**Washington Pattern Forms Committee**

**Court Staff Handbook**

**On**

**The Protection Order Process**

# TABLE OF CONTENTS

TABLE OF CONTENTS 2

PROTECTION ORDER STAFF HANDBOOK 3

I. INFORMATION FOR USE BY PARTIES 3

A. General Information Regarding Legislative Changes 3

B. Protection Orders & Applicable Provisions 3

1. Types of Protection Orders. [RCW 7.105.100](https://www.westlaw.com/Document/NCB2487E0D43B11EB9288903807739A5B/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=da3.0" \o "https://www.westlaw.com/Document/NCB2487E0D43B11EB9288903807739A5B/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=da3.0). 3

2. County of Filing. 6

3. Provisions governing all protection orders. [RCW 7.105.105](https://www.westlaw.com/Document/N3C007000D43C11EB9ED5A39F3706EE36/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=da3.0" \o "https://www.westlaw.com/Document/N3C007000D43C11EB9ED5A39F3706EE36/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=da3.0). 6

4. Protections Available. [RCW 7.105.310](https://www.westlaw.com/Document/N2BC773F0D43C11EB9ED5A39F3706EE36/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=da3.0" \o "https://www.westlaw.com/Document/N2BC773F0D43C11EB9ED5A39F3706EE36/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=da3.0). 6

C. Applicable Procedures 7

1. Jurisdiction. [RCW 7.105.050](https://www.westlaw.com/Document/N49D6EB00D43C11EBA8B3C0112FDA2153/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=da3.0" \o "https://www.westlaw.com/Document/N49D6EB00D43C11EBA8B3C0112FDA2153/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=da3.0); .065; .070. 7

2. Service. 8

3. Hearings. 10

4. Orders, Duration, & Relief. 12

5. Reissuance and Renewal. [RCW 7.105.400](https://www.westlaw.com/Document/N2C3AF640D43C11EB9288903807739A5B/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=da3.0" \o "https://www.westlaw.com/Document/N2C3AF640D43C11EB9288903807739A5B/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=da3.0)-.410. 13

6. Violations and Enforcement. [RCW 7.105.450](https://www.westlaw.com/Document/N3AC271C0D43C11EB9ED5A39F3706EE36/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=da3.0" \o "https://www.westlaw.com/Document/N3AC271C0D43C11EB9ED5A39F3706EE36/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=da3.0)-.470. 14

7. Modification and Termination. [RCW 7.105.500](https://www.westlaw.com/Document/N535FDDD0D43C11EB9755AB3581B01796/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=da3.0" \o "https://www.westlaw.com/Document/N535FDDD0D43C11EB9755AB3581B01796/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=da3.0)-.510. 15

II. COURT STAFF INFORMATION 17

A. Background Information 17

1. Development of pattern forms and instructions. 17

2. Option for Local Modification. 17

3. Court Staff Handbook. 17

4. Community Resource List. 17

5. Informational Brochure. 17

B. Working with Parties 17

1. Ethical Considerations. 17

2. Providing Help with Forms. 18

3. Crisis Intervention. 20

III. COMMUNITY RESOURCE LIST 23

## PROTECTION ORDER STAFF HANDBOOK

### I. INFORMATION FOR USE BY PARTIES

#### A. General Information Regarding Legislative Changes

The past Legislative sessions produced significant changes to Washington’s protection order laws.

[E2SHB 1320 (Chapter 215, Laws of 2021)](https://lawfilesext.leg.wa.gov/biennium/2021-22/Pdf/Bills/Session%20Laws/House/1320-S2.SL.pdf?q=20220610111050) consolidated the various civil protection order case types under chapter 7.105 RCW; it brought more unity in the governing rules and procedures for these cases and streamlined processes; created a single petition and orders, and authorized the court to conduct hearings by numerous electronic means, including via video; added provisions for electronic submissions and service; and revised existing firearm and domestic violence no-contact order provisions.[[1]](#footnote-1)

[SHB 1901 (Chapter 268, Laws of 2022)](https://lawfilesext.leg.wa.gov/biennium/2021-22/Pdf/Bills/Session%20Laws/House/1901-S.SL.pdf?q=20220610111103) added “coercive control”[[2]](#footnote-2) to the definitions under domestic violence; removed municipal courts jurisdiction over protection order proceedings; removed requirement to only refer to children by their initials; clarified electronic and personal service provisions; directs law enforcement to assist in recovery of firearms; prohibits respondents waiving their appearance at hearings for protection order violations; clarified that the petitioner’s preference must be considered when they meet the criteria for an order that is different than the one for which they petitioned; and clarified rebuttable presumption of including children in protection orders.

#### B. Protection Orders & Applicable Provisions

##### 1. Types of Protection Orders. [RCW 7.105.100](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.100).

**Domestic Violence Protection Order (DVPO).** To protect against domestic violence[[3]](#footnote-3) by an intimate partner[[4]](#footnote-4) or a family or household member. The petitioner may petition for relief for themselves and/or on behalf of family or household members who are minors or vulnerable adults. A petition for a domestic violence protection order must specify whether the protected party and the restrained party are intimate partners or family or household members, and must allege specific acts of domestic violence committed by the restrained party against the protected person. **A protected party who has been sexually assaulted, harassed, or stalked by an intimate partner or a family or household member should, but is not required to, seek a domestic violence protection order, rather than another type of protection order.**

**Sexual Assault Protection Order (SAPO).** To protect a victim of nonconsensual[[5]](#footnote-5) sexual conduct[[6]](#footnote-6) or penetration. A single incident of nonconsensual sexual conduct or penetration is sufficient grounds for a petition for a sexual assault protection order. A third party may also file on behalf of a vulnerable adult[[7]](#footnote-7) or any other adult who cannot file due to age, disability, health, or inaccessibility. The petition must allege that the restrained party committed a nonconsensual act of either sexual conduct or penetration against the protected party.

**Stalking Protection Order (SKPO).** To protect against stalking[[8]](#footnote-8) conduct that has caused them to become reasonably fearful that the respondent intends to injure them or another person, or their property or the property of another. A third party may also file on behalf of a vulnerable adult or any other adult who cannot file due to age, disability, health, or inaccessibility.

**Vulnerable Adult Protection Order (VAPO).** To protect a vulnerable adult who has been abandoned, abused, financially exploited, or neglected, or is threatened with abandonment, abuse, financial exploitation, or neglect by respondent. The vulnerable adult, guardian, or other interested person on behalf of the vulnerable adult may file the petition.

