

# HOUSE BILL REPORT

## SHB 1591

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### As Amended by the Senate

**Title:** An act relating to service of orders in harassment matters.

**Brief Description:** Revising requirements for service of orders in harassment matters.

**Sponsors:** By House Committee on Judiciary (originally sponsored by Representatives Esser, Lantz, O'Brien, Lisk, Kirby, B. Chandler, Linville and Doumit).

#### **Brief History:**

##### **Committee Activity:**

Judiciary: 2/20/01, 2/22/01 [DPS].

##### **Floor Activity:**

Passed House: 3/12/01, 95-0.

Senate Amended.

Passed Senate: 4/4/01, 48-0.

#### **Brief Summary of Substitute Bill**

- Provides that a civil anti-harassment protection order does not require personal service on a respondent who failed to appear at the hearing if the material terms of the order are the same as the temporary order of which the respondent has previously been personally served.
- Requires the notice of hearing, when personally served, to contain the same information required in the summons issued under service by publication.

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#### **HOUSE COMMITTEE ON JUDICIARY**

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Carrell, Republican Co-Chair; Lantz, Democratic Co-Chair; Hurst, Democratic Vice Chair; Lambert, Republican Vice Chair; Boldt, Casada, Esser, Lovick and McDermott.

**Staff:** Edie Adams (786-7180).

#### **Background:**

A person who is the victim of unlawful harassment may petition the court for a civil anti-harassment protection order. A person seeking an anti-harassment protection order may obtain a temporary order by filing an affidavit that shows reasonable proof of unlawful harassment and irreparable harm if the temporary order is not granted. Notice of the petition, the hearing, and any temporary order must be personally served on the alleged harasser (respondent). Service by publication of the summons is authorized in limited circumstances. The summons must contain specified information, including a statement that an anti-harassment protection order will be issued for a period of one year if the person does not respond to the petition.

An anti-harassment protection order must be personally served on the respondent except under two circumstances: (1) if the order recites that the respondent appeared in person before the court, the order does not have to be served; and (2) if the court previously allowed service by publication of the notice of hearing and temporary order, the court may permit service by publication.

A respondent who willfully disobeys an anti-harassment protection order is guilty of a gross misdemeanor. The person must know of the order in order to be guilty of the crime.

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**Summary of Bill:**

A civil anti-harassment protection order does not require personal service on a respondent who failed to appear at the hearing if the material terms of the order have not changed from the temporary order and the respondent has previously been personally served with the temporary order.

The notice of hearing that must be personally served on the respondent must contain the same information required in the summons that is issued under service by publication. This includes a statement that an anti-harassment protection order will be issued against the respondent for a period of one year if the respondent does not respond to the petition.

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**EFFECT OF SENATE AMENDMENT(S):**

The contents required in the notice of hearing and ex parte order are specifically listed, rather than referencing these requirements as listed in another section of the anti-harassment statute.

**Appropriation:** None.

**Fiscal Note:** Not Requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** The current law may be rewarding individuals who fail to appear at the hearing. If a person fails to appear, the victim has to go through the difficulty of serving the person once again, whereas if the person does show up, personal service of the final order is not required. An anti-harassment order is the only remedy for situations not involving domestic violence. One of the ways perpetrators abuse their victims is through drawing out the court process. The bill will save law enforcement resources and prevent some of the difficulties suffered by the victims.

**Testimony Against:** This bill is vague because it doesn't specify how to establish that actual notice was received, and it doesn't define what are the material terms of the order. The bill does not give greater protection to the petitioner. The bill also violates due process because it exposes people to criminal liability even when they do not know about the order.

**Testified:** (In support) Representative Esser, prime sponsor; Commissioner Brett Buckley, District and Municipal Court Judges Association; and Suzanne Brown, Washington Coalition of Sexual Assault Programs.

(Opposed) Sherry Appleton, Washington Defender Association and Washington Association of Criminal Defense Lawyers.