
SENATE BILL 5552

State of Washington

62nd Legislature

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By Senators Kohl-Welles, Holmquist Newbry, Keiser, Conway, King, and Shin

Read first time 01/28/11. Referred to Committee on Labor, Commerce & Consumer Protection.

1 AN ACT Relating to protections against workplace harassment in
2 antiharassment protection orders; and amending RCW 10.14.010,
3 10.14.020, 10.14.040, and 10.14.080; and adding new sections to chapter
4 10.14 RCW.

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

6 **Sec. 1.** RCW 10.14.010 and 1987 c 280 s 1 are each amended to read
7 as follows:

8 The legislature finds that serious, personal harassment through
9 repeated invasions of a person's privacy by acts and words showing a
10 pattern of harassment designed to coerce, intimidate, or humiliate the
11 victim is increasing. The legislature further finds that the
12 prevention of such harassment is an important governmental objective.
13 This chapter is intended to provide victims and, with respect to
14 harassment affecting the workplace, employers with a speedy and
15 inexpensive method of obtaining civil antiharassment protection orders
16 preventing all further unwanted contact between the victim and the
17 perpetrator.

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

3 Unless the context clearly requires otherwise, the definitions in
4 this section apply throughout this chapter.

5 (1) "Unlawful harassment" means a knowing and willful course of
6 conduct directed at a specific person or employer which seriously
7 alarms, annoys, harasses, or is detrimental to such person or employer,
8 and which serves no legitimate or lawful purpose. The course of
9 conduct shall be such as would cause a reasonable person to suffer
10 substantial emotional distress, and shall actually cause substantial
11 emotional distress to the petitioner, or, when the course of conduct
12 would cause a reasonable parent to fear for the well-being of their
13 child.

14 (2) "Course of conduct" means a pattern of conduct composed of a
15 series of acts over a period of time, however short, evidencing a
16 continuity of purpose. "Course of conduct" includes, in addition to
17 any other form of communication, contact, or conduct, the sending of an
18 electronic communication. Constitutionally protected activity is not
19 included within the meaning of "course of conduct."

20 (3) "Employer" means an individual, partnership, association, or
21 corporation, or a person or group of persons who act, directly or
22 indirectly, on behalf of or in the interest of an employer and with the
23 consent of the employer. "Employer" includes the state, a political
24 subdivision of the state, and any school district or other special
25 district.

26 (4) "Domestic violence" has the same meaning as defined in RCW
27 26.50.010.

28 (5) "Sexual assault" has the same meaning as defined in RCW
29 70.125.030.

30 (6) "Stalking" has the same meaning as defined in RCW 9A.46.110.

31 **Sec. 3.** RCW 10.14.040 and 2002 c 117 s 1 are each amended to read
32 as follows:

33 There shall exist an action known as a petition for an order for
34 protection in cases of unlawful harassment.

35 (1) A petition for relief shall allege the existence of harassment
36 and shall be accompanied by an affidavit made under oath stating the
37 specific facts and circumstances from which relief is sought.

1 (2) A petition for relief may be made regardless of whether or not
2 there is a pending lawsuit, complaint, petition, or other action
3 between the parties.

4 (3) All court clerks' offices shall make available simplified forms
5 and instructional brochures. Any assistance or information provided by
6 clerks under this section does not constitute the practice of law and
7 clerks are not responsible for incorrect information contained in a
8 petition.

9 (4) Filing fees are set in RCW 36.18.020, but no filing fee may be
10 charged for a petition filed in an existing action or under an existing
11 cause number brought under this chapter in the jurisdiction where the
12 relief is sought or as provided in RCW 10.14.055. Forms and
13 instructional brochures shall be provided free of charge.

14 (5) A person is not required to post a bond to obtain relief in any
15 proceeding under this section.

16 (6) The parent or guardian of a child under age eighteen may
17 petition for an order of protection to restrain a person age eighteen
18 years or over from contact with that child upon a showing that contact
19 with the person to be enjoined is detrimental to the welfare of the
20 child.