**Antiharassment Protection Order (AHPO).** To protect against unwanted contact or behavior that causes substantial emotional distress and serves no legitimate or lawful purpose. The petition must allege that the respondent committed unlawful harassment[[9]](#footnote-9) against the protected person. The unlawful harassment must demonstrate a course of conduct[[10]](#footnote-10) by the respondent directed specifically at the protected person, which is seriously alarming, annoying, harassing, or detrimental to the protected person. A third party may also file on behalf of a vulnerable adult or any other adult who cannot file due to age, disability, health, or inaccessibility.

**Extreme Risk Protection Order (ERPO).** The petition asks the court to restrain a respondent who poses a significant danger of causing personal injury to self or others by having in their custody or control, purchasing, possessing,[[11]](#footnote-11) accessing, receiving, or attempting to access or receive a firearm[[12]](#footnote-12) where there is reasonable fear of future dangerous acts by the respondent. The petitioner must provide as much information as possible regarding the number and type/s of firearms the respondent owns, possesses, can access, or control. Only an intimate partner, family or household member, or law enforcement may file a petition.

**Emergency Domestic Violence Extreme Risk Protection Order**. [RCW 10.99.040](https://app.leg.wa.gov/rcw/default.aspx?cite=10.99.040)(5). Law enforcement may request an emergency domestic violence extreme risk protection order, on an ex parte, basis, before criminal charges have been filed or a petition for a protection order or extreme risk protection order have been filed. This request must be filed with the consent of the victim of domestic violence, if the victim is able to provide consent or can be filed on their behalf if they are incapacitated.

##### 2. County of Filing.

[RCW 7.105.075](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.075). A petitioner may file for a protection order in the county where:

* + - 1. the petitioner lives;
      2. an act leading to the need for protection occurred;
      3. a potentially protected child lives; or
      4. the petitioner previously lived, if they moved due to respondent’s actions.

Additionally, the petitioner may file in the closest court to their current or previous residence, if they moved due to respondent’s conduct.

##### 3. Provisions governing all protection orders. [RCW 7.105.105](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.105).

1. Any party under the age of 15 years seeking relief is required to seek relief by a parent, legal guardian, or custodian.
2. The petition must include a declaration signed under penalty of perjury stating the facts and circumstances for which relief is sought.
3. Parties must disclose any known past or present litigation or any other protection, restraining, or no-contact orders between them.
4. Relief may not be denied or delayed on the basis that it is available in another type of action.
5. Where the petitioner files for protection on behalf of a minor of whom they are not the parent, the petition must contain a statement alleging—and the court must make a finding as to—whether the minor is or may be an Indian child protected by the Indian Child Welfare Act (ICWA), pursuant to [chapter 13.38 RCW](https://app.leg.wa.gov/RCW/default.aspx?cite=13.38). See [RCW 7.105.105](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.105)(15)(b) for further instruction.
6. The court may only charge a filing fee to petitioners filing an AHPO, except when the restrained person has engaged in stalking, a sex offense under [RCW 9A.44.128](http://app.leg.wa.gov/RCW/default.aspx?cite=9A.44.128), domestic violence, a hate crime, or an act or threat of violence including malicious and intentional threat or presence of a firearm or weapon causing substantial emotional distress against the protected person. See [RCW 7.105.105](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.105)(9)(b). Additionally, the court must waive the filing fee when it finds that the petitioner is unable to pay. See [RCW 7.105.105](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.105)(9)(b)(ii).
7. Where a petition is filed by an interested person, they must include a statement of why they qualify as an interested person.

##### 4. Protections Available. [RCW 7.105.310](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.310).

The court has broad discretion when deciding what protections it will grant to the protected party. Generally, these protections include:[[13]](#footnote-13)

1. No Harm – prohibiting the restrained party from causing any physical harm, bodily injury, assault, nonconsensual sexual conduct or penetration, and from harassing, threatening, or stalking the protected party;
2. No Contact – prohibiting the restrained party from attempting or having any contact directly or indirectly, or through third parties, with the protected party;
3. Stay Away – prohibiting the restrained party from knowingly coming or remaining within a specified distance of the residence, work place, school, vehicle, and/or person of the protected party; and
4. Exclude from Places – prohibiting the restrained party from returning or entering places listed in the “Stay Away” provision, or ordering them to vacate a shared residence, when applicable;

These examples are not exhaustive. For other protections available see [RCW 7.105.310](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.310) or pp. 4-7 of the petition for protection order.

For ERPOs, the final order does not offer individual protections to the petitioner. Instead, it orders the respondent to surrender all firearms and any concealed pistol licenses, and restrains them from having in custody or control, purchasing, possessing, accessing, receiving or attempting to purchase or receive firearms until the order is terminated by the court.

Additionally, for DVPOs, the court may make residential provisions with regard to minor children on the same basis as is provided in [chapter 26.09 RCW](https://app.leg.wa.gov/RCW/default.aspx?cite=26.09).

#### C. Applicable Procedures

##### 1. Jurisdiction. [RCW 7.105.050](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105..050); [.065](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.065); [.070](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.070).

* 1. **Domestic violence, sexual assault, stalking, and antiharassment protection orders.** Superior and district courts[[14]](#footnote-14) have concurrent jurisdiction of these protection orders. District courts must schedule the hearing in the superior court and transfer the case when:

i. superior court has exercised or is exercising jurisdiction over a proceeding involving the parties;

ii. the action would have the effect of interfering with a restrained party’s care, control, or custody of their minor children;

iii. the action impacts real property to which the restrained party has a legal claim, including requiring the restrained party to vacate a shared residence;

iv. one or both parties are under 18 years of age; or

v. the district court is unable to determine whether there are potentially conflicting or related orders involving the parties.

If one of these is true, then the district court’s jurisdiction is limited to the issuance and enforcement of temporary orders. When transferring the case, the district court must indicate the circumstances governing the transfer and make findings supporting the transfer.

* 1. **Vulnerable adult and extreme risk protection orders.** Both VAPOs and ERPOs fall under the jurisdiction of superior courts. District courts, however, do have limited jurisdiction over the issuance and enforcement of temporary ERPOs, but must schedule the final hearing in superior court and transfer the case. When transferring the case, the district court must indicate the circumstances governing the transfer and make findings supporting the transfer.
  2. **In all cases over nonresident respondents.** [RCW 7.105.080](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.080)**. A court in this state may exercise jurisdiction over a nonresident respondent if:**

i. The respondent is personally served within the state;

ii. The respondent submits to this state’s jurisdiction “by consent, entering a general appearance, or filing a responsive document . . . waiving any objection to consent to personal jurisdiction”;

iii. The respondent’s, or their agent’s, actions which gave rise to the petition or its enforcement occurred in this state, or those actions are part of a pattern that impacted the protected person/s in this state;

iv. The respondent’s actions caused the protected person/s to flee to this state and seek the protection order; or

v. There is any other basis under the Constitution (state or United States) or [RCW 4.28.185](http://app.leg.wa.gov/RCW/default.aspx?cite=4.28.185).

