

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5579

Chapter 307, Laws of 2011

62nd Legislature
2011 Regular Session

HARASSMENT

EFFECTIVE DATE: 07/22/11

Passed by the Senate April 19, 2011
YEAS 45 NAYS 1

BRAD OWEN

President of the Senate

Passed by the House April 6, 2011
YEAS 96 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved May 10, 2011, 4:18 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5579** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

May 11, 2011

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5579

AS AMENDED BY THE HOUSE

Passed Legislature - 2011 Regular Session

State of Washington **62nd Legislature** **2011 Regular Session**

By Senate Judiciary (originally sponsored by Senators Kline and Pflug)

READ FIRST TIME 02/17/11.

1 AN ACT Relating to harassment; amending RCW 10.14.150, 10.14.020,
2 10.14.080, 9A.46.040, and 9A.46.080; adding a new section to chapter
3 10.14 RCW; and prescribing penalties.

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

5 **Sec. 1.** RCW 10.14.150 and 2005 c 196 s 1 are each amended to read
6 as follows:

7 (1) The district courts shall have original jurisdiction and
8 cognizance of any civil actions and proceedings brought under this
9 chapter, except the district court shall transfer such actions and
10 proceedings to the superior court when it is shown that (a) the
11 respondent to the petition is under eighteen years of age; (b) the
12 action involves title or possession of real property; (c) a superior
13 court has exercised or is exercising jurisdiction over a proceeding
14 involving the parties; or (d) the action would have the effect of
15 interfering with a respondent's care, control, or custody of the
16 respondent's minor child.

17 (2) Municipal courts may exercise jurisdiction and cognizance of
18 any civil actions and proceedings brought under this chapter by
19 adoption of local court rule, except the municipal court shall transfer

1 such actions and proceedings to the superior court when it is shown
2 that (a) the respondent to the petition is under eighteen years of age;
3 (b) the action involves title or possession of real property; (c) a
4 superior court has exercised or is exercising jurisdiction over a
5 proceeding involving the parties; or (d) the action would have the
6 effect of interfering with a respondent's care, control, or custody of
7 the respondent's minor child.

8 (3) Superior courts shall have concurrent jurisdiction to receive
9 transfer of antiharassment petitions in cases where a district or
10 municipal court judge makes findings of fact and conclusions of law
11 showing that meritorious reasons exist for the transfer. The municipal
12 and district courts shall have jurisdiction and cognizance of any
13 criminal actions brought under RCW 10.14.120 and 10.14.170.

14 **Sec. 2.** RCW 10.14.020 and 2001 c 260 s 2 are each amended to read
15 as follows:

16 Unless the context clearly requires otherwise, the definitions in
17 this section apply throughout this chapter.

18 (1) "Unlawful harassment" means a knowing and willful course of
19 conduct directed at a specific person which seriously alarms, annoys,
20 harasses, or is detrimental to such person, and which serves no
21 legitimate or lawful purpose. The course of conduct shall be such as
22 would cause a reasonable person to suffer substantial emotional
23 distress, and shall actually cause substantial emotional distress to
24 the petitioner, or, when the course of conduct would cause a reasonable
25 parent to fear for the well-being of their child.

26 (2) "Course of conduct" means a pattern of conduct composed of a
27 series of acts over a period of time, however short, evidencing a
28 continuity of purpose. "Course of conduct" includes, in addition to
29 any other form of communication, contact, or conduct, the sending of an
30 electronic communication, but does not include constitutionally
31 protected free speech. Constitutionally protected activity is not
32 included within the meaning of "course of conduct."

33 **Sec. 3.** RCW 10.14.080 and 2001 c 311 s 1 are each amended to read
34 as follows:

35 (1) Upon filing a petition for a civil antiharassment protection
36 order under this chapter, the petitioner may obtain an ex parte

1 temporary antiharassment protection order. An ex parte temporary
2 antiharassment protection order may be granted with or without notice
3 upon the filing of an affidavit which, to the satisfaction of the
4 court, shows reasonable proof of unlawful harassment of the petitioner
5 by the respondent and that great or irreparable harm will result to the
6 petitioner if the temporary antiharassment protection order is not
7 granted.

