

SENATE BILL REPORT

SHB 1350

As Reported by Senate Committee On:
Law & Justice, March 28, 2019

Title: An act relating to jurisdiction of temporary protection orders.

Brief Description: Issuing temporary protection orders.

Sponsors: House Committee on Civil Rights & Judiciary (originally sponsored by Representatives Kilduff, Irwin, Jinkins, Fey, Leavitt and Ortiz-Self).

Brief History: Passed House: 3/04/19, 60-36.

Committee Activity: Law & Justice: 3/25/19, 3/28/19 [DP, DNP, w/oRec].

Brief Summary of Bill

- Limits the district and municipal courts' jurisdiction to issuing and enforcing a temporary an anti-harassment protection order when circumstances require transfer of the case to superior court .

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Kuderer and Salomon.

Minority Report: Do not pass.

Signed by Senator Holy.

Minority Report: That it be referred without recommendation.

Signed by Senator Padden, Ranking Member.

Staff: Melissa Burke-Cain (786-7755)

Background: Civil Anti-Harassment Protection Orders. A person may file a court petition for an anti-harassment protective order when one person unlawfully harasses another person. Unlawful harassment occurs when someone willfully and knowingly engages in a course of conduct that seriously alarms, annoys, or is detrimental to the petitioner, and the alleged harasser specifically directs the conduct at the petitioner. The course of conduct includes

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subjecting the petitioner to repeated contacts, communications, electronic communications, or conduct that serves no legitimate or lawful purpose. The defined course of conduct excludes constitutionally protected free speech.

The level of harassing conduct becomes unlawful when it would cause a reasonable person to suffer substantial emotional distress and it actually causes the petitioner substantial distress. In specified circumstances, a parent may file a petition for an anti-protection order on behalf of their minor child when the conduct level would cause a reasonable parent to fear for the child's well-being.

An anti-harassment protection order expires in one year unless the court finds that the respondent will likely resume harassing the petitioner when the order expires. If so, the court may enter an order for a fixed time longer than a year or make the anti-harassment protection order permanent. The petitioner may petition for renewal of the protection order any time within the three months before the order expires.

When a person files a petition for an anti-harassment protection order, the court may also grant a temporary protection order without notice to the alleged harasser, the respondent, by filing an affidavit showing reasonable proof of unlawful harassment and that great or irreparable harm may result without a temporary order. Current law requires personal service of the temporary order and notice of hearing subject to exceptions. The temporary anti-harassment order is effective for up to 14 days and the court may reissue the temporary order.

A temporary anti-harassment protection order may restrain the respondent from attempting to contact the petitioner, keep the petitioner under surveillance, and may require the respondent to stay a stated distance away from the petitioner's residence and workplace. The court may also consider ordering the respondent to surrender firearms, dangerous weapons, and a concealed carry permit.

Limited Jurisdiction Courts. The superior courts are the state's trial courts of general jurisdiction. The district and municipal courts are courts of limited jurisdiction. The courts of limited jurisdiction hear misdemeanor criminal cases, traffic, non-traffic, and parking infractions, domestic violence protective orders, certain civil actions having an amount in controversy of \$100,000 or less, and small claims up to \$5,000.

Limited jurisdiction courts have original jurisdiction of any civil actions and proceedings under the harassment law except for specified cases. A limited jurisdiction court must transfer a case to superior court when:

- the respondent to the petition for an anti-harassment protection order is under eighteen years of age;
- the action involves title or possession of real property;
- a superior court has exercised or is exercising jurisdiction over a proceeding involving the parties; or
- the action would have the effect of interfering with a respondent's care, control, or custody or the respondent's minor child.

Superior courts have concurrent jurisdiction to receive cases transferred from the limited jurisdiction courts when the district or municipal court judge enters findings showing transfer

is appropriate. The courts of limited jurisdiction retain jurisdiction over any criminal actions for violations of anti-harassment protection orders.

Summary of Bill: A limited jurisdiction court must transfer an anti-harassment protection order case to superior court in any of the following four circumstances: (1) the respondent is under eighteen years old; (2) the case involves title or possession of real property; (3) a superior court has exercised or is exercising jurisdiction over a proceeding involving the parties; or (4) the case would interfere with respondent's care, control, or custody of the respondent's minor child. In these circumstances, the courts' jurisdiction is limited to issuing and enforcing a temporary anti-harassment protection order.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This ensures that the district and municipal court jurisdiction is clear and applied uniformly. A petitioner must demonstrate proof of unlawful harassment to obtain a temporary order. Anti-harassment orders are the only protective orders that authorizes only a temporary order at the municipal and district courts, but require transfer to superior court in certain circumstances. Currently, there is a division of practice among courts; some take the position they have jurisdiction to authorize a temporary protective order and others do not think they have jurisdiction to authorize a temporary order. This bill ensures the courts of limited jurisdiction have a uniform practice and authority to grant a temporary anti-harassment order.

Persons Testifying: PRO: Representative Christine Kilduff, Prime Sponsor; Sam Meyer, District and Municipal Court Judges Association.

Persons Signed In To Testify But Not Testifying: No one.