

HOUSE BILL REPORT

SHB 1350

As Passed House:
March 4, 2019

Title: An act relating to jurisdiction of temporary protection orders.

Brief Description: Issuing temporary protection orders.

Sponsors: House Committee on Civil Rights & Judiciary (originally sponsored by Representatives Kilduff, Irwin, Jinkins, Fey, Leavitt and Ortiz-Self).

Brief History:

Committee Activity:

Civil Rights & Judiciary: 1/29/19, 2/8/19 [DPS].

Floor Activity:

Passed House: 3/4/19, 60-36.

Brief Summary of Substitute 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.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Jinkins, Chair; Thai, Vice Chair; Irwin, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Goodman, Graham, Hansen, Kilduff, Kirby, Klippert, Orwall, Valdez and Walen.

Minority Report: Do not pass. Signed by 2 members: Representatives Shea and Ybarra.

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

Background:

Protection Orders.

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.

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.

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 Anti-Harassment Protection Orders. The court may issue an ex parte temporary anti-harassment 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 Anti-Harassment Protection Orders. The court must issue a civil anti-harassment protection order prohibiting unlawful harassment if it finds such harassment exists by a preponderance of the evidence. This final order is effective 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 Anti-Harassment Orders. District courts may issue and enforce anti-harassment 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 jurisdiction to receive transfer of anti-harassment petitions in cases where a district or municipal court judge finds that meritorious reasons exist for the transfer.

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

Summary of Substitute Bill:

The civil jurisdiction of courts of limited jurisdiction under this chapter is limited to the issuance and enforcement of temporary orders for protection in cases that require transfer to superior court. 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 transfer the case after entry of the temporary order.

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.

Staff Summary of Public Testimony:

(In support) This legislation will clarify the ability of courts of limited jurisdiction to enter temporary ex parte orders to protect citizens in the event of alleged harassment. There are many orders of protection provided for by statute. Most other protection order statutes allow courts of limited jurisdiction to enter temporary orders and then transfer the cases to superior court, but this language is currently missing from the chapter governing anti-harassment cases.

There should be an amendment to this bill where it indicates the court of limited jurisdiction sets the hearing in superior court. That language could be removed to indicate that the case is being transferred to superior court, where superior court then sets the hearing on their own schedule.

(Opposed) Protection orders do not go far enough to protect our citizens. There should be legislation to better address citizens' safety beyond such restraining orders.

Persons Testifying: (In support) Representative Kilduff, prime sponsor; and Sam Meyer, District and Municipal Court Judges Association.

(Opposed) Sharyn Hinchcliffe, Pink Pistols Seattle.

Persons Signed In To Testify But Not Testifying: None.