224 ORDINANCE No. 113640

224 COUNCIL BILL No. 106312

AN ORDINANCE relating to the Criminal Code, adding a new Section 12A.06.190 making it a crime to violate a civil anti-harassment protection order.

COMPTROLLER FILE No.

Introduced: AUG 24 1987	By: City Attorney
Referred: AUG 24 1987	To:
Referred:	To:
Referred:	To:
Reported: SEP 28 1987	Second Reading: SEP 28 1987
Third Reading: SEP 28 1987	Signed: SEP 28 1987
Presented to Mayor: SEP 29 1987	Approved: OCT 5 1987
Returned to City Clerk: OCT 5 1987	Published:
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

Law Department

The City o

Honorable President:

Your Committee on Public

to which was referred the within Cou
report that we have considered the a

The City of Seattle—Legislative Department

Date Reported and Adopted

REPORT OF COMMITTEE

President:

mittee on Public Safety

ves referred the within Council Bill No. 102312

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

Do Pass

Vote 7-0

Committee Chair

#8.
C.B. 106312

(To be used for all Ordinances except Emergency.)

DBW:sr
8/14/87
II:ORD2.

ORDINANCE 113640

AN ORDINANCE relating to the Criminal Code, adding a new Section 12A.06.190 making it a crime to violate a civil antiharassment protection order.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. A new section is added to Chapter 12A.06 of the Seattle Municipal Code as follows:

12A.06.190. Violation of civil antiharassment protection order.

Whenever a civil anti-harassment protection order is issued by a court of competent jurisdiction any respondent or person to be restrained who wilfully disobeys the order shall be guilty of a crime punishable by a fine of not more than Five Thousand Dollars ($5,000.00), or by imprisonment in the City Jail for not more than one year, or by both such fine and imprisonment.

Section..... 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 28th **day of** September, 1987, **and signed by me in open session in authentication of its passage this** 28th **day of** September, 1987.

Dolores Sibonga
President pro tem **of the City Council.**

Approved by me this 5th **day of** October, 1987.

Charles Royer
Mayor.

Filed by me this 5th **day of** October, 1987.

Norman J. Brooks
Attest:
City Comptroller and City Clerk.

(SEAL)

Theresa Dunbar
By
Deputy Clerk.

Published

☐ PUBLISH ☐ DO NOT PUBLISH

CITY ATTORNEY

CS 8.1.8

THE CITY OF SEATTLE

LAW DEPARTMENT

MUNICIPAL BUILDING . SEATTLE, WASHINGTON 98104

AREA CODE 206 TELEPHONE 625-2402

DOUGLAS N. JEWETT, CITY ATTORNEY

August 14, 1987

COPY RECEIVED

AUG 17 1987

Douglas N. Jewett
CITY ATTORNEY

Honorable Norman Rice
Public Safety Committee
Seattle City Council
Municipal Building
Seattle, WA 98104

Re: Ordinances Relating to Enforcement of Domestic Violence and Civil Harassment Protection Orders

Dear Councilmember Rice:

Enclosed are two proposed ordinances adopting recent changes in state law.

The first ordinance amends SMC 12A.06.155 to clarify the authority of Municipal Court to enforce the crime of violation of a domestic violence protection order. The original state domestic violence law stated that when the superior court has jurisdiction to issue a protection order, the jurisdiction of municipal court "shall be limited to the issuance and enforcement of temporary (DVPA) orders." This language has been cited by defense attorneys to challenge the authority of Seattle to enforce the crime of violation of a DVPA order issued by Superior Court. The Law Department drafted the attached amendment adopted by the state legislature (Ch. 71, Laws of 1987), and we request a similar amendment to SMC 12A.06.155. The amendment simply makes clear that the reference to "limited" jurisdiction is not intended to prevent municipal courts from prosecuting violations of DVPA orders.

The second proposal relates to the civil harassment statute, Ch. 280, Laws of 1987, enacted by the legislature. The superior court can now issue "unlawful harassment protection orders," but Seattle needs to adopt an ordinance making it a crime to violate such an order. A copy of the complete state law is enclosed. Our ordinance adopts Section 17 of the state law.

I am available to answer any questions you or the committee may have.

Very truly yours,

Douglas B Whalley

DOUGLAS B. WHALLEY
Director
Criminal Division

DBW:sr
II:LET1.
Enclosures
cc: Anne Levinson
Mayor's Office

Sec. 1. Section 3, chapter 263, Laws of 1984 as amended by section 1, chapter 303, Laws of 1985 and RCW 26.50.020 are each amended to read as follows:

(1) Any person may seek 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.

