



**WASHINGTON'S NEW  
PROTECTION ORDER LAW:  
CHAPTER 7.105 RCW**

**APRIL 6, 2022**

# FACULTY



**Judge Jacqueline Shea-Brown**  
Benton/Franklin Superior Courts



**Judge Charles Short**  
Okanogan County District Court

# E2SHB 1320



Signed into law on May 10, 2021

- Domestic Violence Protection Orders (1984)
- Vulnerable Adult Protection Orders (1986)
- Antiharassment Protection orders (1987)
- Sexual Assault Protection Orders (2006)
- Stalking Protection Orders (2013)
- Extreme Risk Protection Orders (2016)

## Legislative Intent:

- Reduce burdens on litigants
- Improve efficiency
- Eliminate conflicts and gaps
- Reconcile differences between the statutes
- Incorporate relevant case law
- Address use of technology



## Charged with convening stakeholders to develop recommendations and best practices:

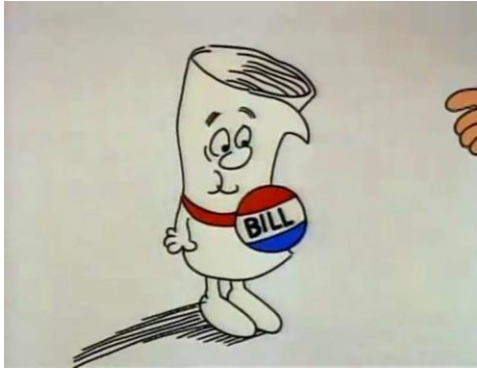


To the Legislature (December 1, 2021): *Jurisdiction, minor litigants, coercive control, information sharing*



To the courts (June 30, 2022): *Data collection and sharing, uses of technology to reduce administrative burdens, requirements for third party vendors, standards for filing evidence to protect victim safety and privacy, improve access for unrepresented litigants, best practices where concurrent civil and criminal proceedings*

# HIGHLIGHTS OF SHB 1901 “TRAILER BILL”



- Revises jurisdiction - district and superior
- Standardizes transfer criteria and processes
- Adds coercive control to DV definition
- Further modifies the following procedures/standards:
  - Filing and service
  - Hearings
  - Standards for entry
  - Relief that may be granted
  - Violations
  - Modification/termination

# TIMELINE & EFFECTIVE DATES



Sections 9-14 and 47 of SHB 1901 take effect immediately

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**WHY ARE WE HERE?**

# THE STATS

- In 2020, 59,289 DV offenses reported; 5,432 sex offenses reported; 12,848 intimidation offenses reported
  
- Between 2018 – November 2021 (approximately):
  - 48,000 DVPO cases filed,
  - 32,000 anti-harassment PO cases,
  - 1,600 stalking PO cases filed, and
  - 1,500 SAPO cases filed.





# BARRIERS TO ACCESS

User Fees

Disability

Limited English proficiency



Transportation

Housing Instability

Time off of work

Access to information & the internet

# 2021: HOW GENDER AND RACE AFFECT JUSTICE NOW



## GENDER AND JUSTICE COMMISSION

Promoting Gender Equality  
in the Justice System



# GUIDING PRINCIPLES

Consider with regard to civil protection orders:

