

ORDINANCE No. 112465

COUNCIL BILL No. 105041

AN ORDINANCE relating to the Criminal Code; amending Sections 12A.06.040 Harassment, 12A.06.120 Domestic violence defined, 12A.06.130 No contact orders, 12A.06.155 Domestic violence prevention, 12A.06.160 Protection orders, 12A.06.165 Protection order - relief, 12A.06.170 Ex parte protection orders, 12A.06.175 Peace officer - assistance, 12A.06.180 Protection order - violation - contempt; and adding a new section to Chapter 12A.06 to clarify judicial proceedings on domestic violence cases to comply with state law.

9/10/85 - Public Safety - hold
9/24/85 - Public Safety - PASS AS AMENDED

REC'D CMB OCT 01 1985

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Introduced: AUG 19 1985	By: City Attorney
Referred: AUG 19 1985	To: Public Safety
Reported: SEP 30 1985	Second Reading: SEP 30 1985
Third Reading: SEP 30 1985	Signed: SEP 30 1985
Presented to Mayor: OCT 1 1985	Approved: OCT 8 1985
Returned to City Clerk: OCT 8 1985	Published:
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

OK

The City of

Honorable President:

Your Committee on

to which was referred the within Council Bill report that we have considered the same

UP

DO

The City of Seattle--Legislative Department

REPORT OF COMMITTEE

Date Reported
and Adopted

President:

Committee on

Public Safety

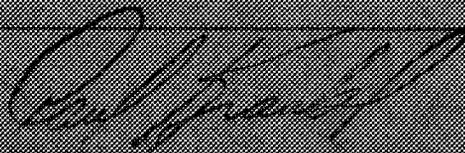
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105041

we have considered the same and respectfully recommend that the same:

DO PASS AS AMENDED

Vote 9-0



Committee Chair

ORDINANCE 112465

AN ORDINANCE relating to the Criminal Code; amending Sections 12A.06.040 Harassment, 12A.06.120 Domestic violence defined, 12A.06.130 No contact orders, 12A.06.155 Domestic violence prevention, 12A.06.160 Protection orders, 12A.06.165 Protection order - relief, 12A.06.170 Ex parte protection orders, 12A.06.175 Peace officer - assistance, 12A.06.180 Protection order - violation - contempt; and adding a new section to Chapter 12A.06 to clarify judicial proceedings on domestic violence cases to comply with state law.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 12A.06.040 of the Seattle Municipal Code (Section 12A.04.070 of Ordinance 102843) is amended as follows:

12A.06.040 Harassment

A. A person is guilty of harassment if:

1. ((w)) With the intent to annoy or alarm another person he/she repeatedly uses fighting words or obscene language, thereby creating a substantial risk of assault((-)); or

2. Without lawful authority, the person knowingly threatens:

a. To cause bodily injury in the future to the person threatened or to any other person; or

b. To cause physical damage to the property of a person other than the actor; or

c. To subject the person threatened or any other person to physical confinement or restraint; or

d. Maliciously to do any other act which is intended to substantially harm the person threatened or another with respect to his or her physical or mental health or safety; and

1 5. The person by words or conduct places the person
2 threatened in reasonable fear that the threat will be
3 carried out.

4 B. When any defendant charged with a crime involving
5 harassment is released from custody before trial or bail or
6 personal recognizance, the court authorizing the release may
7 require that the defendant:

8 1. Stay away from the home, school, business, or
9 place of employment of the victim or victims of the
10 alleged offense or other location, as shall be specifi-
11 cally named by the court in the order;

12 2. Refrain from contacting, intimidating,
13 threatening, or otherwise interfering with the victim or
14 victims of the alleged offense and such other persons,
15 including but not limited to members of the family or
16 household of the victim, as shall be specifically named by
17 the court in the order.

