
SUBSTITUTE SENATE BILL 5416

State of Washington

54th Legislature

1995 Regular Session

By Senate Committee on Law & Justice (originally sponsored by Senators Fraser, Smith, Winsley, Wood, C. Anderson, Kohl and Rasmussen)

Read first time 02/28/95.

1 AN ACT Relating to antiharassment and domestic violence restraining
2 orders; amending RCW 9A.46.080, 10.14.080, 26.50.060, 18.165.160,
3 40.24.010, 40.24.020, 40.24.030, and 40.24.080; and prescribing
4 penalties.

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

6 **Sec. 1.** RCW 9A.46.080 and 1985 c 288 s 8 are each amended to read
7 as follows:

8 (1) The victim shall be informed by local law enforcement agencies
9 or the prosecuting attorney of the final disposition of the case in
10 which the victim is involved. If a defendant is found guilty of a
11 crime of harassment and a condition of the sentence restricts the
12 defendant's ability to have contact with the victim or witnesses(~~(7)~~)
13 the order shall also prohibit the defendant from violating, or
14 attempting to violate, the no-contact order by hiring or requesting a
15 person to locate, trace, or contact the victim or witnesses. The no-
16 contact conditions shall be recorded and a written certified copy of
17 that order shall be provided to the victim or witnesses by the clerk of
18 the court. Willful violation of a court order issued under this
19 section is a misdemeanor. The written order shall contain the court's

1 directives and shall bear the legend: (~~Violation of this order is a~~
2 ~~criminal offense under chapter 9A.46 RCW and will subject a violator to~~
3 ~~arrest~~) VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE UNDER CHAPTER
4 9A.46 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

5 (2) A condition in a no-contact order that prohibits the defendant
6 from hiring or requesting a person to locate, trace, or contact the
7 victim or witnesses shall not prohibit a defendant from hiring or
8 requesting an attorney, a registered process server, or a law
9 enforcement agency to serve process in a legal proceeding on the victim
10 or a witness.

11 (3) A copy of a no-contact order issued under this section shall be
12 forwarded by the clerk of the court on or before the next judicial day
13 to the appropriate law enforcement agency specified in the order. Upon
14 receipt of the order, the law enforcement agency shall forthwith enter
15 the order into any computer-based criminal intelligence information
16 system available in this state used by law enforcement agencies to list
17 outstanding warrants.

18 **Sec. 2.** RCW 10.14.080 and 1994 sp.s. c 7 s 448 are each amended to
19 read as follows:

20 (1) Upon filing a petition for a civil antiharassment protection
21 order under this chapter, the petitioner may obtain an ex parte
22 temporary antiharassment protection order. An ex parte temporary
23 antiharassment protection order may be granted with or without notice
24 upon the filing of an affidavit which, to the satisfaction of the
25 court, shows reasonable proof of unlawful harassment of the petitioner
26 by the respondent and that great or irreparable harm will result to the
27 petitioner if the temporary antiharassment protection order is not
28 granted.

29 (2) An ex parte temporary antiharassment protection order shall be
30 effective for a fixed period not to exceed fourteen days or twenty-four
31 days if the court has permitted service by publication under RCW
32 10.14.085. The ex parte order may be reissued. A full hearing, as
33 provided in this chapter, shall be set for not later than fourteen days
34 from the issuance of the temporary order or not later than twenty-four
35 days if service by publication is permitted. Except as provided in RCW
36 10.14.070 and 10.14.085, the respondent shall be personally served with
37 a copy of the ex parte order along with a copy of the petition and
38 notice of the date set for the hearing.

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

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

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

37 (6) If the order restricts the respondent's contact with the
38 petitioner or another person, the order shall also prohibit the
39 respondent from violating, or attempting to violate, the order by

1 hiring or requesting a person to locate, trace, or contact the
2 petitioner or other person protected by the order. This subsection
3 shall not prohibit the respondent from hiring or requesting an
4 attorney, a registered process server, or a law enforcement agency to
5 serve process in a legal proceeding on the petitioner or other person
6 protected by the order.

7 (7) The court, in granting an ex parte temporary antiharassment
8 protection order or a civil antiharassment protection order, shall have
9 broad discretion to grant such relief as the court deems proper,
10 including an order:

11 (a) Restraining the respondent from making any attempts to contact
12 the petitioner;

13 (b) Restraining the respondent from making any attempts to keep the
14 petitioner under surveillance;

15 (c) Requiring the respondent to stay a stated distance from the
16 petitioner's residence and workplace; and

17 (d) Considering the provisions of RCW 9.41.800.