- ☐ Access
- ☐ Consistency
- ☐ Transparency
- ☐ Trauma-Informed



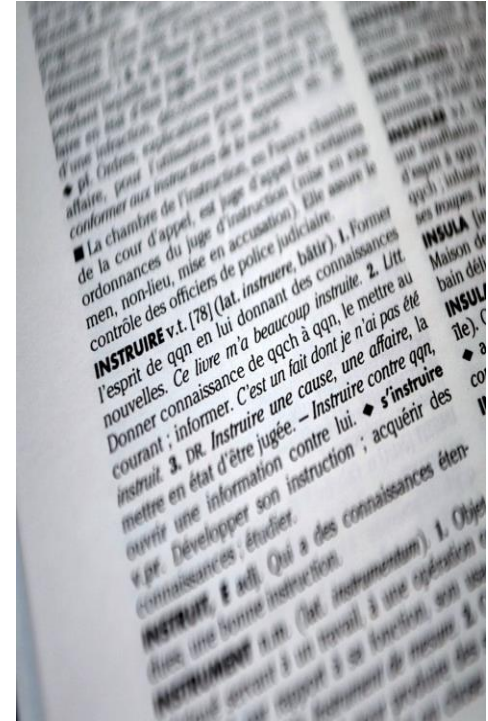
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# CHANGES TO DEFINITIONS

# DEFINITIONS UPDATED

- Abuse
- Domestic violence
- Family or household members
- Intimate partner
- Nonphysical contact
- Sexual conduct
- Stalking
- Unlawful Harassment

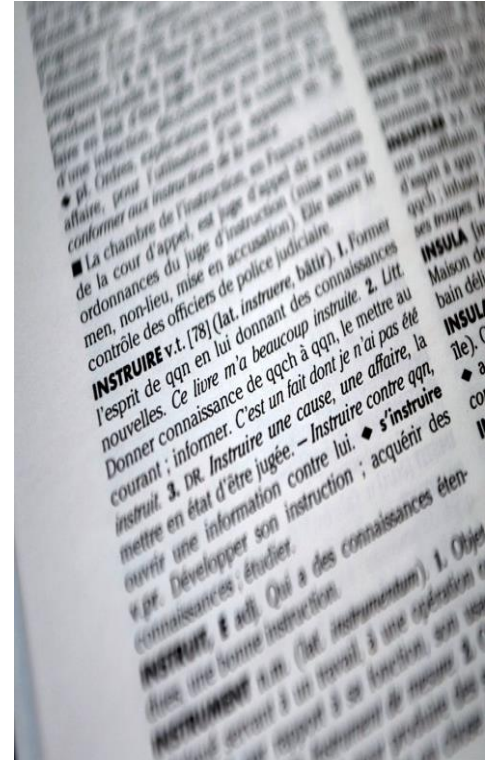
RCW 7.105.010



# DEFINITIONS ADDED

- Coercive control (SHB 1901)
- Consent
- Firearm
- Full hearing
- Full protection order
- Temporary protection order

RCW 7.105.010



# COERCIVE CONTROL

"Coercive control" - 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. In determining whether the interference is unreasonable, the court shall consider the context and impact of the pattern of behavior from the perspective of a similarly situated person.

"Coercive control" does not include protective actions taken by a party in good faith for the legitimate and lawful purpose of protecting themselves or children from the risk of harm posed by the other party.

Examples included in statute: RCW 7.105.010(37)(a)

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# CHANGES TO JURISDICTION & VENUE



## SCENARIO

Polly Petitioner, age 15, lives in Bridgeport, WA (Douglas County). She files a petition for an antiharassment order in Okanogan County District Court against her ex-boyfriend Ralph Respondent, age 18, who lives in Leavenworth, WA (Chelan County). The case comes before you for the ex parte hearing.

Did she file in the correct court?

- A. Yes
- B. No
- C. Other

# JURISDICTION

## **DISTRICT COURT**

- Domestic Violence POs
- Sexual Assault POs
- Stalking POs
- Antiharassment Pos
- Extreme Risk Pos (temp)

## **SUPERIOR COURT**

- Domestic Violence POs
- Sexual Assault POs
- Stalking POs
- Antiharassment POs
- Vulnerable Adult POs
- Extreme Risk POs

RCW 7.105.050, .065, .070

# TRANSFER PROCESSES

- **Court User Perspective:** Desire for consistency, additional assistance with filing in correct court

Vs.