21 (7) The parent or guardian of a child under the age of eighteen may
22 petition in superior court for an order of protection to restrain a
23 person under the age of eighteen years from contact with that child
24 only in cases where the person to be restrained has been adjudicated of
25 an offense against the child protected by the order, or is under
26 investigation or has been investigated for such an offense. In issuing
27 a protection order under this subsection, the court shall consider,
28 among the other facts of the case, the severity of the alleged offense,
29 any continuing physical danger or emotional distress to the alleged
30 victim, and the expense, difficulty, and educational disruption that
31 would be caused by a transfer of the alleged offender to another
32 school. The court may order that the person restrained in the order
33 not attend the public or approved private elementary, middle, or high
34 school attended by the person under the age of eighteen years protected
35 by the order. In the event that the court orders a transfer of the
36 restrained person to another school, the parents or legal guardians of
37 the person restrained in the order are responsible for transportation
38 and other costs associated with the change of school by the person

1 restrained in the order. The court shall send notice of the
2 restriction on attending the same school as the person protected by the
3 order to the public or approved private school the person restrained by
4 the order will attend and to the school the person protected by the
5 order attends.

6 (8) An employer or an authorized agent of an employer may petition
7 for an order for protection to restrain a person from engaging in
8 unlawful harassment affecting the workplace. In issuing a protection
9 order under this subsection, the court may consider a respondent's
10 unlawful harassment of an employer, employee, and other persons
11 affecting a workplace, place of business, or persons performing
12 official work duties.

13 **Sec. 4.** RCW 10.14.080 and 2001 c 311 s 1 are each amended to read
14 as follows:

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

24 (2) An ex parte temporary antiharassment protection order shall be
25 effective for a fixed period not to exceed fourteen days or twenty-four
26 days if the court has permitted service by publication under RCW
27 10.14.085. The ex parte order may be reissued. A full hearing, as
28 provided in this chapter, shall be set for not later than fourteen days
29 from the issuance of the temporary order or not later than twenty-four
30 days if service by publication is permitted. Except as provided in RCW
31 10.14.070 and 10.14.085, the respondent shall be personally served with
32 a copy of the ex parte order along with a copy of the petition and
33 notice of the date set for the hearing. The ex parte order and notice
34 of hearing shall include at a minimum the date and time of the hearing
35 set by the court to determine if the temporary order should be made
36 effective for one year or more, and notice that if the respondent
37 should fail to appear or otherwise not respond, an order for protection

1 will be issued against the respondent pursuant to the provisions of
2 this chapter, for a minimum of one year from the date of the hearing.
3 The notice shall also include a brief statement of the provisions of
4 the ex parte order and notify the respondent that a copy of the ex
5 parte order and notice of hearing has been filed with the clerk of the
6 court.

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

10 (4) An order issued under this chapter shall be effective for not
11 more than one year unless the court finds that the respondent is likely
12 to resume unlawful harassment of the petitioner when the order expires.
13 If so, the court may enter an order for a fixed time exceeding one year
14 or may enter a permanent antiharassment protection order. The court
15 shall not enter an order that is effective for more than one year if
16 the order restrains the respondent from contacting the respondent's
17 minor children. This limitation is not applicable to civil
18 antiharassment protection orders issued under chapter 26.09, 26.10, or
19 26.26 RCW. If the petitioner seeks relief for a period longer than one
20 year on behalf of the respondent's minor children, the court shall
21 advise the petitioner that the petitioner may apply for renewal of the
22 order as provided in this chapter or if appropriate may seek relief
23 pursuant to chapter 26.09 or 26.10 RCW.