18 C. The Court shall determine the necessity for imposing
19 a no-contact order or other conditions of pre-trial release.
20 The Seattle Police Department and Seattle Municipal Court may
21 enforce this section as it relates to orders restricting the
22 defendant's ability to have contact with the victims or others.
23 The victim shall be informed by local law enforcement agencies
24 or the prosecuting attorney of the final disposition of the
25 case in which the victim is involved. If a defendant is found
26 guilty of a crime of harassment and a condition of the
27 sentence restricts the defendant's ability to have contact
28 with the victim or witnesses, the condition shall be recorded
 and a written certified copy of that order shall be provided
 to the victim or witnesses by the clerk of the court. Wilful

1 violation of a court order issued under this section, or of an
2 order issued by any court of competent jurisdiction under an
3 equivalent statute or ordinance, is a misdemeanor. The
4 written order shall contain the court's directives and shall
5 bear the legend: Violation of this order is criminal offense
6 under SMC 12A.06.030 and will subject a violator to arrest.

7 Section 2. Section 12A.06.120 of the Seattle Municipal
8 Code, as last amended by Section 1 of Ordinance 111857, is
9 further amended as follows:

10 12A.06.120 Domestic Violence Defined.

11 A. Unless the context requires otherwise, the following
12 terms shall have the following meanings as used in this
13 chapter:

14 1. "Social partner" or "family or household member"
15 means persons who are or have been party to a marriage, or who
16 are cohabitating or have cohabitated in the past, (~~or who have~~
17 ~~a dating relationship~~) or are the partners to the conception
18 of a child regardless of whether they have been married or
19 lived together at any time, or persons related by blood or
20 marriage.

21 2. "Domestic violence" means a crime committed by a
22 person against the person or property of his/her social
23 partner or family or household member (~~including but not~~
24 ~~limited to the following offenses as defined by Title 12A~~
25 ~~(Seattle Criminal Code (Ordinance 102843), as amended))~~;

26 Assault	12A.06.010
27 Appropriation of Lost or 28 Misdemeanor Property	12A.08.100
Coercion	12A.06.090
Criminal Trespass	12A.06.070
Extortion	12A.08.080

1	Harassment	12A.06.040
2	Menacing	12A.06.030
3	Property Destruction	12A.08.020
4	Reckless Burning	12A.08.030
5	Reckless Endangerment	12A.06.050
6	Telephone Harassment	12A.06.050
7	Theft	12A.08.060
8	Unauthorized Use of A Motor Vehicle	12A.08.110
9	Unlawful Imprisonment	12A.06.060))

10 3. "Court" includes superior, district and municipal
11 courts of the State of Washington.

12 4. "Judicial day" does not include Saturdays, Sundays,
13 or legal holidays.

14 Section 3. Section 12A.06.130 of the Seattle Municipal
15 Code (Section 12A.04.196 of Ordinance 102843, as last amended
16 by Section 5 of Ordinance 109674), is further amended as
17 follows:

18 12A.06.130 No Contact Orders.

19 Because of the likelihood of repeated violence directed at
20 those who have been victims of domestic violence in the past,
21 when any ((~~defendant~~)) person charged with or arrested for a
22 crime involving domestic violence is released from custody
23 before arraignment or trial on bail or personal recognizance,
24 or after trial before sentencing or as a condition of any
25 sentence imposed, the court authorizing release may prohibit
26 ((~~the defendant~~)) that person from having contact with the
27 victim. Wilful violation of a court order issued under this
28 section, or of an order issued by any court of competent
jurisdiction under equivalent statute or ordinance, is a
misdemeanor. The written order releasing the ((~~defendant~~))

1 person shall contain the court's directives and shall bear
2 the legend: "Violation of this order is a criminal offense
3 under Section 12A.06.130 (The Seattle Criminal Code (Ordinance
4 102843) as amended)." A certified copy of such order shall be
5 provided to the victim.

6 Section 4. Section 12A.06.155 of the Seattle Municipal
7 Code (Section 2 of Ordinance 111857) is amended as follows:

8 12A.06.155 Domestic Violence Prevention.

9 A. Any person may seek protection (~~relief under this~~
10 ~~chapter~~) by filing a petition with a court alleging that the
11 person has been the victim of domestic violence committed by
12 the respondent. The person may petition for relief on behalf
13 of himself or herself and on behalf of minor family or house-
hold members.

