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HOUSE BILL 1626

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State of Washington                      62nd Legislature                      2011 Regular Session

By Representatives Goodman and Rodne

Read first time 01/27/11. Referred to Committee on Judiciary.

1            AN ACT Relating to harassment; amending RCW 10.14.150, 10.14.020,  
2 and 10.14.080; adding a new section to chapter 10.14 RCW; and repealing  
3 RCW 10.14.055.

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

5            **Sec. 1.** RCW 10.14.150 and 2005 c 196 s 1 are each amended to read  
6 as follows:

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

17            (2) Municipal courts may exercise jurisdiction and cognizance of  
18 any civil actions and proceedings brought under this chapter by  
19 adoption of local court rule, except the municipal court shall transfer

1 such actions and proceedings to the superior court when it is shown  
2 that (a) the respondent to the petition is under eighteen years of age;  
3 (b) the action involves title or possession of real property; (c) a  
4 superior court has exercised or is exercising jurisdiction over a  
5 proceeding involving the parties; or (d) the action would have the  
6 effect of interfering with a respondent's care, control, or custody of  
7 the respondent's minor child.

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

14 **Sec. 2.** RCW 10.14.020 and 2001 c 260 s 2 are each amended to read  
15 as follows:

16 Unless the context clearly requires otherwise, the definitions in  
17 this section apply throughout this chapter.

18 (1) "Unlawful harassment" means a knowing and willful course of  
19 conduct directed at a specific person which seriously alarms, annoys,  
20 harasses, or is detrimental to such person, and which serves no  
21 legitimate or lawful purpose. The course of conduct shall be such as  
22 would cause a reasonable person to suffer substantial emotional  
23 distress, and shall actually cause substantial emotional distress to  
24 the petitioner, or, when the course of conduct would cause a reasonable  
25 parent to fear for the well-being of their child.

26 (2) "Course of conduct" means a pattern of conduct composed of a  
27 series of acts over a period of time, however short, evidencing a  
28 continuity of purpose. "Course of conduct" includes, in addition to  
29 any other form of communication, contact, or conduct, the sending of an  
30 electronic communication, but does not include communications to a  
31 third party that does not involve threats to the petitioner or  
32 petitioner's family's safety. Constitutionally protected activity is  
33 not included within the meaning of "course of conduct."

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

36 (1) Upon filing a petition for a civil antiharassment protection

1 order under this chapter, the petitioner may obtain an ex parte  
2 temporary antiharassment protection order. An ex parte temporary  
3 antiharassment protection order may be granted with or without notice  
4 upon the filing of an affidavit which, to the satisfaction of the  
5 court, shows reasonable proof of unlawful harassment of the petitioner  
6 by the respondent and that great or irreparable harm will result to the  
7 petitioner if the temporary antiharassment protection order is not  
8 granted.

9 (2) An ex parte temporary antiharassment protection order shall be  
10 effective for a fixed period not to exceed fourteen days or twenty-four  
11 days if the court has permitted service by publication under RCW  
12 10.14.085. The ex parte order may be reissued. A full hearing, as  
13 provided in this chapter, shall be set for not later than fourteen days  
14 from the issuance of the temporary order or not later than twenty-four  
15 days if service by publication is permitted. Except as provided in RCW  
16 10.14.070 and 10.14.085, the respondent shall be personally served with  
17 a copy of the ex parte order along with a copy of the petition and  
18 notice of the date set for the hearing. The ex parte order and notice  
19 of hearing shall include at a minimum the date and time of the hearing  
20 set by the court to determine if the temporary order should be made  
21 effective for one year or more, and notice that if the respondent  
22 should fail to appear or otherwise not respond, an order for protection  
23 will be issued against the respondent pursuant to the provisions of  
24 this chapter, for a minimum of one year from the date of the hearing.  
25 The notice shall also include a brief statement of the provisions of  
26 the ex parte order and notify the respondent that a copy of the ex  
27 parte order and notice of hearing has been filed with the clerk of the  
28 court.