##### 2. Service.

**(a) Methods, materials, and timing.** [RCW 7.105.150](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.150); [.160](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.160); [.165](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.165)**.**

i. Timing and materials. A copy of the petition, temporary order, and all accompanying documents must be served upon the respondent no later than 5 court days[[15]](#footnote-15) before the hearing, or 24 days if service by mail or publication was permitted by the court.

If the respondent is served less than 5 court days prior to the hearing, then the court must continue the hearing but may not require the petition and accompanying documents to be re-served. If the respondent does not appear at the hearing due to improper service, then they must be served with the new notice of hearing and reissued order.

The court must permit service by other means if personal service was attempted twice, unless the petitioner requests additional time to complete personal service.

Service is complete on either: the date respondent is personally served; the date on which the electronic transmission occurs; on the 10th day after mailing; or on the date of the third publication when a publication is published for 3 consecutive weeks.

ii. Methods.

* + - 1. Personal service: required where firearms must be surrendered to mitigate risk and ensure safety; the transferring of child custody occurs; respondent is incarcerated; or the court orders one of the parties to vacate a shared residence.

Must be completed by law enforcement.

* + - 1. Electronic service: electronic service includes service by email, text, social media, or other technological application. The court should prioritize electronic service in cases that do not require personal service. If personal service was required, and has been completed, then subsequent documents and orders may be served electronically.

Must be completed by law enforcement unless the petitioner elects to complete service by a third party, 18 years of age, who is not a party to the case and competent to be a witness. Whomever completes service must provide written verification. See [RCW 7.105.150](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.150)(1)(b)(iii).

* + - 1. Service by Mail[[16]](#footnote-16): When personal service is required, must be permitted when two unsuccessful attempts at personal service have been made and where electronic service is not possible. When personal service is not required, must be permitted after two unsuccessful attempts at personal or electronic service. When either is true, the court must permit service by mail without requiring the petitioner to file a motion.

Service by mail is completed when a third party 18 years of age who is not a party to the case and competent to be a witness mails two copies of the petition, temporary order, and accompanying documents—one copy by first-class mail and the second by a form certified mail (either signature or tracking). The envelope must include a return address.

* + - 1. Service by Publication: is permissible only where all other forms of service are unsuccessful and the petitioner does not have a physical or electronic address for the respondent.

The publication must be made in both the county where the petition was brought and the last known county of the respondent, and be placed in one of the county’s three widely circulated newspapers. Once the publication has ran for 3 weeks, service is complete. For further information, see [RCW 7.105.150](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.150)(1)(d).

The court may permit multiple methods of service at any given time. The respondent must provide an electronic address or account, if not already available to the petitioner, to minimize delays in service of subsequent filings. Minor respondents should not be served at their school, unless no other address is known.

**(b) Special provisions for VAPOs.**

When a VAPO is filed by someone other than the vulnerable adult, then the vulnerable adult must be personally served no later than 5 court days prior to the hearing.

The petition, temporary order, and accompanying documents must be served upon the vulnerable adult along with notice in clear, plain language explaining the purpose and nature of the petition and the vulnerable adult’s right to participate in the hearing to either support or object to the petition.

If good faith attempts at personal service have been unsuccessful, the court must permit service by other methods.

##### 3. Hearings.

1. **Procedure and remote hearings.** [RCW 7.105.200](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.200)-[.205](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.205)**.**

Protection order hearings are special proceedings. As such, courts should evaluate the totality of the circumstances, including the financial resources of both parties and representation by counsel, in considering what procedures are best suited for individual hearings. If the hearing must be continued, then the court must reset the hearing for no more than 14 days from the reissuance date, unless the reissuance must be served by mail or publication, in which case the hearing must be set for not later than 30 days. If the parties agree to a continuance, then the court may grant the continuance, even if it extends past 14 or 30 days, respectively.

If the respondent requests a continuance, stay, or delay due to a parallel criminal case, then the court must apply a rebuttable presumption against such delay. In doing so, the court must consider the factors outlined in [RCW 7.105.200](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.200)(4).[[17]](#footnote-17) The parties may testify, if they choose, but cannot be forced to do so by the court. The court may also allow live testimony from witnesses if one of the parties request such, but the court may not permit the witness to testify unless the court determines that the testimony is necessary and material.

The court may not permit discovery unless it finds good cause to allow it after conducting a hearing on the requesting party’s motion. This motion must be filed 6 court days prior to the hearing and served on the other party.

The court may permit parties to appear in person or remotely in an effort to enhance judicial access. Any party seeking to appear remotely must file a motion at least 3 court days prior to the hearing, and the court must grant the motion, unless it finds good cause to require attendance through a different means. The court must obtain waivers from both parties prior to posting or streaming the proceedings online, unless the hearing is being conducted online and the general public lacks in-person access to the hearing.

i. Specific provisions for VAPOs. [RCW 7.105.220](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.220). If someone petitioned for a VAPO on behalf of a vulnerable adult, and the vulnerable adult objected to the petition, then the court may dismiss the petition or may take additional testimony or evidence. If the court determines from the additional testimony and evidence that the vulnerable adult is capable of taking care of themselves in connection with the issues raised in the petition, and the vulnerable adult continues to object to the order, then the court must dismiss the petition or it may modify the order if agreed to by the vulnerable adult.

ii. Specific provisions for ERPOs. [RCW 7.105.215](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.215). During the hearing, the court should consider whether a behavioral health evaluation is necessary, and if so, then it may order such prior to granting the ERPO. The court should also consider other factors outlined in [RCW 7.105.215](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.215)(3).

1. **Realigning the parties.** [RCW 7.105.210](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.210). After a petition for a domestic violence or antiharassment protection order is filed, but before the final hearing, the court may realign the designation of the parties if it finds that the original petitioner is the abuser and the original respondent is the victim.
2. **Grant of order, denial of, and improper grounds.** [RCW 7.105.225](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.225).

i. The petitioner bears the burden by a preponderance of the evidence to show that they have been subjected to domestic violence, nonconsensual sexual conduct or penetration, stalking, or unlawful harassment, or that they or the vulnerable adult has been abandoned, abused, financially exploited, or neglected, or threatened with such by the respondent. For an ERPO, the petitioner must prove that the respondent poses a significant danger of causing injury to themselves or others by having a firearm in their custody or control.

ii. The court cannot deny a protection order based on:

* + 1. One or both parties being minors, unless a specific provision limits relief based on a party’s age;
    2. The petitioner did not report the incident to law enforcement;
    3. Another court issuing a restraining or no-contact order in a parallel criminal proceeding;
    4. The relief sought is available in another action, or criminal charges are pending against the respondent;
    5. The conduct at issue is not recent; or
    6. The respondent no longer lives near the petitioner.