14 B. (~~If an action under this chapter is commenced in~~
15 ~~Seattle Municipal Court and the petitioner or respondent~~
16 ~~contests custody or visitation rights, then, upon the motion~~
17 ~~of either party containing proof that the petition for relief~~
18 ~~under this chapter has been filed with the superior court,~~
Seattle Municipal Court shall dismiss the action.

19 C. ~~If a proceeding under Chapter 26.09, 26.12 or 26.26~~
20 ~~RCW is commenced in a superior court before or after the~~
21 ~~filing of an action in Seattle Municipal Court, then the~~
22 ~~superior court shall have exclusive jurisdiction over the~~
23 ~~proceedings under this chapter. Any order entered while this~~
24 ~~court has jurisdiction remains valid until superseded by~~
superior court order.)

25 The jurisdiction of Seattle Municipal Court shall be
26 limited to the issuance and enforcement of temporary orders
27 for protection provided for in RCW 26.50.070 if:
28

1 1. A superior court has exercised or is exercising
2 jurisdiction over a proceeding under RCW Title 26 or
3 Chapter 13.34 RCW involving the parties; or

4 2. The petition for relief presents a child custody
5 or visitation issue; or

6 3. The petition for relief requests the court to
7 exclude a party from the dwelling which the parties share.

8 C. When the jurisdiction of this court is limited to the
9 issuance and enforcement of a temporary order, the court shall
10 set forth the full hearing provided for in RCW 26.50.050 in
11 superior court and transfer the case. If the notice and order
12 are not served on the respondent in time for the full hearing,
13 the issuing court shall have concurrent jurisdiction with the
14 superior court to extend the order for protection.

15 D. A person's right to protection for relief is not
16 affected by the person leaving the residence or household to
17 avoid abuse.

18 Section 5. Section 12A.06.160 of the Seattle Municipal
19 Code (Section 3 of Ordinance 111857) is amended as follows:

20 12A.06.160 Protection Orders.

21 There shall exist an action known as petition for an order
22 for protection in cases of domestic violence.

23 A. A petition for relief shall allege the existence of
24 domestic violence, and shall be accompanied by an affidavit
25 made under oath stating the specific facts and circumstances
26 from which relief is sought.

27 B. A petition for relief may be made regardless of
28 whether or not there is a pending lawsuit, complaint, peti-
tion, or other action between the parties except in cases
where the court realigns petitioner and respondent in accor-
dance with RCW 26.50.060(3).

1
2 C. Upon receipt of the petition, the court shall order a
3 hearing which shall be held not later than fourteen days from
4 the date of the order. Personal service shall be made upon
5 the respondent not less than five court days prior to the
6 hearing. If timely service cannot be made, the court may set
7 a new hearing date.

8 Section 6. Section 12A.06.165 of the Seattle Municipal
9 Code (Section 4 of Ordinance 111857) is amended as follows:

10 12A.06.165 Protection Order - Relief.

11 A. Upon notice and after hearing, the court may provide
12 relief as follows:

13 1. Restrain a party from committing acts of domestic
14 violence;

15 2. Exclude the respondent from the dwelling which the
16 parties share or from the residence of the petitioner;

17 3. On the same basis as is provided in Chapter 26.09
18 RCW, award temporary custody and establish temporary visita-
19 tion with regard to minor children of the parties, and
20 restrain any party from interfering with the custody of the
21 minor children;

22 4. Order the respondent to participate in treatment or
23 counseling services;

24 5. Order other relief as it deems necessary for the pro-
25 tection of a family or household member, including orders or
26 directives to a peace officer (~~as allowed under this~~
27 ~~chapter~~)); and

28 6. Require the respondent to pay the filing fee and
court costs, including service fees, and to reimburse the
petitioner for costs incurred in bringing the action,
including a reasonable attorney's fee. If the petitioner has

1 been granted leave to proceed in forma pauperis, the court may
2 require the respondent to pay the filing fee and costs,
3 including service fees, to the county or municipality
4 incurring the expense.