18 ~~((+7))~~ (8) A petitioner may not obtain an ex parte temporary
19 antiharassment protection order against a respondent if the petitioner
20 has previously obtained two such ex parte orders against the same
21 respondent but has failed to obtain the issuance of a civil
22 antiharassment protection order unless good cause for such failure can
23 be shown.

24 ~~((+8))~~ (9) The court order shall specify the date an order issued
25 pursuant to subsections (4) and (5) of this section expires if any.
26 The court order shall also state whether the court issued the
27 protection order following personal service or service by publication
28 and whether the court has approved service by publication of an order
29 issued under this section.

30 **Sec. 3.** RCW 26.50.060 and 1994 sp.s. c 7 s 457 are each amended to
31 read as follows:

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

34 (a) Restrain the respondent from committing acts of domestic
35 violence;

36 (b) Exclude the respondent from the dwelling which the parties
37 share or from the residence of the petitioner;

1 (c) On the same basis as is provided in chapter 26.09 RCW, the
2 court shall make residential provision with regard to minor children of
3 the parties. However, parenting plans as specified in chapter 26.09
4 RCW shall not be required under this chapter;

5 (d) Order the respondent to participate in batterers' treatment;

6 (e) Order other relief as it deems necessary for the protection of
7 the petitioner and other family or household members sought to be
8 protected, including orders or directives to a peace officer, as
9 allowed under this chapter;

10 (f) Require the respondent to pay the filing fee and court costs,
11 including service fees, and to reimburse the petitioner for costs
12 incurred in bringing the action, including a reasonable attorney's fee.
13 If the petitioner has been granted leave to proceed in forma pauperis,
14 the court may require the respondent to pay the filing fee and costs,
15 including services fees, to the county or municipality incurring the
16 expense;

17 (g) Restrain the respondent from having any contact with the victim
18 of domestic violence or the victim's children or members of the
19 victim's household. If the respondent is restrained from contact with
20 the victim or others under this subsection, the order shall also
21 prohibit the respondent from violating, or attempting to violate, the
22 order by hiring or requesting a person to locate, trace, or contact the
23 victim or other persons protected by the order. This subsection shall
24 not prohibit the respondent from hiring or requesting an attorney, a
25 registered process server, or a law enforcement agency to serve process
26 in a legal proceeding on the victim or other persons protected by the
27 order;

28 (h) Require the respondent to submit to electronic monitoring. The
29 order shall specify who shall provide the electronic monitoring
30 services and the terms under which the monitoring must be performed.
31 The order also may include a requirement that the respondent pay the
32 costs of the monitoring. The court shall consider the ability of the
33 respondent to pay for electronic monitoring; and

34 (i) Consider the provisions of RCW 9.41.800.

35 (2) Any relief granted by the order for protection, other than a
36 judgment for costs, shall be for a fixed period not to exceed one year
37 if the restraining order restrains the respondent from contacting the
38 respondent's minor children. If the petitioner has petitioned for
39 relief on his or her own behalf or on behalf of the petitioner's family

1 or household members or minor children that are not also the
2 respondent's minor children, and the court finds that the respondent is
3 likely to resume acts of domestic violence against the petitioner or
4 the petitioner's family or household members or minor children when the
5 order expires, the court may either (a) grant relief for a fixed period
6 not to exceed one year; (b) grant relief for a fixed period in excess
7 of one year; or (c) enter a permanent order of protection.

8 If the petitioner has petitioned for relief on behalf of the
9 respondent's minor children, the court shall advise the petitioner that
10 if the petitioner wants to continue protection for a period beyond one
11 year the petitioner may either petition for renewal pursuant to the
12 provisions of this chapter or may seek relief pursuant to the
13 provisions of chapter 26.09 RCW.

14 (3) If the court grants an order for a fixed time period, the
15 petitioner may apply for renewal of the order by filing a petition for
16 renewal at any time within the three months before the order expires.
17 The petition for renewal shall state the reasons why the petitioner
18 seeks to renew the protection order. Upon receipt of the petition for
19 renewal the court shall order a hearing which shall be not later than
20 fourteen days from the date of the order. Except as provided in RCW
21 26.50.085, personal service shall be made on the respondent not less
22 than five days before the hearing. If timely service cannot be made
23 the court shall set a new hearing date and shall either require
24 additional attempts at obtaining personal service or permit service by
25 publication as provided in RCW 26.50.085. If the court permits service
26 by publication, the court shall set the new hearing date not later than
27 twenty-four days from the date of the order. If the order expires
28 because timely service cannot be made the court shall grant an ex parte
29 order of protection as provided in RCW 26.50.070. The court shall
30 grant the petition for renewal unless the respondent proves by a
31 preponderance of the evidence that the respondent will not resume acts
32 of domestic violence against the petitioner or the petitioner's
33 children or family or household members when the order expires. The
34 court may renew the protection order for another fixed time period or
35 may enter a permanent order as provided in this section. The court may
36 award court costs, service fees, and reasonable attorneys' fees as
37 provided in subsection (1)(f) of this section.