- **Court Perspective:** Lack of consistency in how transfers are implemented and documented, limited assistance provided to petitioners



*...one recommendation was that if a protection order petition is filed in the wrong court, the court clerks could facilitate access by assuming responsibility for transferring the petition to the correct court, along with providing the petitioner with the appropriate court jurisdiction information before an appearance date, rather than adding the burden for refiling on the petitioner.*

From WSWC's Civil Protection Orders  
Listening Forums

# Mandatory Transfer of Case

DISTRICT COURT



SUPERIOR COURT

- Superior court exercises jurisdiction over case with the parties;
- Interferes with Respondent's care, control, or custody of their minor child;
- Affects the use or enjoyment of real property for which the respondent has a cognizable claim or would exclude a party from a shared dwelling;
- Petitioner, victim, or Respondent is under age 18; or
- District court unable to verify whether potential conflicting/related orders involving the parties per RCW 7.105.555 or 7.105.105(4)

*The superior court to which the case is being transferred shall determine whether to grant any request for a continuance*

RCW 7.105.050(1)

# VENUE STANDARDIZED

Petitions may be filed in the county where...

Petitioner  
resides

The alleged act  
occurred

A child to be  
protected  
primarily resides

Petitioner  
formerly  
resided, if  
relocated due  
to alleged  
conduct

Petitions may also be filed in the court  
nearest to the petitioner's residence (or  
former residence if relocated due to  
alleged conduct)

***\*\*COULD BE DIFFERENT COUNTY\*\****

RCW 7.105.075

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**FILING**

## SCENARIO

Consider Polly's case. Based on her relationship to Ralph, she *should* seek a DVPO, but is not required to. What do you do?

- A. Dismiss the case and require Polly to refile for a DVPO.
- B. Enter a temporary AHO
- C. Enter a temporary DVPO
- D. Other



# FILING

*“[a] petition for any type of protection order must not be dismissed or denied on the basis that the conduct alleged by the petitioner would meet the criteria for issuance of another type of protection order.”*

**RCW 7.105.100(5)**

# FILING

- Age lowered – 15 years or older may petition for protection order (except VAPO)
- For SAPOs, AHOs, Stalking POs: can file on behalf of another person who is unable to file themselves but is not a “vulnerable adult”
- Court must not require filing of duplicate or working copies unless they cannot be scanned or are illegible
- ICWA applied in cases where petition on behalf of minor by non-parent

RCW 7.105.100, .105, .200



# FILING & NOTIFICATIONS

To be put in place by 1/1/23 (SCs) and 1/1/26 (CLJs)

## □ Expanded filing options for petitioners:

In-person

Remote / electronic

By mail (incarcerated, unable to file via above methods)

## □ Electronic tracking and notification of progress for parties

Petition processed and under review

Order signed

Transmitted to LE for entry in WACIC

Return of service on respondent filed with court/clerk

Receipt for the surrender of firearms filed with the court/clerk

Respondent filed a motion for the release of surrendered firearms



RCW 7.105.105

# FILING & NOTIFICATIONS

- • Electronic filings may be made at any time
- • Petitioner may designate alternative address or electronic address for service
- • Provision of confidential information streamlined
- • Parties, attorneys, and witnesses allowed to electronically sign sworn statements in all filings

RCW 7.105.105



# FEES

- No service fees for any protection order may be charged by a court or any public agency
- No filing fees for DVPOs, SAPOs, Stalking POs, VAPOs, or ERPOs
- Filing fee may be charged for AHO UNLESS:
  - Petitioner seeking PO against person who has engaged in stalking, sexual assault, or domestic violence;
  - Court determines petitioner unable to pay and waives; or
  - Hate crime or a single act or threat of violence as defined in RCW 7.105.101(35)(b)

RCW 7.105.105(9)



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**SERVICE**  
**RCW 7.105.150 - .175**

## SCENARIO

After determining that Polly wishes to proceed with an AHO case during the ex parte hearing, you grant Polly's temporary AHO, as well as an order to surrender weapons, and set the full hearing out 14 days in Okanogan County Superior Court.

