

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1148

61st Legislature
2009 Regular Session

Passed by the House April 22, 2009
Yeas 94 Nays 0

Speaker of the House of Representatives

Passed by the Senate April 17, 2009
Yeas 39 Nays 5

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1148** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 1148

AS AMENDED BY THE SENATE

Passed Legislature - 2009 Regular Session

State of Washington

61st Legislature

2009 Regular Session

By Representatives Williams, Rodne, Simpson, Upthegrove, Haigh, Nelson, Rolfes, Sullivan, Hunt, Lias, Chase, Moeller, Goodman, Ormsby, Hurst, Kenney, Kirby, Eddy, Conway, Pedersen, Dunshee, Dickerson, Hasegawa, Sells, Appleton, Campbell, and Herrera

Read first time 01/14/09. Referred to Committee on Judiciary.

1 AN ACT Relating to protecting animals from perpetrators of domestic
2 violence; amending RCW 26.50.060 and 26.50.110; and creating a new
3 section.

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

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

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

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

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

17 (b) Exclude the respondent from the dwelling that the parties

1 share, from the residence, workplace, or school of the petitioner, or
2 from the day care or school of a child;

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

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

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

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

16 (g) Require the respondent to pay the administrative court costs
17 and service fees, as established by the county or municipality
18 incurring the expense and to reimburse the petitioner for costs
19 incurred in bringing the action, including reasonable attorneys' fees;

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

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

29 (j) Consider the provisions of RCW 9.41.800;

30 (k) Order possession and use of essential personal effects. The
31 court shall list the essential personal effects with sufficient
32 specificity to make it clear which property is included. Personal
33 effects may include pets. The court may order that a petitioner be
34 granted the exclusive custody or control of any pet owned, possessed,
35 leased, kept, or held by the petitioner, respondent, or minor child
36 residing with either the petitioner or respondent and may prohibit the
37 respondent from interfering with the petitioner's efforts to remove the

1 pet. The court may also prohibit the respondent from knowingly coming
2 within, or knowingly remaining within, a specified distance of
3 specified locations where the pet is regularly found; and

4 (1) Order use of a vehicle.

5 (2) If a protection order restrains the respondent from contacting
6 the respondent's minor children the restraint shall be for a fixed
7 period not to exceed one year. This limitation is not applicable to
8 orders for protection issued under chapter 26.09, 26.10, or 26.26 RCW.
9 With regard to other relief, if the petitioner has petitioned for
10 relief on his or her own behalf or on behalf of the petitioner's family
11 or household members or minor children, and the court finds that the
12 respondent is likely to resume acts of domestic violence against the
13 petitioner or the petitioner's family or household members or minor
14 children when the order expires, the court may either grant relief for
15 a fixed period or enter a permanent order of protection.

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

22 (3) If the court grants an order for a fixed time period, the
23 petitioner may apply for renewal of the order by filing a petition for
24 renewal at any time within the three months before the order expires.
25 The petition for renewal shall state the reasons why the petitioner
26 seeks to renew the protection order. Upon receipt of the petition for
27 renewal the court shall order a hearing which shall be not later than
28 fourteen days from the date of the order. Except as provided in RCW
29 26.50.085, personal service shall be made on the respondent not less
30 than five days before the hearing. If timely service cannot be made
31 the court shall set a new hearing date and shall either require
32 additional attempts at obtaining personal service or permit service by
33 publication as provided in RCW 26.50.085 or by mail as provided in RCW
34 26.50.123. If the court permits service by publication or mail, the
35 court shall set the new hearing date not later than twenty-four days
36 from the date of the order. If the order expires because timely
37 service cannot be made the court shall grant an ex parte order of
38 protection as provided in RCW 26.50.070. The court shall grant the

1 petition for renewal unless the respondent proves by a preponderance of
2 the evidence that the respondent will not resume acts of domestic
3 violence against the petitioner or the petitioner's children or family
4 or household members when the order expires. The court may renew the
5 protection order for another fixed time period or may enter a permanent
6 order as provided in this section. The court may award court costs,
7 service fees, and reasonable attorneys' fees as provided in subsection
8 (1)((+f+)) (g) of this section.

9 (4) In providing relief under this chapter, the court may realign
10 the designation of the parties as "petitioner" and "respondent" where
11 the court finds that the original petitioner is the abuser and the
12 original respondent is the victim of domestic violence and may issue an
13 ex parte temporary order for protection in accordance with RCW
14 26.50.070 on behalf of the victim until the victim is able to prepare
15 a petition for an order for protection in accordance with RCW
16 26.50.030.

17 (5) Except as provided in subsection (4) of this section, no order
18 for protection shall grant relief to any party except upon notice to
19 the respondent and hearing pursuant to a petition or counter-petition
20 filed and served by the party seeking relief in accordance with RCW
21 26.50.050.

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

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

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

32 (1)(a) Whenever an order is granted under this chapter, chapter
33 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or there is a valid
34 foreign protection order as defined in RCW 26.52.020, and the
35 respondent or person to be restrained knows of the order, a violation
36 of any of the following provisions of the order is a gross misdemeanor,
37 except as provided in subsections (4) and (5) of this section:

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

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

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

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

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

15 (b) Upon conviction, and in addition to any other penalties
16 provided by law, the court may require that the respondent submit to
17 electronic monitoring. The court shall specify who shall provide the
18 electronic monitoring services, and the terms under which the
19 monitoring shall be performed. The order also may include a
20 requirement that the respondent pay the costs of the monitoring. The
21 court shall consider the ability of the convicted person to pay for
22 electronic monitoring.

23 (2) A peace officer shall arrest without a warrant and take into
24 custody a person whom the peace officer has probable cause to believe
25 has violated an order issued under this chapter, chapter 7.90, 10.99,
26 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order
27 as defined in RCW 26.52.020, that restrains the person or excludes the
28 person from a residence, workplace, school, or day care, or prohibits
29 the person from knowingly coming within, or knowingly remaining within,
30 a specified distance of a location, if the person restrained knows of
31 the order. Presence of the order in the law enforcement computer-based
32 criminal intelligence information system is not the only means of
33 establishing knowledge of the order.

34 (3) A violation of an order issued under this chapter, chapter
35 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign
36 protection order as defined in RCW 26.52.020, shall also constitute
37 contempt of court, and is subject to the penalties prescribed by law.

1 (4) Any assault that is a violation of an order issued under this
2 chapter, chapter 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of
3 a valid foreign protection order as defined in RCW 26.52.020, and that
4 does not amount to assault in the first or second degree under RCW
5 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in
6 violation of such an order that is reckless and creates a substantial
7 risk of death or serious physical injury to another person is a class
8 C felony.

9 (5) A violation of a court order issued under this chapter, chapter
10 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign
11 protection order as defined in RCW 26.52.020, is a class C felony if
12 the offender has at least two previous convictions for violating the
13 provisions of an order issued under this chapter, chapter 7.90, 10.99,
14 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order
15 as defined in RCW 26.52.020. The previous convictions may involve the
16 same victim or other victims specifically protected by the orders the
17 offender violated.

18 (6) Upon the filing of an affidavit by the petitioner or any peace
19 officer alleging that the respondent has violated an order granted
20 under this chapter, chapter 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34
21 RCW, or a valid foreign protection order as defined in RCW 26.52.020,
22 the court may issue an order to the respondent, requiring the
23 respondent to appear and show cause within fourteen days why the
24 respondent should not be found in contempt of court and punished
25 accordingly. The hearing may be held in the court of any county or
26 municipality in which the petitioner or respondent temporarily or
27 permanently resides at the time of the alleged violation.

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