For a SAPO, the court cannot require the petitioner to provide proof of physical injury or other forensic evidence. Additionally, the court cannot deny a SAPO petition based on either party being voluntarily intoxicated or the fact that the petitioner consented to limited sexual touching. For a SKPO, the court also cannot require proof of nor consider the respondent’s intentions.

When a petitioner meets the criteria for a different protection order, the court must consider the petitioner’s preference, and set a hearing after entering a temporary order, except when petitioning for an ERPO. The court’s final decision on which order to enter cannot be based on alleviating any potential stigma on the respondent.

iii. If the court declines to enter the protection order, it must provide its reason in writing. Additionally, if the court declines to include a petitioner’s minor family or household member or a vulnerable adult, then it must also provide a written reason.

Additionally, the court must explain from the bench that if it denies the petitioner’s request for a protection order:

1. Petitioner may refile for a new protection order if they have new evidence;
2. The parties’ right to file for a reconsideration, revision, or appeal of the order; and
3. The parties’ right to obtain a copy of the hearing transcript or recording.
4. **Denial of Full Protection Order when Temporary Order to Surrender and Prohibit Weapons Issued.** RCW 1.705.362. When the court has issued a temporary protection order that includes a temporary order to surrender and prohibit weapons and the court denies the full protection order, the order to surrender and prohibit weapons must remain in effect until the period for filing a motion for reconsider or revision has passed unless the court has made a finding otherwise. If a motion is timely filed, then the order to surrender and prohibit weapons must remain in effect until the motion is resolved. The court must also verbally notify the petitioner, if present, and provide written information explaining the procedures and timelines for filing a motion for reconsideration or motion for revision. PO 090 Post Hearing Information can be used for this purpose.
5. **Appointment of counsel.** [RCW 7.105.240](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.240).If the respondent has counsel, then the court may appoint counsel for the petitioner.
6. **Interpreters.** [RCW 7.105.245](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.245). The court must appoint an interpreter for any party in need, whether due to disability or language barrier.
7. **Protection advocates and support persons.** [RCW 7.105.250](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.250).Regardless of whether the petitioner has counsel, they may be accompanied to every hearing by a sexual assault or domestic violence advocate. The advocate may not provide legal counsel, address the court on the petitioner’s behalf, or provide interpretation services, but they are able to confer with the petitioner throughout the proceedings and to address the court when invited to do so. Court administrators must allow advocates to assist petitioners in completing their protection order forms. Communications between victims and advocates are protected under [RCW 5.60.060](http://app.leg.wa.gov/RCW/default.aspx?cite=5.60.060).

##### 4. Orders, Duration, & Relief.

1. **Ex parte and temporary orders.** [RCW 7.105.305](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.305). The court may enter an ex parte temporary order when, in the petition, the petitioner alleges that serious immediate harm[[18]](#footnote-18) or irreparable injury could result if the temporary order is not issued without notice to the respondent.

An ex parte order may be issued with or without an ex parte hearing. Even if the court denies granting an ex parte order it must, nevertheless, set the protection order for a full hearing, unless the court finds that the statements in the petition are insufficient to establish a prima facie case for the issuance of the protection order. The court must state in writing its reasons for denying to issue an ex parte order or for setting a hearing.

If the court does not set a full hearing, the petitioner has 14 days from the date of denial to file an amended petition. If the petitioner fails to file an amended petition or to allege acts that establish a prima facie case in the amended petition, the court may enter an order to dismiss the petition.

1. **Full orders and duration.** [RCW 7.105.315](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.315).For all protection orders covered in this handbook, except for AHPOs and ERPOs,[[19]](#footnote-19) the court may issue a final order for a fixed period of time or permanently. The court may not issue the order for less than one full year, unless specifically requested by the petitioner.

For DVPOs where the final order restrains the respondent from contacting their minor child/ren, the order may only be issued for a period of one year, unless the order is issued under a different chapter. AHPOs may be granted for less than one year at the court’s discretion.

1. **Civil standbys by LEO.** [RCW 7.105.320](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.320). The court may order law enforcement to accompany a petitioner to assist in securing possession of their personal belongings from a shared residence. The order must list all items with sufficient specificity to make it clear what property is included. Any appropriate law enforcement agency should act as needed for civil standbys and surrendering of weapons, even if not specifically named in the order.
2. **Errors in protection orders.** [RCW 7.105.365](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.365). The court may, on its own initiative or by notice from one of the parties, correct errors in the protection order at any time. Upon making the correction, the court must notify the parties and whomever brought the error to the court’s attention, if not one of the parties, and must direct the clerk to forward the corrected order on or before the next court day to the law enforcement agency listed in the order.

##### 5. Reissuance and Renewal. [RCW 7.105.400](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.400)-[.410](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.410).

1. **Reissuance of temporary protection orders.** The court may reissue the temporary order by agreement of the parties; to complete service; or for good cause. Upon reissuance, any temporary orders, including weapon surrender orders, must be reissued. There is a rebuttable presumption against a court granting more than one continuance, or continuing the case for more than 30 days at the respondent’s request.

The court may not, however, require the petitioner to complete a new law enforcement and confidential information (LECIF) form for the reissuance.

1. **Renewal of full orders.** For all protection orders except ERPOs, when granted for a specified period of time, within 90 days of expiring, the petitioner may file a motion to renew. On renewal, the respondent bears the burden to prove that there has been a substantial change in circumstances such that they will not resume acts prohibited by the protection order. *See* [RCW 7.105.405](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.405)(4).

The court must consider the unweighted factors outlined in [RCW 7.105.405](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.405)(5). The court, however, may not deny the renewal based on:

i. Respondent not violating the order;

ii. Either party being minors at the time of renewal;

iii. The petitioner’s failure to report the original acts or violations, if any, to law enforcement;

iv. Issuance of a no-contact order in a parallel criminal case;

v. Relief sought by petitioner being available in another action;

vi. The passage of time; or

vii. Respondent no longer living near the petitioner.

