
SUBSTITUTE SENATE BILL 5562

State of Washington

57th Legislature

2001 Regular Session

By Senate Committee on Judiciary (originally sponsored by Senators Costa, McCaslin, Kohl-Welles, Deccio, B. Sheldon, Sheahan and T. Sheldon)

READ FIRST TIME 02/28/01.

1 AN ACT Relating to service of orders in harassment matters; and
2 amending RCW 10.14.080 and 10.14.100.

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

4 **Sec. 1.** RCW 10.14.080 and 1995 c 246 s 36 are each amended to read
5 as follows:

6 (1) Upon filing a petition for a civil antiharassment protection
7 order under this chapter, the petitioner may obtain an ex parte
8 temporary antiharassment protection order. An ex parte temporary
9 antiharassment protection order may be granted with or without notice
10 upon the filing of an affidavit which, to the satisfaction of the
11 court, shows reasonable proof of unlawful harassment of the petitioner
12 by the respondent and that great or irreparable harm will result to the
13 petitioner if the temporary antiharassment protection order is not
14 granted.

15 (2) An ex parte temporary antiharassment protection order shall be
16 effective for a fixed period not to exceed fourteen days or twenty-four
17 days if the court has permitted service by publication under RCW
18 10.14.085. The ex parte order may be reissued. A full hearing, as
19 provided in this chapter, shall be set for not later than fourteen days

1 from the issuance of the temporary order or not later than twenty-four
2 days if service by publication is permitted. Except as provided in RCW
3 10.14.070 and 10.14.085, the respondent shall be personally served with
4 a copy of the ex parte order along with a copy of the petition and
5 notice of the date set for the hearing. The ex parte order and notice
6 of hearing shall include at a minimum the date and time of the hearing
7 set by the court to determine if the temporary order should be made
8 effective for one year or more, and notice that if the respondent
9 should fail to appear or otherwise not respond, an order for protection
10 will be issued against the respondent pursuant to the provisions of
11 this chapter, for a minimum of one year from the date of the hearing.
12 The notice shall also include a brief statement of the provisions of
13 the ex parte order and notify the respondent that a copy of the ex
14 parte order and notice of hearing has been filed with the clerk of the
15 court.

16 (3) At the hearing, if the court finds by a preponderance of the
17 evidence that unlawful harassment exists, a civil antiharassment
18 protection order shall issue prohibiting such unlawful harassment.

19 (4) An order issued under this chapter shall be effective for not
20 more than one year unless the court finds that the respondent is likely
21 to resume unlawful harassment of the petitioner when the order expires.
22 If so, the court may enter an order for a fixed time exceeding one year
23 or may enter a permanent antiharassment protection order. The court
24 shall not enter an order that is effective for more than one year if
25 the order restrains the respondent from contacting the respondent's
26 minor children. This limitation is not applicable to civil
27 antiharassment protection orders issued under chapter 26.09, 26.10, or
28 26.26 RCW. If the petitioner seeks relief for a period longer than one
29 year on behalf of the respondent's minor children, the court shall
30 advise the petitioner that the petitioner may apply for renewal of the
31 order as provided in this chapter or if appropriate may seek relief
32 pursuant to chapter 26.09 or 26.10 RCW.

33 (5) At any time within the three months before the expiration of
34 the order, the petitioner may apply for a renewal of the order by
35 filing a petition for renewal. The petition for renewal shall state
36 the reasons why the petitioner seeks to renew the protection order.
37 Upon receipt of the petition for renewal, the court shall order a
38 hearing which shall be not later than fourteen days from the date of
39 the order. Except as provided in RCW 10.14.085, personal service shall

1 be made upon the respondent not less than five days before the hearing.
2 If timely service cannot be made the court shall set a new hearing date
3 and shall either require additional attempts at obtaining personal
4 service or permit service by publication as provided by RCW 10.14.085.
5 If the court permits service by publication, the court shall set the
6 new hearing date not later than twenty-four days from the date of the
7 order. If the order expires because timely service cannot be made the
8 court shall grant an ex parte order of protection as provided in this
9 section. The court shall grant the petition for renewal unless the
10 respondent proves by a preponderance of the evidence that the
11 respondent will not resume harassment of the petitioner when the order
12 expires. The court may renew the protection order for another fixed
13 time period or may enter a permanent order as provided in subsection
14 (4) of this section.

15 (6) The court, in granting an ex parte temporary antiharassment
16 protection order or a civil antiharassment protection order, shall have
17 broad discretion to grant such relief as the court deems proper,
18 including an order:

19 (a) Restraining the respondent from making any attempts to contact
20 the petitioner;

21 (b) Restraining the respondent from making any attempts to keep the
22 petitioner under surveillance;

23 (c) Requiring the respondent to stay a stated distance from the
24 petitioner's residence and workplace; and

25 (d) Considering the provisions of RCW 9.41.800.

26 (7) A petitioner may not obtain an ex parte temporary
27 antiharassment protection order against a respondent if the petitioner
28 has previously obtained two such ex parte orders against the same
29 respondent but has failed to obtain the issuance of a civil
30 antiharassment protection order unless good cause for such failure can
31 be shown.

32 (8) The court order shall specify the date an order issued pursuant
33 to subsections (4) and (5) of this section expires if any. The court
34 order shall also state whether the court issued the protection order
35 following personal service or service by publication and whether the
36 court has approved service by publication of an order issued under this
37 section.

1 **Sec. 2.** RCW 10.14.100 and 1992 c 143 s 15 are each amended to read
2 as follows:

3 (1) An order issued under this chapter shall be personally served
4 upon the respondent, except as provided in subsections (5) and (7) of
5 this section.

6 (2) The sheriff of the county or the peace officers of the
7 municipality in which the respondent resides shall serve the respondent
8 personally unless the petitioner elects to have the respondent served
9 by a private party.

10 (3) 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.

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

15 (5) If an order entered by the court recites that the respondent
16 appeared in person before the court, the necessity for further service
17 is waived and proof of service of that order is not necessary. The
18 court's order, entered after a hearing, need not be served on a
19 respondent who fails to appear before the court, if material terms of
20 the order have not changed from those contained in the temporary order,
21 and it is shown to the court's satisfaction that the respondent has
22 previously been personally served with the temporary order.

23 (6) Except in cases where the petitioner is granted leave to
24 proceed in forma pauperis, municipal police departments serving
25 documents as required under this chapter may collect the same fees for
26 service and mileage authorized by RCW 36.18.040 to be collected by
27 sheriffs.

28 (7) If the court previously entered an order allowing service by
29 publication of the notice of hearing and temporary order of protection
30 pursuant to RCW 10.14.085, the court may permit service by publication
31 of the order of protection issued under RCW 10.14.080. Service by
32 publication must comply with the requirements of RCW 10.14.085.

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