
Judiciary Committee

ESB 6357

Title: An act relating to service of process in domestic violence cases.

Brief Description: Regarding service of process in domestic violence cases.

Sponsors: Senators Kohl-Welles, Keiser, Regala, Kline, Murray, Fairley, McDermott, Hargrove, McCaslin, Tom, Marr and Rasmussen.

Brief Summary of Engrossed Bill

- Prohibits a court from requiring more than two attempts to personally serve a respondent before permitting service by publication or mail for certain domestic violence protection orders.
- Provides that personal service must be made on the nonmoving party at least five court days before a hearing to modify the terms of certain domestic violence protection orders.
- Prohibits a court from requiring more than two attempts to personally serve the nonmoving party of notice with a modification hearing before permitting service by publication or mail.

Hearing Date: 2/20/08

Staff: Lara Zarowsky (786-7123).

Background:

Orders of Protection

An order of protection is available to a petitioner who alleges the existence of domestic violence by a respondent. The petitioner must provide an affidavit, submitted under oath, stating the particular facts and circumstances giving rise to the request for an order of protection. A filing fee may not be imposed for the submission of a petition, and the necessary number of certified copies of the order are provided to a petitioner free of charge. A petition may be made notwithstanding any other action pending between the parties, except in cases where the court "realigns" the

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

petitioner and respondent after finding that the original petitioner is the abuser and the original respondent is the victim.

Upon receipt of a petition for protection, the court must schedule a hearing within 14 days. The court may schedule a hearing by telephone in certain circumstances, provided that assurances of the petitioner's identity are secured before the hearing is conducted.

Service

The respondent named in the petition must be personally served no less than five court days prior to the hearing.

If timely personal service cannot be made, the court must set a new hearing date and either (1) require "additional attempts" to serve the respondent personally, or (2) allow service on the respondent to be made either by publication or through first class mail.

If the court permits service by publication or mail, the next hearing date must be set no later than 24 days from the date of the order. The court may issue a temporary ex parte order of protection for the period of time pending a hearing.

Modification

The court may modify the terms of an existing order of protection pursuant to either party's submission of an application to modify. The application must provide notice to all parties, and a hearing must be held before the terms of order may be modified.

If an order is terminated or modified before the date it was set to expire, the court clerk must send a true copy of the modified or terminated order to the law enforcement agency specified on the modified or terminated order.

Summary of Bill:

The court must allow service of certain domestic violence protection orders by publication or mail after a second attempt to serve the respondent by personal service has failed, unless the petitioner requests additional time to attempt personal service.

Personal service upon the nonmoving party must be accomplished no less than five court days before a hearing is held for the purpose of modifying an existing protection order.

The court must allow notice of the modification hearing to be served by publication or mail after a second attempt to serve the respondent personally has failed, unless the moving party requests additional time to attempt personal service.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.