Once filed, the court must set the renewal hearing for no later than 14 days after the motion is filed. The motion must state why the petitioner seeks renewal, and must be served on the respondent at least 5 court days prior to the hearing. If the protection order will expire during the 14-day waiting period, then the court must grant a reissuance of the order, to expire at the renewal hearing.

Unless the petitioner seeks new protections under the renewed order, the terms of the original order will remain. If the respondent does not contest the motion, then the court may renew the order based on the petitioner’s motion alone. The court may grant the renewed order for a fixed period or permanently. If the court denies the renewal, then it must provide its reasoning in writing. If the order restrained the respondent from having contact with their child/ren, and the court denies the renewal, it must determine on the record whether to order reunification therapy for the respondent and their child/ren. See [RCW 7.105.405](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.405)(11).

For ERPOs, the court must notify the petitioner at least 105 days prior to the expiration date about the impending expiration. Then, at least 90 days prior to the expiration date, the petitioner may file for renewal. If uncontested, then the court may grant the renewal solely based on the petition. If contested, then the court must find by a preponderance of the evidence that the requirements under [RCW 7.105.215](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.215) are met.

##### 6. Violations and Enforcement. [RCW 7.105.450](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.450)-[.470](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.470).

1. **Enforcement, penalties, and knowledge of order.** For all protection orders, except AHPOs and ERPOs, violations of the following provisions are gross misdemeanors:

i. Prohibiting acts or threats of violence against, stalking of, or contact with a protected person;

ii. Exclusion from a workplace, residence, school, or day care of the protected person;

iii. Prohibiting the restrained person from coming or remaining within a specific distance of the protected person, a location, or the protected person’s vehicle;

iv. Interfering with the protected person’s efforts to remove their pet or a pet owned or kept by their minor child/ren; or

v. Contained within a foreign protection order or Canadian DVPO specifically indicating that a violation will be a crime.

For all protection orders, except AHPOs and ERPOs, the following are class C felonies:

i. Any assault that is a violation of a protection order that does not amount to assault in the first or second degree under RCW 9A.36.011 or 9A.36.021;

ii. Any conduct in violation of a protection order that is reckless and creates a substantial risk of death or serious physical injury to another person;

iii. A violation of a protection order if the offender has at least two previous convictions for violating the provisions of a protection order.

The court must advise the petitioner that if the respondent does not know about the order, then the respondent may not be subject to penalties. When law enforcement responds to a call that the respondent is violating the protection order, they must determine whether the respondent knows about the protection order. It is sufficient for law enforcement to enforce the protection order if they are presented with an unexpired, certified copy of the protection order with proof of service.

1. **Specific provisions for AHPOs and ERPOs.** For law enforcement to enforce an AHPO, the respondent must know about the order. Similar to the other protection orders, a respondent’s willful disobedience of certain provisions are a gross misdemeanor (see i-iv, above). Respondents over 18 years of age may be found in contempt and sanctioned.

Violation of an ERPO is a gross misdemeanor, unless the respondent has two or more previous convictions for violating an ERPO. If so, then any subsequent violations are Class C felonies. Additionally, the respondent will be sanctioned for 5 years from the date the most recent ERPO expires. The sanction is a prohibition from attempting to have or having in their custody or control, accessing, purchasing, possessing, receiving, or attempting to purchase or receive any firearms.

##### 7. Modification and Termination. [RCW 7.105.500](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.500)-[.510](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.510).

1. **Generally (Does not apply to ERPOs and VAPOs).** Either party may file a motion to modify or terminate the protection order. The respondent may only petition for a modification or termination once every 12 months that the order exists. In their motion, the respondent must include a statement supporting the request for modification or termination. Based on the motion, and any opposing declarations, the court must determine whether there is adequate cause to hold a hearing on the motion. If the court finds adequate cause, then a hearing must be set out at least 14 days from the adequate cause hearing. If the court does not find adequate cause, then it must dismiss the motion.

At the hearing on modification or termination, the respondent must prove by a preponderance that there has been a substantial change in circumstances such that the respondent will not resume or attempt to resume acts prohibited by the protection order. The court, in turn, must consider the unweighted factors listed in [RCW 7.105.500](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.500)(4). Even if the court finds there has been a substantial change in circumstances, it may still deny the modification or termination if it finds the original acts that led to the protection order were so severe that the protection order should remain.

If the protected party has or adopts a child after the protection order is issued but before it expires, they may petition the court ex parte and have the child added to the protection order.

1. **Specific provisions for VAPOs and ERPOs.** A vulnerable adult, or someone legally acting on their behalf, may petition for a modification or termination of a VAPO any time subsequent to the entry of the order.[[20]](#footnote-20) If the court finds cause, it must grant relief consistent with [RCW 7.105.310](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.310) as it deems necessary.

For an ERPO, the respondent may motion for termination once every 12 months. The court must set the hearing at least 14 days but no more than 30 days after service is completed on the petitioner. The respondent bears the burden by a preponderance of the evidence that they do not pose a significant danger of causing injury to themselves or others. The court must consider all relevant evidence, including evidence listed in [RCW 7.105.215](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.215).

1. **Reporting of modification or termination.** [RCW 7.105.515](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.515).Once modified or terminated, then the clerk must forward on that same day a true copy of the modified or terminated order to the law enforcement agency specified in the new order. Law enforcement must then promptly enter the modified order or remove the terminated order from the computer-database criminal intelligence information system.

### II. COURT STAFF INFORMATION

#### A. Background Information

##### 1. Development of pattern forms and instructions.

The pattern forms were developed pursuant chapter 215, Laws of 2021 and chapter 268, Laws of 2022 by the Pattern Forms Committee’s Protection Order Forms subcommittee, which included interested parties as required by the statute. The newly created petition and protection order forms must be used effective July 1, 2022 for all petitions and orders issued under chapter 7.105 RCW.

Separate instructions were created to assist petitioners in completing the forms by leading them through each step. Each is identified in the lower left-hand corner by “POi” and a number which corresponds to the form.

##### 2. Option for Local Modification.

The caption and the hearing information (date, location, etc.) can be preprinted per each local jurisdiction’s needs to accommodate their current practices and procedures.

##### 3. Court Staff Handbook.

The court staff handbook was developed according to [RCW 7.105.115](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.115). Courts may adapt the information in the handbook to conform to local practice.

##### 4. Community Resource List.

[RCW 7.105.115](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.115)(1)(b) requires the court staff handbook to allow for the addition of a community resource list by a court clerk. [RCW 7.105.120](http://app.leg.wa.gov/RCW/default.aspx?cite=7.105.120) also provides that all court clerks must obtain a community resource list including the names, telephone numbers, and, as available, website links of domestic violence programs, sexual assault programs, elder abuse programs, law enforcement agencies, civil legal aid agencies, interpreters, multicultural programs, and batterers' treatment programs. The list must be made available in print and online.