8 (2) An ex parte temporary antiharassment protection order shall be
9 effective for a fixed period not to exceed fourteen days or twenty-four
10 days if the court has permitted service by publication under RCW
11 10.14.085. The ex parte order may be reissued. A full hearing, as
12 provided in this chapter, shall be set for not later than fourteen days
13 from the issuance of the temporary order or not later than twenty-four
14 days if service by publication is permitted. Except as provided in RCW
15 10.14.070 and 10.14.085, the respondent shall be personally served with
16 a copy of the ex parte order along with a copy of the petition and
17 notice of the date set for the hearing. The ex parte order and notice
18 of hearing shall include at a minimum the date and time of the hearing
19 set by the court to determine if the temporary order should be made
20 effective for one year or more, and notice that if the respondent
21 should fail to appear or otherwise not respond, an order for protection
22 will be issued against the respondent pursuant to the provisions of
23 this chapter, for a minimum of one year from the date of the hearing.
24 The notice shall also include a brief statement of the provisions of
25 the ex parte order and notify the respondent that a copy of the ex
26 parte order and notice of hearing has been filed with the clerk of the
27 court.

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

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

1 antiharassment protection orders issued under chapter 26.09, 26.10, or
2 26.26 RCW. If the petitioner seeks relief for a period longer than one
3 year on behalf of the respondent's minor children, the court shall
4 advise the petitioner that the petitioner may apply for renewal of the
5 order as provided in this chapter or if appropriate may seek relief
6 pursuant to chapter 26.09 or 26.10 RCW.

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

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

32 (a) Restraining the respondent from making any attempts to contact
33 the petitioner;

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

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

38 (d) Considering the provisions of RCW 9.41.800.

1 (7) The court in granting an ex parte temporary antiharassment
2 protection order or a civil antiharassment protection order, shall not
3 prohibit the respondent from exercising constitutionally protected free
4 speech. Nothing in this section prohibits the petitioner from
5 utilizing other civil or criminal remedies to restrain conduct or
6 communications not otherwise constitutionally protected.

7 (8) The court in granting an ex parte temporary antiharassment
8 protection order or a civil antiharassment protection order, shall not
9 prohibit the respondent from the use or enjoyment of real property to
10 which the respondent has a cognizable claim unless that order is issued
11 under chapter 26.09 RCW or under a separate action commenced with a
12 summons and complaint to determine title or possession of real
13 property.

14 (9) The court in granting an ex parte temporary antiharassment
15 protection order or a civil antiharassment protection order, shall not
16 limit the respondent's right to care, control, or custody of the
17 respondent's minor child, unless that order is issued under chapter
18 13.32A, 26.09, 26.10, or 26.26 RCW.

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

25 ~~((+8))~~ (11) The court order shall specify the date an order issued
26 pursuant to subsections (4) and (5) of this section expires if any.
27 The court order shall also state whether the court issued the
28 protection order following personal service or service by publication
29 and whether the court has approved service by publication of an order
30 issued under this section.

31 **Sec. 4.** RCW 9A.46.040 and 1985 c 288 s 4 are each amended to read
32 as follows:

33 (1) Because of the likelihood of repeated harassment directed at
34 those who have been victims of harassment in the past, when any
35 defendant charged with a crime involving harassment is released from
36 custody before trial on bail or personal recognizance, the court
37 authorizing the release may require that the defendant:

1 (a) Stay away from the home, school, business, or place of
2 employment of the victim or victims of the alleged offense or other
3 location, as shall be specifically named by the court in the order;

4 (b) Refrain from contacting, intimidating, threatening, or
5 otherwise interfering with the victim or victims of the alleged offense
6 and such other persons, including but not limited to members of the
7 family or household of the victim, as shall be specifically named by
8 the court in the order.

9 (2) An intentional violation of a court order issued under this
10 section or an equivalent local ordinance is a misdemeanor. The written
11 order releasing the defendant shall contain the court's directives and
12 shall bear the legend: Violation of this order is a criminal offense
13 under chapter 9A.46 RCW. A certified copy of the order shall be
14 provided to the victim by the clerk of the court.

15 **Sec. 5.** RCW 9A.46.080 and 1985 c 288 s 8 are each amended to read
16 as follows:

17 The victim shall be informed by local law enforcement agencies or
18 the prosecuting attorney of the final disposition of the case in which
19 the victim is involved. If a defendant is found guilty of a crime of
20 harassment and a condition of the sentence restricts the defendant's
21 ability to have contact with the victim or witnesses, the condition
22 shall be recorded and a written certified copy of that order shall be
23 provided to the victim or witnesses by the clerk of the court. Willful
24 violation of a court order issued under this section or an equivalent
25 local ordinance is a misdemeanor. The written order shall contain the
26 court's directives and shall bear the legend: Violation of this order
27 is a criminal offense under chapter 9A.46 RCW and will subject a
28 violator to arrest.

29 NEW SECTION. **Sec. 6.** A new section is added to chapter 10.14 RCW
30 to read as follows:

31 Before granting an order under this chapter, the court may consult
32 the judicial information system, if available, to determine criminal
33 history or the pendency of other proceedings involving the parties.

Passed by the Senate April 19, 2011.

Passed by the House April 6, 2011.

Approved by the Governor May 10, 2011.

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