What is the appropriate method of service on Ralph?

- A. Personal service by law enforcement or a third party
- B. Electronic service
- C. Service by mail
- D. Service by publication
- E. Any of the above
- F. None of the above

# SERVICE METHODS

- • Electronic service (email, text message, social media) prioritized and effected by law enforcement unless petitioner elects third party service
- • Personal service by law enforcement required when:
  - Order to surrender firearms
  - Transfer of custody from respondent to petitioner
  - Respondent vacate shared residence
  - Respondent incarcerated

Once those conditions satisfied,  
electronic service permitted





# ELECTRONIC SERVICE

- Court authorization not required unless personal service was initially required.
- In those cases, electronic service can be authorized after request of the petitioner, or good cause.
- No formal motion from the petitioner is necessary



# ELECTRONIC SERVICE

- • Petitioner must
  - Provide Respondent's email, cell number, or username, if known, in the confidential information form
  - Attest that it is the legitimate, current, or last known contact information for Respondent
- • Respondent to provide valid contact information for electronic service at the earliest point at which Respondent is in contact with the court



# ELECTRONIC SERVICE

- • Verification of notice is required
  - Read-receipt
  - Response
  - Sworn statement from the person who effected service verifying transmission and any follow-up communications such as email or telephone contact used to further verify
  - Appearance by the respondent at a hearing.
- • Sworn proof of service must be filed with the court by the person who effected service.

# SERVICE BY OTHER MEANS

- After two attempts, the court shall permit service by other means unless moving party requests additional time to attempt service
- Service by mail
  - Affirmatively order without requiring additional motions by petitioner
  - When completed by third party, clerk must forward proof of service by mail to law enforcement in county or municipality where Respondent resides
- Service by publication
  - Only in cases where all other means of service have been unsuccessful or are not possible
- Multiple methods of service may be authorized

# TIMING

- Service must be completed on the nonmoving party no less than 5 days before the hearing date unless waived by nonmoving party
- If the court permits service by mail or publication, the court shall set a hearing date no later than 30 days **\*\*Can be extended for good cause\*\***
- Service is completed on
  - The day the respondent is personally served,
  - The date of transmission for electronic service,
  - The 10th calendar day after mailing for service by mail, or
  - The date of 3<sup>rd</sup> publication after three consecutive weeks.
- After initial service, additional service may be made by mail as an alternative to other authorized methods. This additional service is considered complete on the third calendar day after mailing.

## OTHER SERVICE PROVISIONS

- The court shall not dismiss, over the objection of a petitioner, a petition or motion to renew based on the inability to serve Respondent, unless the court determines that all available methods of service have been attempted unsuccessfully or method of service is not possible
- When service to be completed by a law enforcement, the clerk of the court must electronically forward a copy of any order issued, the confidential information form, petition and any supporting materials, **on or before the next judicial day**, to the law enforcement agency in the county or municipality where the Respondent resides, as specified in the order, for service.

# OTHER SERVICE PROVISIONS

- Memorialize on the order itself who appeared and how they appeared so it is clear on the face of the order whether Respondent participated and whether further service is required
- For example:
  - Respondent appears remotely or leaves a hearing before a final ruling is issued
  - Court believes Respondent has sufficient notice such that additional service is not necessary
  - Order must recite that Respondent appeared before the court, has actual notice of the order, the necessity or further service is waived, and proof of service is not necessary

# LAW ENFORCEMENT

- Service of protection orders must take precedence
- Law enforcement to provide additional detail on the proof of service form that is returned to the court
- Consistent requirements established for documenting and promptly informing the court of unsuccessful service attempts
- Law enforcement should continue to attempt personal service up to the hearing date.
- If Respondent has moved from that county or municipality and personal service not required, the law enforcement agency specified in the order may electronically serve the order





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# HEARING PROCEDURES

# SCENARIO

The court may grant an ex parte order, pending a full hearing, if it appears from the petition and any additional evidence that:

- 1) Respondent has engaged in conduct against Petitioner that serves as basis for protection order and
- 2) Serious immediate harm or irreparable injury could result if order not issued immediately without prior notice.