38 (4) In providing relief under this chapter, the court may realign
39 the designation of the parties as "petitioner" and "respondent" where

1 the court finds that the original petitioner is the abuser and the
2 original respondent is the victim of domestic violence and may issue an
3 ex parte temporary order for protection in accordance with RCW
4 26.50.070 on behalf of the victim until the victim is able to prepare
5 a petition for an order for protection in accordance with RCW
6 26.50.030.

7 (5) Except as provided in subsection (4) of this section, no order
8 for protection shall grant relief to any party except upon notice to
9 the respondent and hearing pursuant to a petition or counter-petition
10 filed and served by the party seeking relief in accordance with RCW
11 26.50.050.

12 (6) The court order shall specify the date the order expires if
13 any. The court order shall also state whether the court issued the
14 protection order following personal service or service by publication
15 and whether the court has approved service by publication of an order
16 issued under this section.

17 **Sec. 4.** RCW 18.165.160 and 1991 c 328 s 16 are each amended to
18 read as follows:

19 The following acts are prohibited and constitute grounds for
20 disciplinary action or denial, suspension, or revocation of any license
21 under this chapter, as deemed appropriate by the director:

22 (1) Knowingly violating any of the provisions of this chapter or
23 the rules adopted under this chapter;

24 (2) Knowingly making a material misstatement or omission in the
25 application for or renewal of a license or firearms certificate;

26 (3) Not meeting the qualifications set forth in RCW 18.165.030,
27 18.165.040, or 18.165.050;

28 (4) Failing to return immediately on demand a firearm issued by an
29 employer;

30 (5) Carrying a firearm in the performance of his or her duties if
31 not the holder of a valid armed private detective license, or carrying
32 a firearm not meeting the provisions of this chapter while in the
33 performance of his or her duties;

34 (6) Failing to return immediately on demand company identification,
35 badges, or other items issued to the private detective by an employer;

36 (7) Making any statement that would reasonably cause another person
37 to believe that the private detective is a sworn peace officer;

1 (8) Divulging confidential information obtained in the course of
2 any investigation to which he or she was assigned;

3 (9) Acceptance of employment that is adverse to a client or former
4 client and relates to a matter about which a licensee has obtained
5 confidential information by reason of or in the course of the
6 licensee's employment by the client;

7 (10) Conviction of a gross misdemeanor or felony or the commission
8 of any act involving moral turpitude, dishonesty, or corruption whether
9 the act constitutes a crime or not. If the act constitutes a crime,
10 conviction in a criminal proceeding is not a condition precedent to
11 disciplinary action. Upon such a conviction, however, the judgment and
12 sentence is conclusive evidence at the ensuing disciplinary hearing of
13 the guilt of the license holder or applicant of the crime described in
14 the indictment or information, and of the person's violation of the
15 statute on which it is based. For the purposes of this section,
16 conviction includes all instances in which a plea of guilty or nolo
17 contendere is the basis for the conviction and all proceedings in which
18 the sentence has been deferred or suspended. Nothing in this section
19 abrogates rights guaranteed under chapter 9.96A RCW;

20 (11) Advertising that is false, fraudulent, or misleading;

21 (12) Incompetence or negligence that results in injury to a person
22 or that creates an unreasonable risk that a person may be harmed;

23 (13) Suspension, revocation, or restriction of the individual's
24 license to practice the profession by competent authority in any state,
25 federal, or foreign jurisdiction, a certified copy of the order,
26 stipulation, or agreement being conclusive evidence of the revocation,
27 suspension, or restriction;

28 (14) Failure to cooperate with the director by:

29 (a) Not furnishing any necessary papers or documents requested by
30 the director for purposes of conducting an investigation for
31 disciplinary action, denial, suspension, or revocation of a license
32 under this chapter;

33 (b) Not furnishing in writing a full and complete explanation
34 covering the matter contained in a complaint filed with the department;
35 or

36 (c) Not responding to subpoenas issued by the director, whether or
37 not the recipient of the subpoena is the accused in the proceeding;

38 (15) Failure to comply with an order issued by the director or an
39 assurance of discontinuance entered into with the director;

1 (16) Aiding or abetting an unlicensed person to practice if a
2 license is required;

3 (17) Misrepresentation or fraud in any aspect of the conduct of the
4 business or profession;

5 (18) Failure to adequately supervise employees to the extent that
6 the public health or safety is at risk;

7 (19) Interference with an investigation or disciplinary proceeding
8 by willful misrepresentation of facts before the director or the
9 director's authorized representative, or by the use of threats or
10 harassment against any client or witness to prevent them from providing
11 evidence in a disciplinary proceeding or any other legal action; ~~((or))~~

12 (20) Assigning or transferring any license issued pursuant to the
13 provisions of this chapter, except as provided in RCW 18.165.050; or

14 (21) Assisting a client to locate, trace, or contact another person
15 when the detective knows or should have known that the client is
16 prohibited by court order from harassing or contacting the person whom
17 the detective is being asked to locate, trace, or contact.

