
Judiciary Committee

SSB 5579

Title: An act relating to harassment.

Brief Description: Modifying harassment provisions.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Kline and Pflug).

Brief Summary of Substitute Bill

- Provides district courts with exclusive original jurisdiction over proceedings related to civil anti-harassment protection orders.
- Prohibits the courts from restricting a respondent to a civil anti-harassment protection order from communicating with third parties, caring for his or her minor children, and enjoying his or her real property.
- Repeals fee exemptions for civil anti-harassment protection order petitions.
- Provides that violating a harassment no-contact order issued under a local ordinance is a misdemeanor under state law.

Hearing Date: 3/10/11

Staff: Kelly Pfundheller (786-7289).

Background:

There are several types of orders a court may grant that restrict a person from harassing another person. Although there is potential overlap, the orders generally differ in who they apply to and in what context. For example, civil anti-harassment protection orders are civil orders and may be obtained by a person who is the victim of ongoing conduct that is considered seriously annoying, alarming, or harassing. Harassment no-contact orders are available in criminal proceedings and may be imposed as a condition of release or sentence.

Civil Anti-Harassment Protection Orders.

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.

A victim of unlawful harassment (the petitioner) may obtain a civil anti-harassment protection order if the petitioner fears violence or suffers substantial emotional distress from an unrelated person (the respondent). Civil anti-harassment protection orders are separate and distinct from harassment no-contact orders because they are not associated with criminal charges.

There are three types of trial courts in Washington: superior courts, district courts, and municipal courts. Each has differing levels of jurisdiction over the subject matter areas. District courts have jurisdiction to grant anti-harassment protection orders and municipal courts may opt to exercise jurisdiction by adopting procedures through local court rules. Superior courts have concurrent jurisdiction when a case is transferred from a district court or municipal court. A transfer to superior court is required when the respondent is under 18 years of age. In addition, a district court or municipal court may transfer an action for an anti-harassment protection order to a superior court when a judge makes findings of fact and conclusions of law showing that meritorious reasons exist for the transfer.

The petitioner may request that a district court grant an anti-harassment protection order against the respondent. If the court finds by a preponderance of the evidence that unlawful harassment exists, it must grant an order to the petitioner that prohibits the respondent from engaging in the harassment. A knowing violation of an anti-harassment protection order is a gross misdemeanor.

The filing fee and service of process costs are waived if the petitioner is seeking an anti-harassment protection order to obtain relief from: (1) a person who has stalked him or her; (2) a person who has engaged in conduct that would constitute a sex offense; or (3) a family or household member who has engaged in conduct that constitutes domestic violence.

Harassment No-Contact Orders Relating to Criminal Charges.

When a defendant charged with a crime involving harassment is released from custody before trial, the court authorizing the release may issue a no-contact order that restricts the defendant from contacting the victim and other witnesses in the case. If the defendant is found guilty, the court may issue a no-contact order as a condition of the sentence. An intentional violation of a no-contact order issued under state law is a misdemeanor.

Summary of Bill:

Civil Anti-Harassment Protection Orders.

District courts have exclusive original jurisdiction to grant civil anti-harassment protection orders and municipal courts may opt to exercise jurisdiction by adopting procedures through local court rules. The district court or municipal court must transfer proceedings to the superior court if:

- the respondent to the petition is under 18 years of age;
- the action involves title or possession of real property;
- a superior court has exercised or is exercising jurisdiction over a proceeding involving the parties; or
- the action would have the effect of interfering with a respondent's care, control, or custody of the respondent's minor child.

Prior to granting an ex parte temporary anti-harassment protection order or a civil anti-harassment protection order, the court may consult the judicial information system for records regarding criminal histories and other current proceedings involving the parties. In granting an ex parte temporary anti-harassment protection order or a civil anti-harassment protection, the court cannot restrict the respondent's:

- communication with third parties other than the petitioner or petitioner's minor child unless the respondent's prior communications with third parties contained threats to the physical safety of the petitioner or petitioner's family;
- use or enjoyment of his or her real property unless the order is related to dissolution proceedings or a separate action involving the title or possession of real property; and
- right to care, control, or custody of his or her minor child, unless the order is related to dissolution proceedings, non-parental actions for child custody, or proceedings under the Uniform Parentage Act or the Family Reconciliation Act.

The bill eliminates the fee waiver currently available to certain petitioners.

Harassment No-Contact Orders Relating to Criminal Charges.

A violation of a harassment no-contact order issued under an equivalent local ordinance is considered a misdemeanor under state law.

Appropriation: None.

Fiscal Note: Available.

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