c 246:** See note following RCW 26.50.010.

### **26.50.165 Judicial information system—Names of adult cohabitants in third-party custody actions.**

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.]

### **26.50.200 Title to real estate—Effect.**

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.**

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.**

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.**

(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.]

#### **NOTES:**

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

### **26.50.240 Personal jurisdiction—Nonresident individuals.**

(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 electronic 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.]

**NOTES:**

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

### **26.50.250 Disclosure of information.**

(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.]

### **26.50.800 Recidivism study.**

(1) The Washington state institute for public policy shall conduct a statewide study to assess recidivism by domestic violence offenders involved in the criminal justice system, examine effective community supervision practices of domestic violence offenders as it relates to Washington state institute for public policy findings on evidence-based community supervision, and assess domestic violence perpetrator treatment. The institute shall report recidivism rates of domestic violence offenders in Washington, and if data is available, the report must also include an estimate of the number of domestic violence offenders sentenced to certified domestic violence perpetrator treatment in Washington state and completion rates for those entering treatment.

(2) The study must be done in collaboration with the Washington state gender and justice commission and experts on domestic violence and must include a review and update of the literature on domestic violence perpetrator treatment, and provide a description of studies used in meta-analysis of domestic violence perpetrator treatment. The institute shall report on other treatments and programs, including related findings on evidence-based community supervision, that are effective at reducing recidivism among the general offender population. The institute shall survey other states to study how misdemeanor and felony domestic violence cases are handled and assess whether domestic violence perpetrator treatment is required by law and whether a treatment modality is codified in law. The institute shall complete the review and report results to the legislature by January 1, 2013.

[ 2012 c 223 § 10.]

### **26.50.900 Short title.**

This chapter may be cited as the "Domestic Violence Prevention Act".

[ 1984 c 263 § 1.]

### **26.50.901 Effective date—1984 c 263.**

Sections 1 through 29 of this act shall take effect on September 1, 1984.

[ 1984 c 263 § 32.]

## ER 1101 APPLICABILITY OF RULES

(a) Courts Generally. Except as otherwise provided in section (c), these rules apply to all actions and proceedings in the courts of the state of Washington. The terms "judge" and "court" in these rules refer to any judge of any court to which these rules apply or any other officer who is authorized by law to hold any hearing to which these rules apply.

(b) Law With Respect to Privilege. The law with respect to privileges applies at all stages of all actions, cases, and proceedings.

(c) When Rules Need Not Be Applied. The rules (other than with respect to privileges, the rape shield statute and ER 412) need not be applied in the following situations:

(1) Preliminary Questions of Fact. The determination of questions of fact preliminary to admissibility of evidence when the issue is to be determined by the court under rule 104(a).

(2) Grand Jury. Proceedings before grand juries and special inquiry judges.

(3) Miscellaneous Proceedings. Proceedings for extradition or rendition; detainer proceedings under RCW 9.100; preliminary determinations in criminal cases; sentencing, or granting or revoking probation; issuance of warrants for arrest, criminal summonses, and search warrants; proceedings with respect to release on bail or otherwise; contempt proceedings in which the court may act summarily; habeas corpus proceedings; small claims court; supplemental proceedings under RCW 6.32; coroners' inquests; preliminary determinations in juvenile court; juvenile court hearings on declining jurisdiction; disposition, review, and permanency planning hearings in juvenile court; dispositional determinations related to treatment for alcoholism, intoxication, or drug addiction under RCW 70.96A; and dispositional determinations under RCW 71.05 and 71.34.

(4) Applications for Protection Orders. Protection order proceedings under RCW 7.90, 7.92, 10.14, 26.50 and 74.34. Provided when a judge proposes to consider information from a criminal or civil database, the judge shall disclose the information to each party present at the hearing; on timely request, provide each party with an opportunity to be heard; and, take appropriate measures to alleviate litigants' safety concerns. The judge has discretion not to disclose information that he or she does not propose to consider.

(d) Arbitration Hearings. In a mandatory arbitration hearing under RCW 7.06, the admissibility of evidence is governed by MAR 5.3.

[Originally effective April 2, 1979. Amended effective January 1, 1980; August 27, 1980; September 1, 1989; September 1, 1992; September 21, 1999; January 2, 2008;

September 1, 2008, September 1, 2010; December 10, 2013; May 27, 2014; December 8, 2015.]

Comment 1101

[Deleted effective September 1, 2006.]

Finding—1991 c 301: "The legislature finds that:

The collective costs to the community for domestic violence include the systematic destruction of individuals and their families, lost lives, lost productivity, and increased health care, criminal justice, and social service costs.

Children growing up in violent homes are deeply affected by the violence as it happens and could be the next generation of batterers and victims.

Many communities have made headway in addressing the effects of domestic violence and have devoted energy and resources to stopping this violence. However, the process for breaking the cycle of abuse is lengthy. No single system intervention is enough in itself.

An integrated system has not been adequately funded and structured to assure access to a wide range of services, including those of the law/safety/justice system, human service system, and health care system. These services need to be coordinated and multidisciplinary in approach and address the needs of victims, batterers, and children from violent homes.

Given the lethal nature of domestic violence and its effect on all within its range, the community has a vested interest in the methods used to stop and prevent future violence.

