
SENATE BILL 5416

State of Washington

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By Senators Fraser, Smith, Winsley, Wood, C. Anderson, Kohl and Rasmussen

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1 AN ACT Relating to antiharassment and domestic violence restraining
2 orders; amending RCW 9A.46.080, 10.14.080, 26.50.060, and 40.24.010;
3 adding new sections to chapter 10.14 RCW; adding a new section to
4 chapter 18.165 RCW; and prescribing 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 the
13 order shall also prohibit the defendant from hiring or requesting a
14 person to locate or pursue the victim or witnesses, the conditions
15 shall be recorded and a written certified copy of that order shall be
16 provided to the victim or witnesses by the clerk of the court. Willful
17 violation of a court order issued under this section is a misdemeanor.
18 The written order shall contain the court's directives and shall bear

1 the legend: Violation of this order is a criminal offense under
2 chapter 9A.46 RCW and will subject a violator to arrest.

3 (2) A copy of a no-contact order issued under this section shall be
4 forwarded by the clerk of the court on or before the next judicial day
5 to the appropriate law enforcement agency specified in the order. Upon
6 receipt of the order, the law enforcement agency shall enter the order
7 into the state-wide registry created in section 3 of this act.

8 **Sec. 2.** RCW 10.14.080 and 1994 1st sp.s. c 7 s 448 are each
9 amended to read as follows:

10 (1) Upon filing a petition for a civil antiharassment protection
11 order under this chapter, the petitioner may obtain an ex parte
12 temporary antiharassment protection order. An ex parte temporary
13 antiharassment protection order may be granted with or without notice
14 upon the filing of an affidavit which, to the satisfaction of the
15 court, shows reasonable proof of unlawful harassment of the petitioner
16 by the respondent and that great or irreparable harm will result to the
17 petitioner if the temporary antiharassment protection order is not
18 granted.

19 (2) An ex parte temporary antiharassment protection order shall be
20 effective for a fixed period not to exceed fourteen days or twenty-four
21 days if the court has permitted service by publication under RCW
22 10.14.085. The ex parte order may be reissued. A full hearing, as
23 provided in this chapter, shall be set for not later than fourteen days
24 from the issuance of the temporary order or not later than twenty-four
25 days if service by publication is permitted. Except as provided in RCW
26 10.14.070 and 10.14.085, the respondent shall be personally served with
27 a copy of the ex parte order along with a copy of the petition and
28 notice of the date set for the hearing.

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

32 (4) An order issued under this chapter shall be effective for not
33 more than one year unless the court finds that the respondent is likely
34 to resume unlawful harassment of the petitioner when the order expires.
35 If so, the court may enter an order for a fixed time exceeding one year
36 or may enter a permanent antiharassment protection order. The court
37 shall not enter an order that is effective for more than one year if
38 the order restrains the respondent from contacting the respondent's

1 minor children. If the petitioner seeks relief for a period longer
2 than one year on behalf of the respondent's minor children, the court
3 shall advise the petitioner that the petitioner may apply for renewal
4 of the order as provided in this chapter or if appropriate may seek
5 relief pursuant to chapter 26.09 or 26.10 RCW.

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

27 (6) A civil antiharassment protection order shall notify the
28 respondent that it is a violation of the order to hire or request
29 another person to pursue or locate the victim being protected by the
30 antiharassment protection order.

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

35 (a) Restraining the respondent from making any attempts to contact
36 the petitioner;

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

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

3 (d) Considering the provisions of RCW 9.41.800.

4 ~~((+7))~~ (8) A petitioner may not obtain an ex parte temporary
5 antiharassment protection order against a respondent if the petitioner
6 has previously obtained two such ex parte orders against the same
7 respondent but has failed to obtain the issuance of a civil
8 antiharassment protection order unless good cause for such failure can
9 be shown.

10 ~~((+8))~~ (9) The court order shall specify the date an order issued
11 pursuant to subsections (4) and (5) of this section expires if any.
12 The court order shall also state whether the court issued the
13 protection order following personal service or service by publication
14 and whether the court has approved service by publication of an order
15 issued under this section.

16 NEW SECTION. **Sec. 3.** A new section is added to chapter 10.14 RCW
17 to read as follows:

18 (1) The computer-based criminal intelligence information system
19 used by law enforcement agencies in the state for copies of no-contact
20 orders issued under RCW 9A.46.080, civil antiharassment protection
21 orders issued under this chapter, and restraining orders under chapter
22 26.50 RCW shall be used as or to create a state-wide registry of
23 antiharassment and domestic violence restraining orders.

