

# SENATE BILL REPORT

## SHB 2576

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As Reported By Senate Committee On:  
Judiciary, February 21, 2006

**Title:** An act relating to protection of sexual assault victims.

**Brief Description:** Creating sexual assault protection orders.

**Sponsors:** House Committee on Judiciary (originally sponsored by Representatives Williams, Green, O'Brien, Kirby, Hunt, Ericks, Simpson, Lovick, McCoy, Lantz, Ormsby, Springer and Conway).

**Brief History:** Passed House: 2/01/06, 97-0.

**Committee Activity:** Judiciary: 2/21/06 [DPA].

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### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass as amended.

Signed by Senators Kline, Chair; Weinstein, Vice Chair; Johnson, Ranking Minority Member; Carrell, Esser, Hargrove, McCaslin and Rasmussen.

**Staff:** Lidia Mori (786-7755)

**Background:** There are several types of orders a court may grant that restrict a person's ability to have contact with another person. Although there is potential overlap, the orders generally differ in who they apply to and in what context. No-contact orders are available in criminal proceedings and may be imposed as a condition of release or sentence. Domestic violence protection orders are civil orders and apply to victims of domestic violence committed by family or household members, including persons in dating relationships. Family law restraining orders are also civil, may be issued during dissolution or parentage proceedings, and may contain other provisions related to the dissolution. Anti-harassment orders are civil and may be obtained by a person who is the victim of on-going conduct that is considered seriously annoying, alarming, or harassing. Vulnerable adult protection orders, which are civil, address conduct such as abuse and financial exploitation of certain disabled, elderly adults. Generally, it is a gross misdemeanor if the person to be restrained knows of the order and violates certain restraint provisions in the order. A violation may be a class C felony under certain circumstances, such as if the person violating the order has two prior convictions for violations.

**Summary of Amended Bill:** Any person who is a victim of nonconsensual sexual conduct or nonconsensual sexual penetration, including a single incident, may file a petition for a sexual assault protection order (SAPO). A third party may file on behalf of a victim who is a minor child, a vulnerable adult, or any other adult who cannot file the petition due to age, disability, health, or inaccessibility. A person 13 years old or older may file a petition on his or her own behalf. The court need not appoint a guardian or guardian ad litem on behalf of a respondent

who is 13 years old or older. The petitioner must file the action in the county or municipality where the petitioner resides. Jurisdiction over these orders is the same as court jurisdiction over domestic violence protection orders. No filing fee may be charged. Upon receipt of the petition, the court must order a hearing no later than 14 days from the date of the order. Personal service must be made upon the respondent not less than five court days before the hearing. The court may order a hearing by telephone to accommodate a disability or, in exceptional circumstances, to protect a petitioner.

In proceedings for a SAPO and prosecutions for violations of a SAPO, the prior sexual activity or reputation of the petitioner is inadmissible except: (a) as evidence regarding past sexual conduct between the petitioner and respondent when consent is an issue; or (b) when constitutionally required to be admitted. If the court finds by a preponderance of the evidence that the petitioner has been a victim of nonconsensual sexual conduct or nonconsensual sexual penetration by the respondent, the court shall issue a SAPO. To obtain an ex parte temporary SAPO, the petitioner must show, in addition to the above, that there is good cause to grant the remedy, regardless of prior service of process or notice upon the respondent because the harm which the order is intended to prevent would likely occur if the respondent were given any prior notice or greater notice than was actually given. An ex parte temporary SAPO order is effective for a fixed period not to exceed 14 days. A final SAPO is generally effective for a fixed period of time not to exceed two years and may be extended.

The court may prohibit the respondent from having any contact, including nonphysical contact, with the petitioner directly, indirectly, or through third parties. The court must consider certain factors in cases where the petitioner and respondent are under the age of 18 and attend the same elementary, middle, or high school.

A petitioner must not be denied a SAPO because the petitioner is a minor or because the petitioner did not report the assault to law enforcement. The court may not require proof of physical injury. In addition, the court may not deny relief based on evidence that the respondent or the petitioner was voluntarily intoxicated or evidence that the petitioner engaged in limited consensual sexual touching. "Sexual conduct," "sexual penetration," and "nonconsensual" are defined. Other provisions are established, including provisions for petitioners keeping their addresses confidential in court filings, modifying the terms of an order, the role of sexual assault victim advocates, and a requirement that, by September 1, 2006, the Administrative Office of the Court create standardized forms and informational brochures for sexual assault protection orders.

**Amended Bill Compared to Original Bill:** Amended Bill Compared to Substitute Bill: The bill as referred to committee was not considered. The amended bill provides that a person who is 16 years of age or older may seek a sexual assault protection order and is not required to seek relief by a guardian or next friend. The amended bill requires that the petitioner for a sexual assault protection order must set forth, in the affidavit, the statements or actions made that gave rise to a reasonable fear of future dangerous acts, for which the order is sought.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

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

**Testimony For:** None.

**Testimony Against:** None.

**Who Testified:** No one.