

SENATE BILL REPORT

SHB 1626

As Reported by Senate Committee On:
Judiciary, March 22, 2011

Title: An act relating to harassment.

Brief Description: Modifying harassment provisions.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Goodman and Rodne).

Brief History: Passed House: 3/01/11, 97-0.

Committee Activity: Judiciary: 3/18/11, 3/22/11 [DPA].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended.

Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug, Ranking Minority Member; Baxter, Carrell, Hargrove, Kohl-Welles and Regala.

Staff: Juliana Roe (786-7438)

Background: 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) because the petitioner has been seriously alarmed, annoyed, or harassed by the respondent through conduct that serves no legitimate or lawful purpose. Anti-harassment protection orders are separate and distinct from domestic violence protection orders, restraining orders, and no-contact orders.

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.

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 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.

Summary of Bill (Recommended Amendments): District courts have 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 (1) the respondent to the petition is under 18 years of age; (2) the action involves title or possession of real property; (3) a superior court has exercised or is exercising jurisdiction over a proceeding involving the parties; or (3) 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 order, the court cannot restrict the respondent's (1) constitutionally protected free speech rights; (2) 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 (3) 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.

EFFECT OF CHANGES MADE BY JUDICIARY COMMITTEE (Recommended Amendments): An intentional violation of a court order by a defendant charged with a crime involving harassment under RCW 9A.46.040, or the equivalent local ordinance, is a misdemeanor.

A willful violation of a court order by a defendant found guilty of the crime of harassment issued under RCW 9A.46.080, or the equivalent local ordinance, is a misdemeanor.

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 House Bill: PRO: The goal is to get these cases into district courts. The House removed some troublesome provisions from the original bill, such as the fee waiver which would have disqualified the state from federal money. It also took care of a few other concerns.

We understand there was confusion about language regarding constitutionally protected speech. That was language that was agreed upon by the domestic violence advocates and the courts. We support that language.

People always have the option to be heard by an elected judge. In fact, both parties must agree to have a pro tem judge or a court commissioner make a decision in a case. You also have the right to a hearing on revision if you don't like a commissioner's ruling

Persons Testifying: PRO: Representative Goodman, prime sponsor; Grace Huang, Washington State Coalition Against Domestic Violence; Judge Steve Warning, Superior Court Judges Association.