5 B. Any relief granted by the order for protection, other
6 than a judgment for costs, shall be for a fixed period not to
7 exceed one year.

8 C. Nothing in this (~~act~~) section may affect the title
9 to real estate; provided that judgment for costs or fees shall
10 constitute a lien on real estate to the extent provided in
11 Chapter 4.56 RCW.

12 Section 7. Section 12A.06.170 of the Seattle Municipal
13 Code (Section 5 of Ordinance 111857) is amended as follows:

14 12A.06.170 Ex parte protection orders.

15 A. A party may make an application for an ex parte
16 protection order (~~under this chapter~~) when it is alleged
17 that irreparable injury could result from domestic violence if
18 an order is not issued immediately without prior notice to the
19 respondent, the court may grant an ex parte temporary order
20 for protection, pending a full hearing, and grant relief as
21 the court deems proper, including an order:

22 1. Restraining any party from committing acts of
23 domestic violence; and

24 2. Excluding any party from the dwelling shared or from
25 the residence of the other until further order of the court.

26 3. Restrain any party from interfering with the other's
27 custody of the minor children or from removing the children
28 from the jurisdiction of the court.

B. Irreparable injury (~~under this chapter~~) includes
but is not limited to situations in which the respondent has

1 recently threatened petitioner with bodily injury or has
2 engaged in acts of domestic violence against the petitioner.

3 C. The court shall hold an ex parte hearing in person or
4 by telephone on the day the petition is filed or on the
5 following judicial day.

6 D. An ex parte temporary order for protection shall be
7 effective for a fixed period not to exceed fourteen days, but
8 may be reissued. A full hearing (~~((7 as provided in this~~
9 ~~chapter))~~) shall be set for not later than fourteen days from
10 the issuance of the temporary order. The respondent shall be
11 served with a copy of the ex parte order along with a copy of
12 the petition and notice of the date set for the hearing.

13 Section 8. Section 12A.06.175 of the Seattle Municipal
14 Code (Section 6 of Ordinance 111857) is amended as follows:

15 12A.06.175 Peace Officer - Assistance.

16 When an order is issued, (~~(under this chapter)~~) upon
17 request of the petitioner, the court may order a peace officer
18 to accompany the petitioner and assist in placing the peti-
19 tioner in possession of the dwelling or residence, or other-
20 wise assist in the execution of the order of protection.

21 Section 9. Section 12A.06.180 of the Seattle Municipal
22 Code (Section 7 of Ordinance 111857) is amended as follows:

23 12A.06.180 Protection Order-Violation-Penalty-Contempt.

24 A. Whenever an order for protection is granted by this
25 court or any court of competent jurisdiction (~~(under~~
26 ~~this chapter)~~) and the respondent or person to be restrained
27 knows of the order, a violation of the restraint provisions or
28 of a provision excluding the person from a residence is
punishable by a fine of not more than One Thousand Dollars
(\$1,000.00), or by imprisonment in the City Jail for not more
than ninety days, or by both such fine and imprisonment.

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2 B. A peace officer shall arrest without a warrant and
3 take into custody a person whom the peace officer has probable
4 cause to believe has violated an order (~~issued under this~~
5 ~~chapter~~) that restrains the person or excludes the person
6 from a residence, if the person restrained knows of the order.

7 C. A violation of an order for protection shall also
8 constitute contempt of court, and is subject to the penalties
9 prescribed by law.

10 D. Upon the filing of an affidavit by the petitioner or
11 any peace officer alleging that the respondent has violated an
12 order for protection (~~granted under this chapter~~), the court
13 may issue an order to the respondent, requiring the respondent
14 to appear and show cause within fourteen days why the
15 respondent should not be found in contempt of court and
16 punished accordingly.

17 E. When a party alleging a violation of an order for
18 protection (~~issued under this chapter~~) states that the party
19 is unable to afford private counsel and asks the City Attorney
20 for assistance, the attorney shall initiate and prosecute a
21 contempt proceeding if there is probable cause to believe that
22 the violation occurred. In this action, the court may require
23 the violator of the order to pay the costs incurred in
24 bringing the action, including a reasonable attorney's fee.