Clear standards of quality are needed so that perpetrator treatment programs receiving public funds or court-ordered referrals can be required to comply with these standards.

While incidents of domestic violence are not caused by perpetrator's use of alcohol and illegal substances, substance abuse may be a contributing factor to domestic violence and the injuries and deaths that result from it.

There is a need for consistent training of professionals who deal frequently with domestic violence or are in a position to identify domestic violence and provide support and information.

Much has been learned about effective interventions in domestic violence situations; however, much is not yet known and further study is required to know how to best stop this violence." [ 1991 c 301 § 1.]

## **CR 81 APPLICABILITY IN GENERAL**

(a) **To What Proceedings Applicable.** Except where inconsistent with rules or statutes applicable to special proceedings, these rules shall govern all civil proceedings. Where statutes relating to special proceedings provide for procedure under former statutes applicable generally to civil actions, the procedure shall be governed by these rules.

(b) **Conflicting Statutes and Rules.** Subject to the provisions of section (a) of this rule, these rules supersede all procedural statutes and other rules that may be in conflict.

Listing of all RCW 26.50 domestic violence forms from  
<http://www.courts.wa.gov/forms/?fa=forms.static&staticID=14>

## Domestic Violence

Form	Title	Download	Revised
DVSTMT	Statement	 	09/2000
WPF DV 1.015	Petition for Order for Protection <a href="#">Instructions</a>		06/2014
WPF DV 1.030	Child Custody Information Sheet	 	09/2001
WPF DV 1.050	Foreign Protection Order Information	 	12/2001
WPF All Cases 01.0400	Law Enforcement Information Sheet (LEIS)	 	06/2010
FL All Family 001	Confidential Information	 	05/2016
FL All Family 002	Attachment to Confidential Information (Additional Parties or Children)	 	05/2016
WPF DV 2.015	Temporary Order for Protection and Notice of Hearing <a href="#">Instructions</a>		12/2014
WPF DV 3.015	Order for Protection <a href="#">Instructions</a>		07/2015
WPF DV 3.030	Judgment	 	09/2001
WPF DV 4.020	Return of Service	 	06/2002
WPF All Cases 02-010	Motion for Surrender of Weapons (MT)		12/2014
WPF All Cases 02-030	Order to Surrender Weapons Issued Without Notice		12/2014
WPF All Cases 02-040	Order Re Motion for Surrender of Weapons (ORWPNP)		12/2014
WPF All Cases 02-050	Order to Surrender Weapons (ORWPNP) [effective December 1, 2014]		12/2014
WPF All Cases 02-060	Proof of Surrender (PRSRW) [effective December 1, 2014]		12/2014
WPF All Cases 02-065	Receipt for Surrendered Weapons and Concealed Pistol License; [effective December 1, 2014]		12/2014
WPF All Cases 02-070	Declaration of Non-Surrender (DCLRNS) [effective December 1, 2014]		12/2014
All Cases 02-080	Motion and Declaration for Order to Release Weapons (MTAF) [effective December 1, 2014]		12/2014
All Cases 02-090	Order to Release Weapons (ORRW) [effective December 1, 2014]		12/2014
WPF DV 5.010	Reissuance of Temporary Order for Protection and Notice of Hearing	 	09/2000
WPF DV 5.020	Order Transferring Domestic Violence Case and Setting Hearing	 	09/2000
WPF DV 5.030	Petition for Renewal of Order for Protection and Notice of Hearing	 	09/2000
WPF DV 5.035	Ex Parte Temporary Order for Renewal of Order for Protection and Notice of Hearing	 	06/2002
WPF DV 5.040	Order for Renewal of Order for Protection	 	06/2002
WPF DV 6.020	Denial Order		12/2014
WPF DV 6.030	Order Realigning Parties and Notice of Hearing	 	09/2000

<b>WPF DV 7.010</b>	Motion to Modify/Terminate Order for Protection		07/2011
<b>WPF DV 7.020</b>	Notice of Hearing	 	09/2000
<b>WPF DV 7.030</b>	Order Modifying/Terminating Order for Protection		07/2011
<b>WPF DV 7.040</b>	Declaration of _____ (Name) (DCLR)		07/2011
<b>WPF DV 7.050</b>	Respondent's Motion to Modify/Terminate Order for Protection Effective More Than Two Years (RMTMT2)		07/2011
<b>WPF DV 7.060</b>	Respondent's Notice of Hearing for Adequate Cause Determination (NTHG)		07/2011
<b>WPF DV 7.070</b>	Order re Adequate Cause (Respondent's Motion to Modify/Terminate Order for Protection Effective More Than Two Years) (ORRACD, ORRACG, ORH)		06/2012
<b>WPF DV 7.080</b>	Order Granting Respondent's Motion to Modify/Terminate Order for Protection Effective More Than Two Years (ORGRMT2)		07/2011
<b>WPF DV 9.010</b>	Declaration for Service of Summons by Publication	 	09/2000
<b>WPF DV 9.020</b>	Order for Service of Summons by Publication	 	09/2000
<b>WPF DV 9.030</b>	Summons by Publication	 	09/2000
<b>WPF DV 9.040</b>	Proof of Mailing	 	06/2002