

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 1307**

Chapter 74, Laws of 2013

63rd Legislature  
2013 Regular Session

PROTECTION ORDERS--SEXUAL ASSAULT

EFFECTIVE DATE: 07/28/13

Passed by the House February 25, 2013  
Yeas 92 Nays 0

FRANK CHOPP

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**Speaker of the House of Representatives**

Passed by the Senate April 12, 2013  
Yeas 48 Nays 0

BRAD OWEN

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**President of the Senate**

Approved April 25, 2013, 1:54 p.m.

JAY INSLEE

\_\_\_\_\_  
**Governor of the State of Washington**

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1307** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

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**Chief Clerk**

FILED

April 25, 2013

**Secretary of State  
State of Washington**

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**SUBSTITUTE HOUSE BILL 1307**

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Passed Legislature - 2013 Regular Session

**State of Washington**

**63rd Legislature**

**2013 Regular Session**

**By** House Judiciary (originally sponsored by Representatives Goodman, Lytton, Wylie, Jenkins, Cody, Roberts, Santos, and Moscoso)

READ FIRST TIME 02/18/13.

1           AN ACT Relating to sexual assault protection orders; amending RCW  
2 7.90.040, 7.90.050, 7.90.120, 7.90.140, and 7.90.170; and adding new  
3 sections to chapter 7.90 RCW.

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

5           **Sec. 1.** RCW 7.90.040 and 2006 c 138 s 4 are each amended to read  
6 as follows:

7           (1) Any person may seek relief under this chapter by filing a  
8 petition with a court alleging that the person has been the victim of  
9 nonconsensual sexual conduct or nonconsensual sexual penetration  
10 committed by the respondent.

11           (2) A person under eighteen years of age who is sixteen years of  
12 age or older may seek relief under this chapter and is not required to  
13 seek relief by a guardian or next friend.

14           (3) No guardian or guardian ad litem need be appointed on behalf of  
15 a respondent to an action under this chapter who is under eighteen  
16 years of age if such respondent is sixteen years of age or older.

17           (4) The court may, if it deems necessary, appoint a guardian ad  
18 litem for a petitioner or respondent who is a party to an action under  
19 this chapter. The appointment shall be at no cost to either party.

1 (5) Jurisdiction of the courts over proceedings under this chapter  
2 shall be the same as jurisdiction over domestic violence protection  
3 orders under RCW 26.50.020(5).

4 (6) An action under this chapter shall be filed in the county or  
5 the municipality where the petitioner resides.

6 **Sec. 2.** RCW 7.90.050 and 2006 c 138 s 6 are each amended to read  
7 as follows:

8 Upon receipt of the petition, the court shall order a hearing which  
9 shall be held not later than fourteen days from the date of the order.  
10 The court may schedule a hearing by telephone pursuant to local court  
11 rule, to reasonably accommodate a disability, or in exceptional  
12 circumstances to protect a petitioner from further nonconsensual sexual  
13 conduct or nonconsensual sexual penetration. The court shall require  
14 assurances of the petitioner's identity before conducting a telephonic  
15 hearing. (~~Except as provided in RCW 7.90.110,~~) Personal service  
16 shall be made upon the respondent not less than five court days prior  
17 to the hearing. If timely personal service cannot be made, the court  
18 shall set a new hearing date and shall either require additional  
19 attempts at obtaining personal service or permit service by publication  
20 as provided in section 6 of this act or service by mail as provided in  
21 section 7 of this act. The court shall not require more than two  
22 attempts at obtaining personal service and shall permit service by  
23 publication or service by mail unless the petitioner requests  
24 additional time to attempt personal service. If the court permits  
25 service by publication or service by mail, the court shall set the  
26 hearing date not later than twenty-four days from the date of the  
27 order. The court may issue an ex parte temporary sexual assault order  
28 pending the hearing as provided in RCW 7.90.110.

