



MODIFICATION OF SEXUAL ASSAULT PROTECTION ORDERS

Issue

A sexual assault protection order (SAPO) is a civil order issued by the court on behalf of a sexual assault victim. The order can require the alleged perpetrator to stay away from the victim or place(s) where the victim lives or works and to have no further contact with the victim.

SAPOs are an important protection tool for victims of sexual violence. Since enactment into law in 2006, a few considerations for order enhancement have emerged. These include modifying notice process, clarifying standards for renewal of orders, and ensuring victims are not charged for order renewal or when a guardian ad litem appointment is made.

Modifying Process:

Sexual assault protection orders require personal notification and are the only type of protection order in Washington State where an alternative means of service is not permitted by statute. The personal service notification requirement has presented significant barriers for sexual assault victims to successfully obtain protection order remedy. Often respondents are difficult to locate or are intentionally hiding out to avoid service.

Modifying the personal service requirement to allow for notice by publication or mailing is necessary and will increase sexual assault victims' access to justice and receiving critical protection.

Temporary SAPOs are valid for two weeks. This assumes that the two-week period will have afforded adequate time for personal service and due notice to the respondent. However, the notification requirement has been difficult to achieve, resulting in victims having to attend multiple continuance hearings (every two weeks) in the attempt to achieve a permanent order.

For victims, attending multiple continuance hearings is highly problematic. Not only must they take time off from work and arrange childcare, but they must also emotionally prepare each time for the likelihood of seeing the person who harmed them. This emotional and laborious process can result in victims dropping their order pursuit. Courts may also dismiss the order because of multiple failed service attempts.

HB 1307 and SB 5175 modify existing practice to expand notification to allow for publication or mailing notice in certain circumstance. Specifics include the following: Upon receipt of a SAPO petition, a hearing is to be held not later than 14 days from the date of the order. If timely personal service cannot be made, then the court must set a new hearing date and must either require additional attempts at personal service or permit service by publication or mail. A court may not require more than two attempts at personal service. If the court permits service by publication or mail, then the new hearing date must be set not later than 24 days from the date of the order.

Modifying the personal service requirement to allow for notice by publication or mailing is necessary and will increase sexual assault victims' access to justice and receiving critical protection.

This notification modification is not a new process in Washington State; in fact, it mirrors existing publication and mailing exemptions of domestic violence, anti-harassment, and vulnerable adult protection orders. ***Sexual assault victims should not have to go through a more cumbersome process than other victims of crime who are seeking orders.*** This same process should be utilized if the court receives a motion to modify the existing terms of a SAPO or if a motion for renewal of any ex parte temporary or final SAPO is contested.

In a recent survey of sexual assault programs in Washington State, 63% reported that the personal notification requirement is a significant impediment to SAPO obtainment for the sexual assault victims they serve.

Data from King County further supports the need. In King County from 2010 to 2012, the personal service requirement presented a known issue in approximately 1 out of 3 SAPO cases.

Of cases where service was an issue:

- 32% of cases were continued 3 or more times due to service issues
- 35% of cases were dismissed because the petitioner didn't show up, or the petitioner requested a dismissal due to inability to serve the respondent

Guardian ad litem appointment

Current law permits persons 16 years or older to file a SAPO petition for themselves. Children under 16 years of age need a parent or guardian to petition on their behalf. The court may appoint a guardian ad litem for children under 16. Inconsistency in application of guardian appointment has been experienced and victims have been charged for fees associated with having a guardian appointed. The law must be modified and codify that that no fees shall be charged to either party.

Solution

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- Support modifying sexual assault protection orders to be consistent with other crime victim protection order statutes
 - Support improving accessibility of proceedings for victims of sexual assault
 - Clarify that costs for guardians ad litem are not to be charged to either party

To this end, support HB 1307 and SB 5175.

Reference: *King County Sexual Assault Resource Center's (KCSARC) Court Watch Data Fact Sheet*

Contact: Andrea Piper-Wentland
Washington Coalition of Sexual Assault Programs
4317 Sixth Avenue SE, #102 - Olympia, WA 98503
(360) 754-7583 - policy@wcsap.org