

HOUSE BILL REPORT

HB 1149

As Passed House:
February 20, 2019

Title: An act relating to clarifying requirements to obtain a sexual assault protection order.

Brief Description: Clarifying requirements to obtain a sexual assault protection order.

Sponsors: Representatives Jinkins, Griffey, Doglio, Kilduff, Macri, Valdez, Irwin, Dolan, Appleton, Tarleton, Goodman, Orwall, Stanford and Walen.

Brief History:

Committee Activity:

Civil Rights & Judiciary: 1/25/19, 2/1/19 [DP].

Floor Activity:

Passed House: 2/20/19, 81-14.

Brief Summary of Bill

- Removes the requirement that a petitioner must allege reasonable fear of future dangerous acts when seeking a sexual assault protection order.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: Do pass. Signed by 14 members: Representatives Jinkins, Chair; Thai, Vice Chair; Irwin, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Goodman, Graham, Hansen, Kilduff, Kirby, Klippert, Orwall, Valdez, Walen and Ybarra.

Minority Report: Do not pass. Signed by 1 member: Representative Shea.

Staff: Ingrid Lewis (786-7289).

Background:

A sexual assault protection order is a civil order issued by a court for a person who is a victim of nonconsensual sexual conduct or penetration that gives rise to a reasonable fear of future dangerous acts by the respondent. Sexual assault protection orders are available for victims of sexual assault who do not qualify for a domestic violence protection order.

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.

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.

A sexual assault protection order petition must allege the existence of nonconsensual sexual conduct or penetration, and must be accompanied by an affidavit stating the specific statements or actions made at the time of the assault or subsequently thereafter, which give rise to a reasonable fear of future dangerous acts.

In *Roake v. Delman* (2018), the Washington Supreme Court interpreted this provision as requiring that a petitioner must allege and prove both that a sexual assault occurred and that the petitioner has a reasonable fear of future dangerous acts by the respondent.

Summary of Bill:

The reference of a showing of reasonable fear of future dangerous acts to obtain a sexual assault protection order is removed. A petitioner who seeks a sexual assault protection order must only allege and prove that a sexual assault has occurred.

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) The bill amends the current statute in response to the Washington Supreme Court decision in *Roake v. Delman*, which finds that sexual assault is not enough to establish a victim's reasonable fear of their rapist. The court held that while there was no doubt that a sexual assault occurred, the petitioner did not prove that she had a reasonable fear of future harm by the respondent. The decision supports an unrealistic requirement that is a harmful barrier in a system that is traumatizing and exhausting for survivors.

Most survivors do not have the benefit of an attorney when asking for a protection order. When victims seek a protection order they are hoping the courts can give them some relief from the trauma and fear they are experiencing. Not knowing what a perpetrator is capable of is normal when a person has been surprised by an assault, but this language flags a petition for attention and raises the risk that it will be dismissed.

Many victims of sexual violence are silenced by the legal requirement of alleging statements and other acts that give rise to a reasonable fear of future dangerous acts. This has led to a large number of problems. Victim petitions have been dismissed because evidence against the rapist was included in a police report and not in the petition. Another victim could not describe the actions of the perpetrator which would give rise to the fear of future dangerous acts because the victim was blind and could not see perpetrator.

It is not uncommon for judges to comment prior to dismissal that they are not questioning that a sexual assault occurred or that the perpetrator is dangerous, but they are compelled by the *Roake* decision to dismiss the petition.

Domestic violence, stalking, or harassment victims who are seeking a protection order do not have to allege future dangerousness. This bill aligns sexual assault protection orders with all other protection orders.

(Opposed) None.

Persons Testifying: Representative Jenkins, prime sponsor; Megan Roake; Monte Jewell, YWCA Seattle; David Ward, Legal Voice; and Andrea Piper-Wentland, Washington Coalition of Sexual Assault Programs.

Persons Signed In To Testify But Not Testifying: None.