

# Domestic Violence Protection Orders- Beyond the Basics! Advanced Course

Note: to open the links right click and open hyperlink

# Where to go for the basics?

To learn the basics about DVPOs, visit:

- [protectionorder.org](https://protectionorder.org)
- [wscadv.org/online-training.cfm](https://wscadv.org/online-training.cfm)
  - Look for the online training course, “Protective Orders in WA State: The Basics”
- [washingtonlawhelp.org](https://washingtonlawhelp.org)
  - Visit the Domestic Violence section for information about the law, tips, and a guided interview that helps survivors fill out necessary court forms

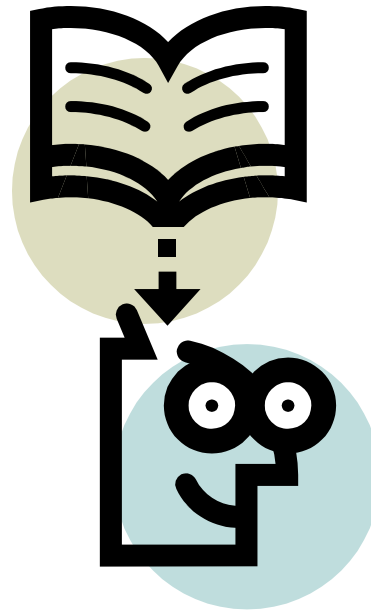
# A friendly reminder...

Always check in with your client about the pros and cons of getting a dv protection order. Never assume that DVPO is the best or only option.



# The Content

- Including children& Residential provisions
- Short-term orders
- Multiple orders
- Teenage victims
- Pets
- DVPOs violations



# Revised Code of Washington (RCW)

- The Revised Code of Washington (RCW) is the compilation of all permanent laws now in force. It is a collection of Session Laws (enacted by the Legislature, and signed by the Governor, or enacted via the initiative process), arranged by topic, with amendments added and repealed laws removed. It does not include temporary laws such as appropriations acts. The official version of the RCW is published by the [Statute Law Committee](#) and the [Code Reviser](#).
- The online version of the RCW is updated twice a year, once in the early fall following the legislative session, and again at the end of the year if a ballot measure that changes the law passed at the general election. Copies of the RCW as they existed each year since 2002 are available in the [RCW Archive](#).
- Chapter [26.50](#) under title 26 provides us with the legal definition of domestic violence.



# Legislative Intent, 2010

- 10.31.100 Notes section: **Intent -- 2010 c 274:** "The legislature intends to improve the lives of persons who suffer from the adverse effects of domestic violence and to require reasonable, coordinated measures to prevent domestic violence from occurring. The legislature intends to give law enforcement and the courts better tools to identify violent perpetrators of domestic violence and hold them accountable. The legislature intends to: Increase the safety afforded to individuals who seek protection of public and private agencies involved in domestic violence prevention; improve the ability of agencies to address the needs of victims and their children and the delivery of services; upgrade the quality of treatment programs; and enhance the ability of the justice system to respond quickly and fairly to domestic violence. **In order to improve the lives of persons who have, or may suffer, the effects of domestic violence the legislature intends to achieve more uniformity in the decision-making processes at public and private agencies that address domestic violence by reducing inconsistencies and duplications allowing domestic violence victims to achieve safety and stability in their lives.**" [2010 c 274 § 101.]



# Same Gender Couples

Under Washington law, if the petitioner meets the legal definition of domestic violence he/she can file for a domestic violence order for protection against her/his current or former same-sex partner.



Check the next slide for the domestic violence legal definition

# A DVPO is an option when...

Domestic Violence occurs:

- 26.50.010 (1) "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.

Between family or household members:

- 26.50.010 (2) "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.



# DVPOs can be issued when:

**Domestic Violence\***  
happened

- Physical harm
- Bodily injury
- Assault
- Infliction of fear of imminent physical harm, bodily injury or assault
- Sexual assault
- Stalking

[RCW 26.50.010](#) (1)

between  
**Family / Household Members\***

- Current or former spouses, partners, roommates
- Current or former dating partners where
  - Petitioner is 13+ and
  - Respondent is 16+
- Co-parents
- Parents & children (incl. step & grand)
- Adult relatives

[RCW 26.50.010](#) (2)

\*Unlike WA state law, DV Advocacy Programs use a broader definition of domestic violence and tend to focus on abuse within intimate partner/romantic relationships.

# Teenage victims

- The law now clarifies that a petitioner who is at least 13 years old may petition for a DVPO against a respondent who is at least 16 years old
- Petitioners age 13 – 15 will need a parent, guardian or next friend to file the petition on her/his behalf

# Teenage victims

- 26.50.020 - (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.**

See graphic in the next slide

- (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.

