



**H.B. 1320**

**Civil Protection Orders**

**Listening Forum Report**

**September - October 2021**

**Addendum**

## Introduction

Pursuant to [Chapter 215, 2021 Laws](#), E.S.S.H.B. 1320, Civil Protection Orders, (furthering the goal of modernizing and streamlining the efficiency and accessibility of laws relating to civil protection orders), the Washington State Women’s Commission (“WSWC”), hosted eight virtual listening sessions across Washington state to hear directly from domestic violence and sexual assault survivors, survivor advocates, and other interested stakeholders.

The purpose of the Listening Forums was to support the work of the Gender and Justice Commission of the Washington State Supreme Court, and to gather input directly from advocates and survivors about their experiences seeking and obtaining Civil Protection Orders, and to identify areas in need of improvement to existing processes.

The sessions were scheduled to target geographically diverse areas around the state, although participation in meetings was not limited to participants only from those targeted locations. Many participants attended the meeting which best fit their schedule versus the one scheduled for their geographic location. The identified geographic locations included Spokane, Whatcom County, Bellingham, Yakima, Walla Walla, King, Pierce, Thurston, and Clark Counties. WSWC also scheduled an additional forum specifically for directly impacted domestic violence and sexual assault survivors, for which the WSWC sought to provide additional level of privacy. Fifty-two survivors, survivor advocates, and survivors’ representatives participated in the eight listening sessions. Each session lasted roughly an hour and a half.

The Listening Forums were facilitated by Grace Huang, Chair of the Safety Committee of the Washington State Women’s Commission, Director of Policy for the Asian-Pacific Institute on Gender-Based Violence, and Member of the American Bar Association Commission on Domestic & Sexual Violence. Commissioner Huang provided participants with background information on E.S.S.H.B.1320 and facilitated the listening sessions following a list of standardized questions that had been prioritized by the coordinators of the H.B. 1320 workgroup of the Washington State Supreme Court Gender and Justice Commission.

These questions were used to structure the sessions, so each session was uniform in organization. Time was then allowed for any additional input that participants wished to share but did not fall under the pre-set Q&A format. This report presents an overview of the input provided by the advocates, stakeholders, and survivors that participated.

This report summarizes input on the the following issues: 1) How to Protect the Safety and Privacy of the Victim when Filing Evidence, 2) How State Courts Can See the Existence of Protection Orders from other Jurisdictions, 3) How to Improve Access to Unrepresented Parties, and 4) Best Practices for Courts when Civil Protection Order Proceedings Coincide with Criminal Proceedings Concerning the Same Alleged Conduct.

## Priority 1: How to Protect Victim Safety and Privacy when Filing Evidence in Protection Order Proceedings

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*“There were things that I left out, that would have been helpful to my case, because I didn't want it to be public knowledge.”*

*-Survivor*

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When asked how participants would like to see evidence filed to protect the safety and privacy of the petitioner, the majority of participants wanted to see sealed filings for evidence pertaining to sexual assault and mental health evaluations. The shared sentiment was fear that sensitive information pertaining to the petition or filed evidence could be used in a retaliatory manner resulting in negative outcomes for the victim furthering the abuser's ability to control and harm the survivor.

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*“In recent months, I worked with someone who filed for a protection order and a sexual assault protection order. Her perpetrator then took the paperwork to her former spouse who in turn said she was putting their children at risk. The former spouse went to court and filed against her for a modification of the of the parenting plan. They used her own verbiage against her for having filed against her perpetrator.”*

*-Legal Advocate*

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*“While the respondent has the right to see the information, but maybe the courts could mention that information can't be used by the respondent to retaliate.”*

*-Advocate*

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Many survivors and advocates also expressed concern around the lack of privacy for pro se petitioners who do not have a lawyer's office or a P.O. Box to list as an address in their court filings. In these instances, having to disclose what was a previously confidential location to the respondent can further put the petitioner at risk. Survivors and advocates want a way to disclose pertinent information, like a mailing address, to the court without the respondent having access to that sensitive information.

In addition to the sealed records, participants suggested that courts could convene special hearings for testimony and evidence dealing with sensitive issues, like sexual assault, without nonessential people present in the court room or on the zoom meeting.

