

# SENATE BILL REPORT

## SB 6478

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As Reported By Senate Committee On:  
Judiciary, February 2, 2006

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

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

**Sponsors:** Senators Regala, Hargrove, McAuliffe, Keiser and Rasmussen.

**Brief History:**

**Committee Activity:** Judiciary: 1/17/06, 2/2/06 [DPS].

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### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** That Substitute Senate Bill No. 6478 be substituted therefor, and the substitute bill do pass.

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

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

**Background:** Under current law, there are different types of protective orders that prohibit a person from committing certain acts or being in certain locations, with sanctions specified for violations. There are specific restrictions that pertain to each type of protective order, including who may file for each order and when the order can be issued by a court. Some of the existing protective orders include restraining orders, anti-harassment orders, no-contact orders, and orders for protection.

**Summary of Substitute Bill:** A process is created by which a person may obtain a sexual assault protection order. The person may petition for such an order if she or he is a victim of nonconsensual sexual contact or penetration, or a person may petition on behalf of a victim who is a minor child, a vulnerable adult, or any other adult who, because of age, disability, health, or inaccessibility, cannot file the petition. A victim who is 16 years of age or older may seek the protection order without the need to have a guardian or guardian ad litem. There is no filing fee for seeking a sexual assault protection order. Upon receipt of the petition, the court will schedule a hearing no later than 14 days from the date of the order.

An ex parte sexual assault protection order may be issued if, by a preponderance of the evidence, the petitioner establishes that he or she has been a victim of nonconsensual sexual contact or penetration by the respondent and there is good cause to grant the remedy. A full hearing must be set for not later than 14 days from issuance of the temporary order. The ex parte order is required to be entered into the statewide judicial information system by the clerk of the court within one judicial day after issuance.

A final sexual assault protection order is effective for a fixed period of time not to exceed two years. The order directs the respondent to stay away from the petitioner and provides other injunctive relief as the court determines necessary. Any knowing violation of a sexual assault protection order is a gross misdemeanor and also constitutes contempt of court. Any second or subsequent violation is a class C felony. Violation of a sexual assault protection order is included in the definition of the crime of harassment. A police officer is directed to arrest a person without a warrant when a sexual assault protection order has been issued of which the person has knowledge and the officer has probable cause to believe the person has violated the order.

Every international matchmaking organization doing business in Washington is required to disseminate to a recruit, upon request, personal history information relating to any Washington state resident about whom any information is provided to the recruit. Personal history information includes the existence of any sexual assault protection order.

The administrative office of the courts is directed to develop instructions and informational brochures for sexual assault protection orders. Every sexual assault protection order will be included in the data base of the judicial information system.

A tenant or household member who has a valid sexual assault protection order and has notified the landlord in writing that he or she was a victim of the crime of sexual assault is discharged from payment of rent when terminating a rental agreement for any period following the last day of the month of the quitting date.

**Substitute Bill Compared to Original Bill:** The substitute bill made numerous changes, including: (a) expanding the definition of "sexual conduct;" (b) requiring personal service and eliminating the provisions for service by mail or publication; (c) providing procedures for law enforcement to enter these orders in their data bases; (d) clarifying that municipal, district, and superior courts have jurisdiction to the same extent as provided for in domestic violence protection orders; (e) clarifying that violations of the order are punishable under the existing statute relating to violations of protection orders; (f) allowing courts to issue such orders in conjunction with criminal proceedings involving sex offenses; (g) directing the court to consider certain factors when the parties are under 18 and attend the same school; and (h) other procedural changes.

**Appropriation:** None.

**Fiscal Note:** Requested on January 16, 2006.

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

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

**Testimony For:** When the victim of sexual assault isn't a family member or does not reside with the perpetrator, the only protective order the person can get is an antiharassment order. That person should be able to get the same protections as a domestic violence victim. This bill is needed because if there is no familial tie and it's not a dating relationship, only an antiharassment order is available. Those orders do not require mandatory arrest and a pattern of harassment must be shown. Also, antiharassment orders are not entitled to full faith and

credit. No contact orders have their failings too. This legislation is meant to mirror domestic violence protection orders.

**Testimony Against:** The situations addressed by this bill are exactly the types of situations to which antiharassment orders are designed to apply. There are due process concerns. Publication is allowed with a low level of proof required.

**Who Testified:** PRO: Senator Regala, prime sponsor; Susanne Brown-McBride, Washington Coalition of Sexual Assault Programs; Krystal Kirk, Angela Nilsson, Beyond Survival; Pam Loginsky, Washington Association of Prosecuting Attorneys.

CON: Kim Gordon, Washington Association of Criminal Defense Lawyers.