18 **Sec. 5.** RCW 40.24.010 and 1991 c 23 s 1 are each amended to read
19 as follows:

20 The legislature finds that persons attempting to escape from actual
21 or threatened domestic violence frequently establish new addresses in
22 order to prevent their assailants or probable assailants from finding
23 them. Persons who are victims of stalking also frequently establish
24 new addresses. The purpose of this chapter is to enable state and
25 local agencies to respond to requests for public records without
26 disclosing the location of a victim of domestic violence or stalking,
27 to enable interagency cooperation with the secretary of state in
28 providing address confidentiality for victims of domestic violence or
29 stalking, and to enable state and local agencies to accept a program
30 participant's use of an address designated by the secretary of state as
31 a substitute mailing address.

32 **Sec. 6.** RCW 40.24.020 and 1991 c 23 s 2 are each amended to read
33 as follows:

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

1 (1) "Address" means a residential street address, school address,
2 or work address of an individual, as specified on the individual's
3 application to be a program participant under this chapter.

4 (2) "Program participant" means a person certified as a program
5 participant under RCW 40.24.030.

6 (3) "Domestic violence" means an act as defined in RCW 10.99.020
7 and includes a threat of such acts committed against an individual in
8 a domestic situation, regardless of whether these acts or threats have
9 been reported to law enforcement officers.

10 (4) "Stalking" means acts defined in RCW 9A.46.110 regardless of
11 whether the acts have been reported to law enforcement officers.

12 **Sec. 7.** RCW 40.24.030 and 1991 c 23 s 3 are each amended to read
13 as follows:

14 (1) An adult person, a parent or guardian acting on behalf of a
15 minor, or a guardian acting on behalf of an incapacitated person, as
16 defined in RCW 11.88.010, may apply to the secretary of state to have
17 an address designated by the secretary of state serve as the person's
18 address or the address of the minor or incapacitated person. The
19 secretary of state shall approve an application if it is filed in the
20 manner and on the form prescribed by the secretary of state and if it
21 contains:

22 (a) A sworn statement by the applicant that the applicant has good
23 reason to believe (i) that the applicant, or the minor or incapacitated
24 person on whose behalf the application is made, is a victim of domestic
25 violence or stalking; and (ii) that the applicant fears for his or her
26 safety or his or her children's safety, or the safety of the minor or
27 incapacitated person on whose behalf the application is made;

28 (b) A designation of the secretary of state as agent for purposes
29 of service of process and for the purpose of receipt of mail;

30 (c) The mailing address where the applicant can be contacted by the
31 secretary of state, and the phone number or numbers where the applicant
32 can be called by the secretary of state;

33 (d) The new address or addresses that the applicant requests not be
34 disclosed for the reason that disclosure will increase the risk of
35 domestic violence or stalking;

36 (e) The signature of the applicant and of any individual or
37 representative of any office designated in writing under RCW 40.24.080

1 who assisted in the preparation of the application, and the date on
2 which the applicant signed the application.

3 (2) Applications shall be filed with the office of the secretary of
4 state.

5 (3) Upon filing a properly completed application, the secretary of
6 state shall certify the applicant as a program participant. Applicants
7 shall be certified for four years following the date of filing unless
8 the certification is withdrawn or invalidated before that date. The
9 secretary of state shall by rule establish a renewal procedure.

10 (4) A person who falsely attests in an application that disclosure
11 of the applicant's address would endanger the applicant's safety or the
12 safety of the applicant's children or the minor or incapacitated person
13 on whose behalf the application is made, or who knowingly provides
14 false or incorrect information upon making an application, shall be
15 punishable under RCW 40.16.030 or other applicable statutes.

16 **Sec. 8.** RCW 40.24.080 and 1991 c 23 s 8 are each amended to read
17 as follows:

18 The secretary of state shall designate state and local agencies and
19 nonprofit agencies that provide counseling and shelter services to
20 victims of domestic violence and to victims of stalking to assist
21 persons applying to be program participants. Any assistance and
22 counseling rendered by the office of the secretary of state or its
23 designees to applicants shall in no way be construed as legal advice.

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