25 F. Any proceeding under this act is in addition to other
26 civil or criminal remedies.

27 Section 10. Chapter 12A.06 of the Seattle Municipal Code
28 is amended by adding thereto a new section 12A.06.185, as
follows:

12A.06.185 Court action.

Because of the serious nature of domestic violence, the
court, in domestic violence actions shall not dismiss any

1 charge or delay disposition because of concurrent dissolution
2 or other civil proceedings; shall not require proof that
3 either party is seeking a dissolution of marriage prior to
4 instigation of criminal proceedings; shall waive any require-
5 ment that the victim's location be disclosed to any person,
6 other than the attorney of a criminal defendant, upon a
7 showing that there is a possibility of further violence;
8 PROVIDED, That the court may order a criminal defense attorney
9 not to disclose to his client the victim's location.
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(To be used for all Ordinances except Emergency.)

Section 11. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 30th day of September, 1985,
and signed by me in open session in authentication of its passage this 30th day of
September, 1985.

Theresa Dunbar
President of the City Council.

Approved by me this 8th day of October, 1985.
Charles Payne
Mayor.

Filed by me this 8th day of October, 1985.

Attest: *Jim Hill*
City Comptroller and City Clerk.

(SEAL)

Published

By *Theresa Dunbar*
Deputy Clerk.

1 violation of a court order issued under this section, or of an
2 order issued by any court of competent jurisdiction under an
3 equivalent statute or ordinance, is a misdemeanor. The
4 written order shall contain the court's directives and shall
5 bear the legend: Violation of this order is criminal offense
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17 a dating relationship, or are the partners to the conception
18 of a child regardless of whether they have been married or
19 lived together at any time, or persons related by blood or
20 marriage.

21 2. "Domestic violence" means a crime committed by a
22 person against the person or property of his/her social
23 partner or family or household member (~~(- including but not~~
~~limited to the following offenses as defined by Title 12A~~
~~(Seattle Criminal Code (Ordinance 102843), as amended))~~).

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25 Appropriation of Lost or Misdelivered Property	12A.08.100
26 Coercion	12A.06.090
27 Criminal Trespass	12A.06.070
28 Extortion	12A.08.080

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Passed by the City Council the day of, 19 ..,
and signed by me in open session in authentication of its passage this day of
....., 19 ..

President of the City Council.

Approved by me this day of, 19 ..

Mayor.

Filed by me this day of, 19 ..

Attest:
City Comptroller and City Clerk.

(SEAL)

Published

By
Deputy Clerk.

THE CITY OF SEATTLE

LAW DEPARTMENT

MUNICIPAL BUILDING . SEATTLE, WASHINGTON 98104

AREA CODE 206 TELEPHONE 625-2402

DOUGLAS N. JEWETT, CITY ATTORNEY

August 14, 1985

The Honorable Paul Kraabel, Chair
Public Safety Committee
City Council
The City of Seattle

Re: Proposed Amendments to the Traffic
and Criminal Code

Dear Councilmember Kraabel:

We have attached for your consideration a series of proposed amendments to the Traffic and Criminal Codes. One of the two proposed amendments to the Traffic Code is a general housekeeping ordinance correcting internal references contained therein. The second traffic ordinance, if adopted would:

1. Amend the DWI ordinance to comply with recently enacted state law;
2. Amend SMC 11.31.010 and 11.34.010 to clarify and further distinguish infractions and violations;
3. Adopt an amendment imposing duties on the last known driver of a vehicle involved in a traffic accident; and
4. Repeal 11.56.310 to repeal redundant language.

