
ENGROSSED HOUSE BILL 2655

State of Washington

57th Legislature

2002 Regular Session

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

Read first time 01/23/2002. Referred to Committee on Judiciary.

1 AN ACT Relating to protection orders; amending RCW 10.14.040,
2 10.14.100, 10.14.125, and 26.50.125; adding a new section to chapter
3 10.14 RCW; and repealing RCW 10.14.130.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 10.14.040 and 2001 c 260 s 3 are each amended to read
6 as follows:

7 There shall exist an action known as a petition for an order for
8 protection in cases of unlawful harassment.

9 (1) A petition for relief shall allege the existence of harassment
10 and shall be accompanied by an affidavit made under oath stating the
11 specific facts and circumstances from which relief is sought.

12 (2) A petition for relief may be made regardless of whether or not
13 there is a pending lawsuit, complaint, petition, or other action
14 between the parties.

15 (3) All court clerks' offices shall make available simplified forms
16 and instructional brochures. Any assistance or information provided by
17 clerks under this section does not constitute the practice of law and
18 clerks are not responsible for incorrect information contained in a
19 petition.

1 (4) Filing fees are set in RCW 36.18.020, but no filing fee may be
2 charged for a petition filed in an existing action or under an existing
3 cause number brought under this chapter in the jurisdiction where the
4 relief is sought or as provided in section 2 of this act. Forms and
5 instructional brochures shall be provided free of charge.

6 (5) A person is not required to post a bond to obtain relief in any
7 proceeding under this section.

8 (6) The parent or guardian of a child under age eighteen may
9 petition for an order of protection to restrain a person age eighteen
10 years or over from contact with that child upon a showing that contact
11 with the person to be enjoined is detrimental to the welfare of the
12 child.

13 (7) The parent or guardian of a child under the age of eighteen may
14 petition in superior court for an order of protection to restrain a
15 person under the age of eighteen years from contact with that child
16 only in cases where the person to be restrained has been adjudicated of
17 an offense against the child protected by the order, or is under
18 investigation or has been investigated for such an offense. In issuing
19 a protection order under this subsection, the court shall consider,
20 among the other facts of the case, the severity of the alleged offense,
21 any continuing physical danger or emotional distress to the alleged
22 victim, and the expense, difficulty, and educational disruption that
23 would be caused by a transfer of the alleged offender to another
24 school. The court may order that the person restrained in the order
25 not attend the public or approved private elementary, middle, or high
26 school attended by the person under the age of eighteen years protected
27 by the order. In the event that the court orders a transfer of the
28 restrained person to another school, the parents or legal guardians of
29 the person restrained in the order are responsible for transportation
30 and other costs associated with the change of school by the person
31 restrained in the order. The court shall send notice of the
32 restriction on attending the same school as the person protected by the
33 order to the public or approved private school the person restrained by
34 the order will attend and to the school the person protected by the
35 order attends.

36 NEW SECTION. **Sec. 2.** A new section is added to chapter 10.14 RCW
37 to read as follows:

1 No fees for filing or service of process may be charged by a public
2 agency to petitioners seeking relief under this chapter from a person
3 who has stalked them as that term is defined in RCW 9A.46.110, or from
4 a person who has engaged in conduct that would constitute a sex offense
5 as defined in RCW 9A.44.130, or from a person who is a family or
6 household member as defined in RCW 26.50.010(2) who has engaged in
7 conduct that would constitute domestic violence as defined in RCW
8 26.50.010(1). If the petitioner is entitled to proceed under this
9 section, the court may require the respondent to pay the filing fee and
10 costs, including services fees, to the county or municipality incurring
11 the expense.

12 **Sec. 3.** RCW 10.14.100 and 2001 c 311 s 2 are each amended to read
13 as follows:

14 (1) An order issued under this chapter shall be personally served
15 upon the respondent, except as provided in subsections (5) and (7) of
16 this section.

17 (2) The sheriff of the county or the peace officers of the
18 municipality in which the respondent resides shall serve the respondent
19 personally unless the petitioner elects to have the respondent served
20 by a private party.

21 (3) If the sheriff or municipal peace officer cannot complete
22 service upon the respondent within ten days, the sheriff or municipal
23 peace officer shall notify the petitioner.

24 (4) Returns of service under this chapter shall be made in
25 accordance with the applicable court rules.

26 (5) If an order entered by the court recites that the respondent
27 appeared in person before the court, the necessity for further service
28 is waived and proof of service of that order is not necessary. The
29 court's order, entered after a hearing, need not be served on a
30 respondent who fails to appear before the court, if material terms of
31 the order have not changed from those contained in the temporary order,
32 and it is shown to the court's satisfaction that the respondent has
33 previously been personally served with the temporary order.

34 (6) Except in cases where the petitioner has fees waived under
35 section 2 of this act or is granted leave to proceed in forma pauperis,
36 municipal police departments serving documents as required under this
37 chapter may collect the same fees for service and mileage authorized by
38 RCW 36.18.040 to be collected by sheriffs.

1 (7) If the court previously entered an order allowing service by
2 publication of the notice of hearing and temporary order of protection
3 pursuant to RCW 10.14.085, the court may permit service by publication
4 of the order of protection issued under RCW 10.14.080. Service by
5 publication must comply with the requirements of RCW 10.14.085.

6 **Sec. 4.** RCW 10.14.125 and 1992 c 143 s 18 are each amended to read
7 as follows:

8 The court may permit service by publication under this chapter only
9 if the petitioner pays the cost of publication or if the petitioner's
10 costs have been waived pursuant to section 2 of this act, unless the
11 county legislative authority allocates funds for service of process by
12 publication for petitioners who are granted leave to proceed in forma
13 pauperis.

14 **Sec. 5.** RCW 26.50.125 and 1995 c 246 s 17 are each amended to read
15 as follows:

16 Except as provided in section 2 of this act, the court may permit
17 service by publication or by mail under this chapter only if the
18 petitioner pays the cost of publication or mailing unless the county
19 legislative authority allocates funds for service of process by
20 publication or by mail for indigent petitioners.

21 NEW SECTION. **Sec. 6.** RCW 10.14.130 (Exclusion of certain actions)
22 and 1987 c 280 s 13 are each repealed.

--- END ---