29 **Sec. 3.** RCW 7.90.120 and 2006 c 138 s 13 are each amended to read  
30 as follows:

31 (1)(a) An ex parte temporary sexual assault protection order shall  
32 be effective for a fixed period not to exceed fourteen days. A full  
33 hearing, as provided in this chapter, shall be set for not later than  
34 fourteen days from the issuance of the temporary order or not later  
35 than twenty-four days if service by publication or service by mail is  
36 permitted. If the court permits service by publication or service by

1 mail, the court shall also reissue the ex parte temporary protection  
2 order not to exceed another twenty-four days from the date of reissuing  
3 the ex parte protection order. Except as provided in RCW 7.90.050, or  
4 section 6 or 7 of this act, the respondent shall be personally served  
5 with a copy of the ex parte temporary sexual assault protection order  
6 along with a copy of the petition and notice of the date set for the  
7 hearing.

8 (b) Any ex parte temporary order issued under this section shall  
9 contain the date and time of issuance and the expiration date and shall  
10 be entered into a statewide judicial information system by the clerk of  
11 the court within one judicial day after issuance.

12 (2) Except as otherwise provided in this section or RCW 7.90.150,  
13 a final sexual assault protection order shall be effective for a fixed  
14 period of time, not to exceed two years.

15 ~~(3) ((Any ex parte temporary or final sexual assault protection~~  
16 ~~order may be renewed one or more times, as required. The petitioner~~  
17 ~~may apply for renewal of the order by filing a petition for renewal at~~  
18 ~~any time within the three months before the order expires. If the~~  
19 ~~motion for renewal is uncontested and the petitioner seeks no~~  
20 ~~modification of the order, the order may be renewed on the basis of the~~  
21 ~~petitioner's motion or affidavit stating that there has been no~~  
22 ~~material change in relevant circumstances since entry of the order and~~  
23 ~~stating the reason for the requested renewal. Renewals may be granted~~  
24 ~~only in open court.~~

25 ~~(4))~~ Any sexual assault protection order which would expire on a  
26 court holiday shall instead expire at the close of the next court  
27 business day.

28 ~~((5))~~ (4) The practice of dismissing or suspending a criminal  
29 prosecution in exchange for the issuance of a sexual assault protection  
30 order undermines the purposes of this chapter. This section shall not  
31 be construed as encouraging that practice.

32 NEW SECTION. Sec. 4. A new section is added to chapter 7.90 RCW  
33 to read as follows:

34 (1) Any ex parte temporary or final sexual assault protection order  
35 may be renewed one or more times, as required.

36 (2) The petitioner may apply for renewal of the order by filing a

1 motion for renewal at any time within the three months before the order  
2 expires.

3 (3) If the motion for renewal is uncontested and the petitioner  
4 seeks no modification of the order, the order may be renewed on the  
5 basis of the petitioner's motion or affidavit stating that there has  
6 been no material change in relevant circumstances since entry of the  
7 order and stating the reason for the requested renewal.

8 (4)(a) If the motion is contested, upon receipt of the motion, the  
9 court shall order that a hearing be held not later than fourteen days  
10 from the date of the order.

11 (b) The court may schedule a hearing by telephone pursuant to local  
12 court rule, to reasonably accommodate a disability, or in exceptional  
13 circumstances to protect a petitioner from further nonconsensual sexual  
14 conduct or nonconsensual sexual penetration. The court shall require  
15 assurances of the petitioner's identity before conducting a telephonic  
16 hearing.

17 (c) The respondent shall be personally served not less than five  
18 court days prior to the hearing. If timely personal service cannot be  
19 made, the court shall set a new hearing date and shall either require  
20 additional attempts at obtaining personal service or permit service by  
21 publication as provided in section 6 of this act or service by mail as  
22 provided in section 7 of this act. The court shall not require more  
23 than two attempts at obtaining personal service and shall permit  
24 service by publication or service by mail unless the petitioner  
25 requests additional time to attempt personal service. If the court  
26 permits service by publication or service by mail, the court shall set  
27 the hearing date not later than twenty-four days from the date of the  
28 order.

29 (5) Renewals may be granted only in open court.

