

SENATE BILL REPORT

SB 5835

As Reported By Senate Committee On:
Law & Justice, February 21, 1995

Title: An act relating to restraining orders.

Brief Description: Changing provisions relating to restraining orders.

Sponsors: Senators Johnson, Smith, Roach, McCaslin, Schow, Long and Winsley.

Brief History:

Committee Activity: Law & Justice: 2/20/95, 2/21/95 [DPS].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5835 be substituted therefor, and the substitute bill do pass.

Signed by Senators Smith, Chair; C. Anderson, Vice Chair; Hargrove, Haugen, Johnson, Long, Roach and Schow.

Staff: Martin Lovinger (786-7443)

Background: A police officer may make a warrantless arrest of a person if the officer has probable cause to believe that the person has knowingly violated a restraining order issued pursuant to a criminal or civil action involving domestic violence.

Two statutes in the chapters concerning divorce and child custody also give the courts power to issue restraining orders. Those two sections are not specifically referenced in the statute granting police officers authority to arrest violators of restraining orders. Concern has been expressed that the lack of express statutory authority to arrest violators of restraining orders issued under those two sections exposes police officers to civil liability for improper arrest.

The statutes that allow courts to enter restraining orders require the orders to contain a provision which gives notice to the person being restrained that a violation of the order is a criminal offense, and that violating it will subject the person to arrest. Those statutes also provide that the court has authority to forward the order to law enforcement agencies for inclusion within a computer-based criminal intelligence information system.

Summary of Substitute Bill: The statute that allows police officers to arrest without a warrant those persons who violate restraining orders is amended to reference two statutes in the domestic relations chapters that also allow courts to issue restraining orders. Those two statutes are also amended to require that orders entered contain a provision notifying the person being restrained that violating the order is a criminal violation. They are further amended to require courts to forward the restraining order, and either the law enforcement information sheet or proof of service of the order, to law enforcement for inclusion within the computer-based criminal intelligence information system.

Substitute Bill Compared to Original Bill: The substitute bill requires the courts to send the restraining orders and related information to law enforcement agencies.

Appropriation: None.

Fiscal Note: Requested on February 14, 1995.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill provides authority to make warrantless arrests when these restraining orders are violated. The restraining orders may be placed on the computer-based warrant list. The warrantless arrest provision is essential to the protection of victims because it provides protection from liability for the police and the city. This bill addresses permanent restraining orders; temporary restraining orders are already covered. Defendants will receive notice of the possibility of arrest on the face of the restraining orders.

Testimony Against: None.

Testified: PRO: Senator Johnson, prime sponsor; Zanetta Fontes, Renton Assistant City Attorney; Debbie Wilke, WACO; Sharon Case, Coalition Against Domestic Violence.