

HOUSE BILL REPORT

HB 2209

As Reported By House Committee On:
Judiciary

Title: An act relating to restraining orders.

Brief Description: Changing provisions relating to restraining orders.

Sponsors: Representatives Forner, Appelwick, Wood, B. Thomas, Edmondson, Cooke, Karahalios, Chandler and Johanson.

Brief History:

Reported by House Committee on:
Judiciary, January 26, 1994, DP.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 16 members: Representatives Appelwick, Chair; Johanson, Vice Chair; Padden, Ranking Minority Member; Ballasiotes, Assistant Ranking Minority Member; Campbell; Chappell; Eide; Forner; J. Kohl; Long; Morris; H. Myers; Schmidt; Scott; Tate and Wineberry.

Staff: Pat Shelledy (786-7149).

Background: A police officer must make a custodial arrest of a person without a warrant 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. A couple of 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 which 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 to be placed on a computer-based criminal intelligence information system.

Summary of Bill: The statute allowing police officers to arrest without a warrant persons who violate restraining orders is amended to reference two statutes in the domestic relations chapters which 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 also amended to explicitly grant the courts power to forward the restraining orders to law enforcement for placement of the order on the computer-based criminal intelligence information system.

Fiscal Note: Requested January 24, 1994.

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

Testimony For: This bill is an important clarification of police officers' authority to arrest violators of restraining orders. Current law does not provide an express basis for courts to order the state to forward to the criminal justice database restraining orders issued in certain domestic relations actions. Law enforcement is placed in the awkward position of either choosing to disregard a direct court order or face a possible lawsuit for false arrest.

Testimony Against: None.

Witnesses: Zanetta Fontes, Renton City Attorney's Office (pro); Mike Patrick, Washington State Council of Police Officers (pro); Judy Turpin, Northwest Women's Law Center (pro); and Lonnie Johns-Brown, National Organization of Women, Washington State Chapter (pro).