If, upon review of Polly's petition, you find that one or both of the above factors are not met, what do you do?

- A. Dismiss the case.
- B. Set a full hearing on the petition.
- C. Other.

# EX PARTE

- If court declines to enter ex parte order, the court must still set a full hearing unless determined that does not contain prima facie allegations to support the issuance of any protection order.
- Written findings required of denial
- If ex parte temporary protection order is denied, the court shall advise the petitioner of the opportunity to amend
- Rebuttable presumption to include petitioner's minor children as protected parties in ex parte temporary DVPO and if not, must state reasons in writing

RCW 7.105.305, .330, .400



# REISSUANCE

- Temporary protection order may be reissued as follows:
  - Agreement of the parties;
  - Additional time needed to serve temporary protection order on Respondent; or
  - Good cause (written finding)
- A temporary OTSW issued with a temporary protection order must be automatically reissued when the temporary protection order is reissued unless...
  - Irreparable injury to Petitioner will not result through modification or termination of OTSW (preponderance std.)
  - Specific findings required
- Rebuttable presumption against delay

RCW 7.105.400



# CRIMINAL & CIVIL

Where there are concurrent criminal and civil proceedings stemming from same alleged conduct:

- When considering any request to stay/continue/delay hearing because of pending criminal investigation or prosecution, *rebuttable presumption against such delay*
- Courts to consider the *Olympic Pipeline* factors on the record
- Forthcoming recommendations from 1320 stakeholder groups re: best practices

RCW 7.105.200(4), .400(4)



# HEARINGS GENERALLY

- Protection order hearings are “special proceedings”
- Sexual assault/DV/protection order advocate or other support person shall be allowed to accompany petitioner to proceedings (includes remote)
- Interpreter provisions
- Realignment of parties
- Discretion to appoint counsel for petitioner if respondent represented
- Burden of proof
- State, in writing, particular reasons for denial
- Consult Judicial Information System (JIS)



# HEARINGS GENERALLY

Courts may not deny/dismiss a protection order petition on basis of:

- • Age of either party, unless provisions in this chapter specifically limit relief or remedies based upon a party's age
- • Petitioner did not report the conduct to law enforcement
- • A no-contact order or a restraining order that restrains the respondent's contact with the petitioner has been issued in a criminal proceeding or in a domestic relations proceeding
- • Relief sought by Petitioner may be available in a different action or proceeding
- • Conduct at issue did not occur recently or because of the passage of time since the last incident of conduct giving rise to the petition
- • Respondent no longer lives near Petitioner

RCW 7.105.225

# SCENARIO

You'll note that Polly did not submit any exhibits or attachments with her petition, despite mentioning numerous text messages, Facebook posts, and a picture of a knife with her initials on it that was sent to her by Ralph. Should you require her to submit supporting evidence?

- A. Yes.
- B. No.
- C. Unsure.



# EVIDENCE & DISCOVERY

- • Rules of evidence need not apply, other than privilege, rape shield statute, ER 412 and 413
- • Hearings may be conducted upon petition information, live testimony of the parties, and sworn declarations.
  - Live testimony of other witnesses may be requested but shall not be permitted unless the court finds necessary and material
- • Discovery only permitted if specifically authorized by the court for good cause shown upon written motion of a party filed 6 judicial days prior to the hearing and served prior to the hearing.
- • Forthcoming recommendations from 1320 stakeholder groups re: standards for filing evidence “in a manner that protects victim safety and privacy...”

