

# SENATE BILL REPORT

## SB 5552

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As of February 9, 2011

**Title:** An act relating to protections against workplace harassment in antiharassment protection orders.

**Brief Description:** Expanding protections against workplace harassment in antiharassment protection orders.

**Sponsors:** Senators Kohl-Welles, Holmquist Newbry, Keiser, Conway, King and Shin.

**Brief History:**

**Committee Activity:** Labor, Commerce & Consumer Protection: 2/08/11.

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### SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

**Staff:** Edith Rice (786-7444)

**Background:** The Legislature has declared that the prevention of harassment is an important governmental objective.

Unlawful harassment is willful conduct towards a specific person which seriously alarms, annoys, harasses, or is detrimental to the person and serves no legitimate or lawful purpose. The conduct is of a nature that would cause a reasonable person to suffer substantial emotional distress. An individual can file a petition for an order for protection in a case of unlawful harassment. A parent can file a petition for relief for a child under the age of 18. A court can grant an ex parte temporary anti-harassment protection order if certain conditions are met. The protection order cannot exceed 14 days, or if the court has permitted service by publication it cannot exceed 24 days. A full hearing must be set within this time frame. The respondent must be personally served with the ex parte order, the petition and notice of the hearing date set by the court to determine if the temporary order should be made effective for one year or more. Notice is also to be provided to the respondent that if they fail to appear an order for protection will be issued for a minimum of one year from the date of the hearing. If the court finds by a preponderance of evidence that unlawful harassment exists, a civil anti-harassment protection order is issued prohibiting the unlawful harassment. The law provides for protection orders of different durations and the petitioner can apply for renewal. The court has broad discretion in granting relief to the petitioner. Relief can include: restraining the respondent from attempting to contact the petitioner or keep them under surveillance,

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requiring the respondent to stay a certain distance from the petitioner's residence and workplace, and surrender of a firearm or a related license.

**Summary of Bill:** Unlawful harassment includes willful conduct towards a specific person or an employer which seriously alarms, annoys, harasses, or is detrimental to that person or employer and which serves no legitimate or lawful purpose.

An employer can be an individual, partnership, association, or corporation, or someone who acts on behalf of an employer with the consent of the employer. This includes the state, a political subdivision or school district or other special district.

If a court grants a petition for an anti-harassment protection order based on unlawful harassment affecting the workplace the court may, in addition to restraining the respondent from attempting to contact the petitioner or keep them under surveillance; require the respondent to stay a certain distance from the petitioner's residence and workplace, and surrender a firearm or a related license; restrain the respondent from contacting the employer, employee, or other person while that person is performing official work duties; or grant other relief necessary for the protection of the employer, workplace, other employees or others at the employer's property or place of business or who are performing official work duties.

When an employer has knowledge that a specific person is the target of unlawful harassment, the employer must in good faith make an effort to notify that person that the employer intends to petition the court for an anti-harassment protection order.

If the employer is aware that the unlawful harassment has arisen from domestic violence, sexual assault or stalking, the employer must provide actual notice to the person and obtain their consent before petitioning the court for an anti-harassment protection order.

The duty of an employer to provide a safe workplace for employees and others is not changed. An employer cannot discriminate against employees who are the target of unlawful harassment affecting the workplace, or who do not consent to the petition for an order of protection.

Employers are immune from civil liability for seeking or failing to seek a protection order for unlawful harassment in the workplace unless the employer is seeking relief to accomplish a purpose for which the petition was not designed.

**Appropriation:** None.

**Fiscal Note:** Requested on February 5, 2011.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony:** PRO: The workplace should be free of violence, but it is on the rise. Other states have similar laws. Current law does not permit a company to file for protection even if employees are being harassed. This allows advocacy programs to

protect employees, but the immunity provided is too broad. There is no remedy if the requirement for consent is not followed.

CON: Limit this bill, employers need to ensure that employees don't become disgruntled. A company cannot suffer emotional distress.

**Persons Testifying:** PRO: Kris Tefft Assoc. of WA Business; Randy Woolard, Boeing Co.; Grace Wang, WA St. Coalition Against Domestic Violence; David Ward, Legal Voice; Andrea Piper, WCADV.

CON: Gary Namie, Workplace Bullying Institute.