

HOUSE BILL REPORT

HB 2542

As Reported by House Committee On: Judiciary

Title: An act relating to obtaining ex parte temporary orders outside of normal court hours.

Brief Description: Concerning ex parte temporary orders outside of normal court hours.

Sponsors: Representatives Nealey, Goodman, Jenkin, Klippert, Haler, Smith and Hansen.

Brief History:

Committee Activity:

Judiciary: 1/17/18, 1/24/18 [DPS].

Brief Summary of Substitute Bill

- Provides for the telephonic filing and issuance of an ex parte temporary order for protection outside of normal court hours in domestic violence cases.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Graves, Assistant Ranking Minority Member; Goodman, Haler, Hansen, Kirby, Klippert, Muri, Orwall, Shea and Valdez.

Staff: Ingrid Lewis (786-7289).

Background:

An action to obtain a domestic violence temporary order for protection begins with the filing of a petition declaring that the petitioning party is a victim of domestic violence by the respondent. A petition for an ex parte temporary order for protection must be heard by the court the same day it is filed, or the next judicial day in person or by telephone. A court may issue an ex parte temporary order for protection to a person who alleges that irreparable injury could result from domestic violence if an order is not issued immediately without prior notice to the respondent. The order can provide several types of relief, including a requirement that the respondent refrain from contacting the petitioner. The clerk of the court

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.

must forward a copy of the ex parte temporary order for protection to the appropriate law enforcement agency for entry into any law enforcement databases.

Petitions and any temporary orders for protection must be served on the respondent five days before the hearing; without service, the order cannot be enforced.

Summary of Substitute Bill:

The filing of a petition for an ex parte temporary order for protection may be initiated outside of normal court hours via telephone by a victim of domestic violence. A law enforcement officer responding to an act of domestic violence may telephonically present to the court a sworn petition setting forth the need for an ex parte temporary order for protection.

An on-call judicial officer may issue an ex parte temporary order for protection when he or she finds, via sworn telephonic testimony, reasonable grounds that irreparable injury could result from domestic violence if an order is not issued immediately without prior notice to the respondent.

Upon issuance of telephonic ex parte temporary order for protection, the law enforcement officer must complete the order with the court's approval and immediately serve a copy to the petitioner. If the respondent is not available for immediate personal service of a copy of the order, the officer must immediately forward the order to the appropriate law enforcement agency for service. The law enforcement officer is required to file documentation of the ex parte petition, order, and certificate of service on the next judicial day.

Substitute Bill Compared to Original Bill:

The substitute bill clarifies that the petition for a telephonic ex parte temporary order for protection is filed by the petitioner.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Many of the things this bill speaks to are already allowed in current law. This bill applies to domestic violence situations where law enforcement officers responding to an incident see that there is a real need for victim protection. Under current law, if the alleged perpetrator is at the incident, law enforcement are commanded by law to take them into custody. While at the jail, an officer can call a judge and say that the victim needs a no

contact order and, from the jail, a judge can determine whether to issue a no contact order. With this bill, that process can occur from the residence. It gives greater protection to the victim even if the respondent has not been informed. There are instances when the respondent returns to the home after law enforcement leaves, and victims should be protected from that.

Domestic violence orders are a critical lifesaving intervention. They are one of the most innovative civil remedies we have to offer survivors. Abuse does not happen on a schedule and does not follow the schedule of the court. When officers arrive at an incident, it is an incredibly dangerous and critical time. The more options that can be offered to victims in that moment of crisis, the better. There is one proposed tweak, and that is to clarify that this is a petition initiated by the victim at their request. The statute already allows for a telephonic hearing, but it is not clear about whether that filing can occur telephonically. This allows law enforcement to respond outside of court hours to give another option to victims.

(Opposed) None.

Persons Testifying: Representative Klippert; and Tamaso Johnson, Washington State Coalition Against Domestic Violence.

Persons Signed In To Testify But Not Testifying: None.