RCW 7.105.200

# REMOTE HEARINGS

- Discretion to allow parties and witnesses to attend hearings in-person or remotely (phone, video, other electronic means)
- Parties may request to appear remotely no later than 3 judicial days before the hearing
- Courts shall grant a request for remote appearance unless the court finds good cause to require in-person attendance or attendance through specific means

RCW 7.105.205



# REMOTE HEARINGS

- Assurances of identity required
- No fees for remote appearances
- Technology accommodate ASL and other languages
- No posting or streaming of proceedings, or recordings of proceedings, beyond those authorized to participate unless:
  - a waiver has been received from all parties; or
  - the hearing is being conducted online and members of the public do not have in-person access to observe or listen to the hearing

RCW 7.105.205





*We've also had some access issues with folks going for Protection Orders and then getting the wrong information about how to virtually or telephonically come into court for their date. Then their order is terminated and thrown out. They have to start all over again.*

From WSWC's Civil Protection Orders  
Listening Forums

# REMOTE HEARINGS

- Provide parties, in orders setting the hearing, with contact info for court (phone number, email address)
- Before granting/dismissing a petition due to nonappearance or inability of court to reach a party via telephone or video, the court shall check for any notifications to the court regarding issues with remote access or other technological difficulties.
  - If any party has notified the court, the court shall reset the hearing by continuing it and reissuing any temporary order in place.
  - If a party was unable to provide the notification regarding issues with remote access or other technological difficulties on the day of the hearing prior to the court's ruling, that party may seek relief via a motion for reconsideration.

RCW 7.105.205

# REMOTE HEARINGS

- Take appropriate measures to prevent members of the public or the parties from harassing or intimidating any party/witness:
  - Ensure court controls over microphone and viewing settings
  - Explain that recording or broadcasting any portion of the hearing by any means other than the court record is strictly prohibited without prior court approval
  - Protect the privacy of phone numbers, emails, and other contact information for parties and witnesses and inform parties and witnesses of these safety considerations.
- A party attending a hearing remotely who is unable to participate in the hearing outside the presence of others who reside with the party may request, and shall be granted, one continuance on that basis.

RCW 7.105.205

# REMOTE HEARINGS

- Include instructions to the parties to access a hearing remotely in the order setting the hearing and in any order granting a respondent's request for a remote appearance
- Include instructions to request an interpreter and disability accommodations
- Inform parties of estimated start time of the hearing if parties or witnesses may have to wait longer than one hour
- Inform parties beforehand that hearing is being recorded by the court, in what manner the public is able to view the hearing, and how a party may obtain a copy of the recording of the hearing

RCW 7.105.205



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## **DURATION, RELIEF & REMEDIES**



# DURATION

- ERPOS - 1 year
- AHOs - fixed period of time, can be less than one year
- DVPOs, SAPOs, SPOs, VAPOs: Fixed period of time not less than 1 year, unless:
  - Duration less than 1 year requested by the petitioner or
  - Order restrains contact with Respondent's minor children



RCW 7.105.315, .335

# RELIEF & REMEDIES

New/modified relief includes:

- More comprehensive authority for the court to restrain respondents from attempting contact with the petitioner or members of the petitioner's family or household
- Prohibit Respondent from knowingly coming within, or knowingly remaining within, a specified distance of the petitioner's person or vehicle
- Distance restrictions are presumptively at least 1,000 ft. unless good cause for shorter distance

RCW 7.105.310, .340 (ERPOs)



# RELIEF & REMEDIES

- ◻ If a minor respondent is prohibited from attending their assigned public school, the school district must provide:
  - ◻ Comparable educational services in another setting,
  - ◻ Transportation at no cost to the respondent if the respondent's parent or legal guardian is unable to pay,
  - ◻ Other needed supports to ensure a successful transition to the new school environment.