30 **Sec. 5.** RCW 7.90.140 and 2006 c 138 s 15 are each amended to read  
31 as follows:

32 (1) An order issued under this chapter shall be personally served  
33 upon the respondent, except as provided in subsection (6) of this  
34 section.

35 (2) The sheriff of the county or the peace officers of the  
36 municipality in which the respondent resides shall serve the respondent

1 personally unless the petitioner elects to have the respondent served  
2 by a private party.

3 (3) If service by a sheriff or municipal peace officer is to be  
4 used, the clerk of the court shall have a copy of any order issued  
5 under this chapter forwarded on or before the next judicial day to the  
6 appropriate law enforcement agency specified in the order for service  
7 upon the respondent. Service of an order issued under this chapter  
8 shall take precedence over the service of other documents unless they  
9 are of a similar emergency nature.

10 (4) If the sheriff or municipal peace officer cannot complete  
11 service upon the respondent within ten days, the sheriff or municipal  
12 peace officer shall notify the petitioner. The petitioner shall  
13 provide information sufficient to permit notification.

14 (5) Returns of service under this chapter shall be made in  
15 accordance with the applicable court rules.

16 (6) If an order entered by the court recites that the respondent  
17 appeared in person before the court, the necessity for further service  
18 is waived and proof of service of that order is not necessary.

19 (7) If the court previously entered an order allowing service of  
20 the notice of hearing and temporary order of protection by publication  
21 under section 6 of this act or service by mail under section 7 of this  
22 act, the court may permit service by publication or service by mail of  
23 the order of protection issued under this chapter. Service by  
24 publication must comply with the requirements of section 6 of this act  
25 and service by mail must comply with the requirements of section 7 of  
26 this act. The court order must state whether the court permitted  
27 service by publication or service by mail.

28 NEW SECTION. Sec. 6. A new section is added to chapter 7.90 RCW  
29 to read as follows:

30 (1) The court may order service by publication instead of personal  
31 service under the following circumstances:

32 (a) The sheriff or municipal peace officer files an affidavit  
33 stating that the officer was unable to complete personal service upon  
34 the respondent. The affidavit must describe the number and type of  
35 attempts the officer made to complete service;

36 (b) The petitioner files an affidavit stating that the petitioner

1 believes the respondent is hiding from the server to avoid service.  
2 The petitioner's affidavit must state the reasons for the belief that  
3 the respondent is avoiding service;

4 (c) The server has deposited a copy of the summons, in  
5 substantially the form prescribed in subsection (3) of this section,  
6 notice of hearing, and the ex parte order of protection in the post  
7 office, directed to the respondent at the respondent's last known  
8 address, unless the server states that he or she does not know the  
9 respondent's address; and

10 (d) The court finds reasonable grounds exist to believe the  
11 respondent is concealing himself or herself to avoid service, and that  
12 further attempts to personally serve the respondent would be futile or  
13 unduly burdensome.

14 (2) If the court orders service by publication, it shall also  
15 reissue the temporary order of protection not to exceed another twenty-  
16 four days from the date of reissuing the ex parte protection order and  
17 order that service by publication be provided.

18 (3) The publication must be made in a newspaper of general  
19 circulation in the county where the petition was brought and in the  
20 county of the last known address of the respondent once a week for  
21 three consecutive weeks. The newspaper selected must be one of the  
22 three most widely circulated papers in the county. The publication of  
23 summons must not be made until the court orders service by publication  
24 under this section. Service of the summons is considered complete when  
25 the publication has been made for three consecutive weeks. The summons  
26 must be signed by the petitioner. The summons must contain the date of  
27 the first publication, and must require the respondent upon whom  
28 service by publication is desired, to appear and answer the petition on  
29 the date set for the hearing. The summons must also contain a brief  
30 statement of the reason for the petition and a summary of the  
31 provisions under the ex parte order. The summons must be essentially  
32 in the following form:

33 In the ..... court of the state of Washington for  
34 the county of .....  
35 .....Petitioner  
36 vs. No. ....  
37 .....Respondent

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The state of Washington to ..... (respondent):

You are hereby summoned to appear on the ... day  
of ....., (year) ....., at ... a.m./p.m., and respond to  
the petition. If you fail to respond, an order of protection  
will be issued against you pursuant to the provisions of the  
sexual assault protection order act, chapter 7.90 RCW, for  
a minimum of one year from the date you are required to  
appear. A temporary order of protection has been issued  
against you, restraining you from the following: (Insert a  
brief statement of the provisions of the ex parte order). A  
copy of the petition, notice of hearing, and ex parte order  
has been filed with the clerk of this court.

