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**SUBSTITUTE HOUSE BILL 1626**

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**State of Washington                      62nd Legislature                      2011 Regular Session**

**By** House Judiciary (originally sponsored by Representatives Goodman and Rodne)

READ FIRST TIME 02/16/11.

1            AN ACT Relating to harassment; amending RCW 10.14.150, 10.14.020,  
2 and 10.14.080; and adding a new section to chapter 10.14 RCW.

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

4            **Sec. 1.** RCW 10.14.150 and 2005 c 196 s 1 are each amended to read  
5 as follows:

6            (1) The district courts shall have original jurisdiction and  
7 cognizance of any civil actions and proceedings brought under this  
8 chapter, except the district court shall transfer such actions and  
9 proceedings to the superior court when it is shown that (a) the  
10 respondent to the petition is under eighteen years of age; (b) the  
11 action involves title or possession of real property; (c) a superior  
12 court has exercised or is exercising jurisdiction over a proceeding  
13 involving the parties; or (d) the action would have the effect of  
14 interfering with a respondent's care, control, or custody of the  
15 respondent's minor child.

16            (2) Municipal courts may exercise jurisdiction and cognizance of  
17 any civil actions and proceedings brought under this chapter by  
18 adoption of local court rule, except the municipal court shall transfer  
19 such actions and proceedings to the superior court when it is shown

1 that (a) the respondent to the petition is under eighteen years of age;  
2 (b) the action involves title or possession of real property; (c) a  
3 superior court has exercised or is exercising jurisdiction over a  
4 proceeding involving the parties; or (d) the action would have the  
5 effect of interfering with a respondent's care, control, or custody of  
6 the respondent's minor child.

7 (3) Superior courts shall have concurrent jurisdiction to receive  
8 transfer of antiharassment petitions in cases where a district or  
9 municipal court judge makes findings of fact and conclusions of law  
10 showing that meritorious reasons exist for the transfer. The municipal  
11 and district courts shall have jurisdiction and cognizance of any  
12 criminal actions brought under RCW 10.14.120 and 10.14.170.

13 **Sec. 2.** RCW 10.14.020 and 2001 c 260 s 2 are each amended to read  
14 as follows:

15 Unless the context clearly requires otherwise, the definitions in  
16 this section apply throughout this chapter.

17 (1) "Unlawful harassment" means a knowing and willful course of  
18 conduct directed at a specific person which seriously alarms, annoys,  
19 harasses, or is detrimental to such person, and which serves no  
20 legitimate or lawful purpose. The course of conduct shall be such as  
21 would cause a reasonable person to suffer substantial emotional  
22 distress, and shall actually cause substantial emotional distress to  
23 the petitioner, or, when the course of conduct would cause a reasonable  
24 parent to fear for the well-being of their child.

25 (2) "Course of conduct" means a pattern of conduct composed of a  
26 series of acts over a period of time, however short, evidencing a  
27 continuity of purpose. "Course of conduct" includes, in addition to  
28 any other form of communication, contact, or conduct, the sending of an  
29 electronic communication, but does not include constitutionally  
30 protected free speech. Constitutionally protected activity is not  
31 included within the meaning of "course of conduct."

32 **Sec. 3.** RCW 10.14.080 and 2001 c 311 s 1 are each amended to read  
33 as follows:

34 (1) Upon filing a petition for a civil antiharassment protection  
35 order under this chapter, the petitioner may obtain an ex parte  
36 temporary antiharassment protection order. An ex parte temporary

1 antiharassment protection order may be granted with or without notice  
2 upon the filing of an affidavit which, to the satisfaction of the  
3 court, shows reasonable proof of unlawful harassment of the petitioner  
4 by the respondent and that great or irreparable harm will result to the  
5 petitioner if the temporary antiharassment protection order is not  
6 granted.

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

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

30 (4) An order issued under this chapter shall be effective for not  
31 more than one year unless the court finds that the respondent is likely  
32 to resume unlawful harassment of the petitioner when the order expires.  
33 If so, the court may enter an order for a fixed time exceeding one year  
34 or may enter a permanent antiharassment protection order. The court  
35 shall not enter an order that is effective for more than one year if  
36 the order restrains the respondent from contacting the respondent's  
37 minor children. This limitation is not applicable to civil  
38 antiharassment protection orders issued under chapter 26.09, 26.10, or

1 26.26 RCW. If the petitioner seeks relief for a period longer than one  
2 year on behalf of the respondent's minor children, the court shall  
3 advise the petitioner that the petitioner may apply for renewal of the  
4 order as provided in this chapter or if appropriate may seek relief  
5 pursuant to chapter 26.09 or 26.10 RCW.

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

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

31 (a) Restraining the respondent from making any attempts to contact  
32 the petitioner;

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

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

37 (d) Considering the provisions of RCW 9.41.800.

1       (7) The court in granting an ex parte temporary antiharassment  
2 protection order or a civil antiharassment protection order, shall not  
3 prohibit the respondent from exercising constitutionally protected free  
4 speech. Nothing in this section prohibits the petitioner from  
5 utilizing other civil or criminal remedies to restrain conduct or  
6 communications not otherwise constitutionally protected.

7       (8) The court in granting an ex parte temporary antiharassment  
8 protection order or a civil antiharassment protection order, shall not  
9 prohibit the respondent from the use or enjoyment of real property to  
10 which the respondent has a cognizable claim unless that order is issued  
11 under chapter 26.09 RCW or under a separate action commenced with a  
12 summons and complaint to determine title or possession of real  
13 property.

14       (9) The court in granting an ex parte temporary antiharassment  
15 protection order or a civil antiharassment protection order, shall not  
16 limit the respondent's right to care, control, or custody of the  
17 respondent's minor child, unless that order is issued under chapter  
18 13.32A, 26.09, 26.10, or 26.26 RCW.

19       (10) A petitioner may not obtain an ex parte temporary  
20 antiharassment protection order against a respondent if the petitioner  
21 has previously obtained two such ex parte orders against the same  
22 respondent but has failed to obtain the issuance of a civil  
23 antiharassment protection order unless good cause for such failure can  
24 be shown.

25       ((+8)) (11) The court order shall specify the date an order issued  
26 pursuant to subsections (4) and (5) of this section expires if any.  
27 The court order shall also state whether the court issued the  
28 protection order following personal service or service by publication  
29 and whether the court has approved service by publication of an order  
30 issued under this section.

31       NEW SECTION. Sec. 4. A new section is added to chapter 10.14 RCW  
32 to read as follows:

33       Before granting an order under this chapter, the court may consult  
34 the judicial information system, if available, to determine criminal  
35 history or the pendency of other proceedings involving the parties.

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