Place your community resource information behind the page titled “III. Community Resource List”.

##### 5. Informational Brochure.

[RCW 7.105.115](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.115) also requires the creation of an informational brochure to describe the use of and the process for obtaining, modifying, and terminating a protection order as provided in chapter 7.105 RCW. This brochure is designed to be given to petitioners and other interested parties. Additionally, a separate brochure was created specifically to be served on respondents in ERPO proceedings. RCW 7.105.115(1)(d)(iii).

#### B. Working with Parties

##### **1. Ethical Considerations.**

CJC 2.12 says court staff under a judge’s direction and control must act with fidelity and in a diligent manner consistent with the judge’s obligations under the Code of Judicial Conduct. One of a judges most important ethical responsibilities is to promote public confidence in the independence, integrity, and impartiality of the judiciary. CJC 1.2. Additionally, CJC 3.10 prohibits a judge from providing legal advice to members of the public. Court staff assisting litigants must use caution to ensure no legal advice is provided, but also their communications with court participants do not undermine public confidence in the neutrality of the judiciary.

##### 2. Providing Help with Forms.

Although detailed instructions are included with the forms, there are some items which you may want to keep in mind when assisting parties.

First, these instructions do not constitute the practice of law and clerks are not responsible for incorrect information contained in a petition. However, the reality is that clerks will be asked for a great deal of information because clerks have more expertise with the system than the petitioners.

1. **Important miscellaneous information.** While clerks will often come across petitioners who need assistance, they may also receive questions from respondents. As such, it is important to note:

i. Partiesneed to understand the difference between the ex parte (temporary) and the full hearing. They should be reminded that it is very important to show up for the full hearing because the temporary protection expires on that day.

ii. Parties should be reminded that the documents, except for the LECIFsheet, will be filed in a court file, and available for public viewing.

iii. Parties need to know about service. Petitionersshould be reminded that the respondent must be served with a copy of the petition, including the statement. They should not disclose any information of a confidential nature. Likewise, respondents should be reminded that if they want to respond, they must serve the petitioner after filing it.

iv. Partiesneed to understand the importance of proper and timely service. If the respondent is notpersonally served with the petition, temporary order, and accompanying documents 5 court days prior to the return hearing, the hearing will not be able to proceed and the court will have to reissue their temporary protection order.

v. Partiesneed to understand that the other may likely be present at the return hearing, and that the respondent might also bring an attorney who may ask the petitioner questions. Clerks should remind petitioners that if the respondent appears with an attorney then the petitioner may ask the court to appoint counsel for them pursuant to [RCW 7.105.240](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.240).

vi. Petitioners need to be reminded to ***print legibly*** and use dark ink.

vii. Writing a clear Statement can be difficult. To help the petitioners organize their thoughts you may want to suggest the following format:

1. Dates and times:

It is better to say “On Saturday, May 5 at 10:00 p.m., Joe held me down with his body weight and forced me to have sex in my living room” rather than “Joe assaulted me.”

2. Description:

It is better to say “Joe forced me to touch his penis by grabbing my hand and forcing me to touch him there’" rather than “Joe made me touch him."

3. Exact words: If the respondent said something that caused the petitioner fear, try to use the respondent’s exact words. For example:

It is better to say “Joe told me if I didn’t agree to have sex with him, he would hurt me.” He said “If you don’t want to get hurt, you better keep quiet” rather than “Joe threatened me.”

viii. If thepartypresent has additional documents to support their statement, such as police reports, medical records, or witness statements, the documents should be attached to the petition or response. Parties need to understand that the documents will be served and made a part of the court file.

1. **Reviewing petitioner’s forms.** After the petitioner has filled out the forms as completely as possible, the clerk should review the forms. This will ensure that the court and law enforcement receive all the information they need. A "Self-Review Checklist" can be developed for petitioners so that they can review their forms before presenting them to the clerk.

The clerk should double-check the following:

i. The forms are legible;

ii. The captions are completed;

iii. Full names and complete addresses are listed, where and when appropriate (***Note***: Petitioners may maintain a confidential address, disclosing only the name of the county in which they live);

iv. The statement explains why the protection is sought;

v. The statement lists the date/s of the alleged incident/s at issue for which the petitioner seeks protection;

vi. The requested relief is checked off on the petition and the order;

vii. The forms contain all the necessary signatures;

viii. The LECIF sheet is completed with as much information as possible, especially birthdates, personal identifiers (such as height, eye color) and address; and

ix. The "Hazard Information" section on the LECIF sheet is completed.

1. **Making and distributing copies.** While many jurisdictions use carbon forms so that photocopying is not necessary, preparing and distributing copies remains one of the most confusing aspects of the protection order process. The following guidelines assume that law enforcement will serve the protection order papers.

**Law Enforcement and Confidential Information Form (LECIF)**

* **Original** - The LECIF is confidential and must not be kept in the court file. Some courts retain a copy in a sealed file, separate from the court file.
* **Computer Entry Copy** - Forward to law enforcement agency where petitioner lives
* **Service Copy** - Forward to law enforcement agency to assist in serving respondent

**Petition for Protection Order**

* **Original** - Court file
* **Service Copy** - Forward to law enforcement agency to be served on respondent
* **Copy** - To petitioner

**Temporary Protection Order and Hearing Notice**

* **Original** - Court file
* **Computer Entry** - Forward to law enforcement agency where petitioner lives
* **Service Copy** - Forward to law enforcement agency to be served on respondent, unless respondent was present at hearing and received a copy
* **Certified Copy/ies** - To petitioner (and requested number of copies if the person to be protected needs them for school, daycare, etc.) A respondent who is served electronically must be provided with a certified copy of the order upon request and without cost.
* When forwarding papers to law enforcement, it may be helpful for the clerk to include a cover letter, addressed to law enforcement, stating why these papers are being sent, e.g., computer entry or service. A form letter can be drawn up and simply inserted with the papers being sent to law enforcement. Such a cover letter eliminates confusion for the law enforcement clerk who may not handle protection orders on a regular basis.

##### 3. Crisis Intervention.

* + 1. **What you need to know about crisis intervention.**

You and the person at your window are two people who may understandably respond emotionally to the situation which brings you both face-to-face. Petitioners may state that they are victims of some sort of abuse, violence, harassment, or threat. While respondents may state that they are innocent, being wrongfully accused, or the real victim. It is normal for such statements to elicit an emotional response from you.

