

HOUSE BILL REPORT

EHB 2655

As Amended by the Senate

Title: An act relating to protection orders.

Brief Description: Waiving filing fees and costs for certain protection orders.

Sponsors: By Representatives Schual-Berke, Esser, Lantz, Chase, Lysen, Nixon and Rockefeller; by request of Office of Community Development.

Brief History:

Committee Activity:

Judiciary: 2/7/02 [DPA];

Appropriations: 2/9/02 [DPA(JUDI)].

Floor Activity:

Passed House: 2/14/02, 97-0.

Senate Amended.

Passed Senate: 3/5/02, 49-0.

<p style="text-align: center;">Brief Summary of Engrossed Bill</p> <ul style="list-style-type: none">· Waives the filing fee and service of process costs for an individual seeking an anti-harassment protection order against a stalker, sex offender or domestic abuser.
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HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 9 members: Representatives Lantz, Chair; Hurst, Vice Chair; Carrell, Ranking Minority Member; Boldt, Dickerson, Esser, Jarrett, Lovick and Lysen.

Staff: Ryan Jensen (786-5793); Edie Adams (786-7180).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Judiciary. Signed by 25 members: Representatives Sommers, Chair; Doumit, 1st Vice Chair; Fromhold, 2nd Vice Chair; Sehlin, Ranking Minority Member; Alexander, Boldt, Buck, Clements, Cody, Cox, Dunshee, Grant, Kagi, Kenney, Kessler, Linville, Lisk, Mastin, McIntire, Pearson,

Pflug, Ruderman, Schual-Berke, Talcott and Tokuda.

Staff: Linda Brooks (786-7153).

Background:

A person being unlawfully harassed by another may petition the court for a civil anti-harassment protection order. Courts may grant both an ex parte temporary protection order and, after a full hearing, a longer-term anti-harassment protection order. Both orders require the respondent to refrain from engaging in harassment.

A petitioner seeking an anti-harassment protection order is required to pay a filing fee in order to initiate such an action in a court. The cost to file is \$41 but is not imposed on the petitioner under certain circumstances. First, the fee may not be charged for a petition filed in an existing action or under an existing cause number where the protection order is sought in the same jurisdiction. Second, the fee may be waived if the petitioner can demonstrate that he or she lacks the funds to pay the filing fee and obtains leave of the court to proceed. Third, the court may require the respondent to cover the petitioner's filing expenses.

A petitioner seeking an anti-harassment protection order is also required to pay for costs related to service of process. Upon the issuance of an ex parte temporary order, the respondent must be personally served with a copy of the order, a copy of the petition and notice of the date of hearing. The sheriff of the county or peace officer of the municipality in which the respondent resides is required to personally serve process, except in cases where the petitioner elects to have a private party serve the respondent. Sheriffs and municipal police departments are authorized to collect fees for service and mileage. A petitioner may avoid service of process costs if he or she demonstrates a lack of funds to pay and obtains leave of the court to proceed, or where the court requires the respondent to cover the petitioner's service of process costs.

In some cases, timely service of process will not be made. In these situations, the court must set a new hearing date and either require additional attempts at obtaining personal service or allow for service by publication. A court may only permit service by publication if the petitioner pays the cost of publication. These costs are avoidable only if the county legislative authority allocates funds for service of process by publication, and the petitioner has demonstrated a lack of funds to pay, thereby obtaining leave of the court to proceed. An identical requirement applies to service of process in actions for a domestic violence protection order.

Finally, anti-harassment protection orders are not issuable in domestic violence actions.

Summary of Engrossed Bill:

The filing fee and service of process costs are waived if the petitioner is seeking an anti-harassment protection order to obtain relief from: (1) a person who has stalked him or her; (2) a person who has engaged in conduct that would constitute a sex offense; or (3) a family or household member who has engaged in conduct that constitutes domestic violence.

Where personal service upon the respondent can not be accomplished in actions for domestic violence protection orders or anti-harassment protection orders, courts may allow service of process by publication if the petitioner's costs have been waived.

The restriction is removed that bars anti-harassment protection orders from being issued in domestic violence actions.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment removes the authority of the court to require a respondent to pay a petitioner's filing and service fees, as well as court costs, where the petitioner is entitled to a fee and cost waiver because he or she is seeking relief from a person who has engaged in conduct constituting: (1) stalking; or (2) a sex offense; or (3) domestic violence. The Senate amendment also removes the repeal of the section that restricts anti-harassment protection orders from being issued in domestic violence actions.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: (Judiciary) The filing fees required to petition for an anti-harassment protection order need to be waived for Washington to qualify for grant money under the federal Violence Against Women Act. This source of funding is essential for the maintenance of local programs, including battered-women shelters. Further, the amount of the grant money would make up for the loss of revenue from the waiver of fees and service of process costs.

Testimony For: (Appropriations) This legislation is needed to retain federal dollars. Local governments will lose some revenue by waiving the filing fee, but the money lost isn't much if you compare it to the \$5 million/biennium in federal "stop-violence-against-women" grant dollars. Almost all of the federal grant money goes down to the local level to police, prosecutors, and local domestic violence groups

Testimony Against: (Judiciary) None.

Testimony Against: (Appropriations) None.

Testified: (Judiciary) Representative Schual-Berke, prime sponsor; Bev Emery, Office of Crime Victim's Advocacy; Lonnie Johns-Brown, Washington Coalition of Sexual Assault Programs; and Margaret McKinney, Office of the Secretary of State Address Confidentiality Program.

Testified: (Appropriations) Lonnie Johns-Brown, Washington Coalition of Sexual Assault Programs.