# Petitioner

# Respondent

18 years  
old or older

- An 18 years old can also petition for a minor under 16 years of age

16-17  
years old

- A 16 years old can petition against another 16 years old without adult representation

13-15  
years old

- 13-15 years old need an adult to petition on their behalf

16+

# Children

**Temporary** Order, effective until a hearing. **Full** Order, effective following a hearing.

<sup>3</sup> **Restrain** respondent from coming near and from having any contact whatsoever, in person or through others, by phone, mail, or any means, directly or indirectly, except for mailing of court documents, *with me the minors named in paragraph 5 above, subject to any court-ordered visitation these minors only, subject to any court-ordered visitation:*

<sup>4</sup> **Exclude** respondent from our shared residence my residence  
my workplace my school the residence, *day care, or school of the minors named in paragraph 5 above these minors only:*

other:

You have a right to keep your residential address confidential.

- Yes, children can be protected from contact with the respondent in temporary and in full orders for up to one year (and sometimes longer)
- Yes, courts can set up custody and visitation arrangements in DVPOs that address the risks to the children and/or survivor
- No, petitioners do not have to start a separate family law case\*

\*Please note, custody and visitation provisions in a family law case may eventually override the DVPO

# Children

- Temporary Orders: [26.50.070](#) - (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: (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; (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**
- [26.50.135](#) (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.

# Children

- Full Orders: 26.50.060- (1) Upon notice and after hearing, the court may provide relief as follows: (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; (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;** (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;

(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.

# Guns

In an Ex-parte Temporary order the court can ask the respondent to surrender his/her firearm RCW [9.41.800](#)

Check the box for each type of relief you are requesting, for each type of order you need.	
<b>Temp:</b> I Request a <b>Temporary Order for Protection, effective until the hearing</b> , because <b>an Emergency Exists</b> as described in the statement below. A temporary protection order should be issued immediately without notice to the respondent, to avoid irreparable injury.	
<b>Full:</b> I Request a <b>“full” Order for Protection</b> , following a hearing.	
<b>Temp</b> ↓	<b>Full</b> ↓
<sup>1</sup> <b>Restrain</b> respondent from causing any physical harm, bodily injury, assault, including sexual assault, and from molesting, harassing, threatening, or stalking me the minors named in paragraph 5 above these minors only:  (If the court orders this relief, and the respondent is your spouse or former spouse, the parent of a common child, or a current or former cohabitant as intimate partner, including a current or former registered domestic partner, the respondent will be prohibited from possessing a firearm or ammunition under federal law for the duration of this order. An exception exists for law enforcement officers and military personnel when carrying department/government-issued firearms. 18 U.S.C. § 925(a)(1).)	



# DVPOs can now include protections for pets

- 26.50.060 (l) - ... 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.



# Short-term Orders

- Courts can issue DVPOs for up to a year or longer, if deemed necessary.
  - Max one year at a time if respondent is restrained from contact with his/her children
  - One year or more for most other provisions
- There is no *minimum* duration specified for a full order, but full orders that expire in short timeframes (60, 90, 180 days) are inconsistent with stated public policy and place undue burden on courts and *pro se* DV victims.

# Short-term Orders

- **26.50.060 (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.

# Multiple Orders

- 26.50.025 (2) - Relief under this chapter shall not be denied or delayed on the grounds that relief is available in another action.
- 26.50.025 (2) – If a party files an action under chapter 26.09, 26.10, or 26.26, 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 the other chapter(s).

# Multiple Orders

- Yes, petitioners can have multiple types of orders in effect at the same time.
- A DVPO can be entered as part of a divorce custody case. However, in this case the petitioner should make sure that the order contains the language and reliefs provided under a DVPO and not a restraining order.

# What if the abuser violates the order?

- Violating an order for protection is against the law. There are 2 ways to get help if the abuser violates the order.
- **Through the Civil Court System (Civil)**  
The petitioner may file for civil contempt for a violation of the order. The abuser is in "civil contempt" if s/he does anything that your order for protection orders him or her not to do. To file for civil contempt, the petitioner should go to the clerk's office and ask for the forms to file for civil contempt.
- **Through the Police or Sheriff (Criminal)**  
If the defendant violates the order for protection, the petitioner can call 911 immediately. In some cases, the respondent can be arrested right away. The respondent must have received notice of the existing order, by service or appearance in court.

# What if the abuser violates the order?

- A violation of either of the following two provisions subjects the respondent to a MANDATORY ARREST:
- Violating the restraint from causing or threatening harm;
- Entering a residence, workplace or school, the school or daycare of children, or other areas the court has ordered the respondent to vacate or stay away from.
- The petitioner should tell the officers she/he has a protection order and the respondent is violating it. If the respondent is arrested, then the District Attorney can prosecute the abuser because it is a crime to violate an order for protection. If found guilty of a violation of an order for protection, the respondent may be put in jail.

# What if the abuser violates the order?

- **Note:** It is important to note that arrest is mandatory on domestic violence calls even without an existing protection order if the officer has probable cause to believe an assault has been committed within the preceding four hours.
- The respondent can be arrested even if the petitioner invites or allows the respondent to violate the prohibitions contained in the order. **The respondent has the sole responsibility to avoid or refrain from violating the order's provisions.\***
- \* [R.C.W. § 26.50.110](#)
- [see WomensLaw.org website for more](#)



# Time to quiz your progress

- Take Quiz # 1