24 (5) At any time within the three months before the expiration of
25 the order, the petitioner may apply for a renewal of the order by
26 filing a petition for renewal. The petition for renewal shall state
27 the reasons why the petitioner seeks to renew the protection order.
28 Upon receipt of the petition for renewal, the court shall order a
29 hearing which shall be not later than fourteen days from the date of
30 the order. Except as provided in RCW 10.14.085, personal service shall
31 be made upon the respondent not less than five days before the hearing.
32 If timely service cannot be made the court shall set a new hearing date
33 and shall either require additional attempts at obtaining personal
34 service or permit service by publication as provided by RCW 10.14.085.
35 If the court permits service by publication, the court shall set the
36 new hearing date not later than twenty-four days from the date of the
37 order. If the order expires because timely service cannot be made the
38 court shall grant an ex parte order of protection as provided in this

1 section. The court shall grant the petition for renewal unless the
2 respondent proves by a preponderance of the evidence that the
3 respondent will not resume harassment of the petitioner when the order
4 expires. The court may renew the protection order for another fixed
5 time period or may enter a permanent order as provided in subsection
6 (4) of this section.

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

11 (a) Restraining the respondent from making any attempts to contact
12 the petitioner;

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

15 (c) Requiring the respondent to stay a stated distance from the
16 petitioner's residence ~~((and))~~, workplace, or other place of business;
17 and

18 (d) Considering the provisions of RCW 9.41.800.

19 (7) If the court grants a petition under this chapter based on
20 unlawful harassment affecting the workplace, the court may, in addition
21 to relief granted under subsection (6) of this section:

22 (a) Restrain the respondent from contacting the employer, employee,
23 or other person while that person is performing official work duties;
24 and

25 (b) Grant any other relief necessary for the protection of the
26 employer, the workplace, the employer's employees, or any other person
27 who is on or at the employer's property or place of business or who is
28 performing official work duties.

29 (8) A petitioner may not obtain an ex parte temporary
30 antiharassment protection order against a respondent if the petitioner
31 has previously obtained two such ex parte orders against the same
32 respondent but has failed to obtain the issuance of a civil
33 antiharassment protection order unless good cause for such failure can
34 be shown.

35 ~~((+8))~~ (9) The court order shall specify the date an order issued
36 pursuant to subsections (4) and (5) of this section expires if any.
37 The court order shall also state whether the court issued the

1 protection order following personal service or service by publication
2 and whether the court has approved service by publication of an order
3 issued under this section.

4 NEW SECTION. **Sec. 5.** A new section is added to chapter 10.14 RCW
5 to read as follows:

6 (1) When an employer has knowledge that a specific person or
7 persons are the target of unlawful harassment, the employer shall make
8 a good faith effort to provide notice to the person or persons that the
9 employer intends to petition the court for an order of protection under
10 this chapter. If the employer has knowledge that the unlawful
11 harassment arises from an act or acts of domestic violence, sexual
12 assault, or stalking, the employer shall, before seeking an order of
13 protection under this chapter, provide actual notice to the person and
14 obtain his or her consent prior to making a petition.

15 (2) The ability of an employer to petition for a protective order
16 under RCW 10.14.020 shall not be construed to expand, diminish, alter,
17 or modify the duty of an employer to provide a safe workplace for its
18 employees and other persons.

19 (3) No employer may discharge, threaten to discharge, demote, deny
20 a promotion to, sanction, discipline, retaliate against, harass, or
21 otherwise discriminate against an employee because the employee is a
22 target of unlawful harassment affecting the workplace or does not
23 consent, as applicable, to the petition for an order of protection.

24 NEW SECTION. **Sec. 6.** A new section is added to chapter 10.14 RCW
25 to read as follows:

26 An employer is immune from civil liability for seeking or failing
27 to seek a petition for relief under this chapter for unlawful
28 harassment in the workplace unless the employer is seeking a petition
29 for relief primarily to accomplish a purpose for which the petition was
30 not designed. An action or statement by an employer under this chapter
31 shall not be deemed an admission by the employer of any fact. An
32 action or statement by an employer under this chapter may not be used
33 for impeachment purposes.

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