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*“I would like all petitions for domestic violence or sexual assault Protection Orders to be sealed. I've had survivors purposely leave out details in a petition especially in a sexual assault petition ... it's humiliating. Nobody wants to write down the worst thing that ever happened to them and then go to court with a courtroom full of people and recap everything that happened.”*

*-Advocate*

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## **Priority 2: How State Courts Can See the Existence of Protection Orders from other Jurisdictions**

Input was sought from participants about whether they faced issues stemming from conflicting orders in other jurisdictions (i.e., another state, Tribal, or Military courts). The participants gave accounts of Washington state courts not accepting protection orders from other states and therefore failing to honor or afford full faith and credit to the orders from other jurisdictions in the Washington court. Participants also described instances where survivors were told by courts that they must start the process over by refile in the new jurisdiction. Participants stated these occurrences cause significant frustration for survivors.

Additionally, participants in counties that border the state line discussed the complications that arise when the petitioner resides in Washington and the respondent lives across the state line. These participants emphasized the frustration survivors feel when Washington courts do not want to hear about incidents that took place in Washington but the survivor resides in another state or jurisdiction, but simultaneously, the other state will not hear the case because the situation prompting the petition occurred in Washington.

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*“There's a line where you can live on one side of the road and be in Oregon or one side of the road near Walla Walla. We had a person who lived on the Oregon side, but the entire incident, the child, the child's mother, everything happened in the Walla Walla County area, but the Washington judge wouldn't hear the case because the respondent's address was in Oregon. And I'm sure Oregon would have refused to hear it because everything happened in Washington.”*

*-DV Advocate*

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### **Priority 3: Improving Access to Unrepresented Parties & the Promotion of Pro Bono Attorneys for Remote PO Proceedings**

When asked about improvements to access for unrepresented parties, participants voiced mentioned various issues where they feel improvement is needed. First, participants discussed the vast differences between survivors' experiences in counties depending on whether courts appoint representation for DVPO cases. While some counties have the resources to appoint representation for petitioners, other counties have contracts with local law firms to provide pro bono legal representation to those in need. Participants indicated a need for increased access to legal representation for petitioners in DVPO cases where the respondent has retained legal representation. One suggestion was to tie a set number of pro bono representation hours to

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*"I've done some pro bono work and what I've noticed is a lot of law firms are not supportive of pro bono work because it takes time away from billable hours and it can spiral. It's difficult to draw a line here because protection orders are often tied very much into family law, which can go for a year or two years and involve lots of litigation. I've often thought that it would be ideal if as part of our licensing that attorneys be required to do a certain amount of pro bono work."*

*-WA State Licensed Attorney*

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state licensing requirements for attorneys.

In addition, participants cited detrimental problems with the delay facing petitioners receiving their digital copy of the protection order issued from a remote PO hearing. This delay was also referenced in the WSWC original H.B. 1320 Civil Protection Listening Forum Report submitted to the Gender and Justice Commission in late October of 2021. Participants expressed the need for immediate digital access to any PO issued during a remote hearing.

Finally, participants identified access barriers for those in need of translation services and other accessibility services. They expressed a desire to see consistent implementation of state requirements for courts to provide such services based on the needs stated by those who fill out a special accommodations form. Furthermore, participants identified the need for access to Protection Order documents translated for petitioners and respondents in their preferred language.

#### **Priority 4: Best Practices for Courts When Civil PO Proceedings Correspond with Criminal Proceedings Concerning the Same Alleged Conduct**

Participants were asked about their experience with obtaining civil protection orders when there is a pending outcome of a criminal case involving the same alleged conduct, what impact the current process has on petitioners, and about any input on how to improve the process. Participants with experience in these types of cases detailed the frustration and burden petitioners experience as they navigate the PO process. Several participants from various regions across the state described years of continuances to DVPO cases as the courts awaited the conclusion of the corresponding criminal case. During this waiting period, petitioners must return to court to re-affirm their desire for a DVPO while the criminal matter is pending. This adds the additional burden of missed work, travel expenses, and additional childcare needs for each time the petitioner makes to court to for a DVPO renewal. Participants described how the burden becomes too cumbersome for some petitioners and DVPO petitions are dropped, even though the survivor still feels the DVPO is needed for their safety.

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*“Every one of our DVPOs gets continued if there are criminal matters pending because of the concerns relating to the respondent’s right against self-incrimination. We have had cases that are continued for **two years** pending criminal matters, so our clients must go back every 3-4 months and to affirm they still want a DVPO while the criminal matter is pending. It’s re-traumatizing to our clients every single time, and it takes their empowerment away from originally wanting to file.”*

*-DV Legal Advocate*

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