
SUBSTITUTE HOUSE BILL 1180

State of Washington

62nd Legislature

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By House Judiciary (originally sponsored by Representatives Goodman, Pedersen, Roberts, Maxwell, Kenney, Orwall, Rolfes, Lias, Kelley, Hurst, Frockt, Fitzgibbon, Upthegrove, Ladenburg, Stanford, Dickerson, and Jinkins)

READ FIRST TIME 02/16/11.

1 AN ACT Relating to expanding the protections for victims of
2 stalking and harassment in antiharassment protection orders; amending
3 RCW 10.14.020, 10.14.080, and 10.31.100; and adding new sections to
4 chapter 10.14 RCW.

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

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

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter.

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

18 (2) "Course of conduct" means a pattern of conduct composed of a
19 series of acts over a period of time, however short, evidencing a

1 continuity of purpose. "Course of conduct" includes, in addition to
2 any other form of communication, contact, or conduct, the sending of an
3 electronic communication. Constitutionally protected activity is not
4 included within the meaning of "course of conduct."

5 (3) "Global positioning system monitoring" and "GPS monitoring"
6 refer to an automated and time-correlated monitoring system that tracks
7 a person's geographic location by a device that uses the global
8 positioning system, and that provides a mechanism for a third party to
9 receive notification when the monitored person breaks a distance
10 restriction imposed by the court.

11 **Sec. 2.** RCW 10.14.080 and 2001 c 311 s 1 are each amended to read
12 as follows:

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

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

1 The notice shall also include a brief statement of the provisions of
2 the ex parte order and notify the respondent that a copy of the ex
3 parte order and notice of hearing has been filed with the clerk of the
4 court.

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

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

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

1 respondent will not resume harassment of the petitioner when the order
2 expires. The court may renew the protection order for another fixed
3 time period or may enter a permanent order as provided in subsection
4 (4) of this section.

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

9 (a) Restraining the respondent from making any attempts to contact
10 the petitioner;

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

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

15 (d) Considering the provisions of RCW 9.41.800.

16 (7) If the court grants a civil antiharassment protection order
17 under this chapter, the court may, in addition to relief granted under
18 subsection (6) of this section:

19 (a) Require the respondent to participate in treatment or
20 counseling services; and

21 (b) Require the respondent to submit to global positioning system
22 monitoring if there is clear and convincing evidence that the
23 respondent poses a danger to the petitioner. The court shall consider,
24 but is not limited to considering, any of the following conduct as
25 evidence of posing a danger: Whether the respondent has previously
26 committed violent acts against the petitioner; whether the respondent
27 has threatened the petitioner with harm; whether the respondent has
28 threatened or is threatening suicide; whether the respondent has
29 visited the petitioner's residence against the petitioner's requests;
30 whether the respondent's violent or stalking behavior is escalating;
31 and whether the respondent has a history of violating protection
32 orders. The court may require the respondent to pay the costs of the
33 global positioning system monitoring unless the court finds that the
34 respondent is unable to pay the costs.

35 (8) A petitioner may not obtain an ex parte temporary
36 antiharassment protection order against a respondent if the petitioner
37 has previously obtained two such ex parte orders against the same

1 respondent but has failed to obtain the issuance of a civil
2 antiharassment protection order unless good cause for such failure can
3 be shown.

4 ~~((8))~~ (9) The court order shall specify the date an order issued
5 pursuant to subsections (4) and (5) of this section expires if any.
6 The court order shall also state whether the court issued the
7 protection order following personal service or service by publication
8 and whether the court has approved service by publication of an order
9 issued under this section.

10 NEW SECTION. **Sec. 3.** A new section is added to chapter 10.14 RCW
11 to read as follows:

12 (1) When the court issues an order under this chapter and finds
13 that a respondent has engaged in unlawful harassment that constitutes
14 stalking, as defined in subsection (7) of this section, the court
15 shall, in addition to all other requirements of this chapter:

16 (a) Notify the respondent in writing that the order is issued based
17 on a finding that the respondent has engaged in stalking against the
18 petitioner; and

19 (b) Notify the respondent that a violation of the order may result
20 in an arrest under RCW 10.31.100.

21 (2) If the court finds that a respondent has engaged in unlawful
22 harassment that constitutes stalking under this section, the court may
23 incorporate its oral findings by reference into any written order.

24 (3) By December 1, 2011, the administrative office of the courts
25 shall develop a pattern form for antiharassment protection orders based
26 on acts of stalking as provided in this section. The pattern form must
27 include:

28 (a) A conspicuous designation on its face for the courts and law
29 enforcement to distinguish the order as an antiharassment protection
30 order based on acts of stalking;

31 (b) Notice to the respondent that the order is issued based on a
32 finding that the respondent has engaged in stalking against the
33 petitioner;

34 (c) Notice, in a conspicuous location, of the criminal penalties
35 resulting from a violation of the order;

36 (d) Notice, in a conspicuous location, that violation of the order
37 will result in mandatory arrest under RCW 10.31.100; and

1 (e) Notice of the authority of the courts to issue, modify, and
2 terminate orders under this chapter.