RCW 7.105.310(1)(i)



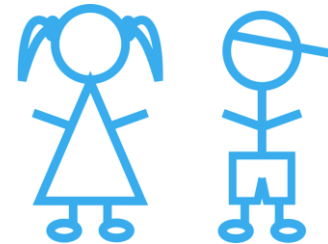
*Young girls of color are most impacted. I think our court systems are so concerned about the future of the youth that they are more likely to protect the abuser's future than they are on the young victim's future, because there's also just this inherent built-in idea that, well, that kind of trauma-- that's a woman's burden.*

From WSWC's Civil Protection Orders  
Listening Forums

# RELIEF & PARENTING PLANS

- Courts may not delay or defer relief regarding a residential schedule for children of the parties on grounds that the parties could seek a parenting plan or modification to a parenting plan in a different action
- Protection order must not be denied on the grounds that the parties have an existing parenting plan in effect
- Protection order may suspend Respondent's contact with the parties' children under an existing parenting plan, subject to further orders in a family law proceeding

RCW 7.105.310(1)(f)



# RELIEF & REMEDIES

- • Before ordering a respondent to obtain a mental health or chemical dependency evaluation, the court must consider ability to pay
- • No electronic monitoring of minors
- • Restrict Respondent from engaging in abusive litigation or frivolous filings, harassing or libelous communications about Petitioner to third parties, false reports
- • Financial relief and restrain transfer of jointly owned assets
- • Restrain Respondent from possession or distributing intimate images depicting Petitioner

RCW 7.105.310

# RELIEF & REMEDIES

- For all types of protection orders, except ERPOs, courts authorized to order law enforcement to assist Petitioner in recovering possessions and to assist in execution of the order
- If Respondent ordered to vacate residence or other shared property, Respondent may be permitted by the court to remove personal items, and any other items specified by the court, while a law enforcement officer is present.
- Where orders involve surrender of firearms, dangerous weapons, and concealed pistol licenses, those items must be recovered at time of service, and secured and accounted for in a manner that prioritizes safety and compliance.

RCW 7.105.320

# RELIEF NOT PERMITTED

- Order Petitioner to obtain drug testing, victim support services, mental health assessment, psychological evaluation, etc.
- Order Petitioner to pay Respondent's attorneys fees or other costs
- Deny protection order because a different type of protection order would have a less severe impact on Respondent
- Mutual protection orders disallowed



RCW 7.105.310(4)



**ORDERS TO SURRENDER *AND*  
*PROHIBIT* WEAPONS (OTSWs)**

# OTSWs

Requirements for surrender of firearms when a court issues an ERPO or OTSW largely retained existing law, but also added:

- Except for an ex parte temporary order, the court must direct law enforcement to revoke any concealed pistol license (CPL) issued to the respondent
- If personal service by law enforcement is not possible, Respondent must surrender the firearms in a safe manner to the control of the local law enforcement within 24 hours of service
- When a firearm that was surrendered is returned to a lawful owner other than Respondent, court must advise the lawful owner of penalty for failing to safely store such that the respondent does not have access to or control of the firearm for the duration of the order

RCW 9.41.075, .800, .801

# OTSWs

RCW 9.41.800 amended:

- • Align standard when determining whether to issue OTSW
- • Update prohibited conduct to include prohibiting Respondent from “accessing, having in their custody or control, possessing, purchasing, receiving, or attempting to purchase or receive, any firearms or other dangerous weapons”
- • Temporary OSTW also includes temporary prohibition on firearms purchases
- • Align state law with federal law re: credible threat findings (RCW 9.41.040 also amended)
- • Immediate entry of OTSW and revocation of CPL in databases
- • Law requires surrender + formal revocation of CPL

# OTSWs

- • Prohibition on custody or control, access, possession, purchase, receipt, or attempting to purchase or receive firearms for OTSWs and ERPOs now includes firearm parts that can be assembled to make firearms
- • Courts authorized to issue OTSWs in conjunction with VAPOs, as had been authorized for DVPOs, SAPOs, Stalking POs, and AHOs
- • RCW 10.99.045 amended:
  - Add defendant's firearms purchase history, including CPL history, to information presented to the court when a defendant appears after arrest for DV offense, where an OTSW may be issued
  - Firearms information to be provided for the court's review when making release decisions

