

CERTIFICATION OF ENROLLMENT  
**SUBSTITUTE SENATE BILL 5579**

62nd Legislature  
2011 Regular Session

Passed by the Senate April 19, 2011  
YEAS 45 NAYS 1

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**President of the Senate**

Passed by the House April 6, 2011  
YEAS 96 NAYS 0

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**Speaker of the House of Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5579** as passed by the Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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**SUBSTITUTE SENATE BILL 5579**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2011 Regular Session

**State of Washington                      62nd Legislature                      2011 Regular Session**

**By** Senate Judiciary (originally sponsored by Senators Kline and Pflug)

READ FIRST TIME 02/17/11.

1            AN ACT Relating to harassment; amending RCW 10.14.150, 10.14.020,  
2 10.14.080, 9A.46.040, and 9A.46.080; adding a new section to chapter  
3 10.14 RCW; and prescribing penalties.

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 original jurisdiction and  
8 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 constitutionally  
31 protected free speech. Constitutionally protected activity is not  
32 included within the meaning of "course of conduct."

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

35 (1) Upon filing a petition for a civil antiharassment protection  
36 order under this chapter, the petitioner may obtain an ex parte

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

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

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

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

1 antiharassment protection orders issued under chapter 26.09, 26.10, or  
2 26.26 RCW. If the petitioner seeks relief for a period longer than one  
3 year on behalf of the respondent's minor children, the court shall  
4 advise the petitioner that the petitioner may apply for renewal of the  
5 order as provided in this chapter or if appropriate may seek relief  
6 pursuant to chapter 26.09 or 26.10 RCW.

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

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

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

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

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

38 (d) Considering the provisions of RCW 9.41.800.

1       (7) The court in granting an ex parte temporary antiharassment  
2 protection order or a civil antiharassment protection order, shall not  
3 prohibit the respondent from exercising constitutionally protected free  
4 speech. Nothing in this section prohibits the petitioner from  
5 utilizing other civil or criminal remedies to restrain conduct or  
6 communications not otherwise constitutionally protected.

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

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

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

25       ~~((+8))~~ (11) The court order shall specify the date an order issued  
26 pursuant to subsections (4) and (5) of this section expires if any.  
27 The court order shall also state whether the court issued the  
28 protection order following personal service or service by publication  
29 and whether the court has approved service by publication of an order  
30 issued under this section.

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

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

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

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

9 (2) An intentional violation of a court order issued under this  
10 section or an equivalent local ordinance is a misdemeanor. The written  
11 order releasing the defendant shall contain the court's directives and  
12 shall bear the legend: Violation of this order is a criminal offense  
13 under chapter 9A.46 RCW. A certified copy of the order shall be  
14 provided to the victim by the clerk of the court.

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

17 The victim shall be informed by local law enforcement agencies or  
18 the prosecuting attorney of the final disposition of the case in which  
19 the victim is involved. If a defendant is found guilty of a crime of  
20 harassment and a condition of the sentence restricts the defendant's  
21 ability to have contact with the victim or witnesses, the condition  
22 shall be recorded and a written certified copy of that order shall be  
23 provided to the victim or witnesses by the clerk of the court. Willful  
24 violation of a court order issued under this section or an equivalent  
25 local ordinance is a misdemeanor. The written order shall contain the  
26 court's directives and shall bear the legend: Violation of this order  
27 is a criminal offense under chapter 9A.46 RCW and will subject a  
28 violator to arrest.

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

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

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