If adopted, the proposed amendments to the criminal code would

1. Repeal SMC 12A.08.110, Unauthorized use of a Motor Vehicle, 12A.08.060, Extortion, and 12A.06.060 Unlawful Imprisonment, since they conflict with state law;
2. Repeal all ordinances relating to gun control, as provided by state law;

The Honorable Paul Kraabel
August 14, 1985
Page two

3. Amend 12A.16.060, Unlawful Interference With a Police Dog to eliminate provisions conflicting with state law;
4. Amend the present Lewd Conduct ordinance to eliminate sections previously declared unconstitutional; and
5. Amend 12A.02.110, to give Municipal Court Judges greater latitude to punish for contempt.

The second proposed amendment to the Criminal Code would adopt recently enacted state legislation concerning domestic violence.

If you have questions regarding any of the above proposed amendments, please contact the undersigned assistant at 625-2050.

Very truly yours,

DOUGLAS N. JEWETT
City Attorney



By
MARILYN F. SHERRON
Assistant

MFS:lp

attachments

cc: Patrick Fitzsimons, Chief
Seattle Police Department
Esther Bauman, Court Administrator
Seattle Municipal Court
Norma Smith, Presiding Judge
Seattle Municipal Court

Affidavit of Publication

STATE OF WASHINGTON KING COUNTY—SS.

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

Ordinance No. 112465

.....
was published on October 10, 1985
.....
.....

B. Blair
.....
Subscribed and sworn to before me on

October 10, 1985

Barbara C. Jones
.....
Notary Public for the State of Washington,
residing in Seattle.

City of Seattle

ORDINANCE 11265

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1. ((w)) With the intent to annoy or alarm another person he/she repeatedly uses fighting words or obscene language, thereby creating a substantial risk of assault((w)); or

2. Without lawful authority, the person knowingly threatens:

a. To cause bodily injury in the future to the person threatened or to any other person; or

b. To cause physical damage to the property of a person other than the actor; or

c. To subject the person threatened or any other person to physical confinement or restraint; or

d. Maliciously to do any other act which is intended to substantially harm the person threatened or another with respect to his or her physical or mental health or safety; and

3. The person by words or conduct places the person threatened in reasonable fear that the threat will be carried out.

B. When any defendant charged with a crime involving harassment is released from custody before trial or bail or personal recognizance, the court authorizing the release may require that the defendant:

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

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

C. The Court shall determine the necessity for imposing a no-contact order or other conditions of pre-trial release. The Seattle Police Department and Seattle Municipal Court may enforce this section as it relates to orders restricting the defendant's ability to have contact with the victims or others. The victim shall be informed by local law enforcement agencies or the prosecuting attorney of the final disposition of the case in which the victim is involved. If a defendant is found guilty of a crime of harassment and a condition of the sentence restricts the defendant's ability to have contact with the victim or witnesses, the condition shall be recorded and a written certified copy of that order shall be provided to the victim or witnesses by the clerk of the court. Wilful violation of a court order issued under this section, or of an order issued by any court of competent jurisdiction under an equivalent statute or ordinance, is a misdemeanor. The written order shall contain the court's directives and shall bear the legend: Violation of this order is criminal offense under SMC 12A.06.030 and will subject a violator to arrest.

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2. "Domestic violence" means a crime committed by a person against the person or property of his/her social partner or family or household member ((= including but not limited to the following offenses as defined by Title 12A (Seattle Criminal Code (Ordinance 102843), as amended)):

Assault	12A.06.010
Appropriation of Lost or Misdelivered Property	12A.06.100
Coercion	12A.06.020
Criminal Trespass	12A.06.070
Detention	12A.06.030
Harassment	12A.06.040
Hazing	12A.06.030
Property Destruction	12A.06.030
Reckless Burning	12A.06.030
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Theft	12A.06.060
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crime involving domestic violence is released from custody before arraignment or trial on bail or personal recognizance, or after trial before sentencing or as a condition of any sentence imposed, the court authorizing release may prohibit ((the defendant)) that person from having contact with the victim. Wilful violation of a court order issued under this section, or of an order issued by any court of competent jurisdiction under equivalent statute or ordinance, is a misdemeanor. The written order releasing the ((defendant)) person shall contain the court's directives and shall bear the legend: "Violation of this order is a criminal offense under Section 12A.06.130 (The Seattle Criminal Code (Ordinance 102843) as amended)." A certified copy of such order shall be provided to the victim.