24 (2) Certified copies of criminal no-contact orders, civil
25 antiharassment protection orders, and domestic violence restraining
26 orders from other states may be filed in the registry created in this
27 section through any district court in the state of Washington.

28 (3) The registry created in this section shall list the names of
29 the persons being protected as well as the names of the persons against
30 whom the orders have been issued.

31 (4) The public shall have access to the registry created under this
32 section.

33 NEW SECTION. **Sec. 4.** A new section is added to chapter 10.14 RCW
34 to read as follows:

35 (1) This section applies to persons restrained by a final order
36 issued under this chapter or chapter 9A.46 or 26.50 RCW.

1 (2) A restrained person may not hire or request another person to
2 pursue or locate a victim who is the subject of an order unless the
3 court that issued the order specifically authorizes the activity.

4 (3) A person, on behalf of a restrained person, who provides
5 information that would assist the restrained person in violating an
6 order is subject to contempt if he or she knew of the order.

7 (4) A court may authorize a private detective licensed under
8 chapter 18.165 RCW to locate a victim whose name appears on the
9 registry created in section 3 of this act. Information obtained
10 pursuant to authorization under this section is subject to court
11 protection.

12 NEW SECTION. **Sec. 5.** A new section is added to chapter 18.165 RCW
13 to read as follows:

14 (1) A private detective hired to locate a person shall check the
15 state-wide registry of antiharassment and domestic violence restraining
16 orders created in section 3 of this act for the name of the person
17 hiring the private detective and the name of the person whom the
18 private detective was hired to locate.

19 (2) If there is an antiharassment or domestic violence restraining
20 order protecting the person being investigated from the person
21 employing the private detective, the private detective shall not
22 contact the victim or provide the person subject to the antiharassment
23 or domestic violence restraining order with information about the
24 victim being investigated.

25 (3) If either the name of the person hiring the private detective
26 or the name of the person being sought by the private detective is in
27 the state-wide registry, the private detective shall make reasonable
28 efforts to verify that the identity of his or her client and the party
29 being sought are not the same as the parties named in the state-wide
30 registry. If reasonable efforts are not made, the private detective is
31 subject to sanctions under this section for providing protected
32 information.

33 (4) A private detective who violates this section may be subject to
34 a civil penalty and suspension or revocation of his or her license.

35 (5) This section does not apply if a court has authorized the
36 private detective to locate a victim on the state-wide registry as
37 provided for in section 4 of this act.

1 **Sec. 6.** RCW 26.50.060 and 1994 1st sp.s. c 7 s 457 are each
2 amended to read as follows:

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

5 (a) Restrain the respondent from committing acts of domestic
6 violence;

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

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

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

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

18 (f) Require the respondent to pay the filing fee and court costs,
19 including service fees, and to reimburse the petitioner for costs
20 incurred in bringing the action, including a reasonable attorney's fee.
21 If the petitioner has been granted leave to proceed in forma pauperis,
22 the court may require the respondent to pay the filing fee and costs,
23 including services fees, to the county or municipality incurring the
24 expense;

25 (g) Restrain the respondent from having any contact with the victim
26 of domestic violence or the victim's children or members of the
27 victim's household;

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) Restrain the respondent from hiring or requesting a third party
35 to locate or pursue the petitioner; and

36 (j) Consider the provisions of RCW 9.41.800.

37 (2) Any relief granted by the order for protection, other than a
38 judgment for costs, shall be for a fixed period not to exceed one year
39 if the restraining order restrains the respondent from contacting the

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

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

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

1 (4) In providing relief under this chapter, the court may realign
2 the designation of the parties as "petitioner" and "respondent" where
3 the court finds that the original petitioner is the abuser and the
4 original respondent is the victim of domestic violence and may issue an
5 ex parte temporary order for protection in accordance with RCW
6 26.50.070 on behalf of the victim until the victim is able to prepare
7 a petition for an order for protection in accordance with RCW
8 26.50.030.

9 (5) Except as provided in subsection (4) of this section, no order
10 for protection shall grant relief to any party except upon notice to
11 the respondent and hearing pursuant to a petition or counter-petition
12 filed and served by the party seeking relief in accordance with RCW
13 26.50.050.

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

19 **Sec. 7.** RCW 40.24.010 and 1991 c 23 s 1 are each amended to read
20 as follows:

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

32 As used in this section, "unlawful harassment" has the definition
33 in RCW 10.14.020 and includes the crimes in RCW 9A.46.060.

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