# OTSW COMPLIANCE

To help ensure compliance with OTSWs:

- Courts must make available forms that petitioners may submit to the court in response to a respondent's declaration about whether all weapons have been relinquished as the court ordered,
- Prosecutor's office staff may appear to provide additional information to the court to help ensure accurate and comprehensive information about firearms compliance.
- Respondent required to surrender weapons on day of the hearing if appeared in person or remotely. Alternatively, surrender within 24 hours of being served with OTSW.
- Expanded access to information about firearms compliance

RCW 9.41.801, .815



*The difficulty that we're having is that the abuser is allowed to continue to have access to the survivor in between time when the survivor doesn't have copies of [the] certified order. We've had instances where we called the police, but the police are saying well if I can't see it in my system, you don't have a hard copy, he hasn't been served, so therefore there's nothing we can do. So that's one significant difference of when you go to court, you walk out with it right away..."*

From WSWC's Civil Protection Orders  
Listening Forums

**OTHER PROVISIONS – IN BRIEF**

**(REISSUANCE, RENEWAL,  
MODIFICATION/TERMINATION,  
VIOLATIONS & ENFORCEMENT)**

# RENEWAL

For renewal of full protection orders, other an ERPOs:

- Petitioner may file a motion to renew the order at any time within the 90 days before the order expires.
- If uncontested with no modifications, order may be renewed on basis of Petitioner's motion and statement of the reason for the requested renewal.
- Petitioner bears no burden of proving that they have a current reasonable fear of harm by the respondent.
- Court must grant the motion for renewal unless Respondent proves by a preponderance that:
  - Substantial change in circumstances (specific factors) and
  - Respondent will not, when the order expires, resume acts as described against protected parties

RCW 7.105.405, .410 (ERPOs)



# RENEWAL

- • Terms of the original protection order must not be changed on a motion for renewal unless Petitioner so requests
- • Court may renew protection order for another fixed time period of no less than one year or may enter a permanent order (99 years)
- • If the protection order includes the parties' children, a renewed protection order may be issued for more than one year, subject to subsequent orders entered in a family law proceeding
- • Court may award court costs, service fees, and reasonable attorneys' fees to the petitioner
- • If renewal declined, the court must state in writing in the order the particular reasons for the court's denial

RCW 7.105.405

# RENEWAL

The court must not deny a motion to renew for any of the following reasons:

- Respondent has not violated the previous protection order
- Minor status of either party
- Petitioner did not report to law enforcement
- A no-contact order has been issued in a criminal proceeding or in a domestic relations proceeding
- Relief sought may be available in a different action or proceeding
- Passage of time since the last incident of conduct giving rise to protection order
- Respondent no longer lives near Petitioner

RCW 7.105.405

# MODIFICATION & TERMINATION

- • Consistent standards across AHOs, DVPOs, SAPO, SPOs
  - Motions to modify/terminate must be based on the written materials and evidence submitted to the court
  - Court must set a hearing only if the court finds adequate cause established
- • Petitioner not required to prove current reasonable fear of harm by the respondent
- • Factors to weigh for substantial change in circumstances same as for renewal
  - Court may not base determination on fact that time has passed without violation
  - Court may decline to terminate if it finds that the harmful acts that resulted in the issuance of the protection order were of such severity that the order should not be terminated.
- • Respondent limited to one motion to modify/terminate per 12-month period

RCW 7.105.500 - .515

# VIOLATIONS & ENFORCEMENT

- Advise Petitioner that Respondent may not be subject to penalties for a violation of the order unless Respondent knows of the order
- When a party alleging violation is unable to afford private counsel and asks prosecutor for assistance, prosecutor must initiate and prosecute a contempt proceeding if probable cause that violation occurred
- In this action, court may require the violator of the order to pay the costs incurred in bringing the action, including reasonable attorney's fees



RCW 7.105.470

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**QUESTIONS?**