

HOUSE BILL REPORT

SB 6151

As Reported by House Committee On:
Judiciary

Title: An act relating to sexual assault protection orders.

Brief Description: Concerning sexual assault protection orders.

Sponsors: Senators Litzow, Fain, Pedersen and Frockt.

Brief History:

Committee Activity:

Judiciary: 2/17/16, 2/26/16 [DP].

Brief Summary of Bill

- Provides that sexual assault protection orders may be permanent, rather than having a two-year maximum.
- Modifies the procedure for renewal of a sexual assault protection order to require renewal upon the petitioner's motion unless the respondent proves that he or she is not likely to engage in or attempt contact with the petitioner after the order expires.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 7 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Goodman, Hansen, Kirby, Kuderer and Orwall.

Minority Report: Do not pass. Signed by 4 members: Representatives Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Haler and Klippert.

Minority Report: Without recommendation. Signed by 2 members: Representatives Muri and Stokesbary.

Staff: Omeara Harrington (786-7136).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Sexual Assault Protection Orders.

A person may petition for a sexual assault protection order if he or she has been subjected to one or more incidents of nonconsensual sexual conduct or penetration that gives rise to a reasonable fear of future dangerous acts. These orders provide a remedy for victims of sexual assault who do not qualify for a domestic violence protection order. A sexual assault protection order may restrain the respondent from having any contact with the victim, prohibit the respondent from certain places, and contain other relief as the court deems necessary for protection of the victim.

Duration and Renewal.

Upon petition, the court may issue an ex parte temporary protection order pending the hearing. The temporary order is effective for a fixed period not to exceed 14 days from the issuance of the temporary order. Final sexual assault protection orders are valid for a fixed time not to exceed two years.

Any sexual assault protection order, whether it is final or temporary, may be renewed one or more times. If the request for renewal is uncontested and no modification is sought, the order may be renewed on the basis of a motion or affidavit stating that there has been no material change in relevant circumstances since entry of the order and stating the reason a renewal is being requested. If a motion for renewal is contested, the court must order a hearing for no more than 14 days from receipt of the motion, or 24 days if the court has allowed service by publication or mail.

Summary of Bill:

A final sexual assault protection order may be for a fixed period of time or be permanent.

The court must grant a petitioner's motion for renewal unless the respondent proves by a preponderance of the evidence that there has been a material change in circumstances such that the respondent is not likely to engage in or attempt physical or nonphysical contact with the petitioner after the order expires.

In considering whether there has been a material change in circumstances, the court must consider only factors that address whether the respondent is likely to attempt contact with the petitioner when the order expires. The passage of time and compliance with the existing order are not, alone, sufficient to meet the burden of proof. A list of factors is provided for use in determining whether or not there has been a material change in circumstances, including, but not limited to, whether or not the respondent:

- has committed or threatened sexual assault, domestic violence, stalking, or other violent acts since the order was entered;
- has violated the terms of the order, and how much time has passed since the entry of the order;
- has exhibited suicidal ideation or attempts since the order was entered;
- has been convicted of criminal activity since the order was entered;

- has acknowledged responsibility for the acts of sexual assault underlying the order or has successfully completed sexual assault perpetrator treatment or counseling since the order was entered;
 - has a continuing involvement with drug or alcohol abuse, if such abuse was a factor in the protection order; or
 - has relocated to an area more distant from the other party.
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Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Sexual assault is the most heinous crime aside from murder. These changes assure that victims are protected, will reduce time spent in court, and will encourage victims to seek protection. The changes mirror the domestic violence protection order process, and the bill has been amended since last year to further address due process concerns.

Judges should be allowed to enter orders on a permanent basis like they can with domestic violence orders. The time limit is a deterrent, and often victims choose not to file for protection and instead decide to move. It is difficult to obtain these orders. Getting an order requires revealing personal information in a trial-like setting where the victim is cross examined. Under current law this process repeats every two years. The victim has to go to court, see the perpetrator, and take time off of work. Some victims do not even have an order for the full two years. Allowing a sexual assault protection order to be granted for a longer period affords the court the proper discretion to consider the circumstances of the case presented, including the vulnerability of the victim and the circumstances of the assault. Judges have reported a desire to enter permanent orders, but are currently unable to do so.

With respect to renewals, petitioners are having to relitigate the case. Sometimes the risk remains after the order expires. The burden should be on the respondent, as it is for all other orders. This will improve justice and make the process more consistent.

(Opposed) None.

Persons Testifying: Andrea Piper-Wentland, Washington Coalition of Sexual Assault Programs; Riddhi Mukhopadhyay, YWCA Sexual Violence Legal Services; and Laura Jones, King County Sexual Assault Resource Center.

Persons Signed In To Testify But Not Testifying: None.