

HOUSE BILL REPORT

ESHB 1949

As Passed House:

February 10, 2004

Title: An act relating to providing financial assistance for victims of domestic violence seeking protection orders.

Brief Description: Providing financial assistance for victims of domestic violence seeking protection orders.

Sponsors: By House Committee on Juvenile Justice & Family Law (originally sponsored by Representatives Nixon and Wood).

Brief History:

Committee Activity:

Juvenile Justice & Family Law: 1/21/04, 2/3/04 [DPS].

Floor Activity:

Passed House: 2/10/04, 95-0.

Brief Summary of Engrossed Substitute Bill

- Allows the court, during a protection order hearing, to require the respondent to pay the petitioner for reasonable expenses related to the domestic violence committed and to order temporary financial assistance if the respondent customarily provides for or contributes to the support of the petitioner or other family member;
- Limits the relief to a one-time, temporary order not to exceed 90 days;
- Requires the court to consider the amount received by the petitioner in any subsequent proceeding for support, maintenance, or property distribution; and
- Allows the court, in a hearing for a temporary protection order, to restrain any party from disposing of shared or joint property except in the usual course of business or for the necessities of life, and allows the court to require the restrained party to notify the other party, in a manner deemed appropriate by the court, of any proposed extraordinary expenses made after the order.

HOUSE COMMITTEE ON JUVENILE JUSTICE & FAMILY LAW

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Dickerson, Chair; Pettigrew, Vice Chair; Delvin, Ranking Minority Member; Lovick and Upthegrove.

Minority Report: Do not pass. Signed by 2 members: Representatives Carrell and Hinkle.

Staff: Trudes Tango Hutcheson (786-7384).

Background:

Under the Domestic Violence Prevention Act, a person may file a petition with a court alleging that the person has been the victim of domestic violence committed by the respondent. The court will set a hearing date on the petition and may issue an ex parte temporary order for protection pending the hearing.

When entering a protection order, the court may order relief in a variety of forms, including but not limited to:

- restraining the respondent from committing acts of domestic violence;
- prohibiting the respondent from coming within a specified distance of a specified location;
- ordering possession and use of essential personal effects listed by the court (items necessary for the person's immediate health, welfare, and livelihood, including clothing, bedding, documents, medications, and personal hygiene items);
- requiring the respondent to pay the court costs and fees and to reimburse the petitioner for costs incurred in bringing the action, including reasonable attorney's fees; and
- ordering other relief as the court finds necessary for the protection of the petitioner and other family or household members.

In a proceeding for a dissolution, the court may enter temporary orders for child support and maintenance. The court may also enter a restraining order that, among other things, prohibits any party from transferring, removing, encumbering, concealing, or in any way disposing of any property except in the usual course of business or for the necessities of life. The court may require the restrained party to notify the other party of any proposed extraordinary expenditures made after the order is entered.

Summary of Engrossed Substitute Bill:

The court, during a protection order hearing, may order the respondent to pay the petitioner reasonable expenses related to the domestic violence committed and order temporary financial assistance if the respondent customarily provides for or contributes to the support of the petitioner or other family member. The relief granted is limited to a one-time, temporary order not to exceed 90 days. The petitioner must disclose to the court any other actions pending between the parties and any existing or pending orders for support or maintenance.

In a hearing for a temporary protection order, the court may restrain any party from disposing of shared or joint property except in the usual course of business or for the necessities of life, and may require the restrained party to notify the other party, in a manner deemed appropriate by the court, of any proposed extraordinary expenses made after the order.

The petitioner must disclose the amount received in any subsequent proceeding for dissolution, legal separation, or invalidity of marriage, or any subsequent proceeding for the establishment or modification of child support or maintenance. The court or agency must consider the amount in determining property distribution, support, or maintenance.

Appropriation: None.

Fiscal Note: Requested on February 3, 2004.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: This bill is critical for ensuring victim safety. Sometimes victims don't leave because they don't have the money to leave. Other states have language in their protection order statutes that allow the court to order financial assistance to the victim. When victims leave their abusers, sometimes it can take months for the victim to access money for shelter and food. The bill makes it clear that courts can and should grant victims financial assistance. Victims should not be locked out of getting resources just because the victim gets a protection order to survive. Victims often do not have the skills to get a job immediately. Many victims apply for social services for the first time in their lives because they don't have access to resources once they leave. Dissolution proceedings take a long time and this temporary assistance will be faster by helping the victim immediately. The bill allows the court to prohibit the abuser from canceling insurance and depleting funds.

Testimony Against: Protection order hearings are not meant to be a substitute for family law proceedings. This bill will increase the number of protection order hearings. A person will use protection order hearings to receive assistance, even if they don't need it, instead of going through a family law hearing where the person would have to pay filing fees.

(Testimony neutral) Courts recognize victims' needs for financial assistance, but actual payment following the order is a problem. This will increase the length of the hearings in court and will have a fiscal impact.

Persons Testifying: (In support) Representative Nixon, prime sponsor; Carolyn Drake; Grace Huang, Washington State Coalition Against Domestic Violence; Kathy Lambert, Metropolitan King County Council; Larry Pederson, Thurston Community Network; Linda Olsen, Eastside Domestic Violence Program; Laura Contreras, Columbia Legal Services; and Beth Horne, SafePlace.

(Opposed) Lisa Scott, Taking Action Against Bias in the System.

(Neutral) Judge Paula Casey, Superior Court Judges Association.

Persons Signed In To Testify But Not Testifying: None.