
HOUSE BILL 1180

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By Representatives Goodman, Pedersen, Roberts, Maxwell, Kenney, Orwall, Rolfes, Lias, Kelley, Hurst, Frockt, Fitzgibbon, Upthegrove, Ladenburg, Stanford, Dickerson, and Jinkins

Read first time 01/14/11. Referred to Committee on Judiciary.

1 AN ACT Relating to expanding the protections for victims of
2 stalking and harassment in antiharassment protection orders; amending
3 RCW 10.14.080 and 10.31.100; and adding a new section to chapter 10.14
4 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 10.14.080 and 2001 c 311 s 1 are each amended to read
7 as follows:

8 (1) Upon filing a petition for a civil antiharassment protection
9 order under this chapter, the petitioner may obtain an ex parte
10 temporary antiharassment protection order. An ex parte temporary
11 antiharassment protection order may be granted with or without notice
12 upon the filing of an affidavit which, to the satisfaction of the
13 court, shows reasonable proof of unlawful harassment of the petitioner
14 by the respondent and that great or irreparable harm will result to the
15 petitioner if the temporary antiharassment protection order is not
16 granted.

17 (2) An ex parte temporary antiharassment protection order shall be
18 effective for a fixed period not to exceed fourteen days or twenty-four
19 days if the court has permitted service by publication under RCW

1 10.14.085. The ex parte order may be reissued. A full hearing, as
2 provided in this chapter, shall be set for not later than fourteen days
3 from the issuance of the temporary order or not later than twenty-four
4 days if service by publication is permitted. Except as provided in RCW
5 10.14.070 and 10.14.085, the respondent shall be personally served with
6 a copy of the ex parte order along with a copy of the petition and
7 notice of the date set for the hearing. The ex parte order and notice
8 of hearing shall include at a minimum the date and time of the hearing
9 set by the court to determine if the temporary order should be made
10 effective for one year or more, and notice that if the respondent
11 should fail to appear or otherwise not respond, an order for protection
12 will be issued against the respondent pursuant to the provisions of
13 this chapter, for a minimum of one year from the date of the hearing.
14 The notice shall also include a brief statement of the provisions of
15 the ex parte order and notify the respondent that a copy of the ex
16 parte order and notice of hearing has been filed with the clerk of the
17 court.

18 (3) At the hearing, if the court finds by a preponderance of the
19 evidence that unlawful harassment exists, a civil antiharassment
20 protection order shall issue prohibiting such unlawful harassment.

21 (4) An order issued under this chapter shall be effective for not
22 more than one year unless the court finds that the respondent is likely
23 to resume unlawful harassment of the petitioner when the order expires.
24 If so, the court may enter an order for a fixed time exceeding one year
25 or may enter a permanent antiharassment protection order. The court
26 shall not enter an order that is effective for more than one year if
27 the order restrains the respondent from contacting the respondent's
28 minor children. This limitation is not applicable to civil
29 antiharassment protection orders issued under chapter 26.09, 26.10, or
30 26.26 RCW. If the petitioner seeks relief for a period longer than one
31 year on behalf of the respondent's minor children, the court shall
32 advise the petitioner that the petitioner may apply for renewal of the
33 order as provided in this chapter or if appropriate may seek relief
34 pursuant to chapter 26.09 or 26.10 RCW.

35 (5) At any time within the three months before the expiration of
36 the order, the petitioner may apply for a renewal of the order by
37 filing a petition for renewal. The petition for renewal shall state
38 the reasons why the petitioner seeks to renew the protection order.

1 Upon receipt of the petition for renewal, the court shall order a
2 hearing which shall be not later than fourteen days from the date of
3 the order. Except as provided in RCW 10.14.085, personal service shall
4 be made upon the respondent not less than five days before the hearing.
5 If timely service cannot be made the court shall set a new hearing date
6 and shall either require additional attempts at obtaining personal
7 service or permit service by publication as provided by RCW 10.14.085.
8 If the court permits service by publication, the court shall set the
9 new hearing date not later than twenty-four days from the date of the
10 order. If the order expires because timely service cannot be made the
11 court shall grant an ex parte order of protection as provided in this
12 section. The court shall grant the petition for renewal unless the
13 respondent proves by a preponderance of the evidence that the
14 respondent will not resume harassment of the petitioner when the order
15 expires. The court may renew the protection order for another fixed
16 time period or may enter a permanent order as provided in subsection
17 (4) of this section.

