

SSB 5579 - H COMM AMD  
By Committee on Judiciary

ADOPTED 04/06/2011

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 10.14.150 and 2005 c 196 s 1 are each amended to read  
4 as follows:

5 (1) The district courts shall have original jurisdiction and  
6 cognizance of any civil actions and proceedings brought under this  
7 chapter, except the district court shall transfer such actions and  
8 proceedings to the superior court when it is shown that (a) the  
9 respondent to the petition is under eighteen years of age; (b) the  
10 action involves title or possession of real property; (c) a superior  
11 court has exercised or is exercising jurisdiction over a proceeding  
12 involving the parties; or (d) the action would have the effect of  
13 interfering with a respondent's care, control, or custody of the  
14 respondent's minor child.

15 (2) Municipal courts may exercise jurisdiction and cognizance of  
16 any civil actions and proceedings brought under this chapter by  
17 adoption of local court rule, except the municipal court shall transfer  
18 such actions and proceedings to the superior court when it is shown  
19 that (a) the respondent to the petition is under eighteen years of age;  
20 (b) the action involves title or possession of real property; (c) a  
21 superior court has exercised or is exercising jurisdiction over a  
22 proceeding involving the parties; or (d) the action would have the  
23 effect of interfering with a respondent's care, control, or custody of  
24 the respondent's minor child.

25 (3) Superior courts shall have concurrent jurisdiction to receive  
26 transfer of antiharassment petitions in cases where a district or  
27 municipal court judge makes findings of fact and conclusions of law  
28 showing that meritorious reasons exist for the transfer. The municipal  
29 and district courts shall have jurisdiction and cognizance of any  
30 criminal actions brought under RCW 10.14.120 and 10.14.170.

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 which seriously alarms, annoys,  
7 harasses, or is detrimental to such person, and which serves no  
8 legitimate or lawful purpose. The course of conduct shall be such as  
9 would cause a reasonable person to suffer substantial emotional  
10 distress, and shall actually cause substantial emotional distress to  
11 the petitioner, or, when the course of conduct would cause a reasonable  
12 parent to fear for the well-being of their child.

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

20           **Sec. 3.** RCW 10.14.080 and 2001 c 311 s 1 are each amended to read  
21 as follows:

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

31           (2) An ex parte temporary antiharassment protection order shall be  
32 effective for a fixed period not to exceed fourteen days or twenty-four  
33 days if the court has permitted service by publication under RCW  
34 10.14.085. The ex parte order may be reissued. A full hearing, as  
35 provided in this chapter, shall be set for not later than fourteen days  
36 from the issuance of the temporary order or not later than twenty-four  
37 days if service by publication is permitted. Except as provided in RCW

1 10.14.070 and 10.14.085, the respondent shall be personally served with  
2 a copy of the ex parte order along with a copy of the petition and  
3 notice of the date set for the hearing. The ex parte order and notice  
4 of hearing shall include at a minimum the date and time of the hearing  
5 set by the court to determine if the temporary order should be made  
6 effective for one year or more, and notice that if the respondent  
7 should fail to appear or otherwise not respond, an order for protection  
8 will be issued against the respondent pursuant to the provisions of  
9 this chapter, for a minimum of one year from the date of the hearing.  
10 The notice shall also include a brief statement of the provisions of  
11 the ex parte order and notify the respondent that a copy of the ex  
12 parte order and notice of hearing has been filed with the clerk of the  
13 court.

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

17 (4) An order issued under this chapter shall be effective for not  
18 more than one year unless the court finds that the respondent is likely  
19 to resume unlawful harassment of the petitioner when the order expires.  
20 If so, the court may enter an order for a fixed time exceeding one year  
21 or may enter a permanent antiharassment protection order. The court  
22 shall not enter an order that is effective for more than one year if  
23 the order restrains the respondent from contacting the respondent's  
24 minor children. This limitation is not applicable to civil  
25 antiharassment protection orders issued under chapter 26.09, 26.10, or  
26 26.26 RCW. If the petitioner seeks relief for a period longer than one  
27 year on behalf of the respondent's minor children, the court shall  
28 advise the petitioner that the petitioner may apply for renewal of the  
29 order as provided in this chapter or if appropriate may seek relief  
30 pursuant to chapter 26.09 or 26.10 RCW.

31 (5) At any time within the three months before the expiration of  
32 the order, the petitioner may apply for a renewal of the order by  
33 filing a petition for renewal. The petition for renewal shall state  
34 the reasons why the petitioner seeks to renew the protection order.  
35 Upon receipt of the petition for renewal, the court shall order a  
36 hearing which shall be not later than fourteen days from the date of  
37 the order. Except as provided in RCW 10.14.085, personal service shall  
38 be made upon the respondent not less than five days before the hearing.

