

SENATE BILL REPORT

HB 1149

As Passed Senate, April 16, 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: Passed House: 2/20/19, 81-14.

Committee Activity: Law & Justice: 3/14/19, 3/21/19 [DP].

Floor Activity:

Passed Senate: 4/16/19, 48-0.

Brief Summary of Bill

- Removes any requirement that a petitioner must allege or prove a reasonable fear of future dangerous acts by the respondent before a court may grant a petition for a sexual assault protection order.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Padden, Ranking Member; Kuderer and Salomon.

Staff: Melissa Burke-Cain (786-7755)

Background: A person may petition for a sexual assault protection order if they have been subjected to one or more incidents of nonconsensual sexual conduct or penetration and they reasonably fear future dangerous acts by the respondent. A sexual assault victim who does not qualify for a domestic violence protection order may obtain a sexual assault protection order. A sexual assault protection order may restrain the respondent from any contact with the victim, exclude the respondent from certain locations or proximity to the victim, and provide other relief that the court finds necessary for the victim's protection.

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 petition for a sexual assault protection order must allege the respondent subjected the petitioner to nonconsensual sexual conduct or penetration, and must provide an affidavit stating the specific statements made or actions taken at the time of the assault or after the assault, that cause the petitioner to fear future dangerous acts by the respondent. In *Roake v. Delman* (2018), the Washington Supreme Court interpreted this provision to require the petitioner seeking a sexual assault protection order to allege and prove the petitioner's reasonable fear of future dangerous acts by the respondent in addition to proving that the respondent sexually assaulted the petitioner.

Summary of Bill: A petition for a sexual assault protection order must allege the respondent subjected the petitioner to nonconsensual sexual conduct or nonconsensual sexual penetration. A petitioner must also provide an affidavit stating the facts and circumstances prompting their request for the protection order.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: This measure modifies the proof requirements for a sexual assault protection order so that the sexual assault protection order reflects the same proof requirements as other protection orders. Other protection orders such as stalking protection orders or domestic violence protection orders do not require the person seeking protection to show separate proof of reasonable fear of future dangerous action by the respondent. After a sexual assault, a victim was afraid to walk alone, and afraid they would accidentally meet the perpetrator of the sexual assault. It was the perpetrator's duty to stay away from the survivor, not the survivor's responsibility to watch out for the perpetrator. As a result, the survivor asked the court for a sexual assault protective order. The process of going to court was exhausting even with the assistance of counsel. The request for a protection order was dismissed because the survivor did not prove the fear of future harm. Substantiating the sexual assault was not enough to justify a protection order. The Supreme Court's interpretation of the statute confirmed the need to prove fear of future harm, based on the language in the law. The measure just removes a few words, but the same words are not in the other protection order statutes. If you are sexually assaulted you have reason to fear the person who assaulted you. Courts have said their hands are tied after the Supreme Court's interpretation of the law. They have no choice but to deny a protection order when the victim cannot articulate words of threat. The petition must be dismissed with prejudice. It creates another humiliating barrier for sexual assault survivors or a process that works to protect them. The sexual assault protection order is a safety tool; we are only requesting equity in the law.

Persons Testifying: PRO: Representative Laurie Jenkins, Prime Sponsor; Megan Roake, citizen; David Ward, Legal Voice; Michelle Lucas, Sexual Violence Legal Services; Andrea Piperwentland, Washington Coalition of Sexual Assault Programs.

Persons Signed In To Testify But Not Testifying: No one.