3 (4) The administrative office of the courts shall distribute a
4 master copy of the pattern form to all court clerks and shall
5 distribute a master copy of the pattern form to all superior, district,
6 and municipal courts. By January 1, 2012, a protection order based on
7 stalking as provided in this section must substantially comply with the
8 pattern form developed by the administrative office of the courts.

9 (5) The administrative office of the courts shall determine the
10 significant nonEnglish-speaking or limited English-speaking populations
11 in the state. The administrative office of the courts shall then
12 arrange for translation of the pattern form into the languages spoken
13 by those significant nonEnglish-speaking populations, and shall
14 distribute a master copy of the translated instructions to all court
15 clerks by March 1, 2012.

16 (6) The administrative office of the courts shall update the
17 pattern form when changes in the law make an update necessary.

18 (7) For the purposes of this section:

19 (a) "Stalking" occurs if, under circumstances constituting unlawful
20 harassment as defined in this chapter, a respondent directly, or
21 indirectly through another person, knowingly:

22 (i) Makes a credible threat to the petitioner and, in connection
23 with such threat, repeatedly follows, approaches, contacts, or places
24 under surveillance the petitioner, a member of the petitioner's
25 immediate family, or someone with whom that petitioner has or has had
26 a continuing relationship; or

27 (ii) Makes a credible threat to the petitioner and, in connection
28 with such threat, repeatedly makes any form of communication to the
29 petitioner, a member of the petitioner's immediate family, or someone
30 with whom the petitioner has or has had a continuing relationship,
31 regardless of whether a conversation ensues.

32 (b) "Credible threat" means a threat, physical action, or repeated
33 conduct that would cause a reasonable person to be in fear for the
34 petitioner's safety or the safety of his or her immediate family or of
35 someone with whom the petitioner has or has had a continuing
36 relationship. Such threat need not be directly expressed if the
37 totality of the conduct would cause a reasonable person such fear.

1 **Sec. 4.** RCW 10.31.100 and 2010 c 274 s 201 are each amended to
2 read as follows:

3 A police officer having probable cause to believe that a person has
4 committed or is committing a felony shall have the authority to arrest
5 the person without a warrant. A police officer may arrest a person
6 without a warrant for committing a misdemeanor or gross misdemeanor
7 only when the offense is committed in the presence of the officer,
8 except as provided in subsections (1) through (10) of this section.

9 (1) Any police officer having probable cause to believe that a
10 person has committed or is committing a misdemeanor or gross
11 misdemeanor, involving physical harm or threats of harm to any person
12 or property or the unlawful taking of property or involving the use or
13 possession of cannabis, or involving the acquisition, possession, or
14 consumption of alcohol by a person under the age of twenty-one years
15 under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070
16 or 9A.52.080, shall have the authority to arrest the person.

17 (2) A police officer shall arrest and take into custody, pending
18 release on bail, personal recognizance, or court order, a person
19 without a warrant when the officer has probable cause to believe that:

20 (a) An order has been issued of which the person has knowledge
21 under RCW 26.44.063, chapter 10.14 RCW when based on acts of stalking
22 under section 3 of this act, or chapter 7.90, 10.99, 26.09, 26.10,
23 26.26, 26.50, or 74.34 RCW restraining the person and the person has
24 violated the terms of the order restraining the person from acts or
25 threats of violence, or restraining the person from going onto the
26 grounds of or entering a residence, workplace, school, or day care, or
27 prohibiting the person from knowingly coming within, or knowingly
28 remaining within, a specified distance of a location or, in the case of
29 an order issued under RCW 26.44.063, imposing any other restrictions or
30 conditions upon the person; or

31 (b) A foreign protection order, as defined in RCW 26.52.010, has
32 been issued of which the person under restraint has knowledge and the
33 person under restraint has violated a provision of the foreign
34 protection order prohibiting the person under restraint from contacting
35 or communicating with another person, or excluding the person under
36 restraint from a residence, workplace, school, or day care, or
37 prohibiting the person from knowingly coming within, or knowingly

1 remaining within, a specified distance of a location, or a violation of
2 any provision for which the foreign protection order specifically
3 indicates that a violation will be a crime; or

4 (c) The person is sixteen years or older and within the preceding
5 four hours has assaulted a family or household member as defined in RCW
6 10.99.020 and the officer believes: (i) A felonious assault has
7 occurred; (ii) an assault has occurred which has resulted in bodily
8 injury to the victim, whether the injury is observable by the
9 responding officer or not; or (iii) that any physical action has
10 occurred which was intended to cause another person reasonably to fear
11 imminent serious bodily injury or death. Bodily injury means physical
12 pain, illness, or an impairment of physical condition. When the
13 officer has probable cause to believe that family or household members
14 have assaulted each other, the officer is not required to arrest both
15 persons. The officer shall arrest the person whom the officer believes
16 to be the primary physical aggressor. In making this determination,
17 the officer shall make every reasonable effort to consider: (i) The
18 intent to protect victims of domestic violence under RCW 10.99.010;
19 (ii) the comparative extent of injuries inflicted or serious threats
20 creating fear of physical injury; and (iii) the history of domestic
21 violence of each person involved, including whether the conduct was
22 part of an ongoing pattern of abuse.