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

32 (4) An order issued under this chapter shall be effective for not  
33 more than one year unless the court finds that the respondent is likely  
34 to resume unlawful harassment of the petitioner when the order expires.  
35 If so, the court may enter an order for a fixed time exceeding one year  
36 or may enter a permanent antiharassment protection order. The court  
37 shall not enter an order that is effective for more than one year if  
38 the order restrains the respondent from contacting the respondent's

1 minor children. This limitation is not applicable to civil  
2 antiharassment protection orders issued under chapter 26.09, 26.10, or  
3 26.26 RCW. If the petitioner seeks relief for a period longer than one  
4 year on behalf of the respondent's minor children, the court shall  
5 advise the petitioner that the petitioner may apply for renewal of the  
6 order as provided in this chapter or if appropriate may seek relief  
7 pursuant to chapter 26.09 or 26.10 RCW.

8 (5) At any time within the three months before the expiration of  
9 the order, the petitioner may apply for a renewal of the order by  
10 filing a petition for renewal. The petition for renewal shall state  
11 the reasons why the petitioner seeks to renew the protection order.  
12 Upon receipt of the petition for renewal, the court shall order a  
13 hearing which shall be not later than fourteen days from the date of  
14 the order. Except as provided in RCW 10.14.085, personal service shall  
15 be made upon the respondent not less than five days before the hearing.  
16 If timely service cannot be made the court shall set a new hearing date  
17 and shall either require additional attempts at obtaining personal  
18 service or permit service by publication as provided by RCW 10.14.085.  
19 If the court permits service by publication, the court shall set the  
20 new hearing date not later than twenty-four days from the date of the  
21 order. If the order expires because timely service cannot be made the  
22 court shall grant an ex parte order of protection as provided in this  
23 section. The court shall grant the petition for renewal unless the  
24 respondent proves by a preponderance of the evidence that the  
25 respondent will not resume harassment of the petitioner when the order  
26 expires. The court may renew the protection order for another fixed  
27 time period or may enter a permanent order as provided in subsection  
28 (4) of this section.

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

33 (a) Restraining the respondent from making any attempts to contact  
34 the petitioner;

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

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

1 (d) Considering the provisions of RCW 9.41.800.

2 (7) The court in granting an ex parte temporary antiharassment  
3 protection order or a civil antiharassment protection order, shall not  
4 prohibit respondent from contacting third parties other than the  
5 petitioner or petitioner's minor child unless a finding is made that  
6 the prior communications have contained threats to the physical safety  
7 of the petitioner or petitioner's family. Nothing in this section  
8 prohibits petitioner from utilizing other civil or criminal remedies to  
9 restrain conduct or communications not otherwise constitutionally  
10 protected.

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

17 (9) The court in granting an ex parte temporary antiharassment  
18 protection order or a civil antiharassment protection order, shall not  
19 limit respondent's right to care, control, or custody of the  
20 respondent's minor child, unless that order is issued under chapter  
21 13.32A, 26.09, 26.10, or 26.26 RCW.

22 (10) A petitioner may not obtain an ex parte temporary  
23 antiharassment protection order against a respondent if the petitioner  
24 has previously obtained two such ex parte orders against the same  
25 respondent but has failed to obtain the issuance of a civil  
26 antiharassment protection order unless good cause for such failure can  
27 be shown.

28 ((+8)) (11) The court order shall specify the date an order issued  
29 pursuant to subsections (4) and (5) of this section expires if any.  
30 The court order shall also state whether the court issued the  
31 protection order following personal service or service by publication  
32 and whether the court has approved service by publication of an order  
33 issued under this section.

34 NEW SECTION. Sec. 4. A new section is added to chapter 10.14 RCW  
35 to read as follows:

36 Before granting an order under this chapter, the court may consult

1 the judicial information system, if available, to determine criminal  
2 history or the pendency of other proceedings involving the parties.

3 NEW SECTION. **Sec. 5.** RCW 10.14.055 (Fees excused, when) and 2002  
4 c 117 s 2 are each repealed.

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