18 (6) The court, in granting an ex parte temporary antiharassment
19 protection order or a civil antiharassment protection order, shall have
20 broad discretion to grant such relief as the court deems proper,
21 including an order:

22 (a) Restraining the respondent from making any attempts to contact
23 the petitioner;

24 (b) Restraining the respondent from making any attempts to keep the
25 petitioner under surveillance;

26 (c) Requiring the respondent to stay a stated distance from the
27 petitioner's residence and workplace; ((and))

28 (d) Requiring the respondent to submit to electronic monitoring.
29 The order must specify who shall provide the electronic monitoring
30 services and the terms under which the monitoring must be performed.
31 The order also may include a requirement that the respondent pay the
32 costs of the monitoring. The court shall consider the ability of the
33 respondent to pay for electronic monitoring; and

34 (e) Considering the provisions of RCW 9.41.800.

35 (7) A petitioner may not obtain an ex parte temporary
36 antiharassment protection order against a respondent if the petitioner
37 has previously obtained two such ex parte orders against the same

1 respondent but has failed to obtain the issuance of a civil
2 antiharassment protection order unless good cause for such failure can
3 be shown.

4 (8) The court order shall specify the date an order issued pursuant
5 to subsections (4) and (5) of this section expires if any. The court
6 order shall also state whether the court issued the protection order
7 following personal service or service by publication and whether the
8 court has approved service by publication of an order issued under this
9 section.

10 NEW SECTION. **Sec. 2.** A new section is added to chapter 10.14 RCW
11 to read as follows:

12 (1) When the court issues an order under this chapter and finds
13 that a respondent has engaged in unlawful harassment that constitutes
14 stalking, as defined in RCW 9A.46.110, the court shall, in addition to
15 all other requirements of this chapter:

16 (a) Enter the findings in writing;

17 (b) Notify the respondent in writing that the order is issued based
18 on a finding that the respondent has engaged in stalking against the
19 petitioner; and

20 (c) Notify the respondent that a violation of the order may result
21 in an arrest under RCW 10.31.100.

22 (2) By December 1, 2011, the administrative office of the courts
23 shall develop a pattern form for antiharassment protection orders based
24 on acts of stalking as provided in this section. The pattern form must
25 include:

26 (a) A conspicuous designation on its face for the courts and law
27 enforcement to distinguish the order as an antiharassment protection
28 order based on acts of stalking;

29 (b) Notice to the respondent that the order is issued based on a
30 finding that the respondent has engaged in stalking against the
31 petitioner;

32 (c) Notice, in a conspicuous location, of the criminal penalties
33 resulting from a violation of the order;

34 (d) Notice, in a conspicuous location, that violation of the order
35 will result in mandatory arrest under RCW 10.31.100; and

36 (e) Notice of the authority of the courts to issue, modify, and
37 terminate orders under this chapter.

1 (3) The administrative office of the courts shall distribute a
2 master copy of the pattern form to all court clerks and shall
3 distribute a master copy of the pattern form to all superior, district,
4 and municipal courts. By January 1, 2012, a protection order based on
5 stalking as provided in this section must substantially comply with the
6 pattern form developed by the administrative office of the courts.

7 (4) The administrative office of the courts shall determine the
8 significant nonEnglish-speaking or limited English-speaking populations
9 in the state. The administrative office of the courts shall then
10 arrange for translation of the pattern form into the languages spoken
11 by those significant nonEnglish-speaking populations, and shall
12 distribute a master copy of the translated instructions to all court
13 clerks by March 1, 2012.

14 (5) The administrative office of the courts shall update the
15 pattern form when changes in the law make an update necessary.

16 **Sec. 3.** RCW 10.31.100 and 2010 c 274 s 201 are each amended to
17 read as follows:

18 A police officer having probable cause to believe that a person has
19 committed or is committing a felony shall have the authority to arrest
20 the person without a warrant. A police officer may arrest a person
21 without a warrant for committing a misdemeanor or gross misdemeanor
22 only when the offense is committed in the presence of the officer,
23 except as provided in subsections (1) through (10) of this section.

24 (1) Any police officer having probable cause to believe that a
25 person has committed or is committing a misdemeanor or gross
26 misdemeanor, involving physical harm or threats of harm to any person
27 or property or the unlawful taking of property or involving the use or
28 possession of cannabis, or involving the acquisition, possession, or
29 consumption of alcohol by a person under the age of twenty-one years
30 under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070
31 or 9A.52.080, shall have the authority to arrest the person.