23 (3) Any police officer having probable cause to believe that a
24 person has committed or is committing a violation of any of the
25 following traffic laws shall have the authority to arrest the person:

26 (a) RCW 46.52.010, relating to duty on striking an unattended car
27 or other property;

28 (b) RCW 46.52.020, relating to duty in case of injury to or death
29 of a person or damage to an attended vehicle;

30 (c) RCW 46.61.500 or 46.61.530, relating to reckless driving or
31 racing of vehicles;

32 (d) RCW 46.61.502 or 46.61.504, relating to persons under the
33 influence of intoxicating liquor or drugs;

34 (e) RCW 46.20.342, relating to driving a motor vehicle while
35 operator's license is suspended or revoked;

36 (f) RCW 46.61.5249, relating to operating a motor vehicle in a
37 negligent manner.

1 (4) A law enforcement officer investigating at the scene of a motor
2 vehicle accident may arrest the driver of a motor vehicle involved in
3 the accident if the officer has probable cause to believe that the
4 driver has committed in connection with the accident a violation of any
5 traffic law or regulation.

6 (5) Any police officer having probable cause to believe that a
7 person has committed or is committing a violation of RCW 79A.60.040
8 shall have the authority to arrest the person.

9 (6) An officer may act upon the request of a law enforcement
10 officer in whose presence a traffic infraction was committed, to stop,
11 detain, arrest, or issue a notice of traffic infraction to the driver
12 who is believed to have committed the infraction. The request by the
13 witnessing officer shall give an officer the authority to take
14 appropriate action under the laws of the state of Washington.

15 (7) Any police officer having probable cause to believe that a
16 person has committed or is committing any act of indecent exposure, as
17 defined in RCW 9A.88.010, may arrest the person.

18 (8) Unless an arrest is mandatory under subsection (2) of this
19 section, a police officer may arrest and take into custody, pending
20 release on bail, personal recognizance, or court order, a person
21 without a warrant when the officer has probable cause to believe that
22 an order has been issued of which the person has knowledge under
23 chapter 10.14 RCW and the person has violated the terms of that order.

24 (9) Any police officer having probable cause to believe that a
25 person has, within twenty-four hours of the alleged violation,
26 committed a violation of RCW 9A.50.020 may arrest such person.

27 (10) A police officer having probable cause to believe that a
28 person illegally possesses or illegally has possessed a firearm or
29 other dangerous weapon on private or public elementary or secondary
30 school premises shall have the authority to arrest the person.

31 For purposes of this subsection, the term "firearm" has the meaning
32 defined in RCW 9.41.010 and the term "dangerous weapon" has the meaning
33 defined in RCW 9.41.250 and 9.41.280(1) (c) through (e).

34 (11) Except as specifically provided in subsections (2), (3), (4),
35 and (6) of this section, nothing in this section extends or otherwise
36 affects the powers of arrest prescribed in Title 46 RCW.

37 (12) No police officer may be held criminally or civilly liable for

1 making an arrest pursuant to subsection (2) or (8) of this section if
2 the police officer acts in good faith and without malice.

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

5 (1) Upon the first appearance before a judicial officer of a
6 defendant charged with violating an antiharassment protection order
7 under RCW 10.14.180 and when the antiharassment protection order is
8 based on stalking under section 3 of this act, the judicial officer
9 shall issue an order requiring the defendant to submit to global
10 positioning system monitoring for a fixed period of no fewer than
11 fourteen days immediately following the defendant's release from
12 custody, unless:

13 (a) The defendant is currently required to submit to global
14 positioning system monitoring pursuant to the antiharassment protection
15 order upon which the charge is based; or

16 (b) The county does not have global positioning system monitoring
17 services available through a county program or through a contract with
18 a private entity.

19 (2) An order issued under subsection (1) of this section must
20 specify who shall provide the global positioning system monitoring
21 services and the terms under which monitoring must be performed. The
22 order may include a requirement that the defendant pay the costs of the
23 global positioning system monitoring unless the judicial officer finds
24 that the person is unable to pay the costs. If the defendant is
25 acquitted or if all charges are dismissed, the county shall return the
26 payment to the defendant at the last known address listed in the
27 county's records.

28 (3) When the court issues an order under this section, the
29 prosecutor shall promptly contact the petitioner to the antiharassment
30 protection order underlying the charge to provide information regarding
31 the order issued under this section, the entity providing the global
32 positioning system monitoring services, and the terms of the
33 monitoring. The prosecutor should contact the petitioner through any
34 available means that is most likely to achieve notice.

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