1 If timely service cannot be made the court shall set a new hearing date  
2 and shall either require additional attempts at obtaining personal  
3 service or permit service by publication as provided by RCW 10.14.085.  
4 If the court permits service by publication, the court shall set the  
5 new hearing date not later than twenty-four days from the date of the  
6 order. If the order expires because timely service cannot be made the  
7 court shall grant an ex parte order of protection as provided in this  
8 section. The court shall grant the petition for renewal unless the  
9 respondent proves by a preponderance of the evidence that the  
10 respondent will not resume harassment of the petitioner when the order  
11 expires. The court may renew the protection order for another fixed  
12 time period or may enter a permanent order as provided in subsection  
13 (4) of this section.

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

18 (a) Restraining the respondent from making any attempts to contact  
19 the petitioner;

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

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

24 (d) Considering the provisions of RCW 9.41.800.

25 (7) The court in granting an ex parte temporary antiharassment  
26 protection order or a civil antiharassment protection order, shall not  
27 prohibit the respondent from exercising constitutionally protected free  
28 speech. Nothing in this section prohibits the petitioner from  
29 utilizing other civil or criminal remedies to restrain conduct or  
30 communications not otherwise constitutionally protected.

31 (8) The court in granting an ex parte temporary antiharassment  
32 protection order or a civil antiharassment protection order, shall not  
33 prohibit the respondent from the use or enjoyment of real property to  
34 which the respondent has a cognizable claim unless that order is issued  
35 under chapter 26.09 RCW or under a separate action commenced with a  
36 summons and complaint to determine title or possession of real  
37 property.

1       (9) The court in granting an ex parte temporary antiharassment  
2 protection order or a civil antiharassment protection order, shall not  
3 limit the respondent's right to care, control, or custody of the  
4 respondent's minor child, unless that order is issued under chapter  
5 13.32A, 26.09, 26.10, or 26.26 RCW.

6       (10) A petitioner may not obtain an ex parte temporary  
7 antiharassment protection order against a respondent if the petitioner  
8 has previously obtained two such ex parte orders against the same  
9 respondent but has failed to obtain the issuance of a civil  
10 antiharassment protection order unless good cause for such failure can  
11 be shown.

12       ~~((+8))~~ (11) The court order shall specify the date an order issued  
13 pursuant to subsections (4) and (5) of this section expires if any.  
14 The court order shall also state whether the court issued the  
15 protection order following personal service or service by publication  
16 and whether the court has approved service by publication of an order  
17 issued under this section.

18       **Sec. 4.** RCW 9A.46.040 and 1985 c 288 s 4 are each amended to read  
19 as follows:

20       (1) Because of the likelihood of repeated harassment directed at  
21 those who have been victims of harassment in the past, when any  
22 defendant charged with a crime involving harassment is released from  
23 custody before trial on bail or personal recognizance, the court  
24 authorizing the release may require that the defendant:

25       (a) Stay away from the home, school, business, or place of  
26 employment of the victim or victims of the alleged offense or other  
27 location, as shall be specifically named by the court in the order;

28       (b) Refrain from contacting, intimidating, threatening, or  
29 otherwise interfering with the victim or victims of the alleged offense  
30 and such other persons, including but not limited to members of the  
31 family or household of the victim, as shall be specifically named by  
32 the court in the order.

33       (2) An intentional violation of a court order issued under this  
34 section or an equivalent local ordinance is a misdemeanor. The written  
35 order releasing the defendant shall contain the court's directives and  
36 shall bear the legend: Violation of this order is a criminal offense

1 under chapter 9A.46 RCW. A certified copy of the order shall be  
2 provided to the victim by the clerk of the court.

3 **Sec. 5.** RCW 9A.46.080 and 1985 c 288 s 8 are each amended to read  
4 as follows:

5 The victim shall be informed by local law enforcement agencies or  
6 the prosecuting attorney of the final disposition of the case in which  
7 the victim is involved. If a defendant is found guilty of a crime of  
8 harassment and a condition of the sentence restricts the defendant's  
9 ability to have contact with the victim or witnesses, the condition  
10 shall be recorded and a written certified copy of that order shall be  
11 provided to the victim or witnesses by the clerk of the court. Willful  
12 violation of a court order issued under this section or an equivalent  
13 local ordinance is a misdemeanor. The written order shall contain the  
14 court's directives and shall bear the legend: Violation of this order  
15 is a criminal offense under chapter 9A.46 RCW and will subject a  
16 violator to arrest.

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

19 Before granting an order under this chapter, the court may consult  
20 the judicial information system, if available, to determine criminal  
21 history or the pendency of other proceedings involving the parties."

22 Correct the title.

EFFECT: (1) Changes the amendatory language regarding district  
court jurisdiction from "exclusive original jurisdiction" to "original  
jurisdiction."

(2) Specifies that the term "code of conduct" in relation to  
unlawful harassment does not include constitutionally protected free  
speech (rather than communication with third parties).

(3) Prohibits the court from restricting the respondent's  
constitutionally protected free speech (rather than clearly prohibiting  
the court from restricting the respondent's communications with third  
parties).

(4) Removes the section repealing the current statute that grants  
filing fee exemptions for certain petitioners seeking a civil  
antiharassment protection order.

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