

SENATE BILL REPORT

SHB 1316

As Reported by Senate Committee On:
Law & Justice, March 19, 2015

Title: An act relating to violations of a temporary protection order.

Brief Description: Allowing for an arrest without a warrant when a police officer has probable cause to believe a person has violated certain temporary protection orders.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Stambaugh, Jinkins, Nealey, Hurst, Kilduff, Reykdal, Wilson and Sawyer).

Brief History: Passed House: 3/02/15, 97-0.

Committee Activity: Law & Justice: 3/17/15, 3/19/15 [DPA].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pedersen, Ranking Minority Member; Darneille, Kohl-Welles, Pearson and Roach.

Staff: Tim Ford (786-7423)

Background: Protective Orders. A person may file a petition asking a judge to grant an order to protect the person from another person whose behavior is abusive, threatening, exploitive, or seriously alarming. There are multiple types of protections orders, each intended for specific situations. These include domestic violence protection orders, anti-harassment protection orders, sexual assault protection orders, and vulnerable adult protection orders.

A petition for an order for protection of a vulnerable adult may be brought by a vulnerable adult, or an interested person on behalf of the vulnerable adult, in cases of abandonment, abuse, financial exploitation, or neglect.

A temporary protection order may be sought without notice to the respondent in order to protect a petitioner until a hearing on the petition is held. A temporary protection order for a vulnerable adult is granted when it appears that the respondent is committing, or is threatening, to abandon, abuse, exploit, or neglect the vulnerable adult.

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.

Mandatory Arrests. Peace officers are required to arrest without a warrant and take into custody individuals who the officer has probable cause to believe has violated certain provisions of a protective order or temporary protective order issued relating to domestic violence, stalking, sexual assault, legal separation, or child custody. Mandatory arrests relating to vulnerable adult protection orders are only for violations of a protection order, not a temporary protection order. Provisions which require arrest include those that restrain a person or exclude the person from a residence, workplace, school, or daycare, or prohibit the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, if the person restrained knows of the order.

Summary of Bill (Recommended Amendments): Peace officers must arrest without a warrant and take into custody any person the officer has a probable cause to believe has violated certain provisions of temporary protection orders regarding the abuse of vulnerable adults. Provisions which require arrest for a violation of such temporary protection orders include those that restrain a person or exclude the person from a residence, workplace, school, or daycare, or prohibit the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, if the person restrained knows of the order.

Violating certain provisions of temporary protection orders regarding the abuse of vulnerable adults is a gross misdemeanor, consistent with penalties for violation of other protection orders. The provisions for which a violation would be considered a gross misdemeanor are as follows: (1) restraint provisions prohibiting acts or threats of violence or stalking; (2) provisions excluding the person from a residence, workplace, school, or daycare; (3) provisions prohibiting a person from knowingly coming within, or knowingly remaining within, a specified distance of a location; (4) provisions prohibiting interfering with the protected party's efforts to remove a pet; and (5) provisions of a foreign protection order specifically indicating that a violation is a crime.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (Recommended Amendments): Amends the title "An Act Relating to violations of a temporary protection order;" and inserts "for vulnerable adults" at the end of the title.

Appropriation: None.

Fiscal Note: Not requested.

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: This bill will protect vulnerable adults who may have functional mental or physical disabilities and need protection by the court. It will assist in both the protection and prosecution in elder abuse situations. Current law allows a court to issue a temporary adult protection order where a person can show imminent risk of harm, but the law doesn't allow immediate enforcement of such a temporary order. This bill will allow these temporary vulnerable adult orders to be treated in the same manner as other temporary protection orders such as domestic violence

protection orders. A violation of such orders is prosecutable as a criminal offense. Any arrest is subject to a showing that the restrained party had knowledge of the protective order. A sheriff may effect an immediate arrest where they learn of a violation of the temporary protection order.

Persons Testifying: PRO: Representative Stambaugh, prime sponsor; Mike Sommerfeld, Pierce County Prosecutor's Office.

Persons Signed in to Testify But Not Testifying: No one.