

# HOUSE BILL REPORT

## HB 2756

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**As Reported By House Committee On:**

Law & Justice

**Title:** An act relating to domestic violence.

**Brief Description:** Changing domestic violence protection orders.

**Sponsors:** Representatives Sheahan, Costa, Lambert, Constantine, Sherstad, Kessler, Ogden, Dickerson, Conway, Cooper, Mason, Anderson, Thompson, Gardner, Wood, Morris and Ballasiotes.

**Brief History:**

**Committee Activity:**

Law & Justice: 1/28/98, 2/6/98 [DPS].

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### HOUSE COMMITTEE ON LAW & JUSTICE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Carrell; Cody; Kenney; Lambert; Lantz; Mulliken; Robertson and Sherstad.

**Staff:** Edie Adams (786-7180).

**Background:** A victim of domestic violence may obtain court-ordered protection under a variety of statutory schemes. Some of those schemes are civil in nature and some are criminal.

Criminal Provisions Regarding Domestic Violence: When one family or household member is convicted of one of several designated crimes against another family or household member, the court may issue a "no-contact" order prohibiting the offender from having any contact with the victim. The court may also issue a no-contact order against an offender who is charged with or arrested for an offense involving domestic violence if the offender is released from custody. The court is not authorized to restrain the defendant from going within a specified distance of the victim.

Civil Provisions Regarding Domestic Violence: A victim may seek protection from domestic violence through domestic violence protection orders or through restraining orders in domestic relations actions.

A person who is a victim of domestic violence may petition for a domestic violence protection order even if no criminal charges are pending. The court may enter an order that excludes the respondent from the dwelling which the parties share, the residence, workplace, or school of the victim, or from the day care or school of the child. In addition, the court may restrain the respondent from having any contact with the victim or the victim's children or household members. The court is not authorized to restrain the person from going within a specified distance of the victim or the victim's children or household members; or from coming within a specified distance of a shared dwelling, residence, workplace, school or day care.

In a domestic relations case concerning dissolution of marriage, third-party custody actions, and paternity actions, the court may enter a restraining order or a domestic violence protection order. The restraining order may restrain a party from molesting or disturbing the peace of the other party or of any child; or from going onto the grounds of or entering the home, workplace, or school of the other party, or the day care or school of any child. The court is not authorized to restrain the person from acts or threats of violence; from contacting or coming within a specified distance of another party; or from coming within a specified distance of the residence, workplace, school, or day care of another party, or the day care or school of any child.

A court may also enter a restraining order in an action relating to the abuse of a child or dependent person. The order may restrain a person from molesting or disturbing the peace of the victim, entering the family home of the victim, or having any contact with the victim. The court is not specifically authorized to restrain the party from acts or threats of violence; from going onto the grounds of, or coming within a specified distance of, the school or day care of the victim; or from coming within a specified distance of the victim.

Mandatory Arrests: A police officer must arrest a person without a warrant if the officer has probable cause to believe that the person has violated a no-contact, protection, or restraining order, of which the person had knowledge, that restrains the person from acts or threats of violence, or from going onto the grounds of or entering a residence, workplace, school, or day care.

Judicial Information System: The Judicial Information System (JIS) must include all orders issued in proceedings involving: domestic violence protection orders, criminal no-contact orders, anti-harassment orders, dissolution of marriage, third party custody actions, and paternity actions. The information must include the names of the parties, the cause number, the criminal histories of the parties, and any other relevant information necessary to assist courts.

**Summary of Substitute Bill:** The restrictions that may be imposed on persons under no-contact, protection, or restraining orders are expanded.

Criminal Provisions Regarding Domestic Violence: The conditions that may be imposed by a court when a person is arrested or convicted of an offense involving domestic violence are expanded to include restraining the person from coming within a specified distance of the victim with the intent to intimidate, harass or frighten the victim, or if the person knows or should know that the victim is intimidated, harassed or frightened. The court is authorized to enter an order against the defendant even if the defendant is held in custody. References to "no-contact" order are removed.

Civil Provisions Regarding Domestic Violence: The conditions that may be imposed when a court enters a domestic violence protection order are expanded to include restraints on the person from coming within a specified distance of the victim with the intent to intimidate, harass or frighten the victim, or if the person knows or should know that the victim is intimidated, harassed or frightened; or from going onto the grounds of, entering, or coming within a specified distance of a dwelling the parties share, a residence, workplace, school, or day care.

Domestic violence protection orders may only be issued in paternity actions after entry of the judgment and order determining the parent-child relationship.

The conditions that may be imposed when a court enters a restraining order are expanded to include restraints against acts or threats of violence; from contacting or coming within a specified distance of another party with the intent to intimidate, harass or frighten the party, or if the person knows or should know that the party is intimidated, harassed or frightened; or from coming within a specified distance of the home, workplace, or school of the other party, or the day care or school of a child.

Mandatory Arrests: The mandatory arrest provision for a violation of a no-contact, protection, or restraining order is expanded to include violations of provisions restraining the person from contacting or coming within a specified distance of another person with the intent to intimidate, harass or frighten the person, or if the person knows or should know that the person is intimidated, harassed or frightened, or coming within a specified distance of a residence, workplace, school, or day care.

Judicial Information System: The types of court orders that must be included in the Judicial Information System (JIS) is clarified to apply to only dissolution actions that involve minor children or a restraining order, and only to paternity actions upon entry of a final judgment and order. In addition, orders in the following actions are required to be entered into JIS: child custody actions under the Uniform Child Custody Jurisdiction Act, dependency and termination of parent-child relationship actions, and at-risk youth and child in need of services actions if a residential placement decision is

made. Orders entered in a paternity action restraining a party from removing a child from the jurisdiction of the court are not required to be entered in the JIS.

The types of information on parties that must be entered into the JIS for these orders are limited to: names and aliases, case number, date of birth, and one other identifier to be determined by the JIS.

Clerks who collect and enter information concerning court orders into the JIS and who provide this information to the court are not engaged in the practice of law, and the clerks are not responsible for incorrect or incomplete information provided by the litigants. Clerks are immune from liability for the unauthorized release of information by court personnel. The sharing of information with other courts does not violate confidentiality restrictions, except that juvenile dependency records may only be shared among superior courts.

**Substitute Bill Compared to Original Bill:** The original bill did not include the provisions relating to the types of information that must be entered into the judicial information system and immunity for clerks who collect and input the information. The original bill did not specify that domestic violence protection orders may only be issued in paternity actions after entry of the judgement and order determining the parent-child relationship.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** This bill is necessary to correct a court decision which said that it isn't a criminal violation to violate a provision of an order restraining a person from coming within a specified distance of the victim. The amendments to the bill are supported to clarify the types of orders that are entered into the Judicial Information System.

**Testimony Against:** None.

**Testified:** Debbie Wilke, Washington Association of County Officials (pro); and Mary Pontarolo, Washington State Coalition Against Domestic Violence (pro).