
Civil Rights & Judiciary Committee

HB 1350

Brief Description: Issuing temporary protection orders.

Sponsors: Representatives Kilduff, Irwin, Jinkins, Fey, Leavitt and Ortiz-Self.

Brief Summary of Bill

- Addresses the concurrent jurisdiction between superior courts and courts of limited jurisdiction to issue and enforce temporary orders for protection in cases of unlawful harassment.

Hearing Date: 1/29/19

Staff: Jenny Aronson (786-7290) and Edie Adams (786-7180).

Background:

Protection Orders.

There are several types of court orders granted to protect individuals from harmful behaviors or threats. These include domestic violence protection orders, restraining orders in family law cases, criminal no-contact orders, extreme risk protection orders, sexual assault protection orders, vulnerable adult protection orders, stalking protection orders, and civil anti-harassment orders.

Anti-Harassment Law.

"Unlawful harassment" is defined as a knowing and willful course of conduct directed at a specific person which seriously alarms, annoys, harasses, or is detrimental to such person, and which serves no legitimate or lawful purpose. The course of conduct constitutes unlawful harassment if it:

- would cause a reasonable person to suffer substantial emotional distress, and actually causes such distress to the petitioner; or,
- it would cause a reasonable parent to fear for the well-being of their child.

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.

The course of conduct may include acts or any other form of communication, contact, or conduct, excluding constitutionally protected activity and speech.

Individuals experiencing unlawful harassment may file a petition for an order for protection in cases of unlawful harassment. The petition must allege the existence of harassment and be accompanied by an affidavit describing the situation from which relief is sought. Upon the court's receipt of the petition alleging a prima facie case of unlawful harassment, the court shall order a hearing within 14 days from the date of the order.

Temporary Antiharassment Protection Orders.

The court may issue an ex parte temporary antiharassment protection order if the petitioner files an affidavit showing reasonable proof of unlawful harassment by the respondent and that great or irreparable harm will result to the petitioner if the temporary order is not granted. Temporary orders are effective for 14 days, or 24 days if service by publication is permitted. The order may be reissued. A full hearing must be set within 14 days of the issuance of the temporary order or within 24 days if service by publication is permitted.

Civil Antiharassment Protection Orders.

The court must issue a civil antiharassment protection order prohibiting unlawful harassment if it finds such harassment exists by a preponderance of the evidence. This final order is effective for for up to one year, unless the court finds that circumstances warrant a longer set time period. At any time within three months before the expiration of the order, the petitioner may apply for a renewal of the order by filing a petition for renewal.

Jurisdiction over Antiharassment Orders.

District courts may issue and enforce antiharassment orders. Municipal courts may also issue and enforce such orders, if the court has adopted local court rules establishing the process. However, district and municipal courts must transfer proceedings to the superior court when the respondent is under age 18, the action involves title or real property, the superior court has exercised discretion over the involved parties, or the action affects the respondent's care, control, or custody of their minor child.

Superior courts are state trial courts of general jurisdiction. They have concurrent jurisdiction to receive transfer of antiharassment petitions in cases where a district or municipal court judge finds that meritorious reasons exist for the transfer.

The chapter covering antiharassment orders does not expressly address whether district or municipal courts have concurrent jurisdiction with superior courts to enter temporary orders in unlawful antiharassment cases that are transferred to superior court.

Summary of Bill:

District and municipal courts are expressly granted concurrent jurisdiction with superior courts to issue temporary antiharassment protection orders. When the jurisdiction of a district or municipal court is limited to the issuance and enforcement of a temporary order, the district or municipal court shall set the full hearing in superior court and transfer the case.

Appropriation: None.

Fiscal Note: Not requested.

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