Knowing how to work with a party in crisis keeps you from becoming overwhelmed by the emotions and expectations presented by that party. You are then able to facilitate the protection order process with assistance appropriate to your role as the clerk.

The clerk's objective is to explain the protection order process so that the party can either obtain their orders or respond to a petition as quickly and efficiently as possible. Before a clerk can begin to successfully meet this objective, however, the party must be calmed down enough to be able to receive instructions. This process of calming the party is known as "crisis intervention."

1. **Be Aware of the Party’s Emotional State**

It can be very difficult and upsetting for apartyto talk about something so personal and private. They may express their feelings in many different ways, including showing embarrassment, shame, fear, or even anger. Speak calmly and encourage questions, “Let me know how I can be of help to you. Please feel free to ask questions.”

1. **Be Aware of the Party's Physical State**

If the party seems dazed, unable to focus or listen, shaky or weak, this can signal more than emotional distress. Be alert for the need for medical attention.

1. **Do not Make Negative Remarks About the Other Party**

Negative remarks about the other party communicates the judgment that they are bad people. This is not the appropriate way to show empathy toward the situation.

1. **Have Available Referrals**

Refer to your list of community resources to find an advocate in your area, or contact WCSAP at 360-754-7583 or <http://www.wcsap.org/>. Your county has a community program that offers support, counseling, advocacy and other resources to assist parties in the healing process.

There is a separate section of this handbook where you should keep information on community resources.

* + 1. **Managing personal stress.** At times, parties’ stories of abuse and harassmentmay become too much for you to handle. You may find yourself touched, shaken, or feeling helpless. It is not uncommon for these stories to accompany clerks home, crowding their thoughts and dreams, and causing clerks to dread the next time someone asks for their assistance.

Unfortunately, not all emotional stress can be avoided. It is important to remember that such feelings are normal responses. In order to keep this stress at a manageable level, however, you should have guidelines on how to work with the parties.

**How can I Help Without Becoming too Involved?**

**Maintain an appropriate relationship with the party.** You are not a social worker, counselor or an advocate. You are not expected to, nor can you, solve this person's problems. Again, your objective is to assist the party to either obtain their orders or respond to a petition as quickly and efficiently as possible. You may refer the party to someone who is an advocate.

**How do I Know That I'm not Just Wasting my Time?**

Do not judge the value of your help by whether or not the party continues the protection order process. You may spend considerable time with a party who has chosen to give up. This in no way reflects on you, nor should it affect the assistance you provide to the next person. Your positive influence is important; it has a subtle impact that may not be immediately evident.

**Why Won't They Listen to the Information I am Providing?**

It is easy to begin feeling responsible. This is a very unhealthy mistake for both of you. Do not assume you know what is best for the party before you. They know their situation best. What seems like a plausible solution to you may be unworkable from their viewpoint. *Believe in people's right to their choices no matter what you would do* if in their shoes.

**How Should I Respond When a Party Direct Their Anger at Me and I Have Done What I can?**

While the party does not deserve to be abused, neither do you. Their anger and frustration are directed at the system –of which you are a part. You may be seen as someone who *won't* help, not as someone who *can't*. Give respect, and expect the same. If the party becomes verbally abusive say: "I understand that you are upset and frustrated. I cannot help you when you talk to me like that. I can possibly refer you to someone who can help you deal effectively with your situation" (e.g., an advocate or lawyer). Be direct and matter-of-fact. If necessary, call on your supervisor for additional assistance.

**How can I Keep the Stress from Building up so I Don't get "Burned Out?"**

* Maintain interest, but not preoccupation–don't dwell on the situation. Recognize that you have done what you can and try to not take your work home with you.
* Maintain support systems–reach out to those who can support and comfort you. If you feel you are too upset by working with protection order parties, share this concern with your supervisor.
* Do not get into personal sharing, personal help, or commitments with parties. *Never* give out your home phone number, address, etc.
* Be sure to take breaks! Take time in between parties to breathe deeply, walk at lunch, sit quietly and think through who *you* are again.
* Develop an "intellectual edge" by understanding the dynamics involved in domestic violence, sexual assault, stalking, harassment, and abuse of vulnerable adults.
  + 1. **Safety tips.** Working with parties in protection order cases can present safety concerns for both you and the parties. Sometimes the petitioner and respondent come to the clerk’s office at the same time. This combination of petitioner and respondent is potentially dangerous.

Separate the parties. If necessary, have security guards/officers available to escort the party from the building, or arrange for the party to leave through a back exit. At the time of the initial filing, ask the petitioner if they have personal safety concerns about attending the full hearing. If the petitioner has safety concerns, note this on your calendar. Notify the courtroom clerk or bailiff the day before the hearing so special security can be arranged.

Do not put yourself in a dangerous position by volunteering to escort a party to theircar, etc. Instead, call for security. Make sure you know your court's procedure for calling security in both emergency and non-emergency situations.