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12A.06.155 Domestic Violence Prevention.

A. Any person may seek protection ((= relief under this chapter)) by filing a petition with a court alleging that the person has been the victim of domestic violence committed by the respondent. The person may petition for relief on behalf of himself or herself and on behalf of minor family or household members.

B. ((If an action under this chapter is commenced in Seattle Municipal Court and the petitioner or respondent contacts custody or visitation rights, then, upon the motion of either party containing proof that the petition for relief under this chapter has been filed with the superior court, Seattle Municipal Court shall dismiss the action.

C. If a proceeding under Chapter 21.44, 21.12 or 21.26 RCW is commenced in a superior court before or after the

failure of an action in Seattle Municipal Court, then the superior court shall have exclusive jurisdiction over the proceedings under this chapter. Any order entered while this court has jurisdiction remains valid until superseded by superior court order.)

The jurisdiction of Seattle Municipal Court shall be limited to the issuance and enforcement of temporary orders for protection provided for in RCW 26.50.070 if:

1. A superior court has exercised or is exercising jurisdiction over a proceeding under RCW Title 26 or Chapter 13.34 RCW involving the parties; or

2. The petition for relief presents a child custody or visitation issue; or

3. The petition for relief requests the court to exclude a party from the dwelling which the parties share.

C. When the jurisdiction of this court is limited to the issuance and enforcement of a temporary order, the court shall set forth the full hearing provided for in RCW 26.50.050 in superior court and transfer the case. If the notice and order are not served on the respondent in time for the full hearing, the issuing court shall have concurrent jurisdiction with the superior court to extend the order for protection.

D. A person's right to protection for relief is not affected by the person leaving the residence or household to avoid abuse.

Section 5. Section 12A.06.160 of the Seattle Municipal Code (Section 3 of Ordinance 111857) is amended as follows:

12A.06.160 Protection Orders.

There shall exist an action known as petition for an order for protection in cases of domestic violence.

A. A petition for relief shall allege the existence of domestic violence, and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought.

B. A petition for relief may be made regardless of whether or not there is a pending lawsuit, complaint, petition, or other action between the parties except in cases where the court realigns petitioner and respondent in accordance with RCW 26.50.066(3).

C. Upon receipt of the petition, the court shall order a hearing which shall be held not later than fourteen days from the date of the order. Personal service shall be made upon the respondent not less than five court days prior to the hearing. If timely service cannot be made, the court may set a new hearing date.

Section 6. Section 12A.06.165 of the Seattle Municipal Code (Section 4 of Ordinance 111857) is amended as follows:

12A.06.165 Protection Order - Relief.

A. Upon notice and after hearing, the court may provide relief as follows:

1. Restrain a party from committing acts of domestic violence;

2. Exclude the respondent from the dwelling which the parties share or from the residence of the petitioner;

3. On the same basis as is provided in Chapter 26.59 RCW, award temporary custody and establish temporary visitation with regard to minor children of the parties, and restrain any party from interfering with the custody of the minor children;

4. Order the respondent to participate in treatment or counseling services;

5. Order other relief as it deems necessary for the protection of a family or household member, including orders or directives to a peace officer (as allowed under this chapter); and

6. Require the respondent to pay the filing fee and court costs, including service fees, and to reimburse the petitioner for costs incurred in bringing the action, including a reasonable attorney's fee. If the petitioner has been granted leave to proceed in forma pauperis, the court may require the respondent to pay the filing fee and costs, including service fees, in the county of municipality incurring the expense.

B. Any relief granted by the order for protection, other than a judgment for , shall be for a fixed period not to exceed one year.

C. Nothing in this (~~last~~) section may affect the title to real estate; provided that judgment for costs or fees shall constitute a lien on real estate to the extent provided in Chapter 4.36 RCW.

Section 7. Section 12A.06.170 of the Seattle Municipal

Code (Section 5 of Ordinance 111857) is amended as follows:

12A.06.170 Ex parte protection orders.

