

SENATE BILL REPORT

ESHB 2363

As Reported by Senate Committee On:
Human Services & Corrections, February 23, 2012

Title: An act relating to protecting victims of domestic violence and harassment.

Brief Description: Protecting victims of domestic violence and harassment.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Goodman, Kenney, Orwall, Darneille, Ryu, Roberts, Appleton, Dickerson, Ladenburg, Reykdal, Jinkins, Santos and Kagi).

Brief History: Passed House: 2/09/12, 97-0.

Committee Activity: Human Services & Corrections: 2/16/12, 2/23/12 [DPA, w/oRec].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass as amended.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Harper, McAuliffe and Padden.

Minority Report: That it be referred without recommendation.

Signed by Senator Carrell.

Staff: Kevin Black (786-7747)

Background: A person may apply for a civil antiharassment protection order if the person has been seriously alarmed, annoyed, or harassed by a course of conduct which serves no legitimate or lawful purpose. The petitioner need not establish any sort of special relationship with the respondent. If granted, such an order lasts for one year unless the court deems it likely that harassment will resume when the order expires, in which case the order may last for a fixed time longer than one year or be permanent. Willful violation of an antiharassment protection order is a gross misdemeanor.

A court may issue a no-contact order in a criminal proceeding for harassment. Violation of such an order is a misdemeanor. Willful violation of a harassment-based post-conviction no-contact order is also a misdemeanor.

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.

The Address Confidentiality Program administered by the Secretary of State allows any person to apply to have an address designated by the Secretary of the State to serve as the person's legal address if the applicant is a victim of domestic violence, sexual assault, trafficking, or stalking or is the parent or guardian of such a person and the applicant consequently fears for his or her safety. The Secretary of State must accept and certify all applications for participation in the Address Confidentiality Program if the application appears in the proper form and is supported by a sworn affidavit. A court may not issue an order for disclosure of information protected by the program except in the course of a criminal investigation or prosecution supported by probable cause or to prevent imminent risk to a minor.

Domestic violence fatality review panels review domestic violence fatalities in Washington State. Regional domestic violence fatality review panels are subject to protection from disclosure of oral and written communications and documents and are immune from civil liability for activities related to the review of domestic fatalities if acting in good faith and without malice.

Summary of Bill (Recommended Amendments): The penalty for violation of a no-contact order issued during the pendency or following conviction of a charge of misdemeanor harassment is increased from a simple to a gross misdemeanor.

A gross misdemeanor is created prohibiting intentional and malicious release of confidential information about the location of a domestic violence program. No court may compel disclosure of location information except upon clear and convincing evidence that disclosure is necessary to avoid imminent serious bodily injury or death of a domestic violence victim or another person.

A court may not require disclosure of previously undisclosed information that might enable discovery of residence, employment, or school information pertaining to a victim of domestic violence or of child abuse in a dissolution case if there has been a finding of domestic violence or child abuse. If there has been an allegation but no finding, the petitioner must be given the opportunity to prove the allegation. This prohibition applies during the period of an initial temporary protection order or after a permanent order has been entered.

A court may not require disclosure of the address of a person who is a participant in the address confidentiality program administered by the Secretary of State in any action related to marriage, dissolution, child support, parentage, adoption, domestic violence, or child abuse under Title 21 of the Revised Code of Washington, except under the terms defined by statutes related to the address confidentiality program.

A court may extend a no-contact order issued before charges are filed at the arraignment hearing if the defendant fails to appear at the arraignment hearing and the court finds that the charges are supported by probable cause.

Nondisclosure and immunity provisions applicable to regional domestic violence fatality review panels are extended to statewide domestic violence fatality review panels. Language stating that temporary pre-charging no-contact orders need not be entered into the computer based criminal intelligence information system is deleted from the code.

The Washington Institute for Public Policy (WSIPP) must assess recidivism by domestic violence offenders, effective community supervision practices for these offenders, and domestic violence perpetrator treatment, including the number of offenders sentenced to treatment and the treatment completion rate. WSIPP must collaborate with the Washington State Gender and Justice Commission on the study. This provision is subject to a null and void clause.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Amendments): A civil infraction for revealing confidential information about the location of a domestic violence program is eliminated. A court may not require disclosure of previously undisclosed information that might enable discovery of residence, employment, or school information pertaining to a victim of domestic violence or of child abuse in a dissolution case if there has been a finding of domestic violence or child abuse. If there has been an allegation but no finding, the petitioner must be given the opportunity to prove the allegation. This prohibition applies during the period of an initial temporary protection order or after a permanent order has been entered.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony as Heard in Committee: PRO: This bill comes from a domestic violence working group, with the participation of five dozen people. The main focus is confidentiality, because we have heard stories of women and children having to flee because information is disclosed by a court. The WSIPP study is included because batterer's treatment doesn't seem to work very well and we would like to do something evidence based. When statewide domestic violence fatality review panels were created, we forgot to extend the confidentiality. We want to cut the thread of information used to track, threaten, and stalk domestic violence victims in hiding. Technology makes it hard to keep victims secret and safe. The crime and infraction sends a message to people who try to help domestic violence perpetrators. The provisions of Substitute House Bill 2464 should be added to this bill.

CON: There should be evidence before imposition of domestic violence treatment programs that do not work. More study of this is needed. No evidence is required before protection orders are issued. We squander resources that should be used to protect victims of domestic violence by going after persons who have been falsely accused, often as part of marital disputes. The system is used against fathers to separate them from their children. No one in the workgroup represented fathers who have been falsely accused. The infraction created by the bill would apply to people who are trying to help domestic violence victims obtain shelter. Increasing the penalty for violation of a protection order from a simple to gross misdemeanor does not seem to serve a purpose.

Persons Testifying: PRO: Representative Goodman, prime sponsor; Grace Huang, WA State Coalition Against Domestic Violence; Keith Galbraith, Family Renewal Shelter; Ken Paulson, Nancy Heisler, citizens; David Martin, WA Assn. of Prosecuting Attorneys.

CON: Mark Cavener, WA Domestic Violence Commission; Travis Stearns, WA Defender Assn., WA Assn. of Criminal Defense Lawyers.