### III. COMMUNITY RESOURCE LIST

1. Additionally, E2SHB 1320 references the “protected party” (party in need of protection) and the “restrained party” (party against whom protection is sought). Previously, these people were assumed to be the petitioner and respondent, respectively. Now, however, the former terminology is used to clearly denote that someone other than the protected party, usually a minor or vulnerable adult, may file on behalf of the protected party; while a parent, legal guardian, or custodian may be served on behalf of a restrained party who is also usually a minor. [↑](#footnote-ref-1)
2. Defined as “a pattern of behavior that is used to cause another to suffer physical, emotional, or psychological harm, and in purpose or effect unreasonably interferes with a person’s free will and personal liberty.” *See* [RCW 7.105.010](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.010)(4) (Chapter 268, Laws of 2022). Coercive control does not include good faith protective actions taken by a party to protect themselves or children from the other party. [↑](#footnote-ref-2)
3. Defined as the “physical harm, bodily injury, assault, or the infliction of fear of physical harm, bodily injury, or assault; nonconsensual sexual conduct or nonconsensual sexual penetration; coercive control; unlawful harassment; or stalking of one intimate partner by another intimate partner, family or household member.” [↑](#footnote-ref-3)
4. SHB 1901 amended the definition of “intimate partner” to exclude persons with a child in common where the child was conceived through sexual assault. [↑](#footnote-ref-4)
5. "Nonconsensual" means a lack of freely given consent. [RCW 7.105.010](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.010)(26). [↑](#footnote-ref-5)
6. "Sexual conduct" means any of the following: (a) Any intentional or knowing touching or fondling of the genitals, anus, or breasts, directly or indirectly, including through clothing; (b) Any intentional or knowing display of the genitals, anus, or breasts for the purposes of arousal or sexual gratification of the respondent; (c) Any intentional or knowing touching or fondling of the genitals, anus, or breasts, directly or indirectly, including through clothing, that the petitioner is forced to perform by another person or the respondent; (d) Any forced display of the petitioner's genitals, anus, or breasts for the purposes of arousal or sexual gratification of the respondent or others; (e) Any intentional or knowing touching of the clothed or unclothed body of a child under the age of 16, if done for the purpose of sexual gratification or arousal of the respondent or others; or (f) Any coerced or forced touching or fondling by a child under the age of 16, directly or indirectly, including through clothing, of the genitals, anus, or breasts of the respondent or others. [RCW 7.105.010](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.010)(32). [↑](#footnote-ref-6)
7. "Vulnerable adult" includes a person: (a) Sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself; (b) Subject to a guardianship under [RCW 11.130.265](http://app.leg.wa.gov/RCW/default.aspx?cite=11.130.265) or adult subject to conservatorship under [RCW 11.130.360](http://app.leg.wa.gov/RCW/default.aspx?cite=11.130.360); (c) Who has a developmental disability as defined under [RCW 71A.10.020](http://app.leg.wa.gov/RCW/default.aspx?cite=71A.10.020); (d) Admitted to any facility; (e) Receiving services from home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW; Receiving services from a person under contract with the department of social and health services to provide services in the home under chapter 74.09 or 74.39A RCW; or (g) Who self-directs his or her own care and receives services from a personal aide under [chapter 74.39 RCW](http://app.leg.wa.gov/RCW/default.aspx?cite=74.39). [RCW 7.105.010](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.010)(37). [↑](#footnote-ref-7)
8. "Stalking" means any of the following: (a) Any act of stalking as defined under [RCW 9A.46.110](https://app.leg.wa.gov/RCW/default.aspx?cite=9A.46.110); (b) Any act of cyber harassment as defined under [RCW 9A.90.120](https://app.leg.wa.gov/RCW/default.aspx?cite=9A.90.120); or (c) Any course of conduct involving repeated or continuing contacts, attempts to contact, monitoring, tracking, surveillance, keeping under observation, disrupting activities in a harassing manner, or following of another person that: (i) Would cause a reasonable person to feel intimidated, frightened, under duress, significantly disrupted, or threatened and that actually causes such a feeling; (ii) Serves no lawful purpose; and (iii) The respondent knows, or reasonably should know, threatens, frightens, or intimidates the person, even if the respondent did not intend to intimidate, frighten, or threaten the person. [RCW 7.105.010](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.010)(34). [↑](#footnote-ref-8)
9. "Unlawful harassment" means: (a) A knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, harasses, or is detrimental to such person, and that serves no legitimate or lawful purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the petitioner; or (b) A single act of violence or threat of violence directed at a specific person that seriously alarms, annoys, harasses, or is detrimental to such person, and that serves no legitimate or lawful purpose, which would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the petitioner. A single threat of violence must include: (i) A malicious and intentional threat as described in [RCW 9A.36.080](https://app.leg.wa.gov/RCW/default.aspx?cite=9A.36.080)(1)(c); or (ii) the presence of a firearm or other weapon. [RCW 7.105.010](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.010)(36). [↑](#footnote-ref-9)
10. "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. "Course of conduct" includes any form of communication, contact, or conduct, including the sending of an electronic communication, but does not include constitutionally protected free speech. Constitutionally protected activity is not included within the meaning of "course of conduct."(b) In determining whether the course of conduct serves any legitimate or lawful purpose, a court should consider whether: (i) Any current contact between the parties was initiated by the respondent only or was initiated by both parties; (ii) The respondent has been given clear notice that all further contact with the petitioner is unwanted; (iii) The respondent's course of conduct appears designed to alarm, annoy, or harass the petitioner; (iv) The respondent is acting pursuant to any statutory authority including, but not limited to, acts which are reasonably necessary to: (A) Protect property or liberty interests; (B) Enforce the law; or (C) Meet specific statutory duties or requirements; (v) The respondent's course of conduct has the purpose or effect of unreasonably interfering with the petitioner's privacy or the purpose or effect of creating an intimidating, hostile, or offensive living environment for the petitioner; or (vi) Contact by the respondent with the petitioner or the petitioner's family has been limited in any manner by any previous court order. [RCW 7.105.010](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.010)(6). [↑](#footnote-ref-10)
11. "Possession" means having an item in one's custody or control. Possession may be either actual or constructive. Actual possession occurs when the item is in the actual physical custody of the person charged with possession. Constructive possession occurs when there is no actual physical possession, but there is dominion and control over the item. [RCW 7.105.010](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.010)(30). [↑](#footnote-ref-11)
12. "Firearm" means a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder. "Firearm" does not include a flare gun or other pyrotechnic visual distress signaling device, or a powder-actuated tool or other device designed solely to be used for construction purposes. Firearm also includes parts that can be assembled to make a firearm. [RCW 7.105.010](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.010)(15). [↑](#footnote-ref-12)
13. Protections granted may also include any minors included in the petition [↑](#footnote-ref-13)
14. Reminder: SHB 1901 removed any and all jurisdictional authority from municipal courts [↑](#footnote-ref-14)
15. Court days include only days Monday through Friday and exclude legal holidays and weekends. [↑](#footnote-ref-15)
16. As a practical note, obtaining a copy of the front of the envelope and any mailing receipts is preferred by most courts, but not required. [↑](#footnote-ref-16)
17. Prior to SHB 1901, this provision was numbered as [RCW 7.105.200](https://app.leg.wa.gov/RCW/default.aspx?cite=7.105.200)(5). [↑](#footnote-ref-17)
18. This factor was added by the Legislature in SHB 1901. Previously, the petitioner had to only allege irreparable injury, but they may now allege serious immediate harm or irreparable injury. [↑](#footnote-ref-18)
19. It is unclear whether an ERPO can only be issued in one year intervals. RCW 7.105.335(1)(g) currently reads, in part, “ ‘This order will last until the date and time noted above.’ ” RCW 7.105.410(2)(d), on the other hand, states, “The renewal of an [ERPO] has a duration of one year . . .” As the length of the order on renewal often mirrors the original length of the order, it may be that the Legislature intended for ERPOs to run in one-year intervals. [↑](#footnote-ref-19)
20. A vulnerable adult who is not subject to an order under the UGA may file their own motion to modify or terminate a VAPO. Otherwise, if a vulnerable adult is subject to a UGA order, then the vulnerable adult’s guardian, conservator, or person acting on their behalf under a protective agreement must file, if doing so is within their authority. [↑](#footnote-ref-20)