A. A party may make an application for an ex parte protection order (under this chapter) when it is alleged that irreparable injury could result from domestic violence if an order is not issued immediately without prior notice to the respondent, the court may grant an ex parte temporary order for protection, pending a full hearing, and grant relief as the court deems proper, including an order:

1. Restraining any party from committing acts of domestic violence; and

2. Excluding any party from the dwelling shared or from the residence of the other until further order of the court.

3. Restrain any party from interfering with the other's custody of the minor children or from removing the children from the jurisdiction of the court.

B. Irreparable injury (under this chapter) includes but is not limited to situations in which the respondent has recently threatened petitioner with bodily injury or has engaged in acts of domestic violence against the petitioner.

C. The court shall hold an ex parte hearing in person or by telephone on the day the petition is filed or on the following judicial day.

D. An ex parte temporary order for protection shall be effective for a fixed period not to exceed fourteen days, but may be reissued. A full hearing (as provided in this chapter) shall be set for not later than fourteen days from the issuance of the temporary order. The respondent shall be served with a copy of the ex parte order along with a copy of the petition and notice of the date set for the hearing.

Section 8. Section 12A.06.175 of the Seattle Municipal Code (Section 6 of Ordinance 111857) is amended as follows:

12A.06.175 Peace Officer - Assistance.

When an order is issued (under this chapter) upon request of the petitioner, the court may order a peace officer to accompany the petitioner and assist in placing the petitioner in possession of the dwelling or residence, or otherwise assist in the execution of the order of protection.

Section 9. Section 12A.06.180 of the Seattle Municipal Code (Section 7 of Ordinance 111857) is amended as follows:

12A.06.180 Protection Order-Violation-Penalty-Contempt.

A. Whenever an order for protection is granted by this court or any court of competent jurisdiction (under this chapter) and the respondent or person to be restrained knows of the order, a violation of the restraint provisions or of a provision excluding the person from a residence is punishable by a fine of not more than One Thousand Dollars (\$1,000.00), or by imprisonment in the City Jail for not more than ninety days, or by both such fine and imprisonment.

B. A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order (issued under this chapter) that restrains the person or excludes the person from a residence, if the person restrained knows of the order.

C. A violation of an order for protection shall also constitute contempt of court, and is subject to the penalties prescribed by law.

D. Upon the filing of an affidavit by the petitioner or any peace officer alleging that the respondent had violated an order for protection (granted under this chapter), the court may issue an order to the respondent, requiring the respondent to appear and show cause within fourteen days why the respondent should not be found in contempt of court and punished accordingly.

E. When a party alleging a violation of an order for protection ((issued under this chapter)) states that the party is unable to afford private counsel and asks the City Attorney for assistance, the attorney shall initiate and prosecute a contempt proceeding if there is probable cause to believe that the violation occurred. In this action, the court may require the violator of the order to pay the costs incurred in bringing the action, including a reasonable attorney's fee.

F. Any proceeding under this act is in addition to other civil or criminal remedies.

Section 12A.06.185 Chapter 12A.06 of the Seattle Municipal Code is amended by adding thereto a new section 12A.06.185, as follows:

12A.06.185 Court action.

Because of the serious nature of domestic violence, the court, in domestic violence actions shall not dismiss any charge or delay disposition because of concurrent dissolution or other civil proceedings; shall not require proof that either party is seeking a dissolution of marriage prior to instigation of criminal proceedings; shall waive any requirement that the victim's location be disclosed to any person, other than the attorney of a criminal defendant, upon a showing that there is a possibility of further violence; PROVIDED, That the court may order a criminal defense attorney not to disclose to his client the victim's location.

Section 11. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor, otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 30th day of September, 1985.

and signed by me in open session in authentication of its passage this 30th day of September, 1985.

Norman S. Rice
President of the City Council

Approved by me this 8th day of October, 1985.

Charles Royce
Mayor

Filed by me this 8th day of October, 1985.

Tim Hill
Attest: City Comptroller and City Clerk

(SEAL)

T. Faraco Dumbaw
Deputy Clerk