

SENATE BILL REPORT

SHB 2487

As Reported By Senate Committee On:
Judiciary, February 27, 2008

Title: An act relating to vulnerable adult protection orders.

Brief Description: Concerning vulnerable adult protection orders.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Moeller and Morrell).

Brief History: Passed House: 2/13/08, 96-0.

Committee Activity: Judiciary: 2/22/08, 2/27/08 [DPA].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended.

Signed by Senators Kline, Chair; Tom, Vice Chair; McCaslin, Ranking Minority Member; Carrell, Hargrove, McDermott, Roach and Weinstein.

Staff: Lidia Mori (786-7755)

Background: A vulnerable adult who is suffering from abandonment, abuse, financial exploitation, or neglect may petition the superior court for an order for protection. In addition, a person who is interested in the welfare of a vulnerable adult may file a petition for an order for protection. A protection order may extend for a specified period up to five years and may include any relief the court deems necessary to protect the vulnerable adult, such as restraining the respondent from contact or further acts of abuse, neglect, or financial exploitation, or restraining the sale of the vulnerable adult's property.

Notice of all hearings relating to a petition for a vulnerable adult protection order must be personally served on the respondent, and on the vulnerable adult if a person other than the vulnerable adult files the petition. The court may allow alternative service of the notice by mail or by publication when good faith attempts at personal service have been unsuccessful. The statute does not specify the method for providing service by publication or mail.

Provisions of the law governing most types of protection orders require the court clerk to forward to the appropriate law enforcement agency a notice that a protection order has been entered. The law enforcement agency must enter the protection order into the computerized system used by law enforcement to list outstanding warrants. There is no requirement that vulnerable adult protection orders be entered into this state database.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Judicial Information System (JIS) must include information relating to all protection orders issued in a variety of proceedings, including proceedings involving domestic violence, sexual assault, anti-harassment, family law, and vulnerable adults. The information must include the names of the parties, the cause number, the criminal histories of the parties, and any other relevant information necessary to assist courts.

Summary of Bill (Recommended Amendments): The court may order service of the petition for an order for protection of a vulnerable adult and notice of hearing by publication, instead of personal service, under the following circumstances:

- the person attempting service files an affidavit that he or she is unable to complete personal service;
- the petitioner files an affidavit that he or she believes the party to be served is hiding or being hidden to avoid service;
- the server has mailed the summons, notice of hearing, and ex parte order to the last known address of the party to be served; or
- the court finds there are reasonable grounds to believe the party to be served is concealing himself/herself, or is being concealed, to avoid service, and further attempts at personal service would be futile or unduly burdensome.

If the court allows service by publication, the court must re-issue any temporary order for protection for a period not to exceed 24 days. The method of complying with service by publication and the required components of the summons are established. The court may authorize service by mail under the same circumstances justifying service by publication if the court determines that service by mail is just as likely to give actual notice as service by publication, and the serving party can't afford the costs of service by publication.

The clerk of the court must forward a copy of any vulnerable adult protection order entered by the court to the appropriate law enforcement agency specified in the order. The law enforcement agency must enter the order into the Washington Crime Information Center system (WACIC). The order is fully enforceable in any county in the state and entry of the order constitutes notice to all law enforcement agencies of the existence of the order. The order remains in the WACIC for the period stated in the order and may be expunged from the WACIC only if the order has expired, or been vacated or superseded. Before issuing a vulnerable adult protection order, the court should conduct a check of the JIS for the existence of other orders affecting the parties to the petition, criminal history of the parties, and other relevant information necessary to assist the court in issuing the order. A party includes an interested person who is filing the petition on behalf of a vulnerable adult, other than the vulnerable adult's court-appointed guardian or a representative of the Department of Social and Health Services.

EFFECT OF CHANGES MADE BY JUDICIARY COMMITTEE (Recommended Amendments): Personal service of a petition for an order for protection of a vulnerable adult must be made upon the respondent not less than five days before the hearing on the petition.

The court may order service of the petition for an order for protection of a vulnerable adult and notice of hearing by publication, instead of personal service, under the following circumstances:

- the person attempting service files an affidavit that he or she is unable to complete personal service;
- the petitioner files an affidavit that he or she believes the party to be served is hiding or being hidden to avoid service;
- the server has mailed the summons, notice of hearing, and ex parte order to the last known address of the party to be served; or
- the court finds there are reasonable grounds to believe the party to be served is concealing himself/herself, or is being concealed, to avoid service, and further attempts at personal service would be futile or unduly burdensome.

If timely service cannot be made, the court shall set a new hearing date and shall either require up to two more attempts at obtaining personal service or permit service by publication. If the court allows service by publication, it must re-issue any temporary order for protection for a period not to exceed 24 days. The method of complying with service by publication and the required components of the summons are established. The court may authorize service by mail under the same circumstances justifying service by publication if the court determines that service by mail is just as likely to give actual notice as service by publication, and the serving party can't afford the costs of service by publication.

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Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Substitute Bill: PRO: This bill cleans up some issues that were identified last session when the Legislature considered a number of bills that addressed vulnerable adults.

Persons Testifying: PRO: Representative Moeller, prime sponsor.