.....  
Petitioner .....

15 NEW SECTION. **Sec. 7.** A new section is added to chapter 7.90 RCW  
16 to read as follows:

17 (1) In circumstances justifying service by publication under  
18 section 6 of this act, if the serving party files an affidavit stating  
19 facts from which the court determines that service by mail is just as  
20 likely to give actual notice as service by publication and that the  
21 serving party is unable to afford the cost of service by publication,  
22 the court may order that service be made by mail. The service must be  
23 made by any person over eighteen years of age, who is competent to be  
24 a witness, other than a party, by mailing copies of the order and other  
25 process to the party to be served at his or her last known address or  
26 any other address determined by the court to be appropriate. Two  
27 copies must be mailed, postage prepaid, one by ordinary first-class  
28 mail and the other by a form of mail requiring a signed receipt showing  
29 when and to whom it was delivered. The envelopes must bear the return  
30 address of the sender.

31 (2) Proof of service under this section must be consistent with  
32 court rules for civil proceedings.

33 (3) Service under this section may be used in the same manner and  
34 has the same jurisdictional effect as service by publication for  
35 purposes of this chapter. Service is deemed complete upon the mailing  
36 of the two copies as prescribed in this section.



1        NEW SECTION.    **Sec. 8.**    A new section is added to chapter 7.90 RCW  
2 to read as follows:

3        Following completion of service by publication as provided in  
4 section 6 of this act or service by mail as provided in section 7 of  
5 this act, if the respondent fails to appear at the hearing, the court  
6 may issue an order of protection as provided in RCW 7.90.140. That  
7 order must be served pursuant to RCW 7.90.140 and forwarded to the  
8 appropriate law enforcement agency pursuant to RCW 7.90.160.

9        **Sec. 9.**    RCW 7.90.170 and 2006 c 138 s 18 are each amended to read  
10 as follows:

11        (1) Upon ((application with notice to all parties and after a  
12 hearing)) receipt of a motion to modify the terms of an existing sexual  
13 assault protection order, the court ((may modify the terms of an  
14 existing sexual assault protection order)) shall order that a hearing  
15 be held not later than fourteen days from the date of the order. The  
16 respondent shall be personally served not less than five days before  
17 the hearing. If timely service cannot be made, the court shall set a  
18 new hearing date and shall either require additional attempts at  
19 obtaining personal service or permit service by publication as provided  
20 in section 6 of this act or service by mail as provided in section 7 of  
21 this act. If the court permits service by mail or service by  
22 publication, the court shall set the new hearing date not later than  
23 twenty-four days from the date of the order. If the order expires  
24 because timely service cannot be made, the court shall grant an ex  
25 parte order of protection as provided in RCW 7.90.110. The court may  
26 modify the protection order for another fixed time period or may enter  
27 a permanent order as provided in RCW 7.90.120.

28        (2) In any situation where an order is terminated or modified  
29 before its expiration date, the clerk of the court shall forward on or  
30 before the next judicial day a true copy of the modified order or the  
31 termination order to the appropriate law enforcement agency specified  
32 in the modified or termination order. Upon receipt of the order, the  
33 law enforcement agency shall promptly enter it in the computer-based  
34 criminal intelligence information system, or if the order is  
35 terminated, remove the order from the computer-based criminal

1 intelligence information system.

Passed by the House February 25, 2013.

Passed by the Senate April 12, 2013.

Approved by the Governor April 25, 2013.

Filed in Office of Secretary of State April 25, 2013.