32 (2) A police officer shall arrest and take into custody, pending
33 release on bail, personal recognizance, or court order, a person
34 without a warrant when the officer has probable cause to believe that:

35 (a) An order has been issued of which the person has knowledge
36 under RCW 26.44.063, chapter 10.14 RCW when based on acts of stalking
37 under section 2 of this act, or chapter 7.90, 10.99, 26.09, 26.10,

1 26.26, 26.50, or 74.34 RCW restraining the person and the person has
2 violated the terms of the order restraining the person from acts or
3 threats of violence, or restraining the person from going onto the
4 grounds of or entering a residence, workplace, school, or day care, or
5 prohibiting the person from knowingly coming within, or knowingly
6 remaining within, a specified distance of a location or, in the case of
7 an order issued under RCW 26.44.063, imposing any other restrictions or
8 conditions upon the person; or

9 (b) A foreign protection order, as defined in RCW 26.52.010, has
10 been issued of which the person under restraint has knowledge and the
11 person under restraint has violated a provision of the foreign
12 protection order prohibiting the person under restraint from contacting
13 or communicating with another person, or excluding the person under
14 restraint from a residence, workplace, school, or day care, or
15 prohibiting the person from knowingly coming within, or knowingly
16 remaining within, a specified distance of a location, or a violation of
17 any provision for which the foreign protection order specifically
18 indicates that a violation will be a crime; or

19 (c) The person is sixteen years or older and within the preceding
20 four hours has assaulted a family or household member as defined in RCW
21 10.99.020 and the officer believes: (i) A felonious assault has
22 occurred; (ii) an assault has occurred which has resulted in bodily
23 injury to the victim, whether the injury is observable by the
24 responding officer or not; or (iii) that any physical action has
25 occurred which was intended to cause another person reasonably to fear
26 imminent serious bodily injury or death. Bodily injury means physical
27 pain, illness, or an impairment of physical condition. When the
28 officer has probable cause to believe that family or household members
29 have assaulted each other, the officer is not required to arrest both
30 persons. The officer shall arrest the person whom the officer believes
31 to be the primary physical aggressor. In making this determination,
32 the officer shall make every reasonable effort to consider: (i) The
33 intent to protect victims of domestic violence under RCW 10.99.010;
34 (ii) the comparative extent of injuries inflicted or serious threats
35 creating fear of physical injury; and (iii) the history of domestic
36 violence of each person involved, including whether the conduct was
37 part of an ongoing pattern of abuse.

1 (3) Any police officer having probable cause to believe that a
2 person has committed or is committing a violation of any of the
3 following traffic laws shall have the authority to arrest the person:

4 (a) RCW 46.52.010, relating to duty on striking an unattended car
5 or other property;

6 (b) RCW 46.52.020, relating to duty in case of injury to or death
7 of a person or damage to an attended vehicle;

8 (c) RCW 46.61.500 or 46.61.530, relating to reckless driving or
9 racing of vehicles;

10 (d) RCW 46.61.502 or 46.61.504, relating to persons under the
11 influence of intoxicating liquor or drugs;

12 (e) RCW 46.20.342, relating to driving a motor vehicle while
13 operator's license is suspended or revoked;

14 (f) RCW 46.61.5249, relating to operating a motor vehicle in a
15 negligent manner.

16 (4) A law enforcement officer investigating at the scene of a motor
17 vehicle accident may arrest the driver of a motor vehicle involved in
18 the accident if the officer has probable cause to believe that the
19 driver has committed in connection with the accident a violation of any
20 traffic law or regulation.

21 (5) Any police officer having probable cause to believe that a
22 person has committed or is committing a violation of RCW 79A.60.040
23 shall have the authority to arrest the person.

24 (6) An officer may act upon the request of a law enforcement
25 officer in whose presence a traffic infraction was committed, to stop,
26 detain, arrest, or issue a notice of traffic infraction to the driver
27 who is believed to have committed the infraction. The request by the
28 witnessing officer shall give an officer the authority to take
29 appropriate action under the laws of the state of Washington.

30 (7) Any police officer having probable cause to believe that a
31 person has committed or is committing any act of indecent exposure, as
32 defined in RCW 9A.88.010, may arrest the person.

33 (8) Unless an arrest is mandatory under subsection (2) of this
34 section, a police officer may arrest and take into custody, pending
35 release on bail, personal recognizance, or court order, a person
36 without a warrant when the officer has probable cause to believe that
37 an order has been issued of which the person has knowledge under
38 chapter 10.14 RCW and the person has violated the terms of that order.

1 (9) Any police officer having probable cause to believe that a
2 person has, within twenty-four hours of the alleged violation,
3 committed a violation of RCW 9A.50.020 may arrest such person.

4 (10) A police officer having probable cause to believe that a
5 person illegally possesses or illegally has possessed a firearm or
6 other dangerous weapon on private or public elementary or secondary
7 school premises shall have the authority to arrest the person.

8 For purposes of this subsection, the term "firearm" has the meaning
9 defined in RCW 9.41.010 and the term "dangerous weapon" has the meaning
10 defined in RCW 9.41.250 and 9.41.280(1) (c) through (e).

11 (11) Except as specifically provided in subsections (2), (3), (4),
12 and (6) of this section, nothing in this section extends or otherwise
13 affects the powers of arrest prescribed in Title 46 RCW.

14 (12) No police officer may be held criminally or civilly liable for
15 making an arrest pursuant to subsection (2) or (8) of this section if
16 the police officer acts in good faith and without malice.

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