(2) The courts defined in RCW 26.50.010(3) have jurisdiction over proceedings under this chapter. The jurisdiction of district ((or)) and municipal courts under this chapter shall be limited to enforcement of RCW 26.50.110(1), or the equivalent municipal ordinance, and the issuance and enforcement of temporary orders for protection provided for in RCW 26-.50.070 if: (a) A superior court has exercised or is exercising jurisdiction over a proceeding under this title or chapter 13.34 RCW involving the parties; (b) the petition for relief under this chapter presents a child custody or visitation issue; or (c) the petition for relief under this chapter requests the court to exclude a party from the dwelling which the parties share. When the jurisdiction of a district or municipal court is limited to the issuance and enforcement of a temporary order, the district or municipal court shall set 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.

(3) An action under this chapter shall be filed in the county or the municipality where the petitioner resides, unless the petitioner has left the residence or household to avoid abuse. In that case, the petitioner may bring an action in the county or municipality of the previous or the new household or residence.

(4) A person's right to petition for relief under this chapter is not affected by the person leaving the residence or household to avoid abuse.

Passed the Senate February 23, 1987.
Passed the House April 7, 1987.
Approved by the Governor April 16, 1987.
Filed in Office of Secretary of State April 16, 1987.

CHAPTER 72

[Substitute Senate Bill No. 5179]

PUBLIC PRINTING—PRIVATE PRINTING DOLLAR THRESHOLD TO BE ADJUSTED EACH BIENNIUM—INSTITUTIONS OF HIGHER EDUCATION AUTHORIZED TO CONTRACT WITH PRIVATE PRINTERS WHEN USING NONSTATE APPROPRIATED FUNDING SOURCES

AN ACT Relating to public printing; and amending RCW 43.78.030.

grant relief as the court deems proper, including an order:

(a) Restraining any party from committing acts of domestic violence;

(b) Excluding any party from the dwelling shared or from the residence of the other until further order of the court; and

(c) Restraining any party from interfering with the other's custody of the minor children or from removing the children from the jurisdiction of the court.

(2) Irreparable injury under this section 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.

(3) 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.

(4) 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. [1984 c 263 § 8.]

Child abuse, temporary restraining order: RCW 26.44.063.
Orders prohibiting contact: RCW 10.99.040.
Temporary restraining order: RCW 26.09.060.

26.50.080 Issuance of order——Assistance of peace officer——Designation of appropriate law enforcement agency. 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. Orders issued under this chapter shall include a designation of the appropriate law enforcement agency to execute, serve, or enforce the order. [1984 c 263 § 9.]

26.50.090 Order——Service——Fees. (1) An order issued under this chapter shall be personally served upon the respondent, except as provided in subsection (6) of this section.

(2) The sheriff of the county or the peace officers of the municipality in which the respondent resides shall serve the respondent personally unless the petitioner elects to have the respondent served by a private party.

(3) If service by a sheriff or municipal peace officer is to be used, the clerk of the court shall have a copy of any order issued under this chapter forwarded on or before the next judicial day to the appropriate law enforcement agency specified in the order for service upon the respondent. Service of an order issued under this chapter shall take precedence over the service of other documents unless they are of a similar emergency nature.

(4) If the sheriff or municipal peace officer cannot complete service upon the respondent within ten days, the sheriff or municipal peace officer shall notify the petitioner. The petitioner shall provide information sufficient to permit notification.

(5) Returns of service under this chapter shall be made in accordance with the applicable court rules.

(6) If an order entered by the court recites that the respondent appeared in person before the court, the necessity for further service is waived and proof of service of that order is not necessary.

(7) Except in cases where the petitioner is granted leave to proceed in forma pauperis, municipal police departments serving documents as required under this chapter may collect the same fees for service and mileage authorized by RCW 36.18.040 to be collected by sheriffs. [1985 c 303 § 6; 1984 c 263 § 10.]

26.50.100 Order——Transmittal to law enforcement agency——Record in law enforcement information system——Enforceability. A copy of an order for protection granted under this chapter shall be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order.

Upon receipt of the order, the law enforcement agency shall forthwith enter the order for one year into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state. [1984 c 263 § 11.]

State Misdemeanor

26.50.110 Violation of order——Penalties. (1) Whenever an order for protection is granted 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 a misdemeanor.

(2) 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.

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

(4) Upon the filing of an affidavit by the petitioner or any peace officer alleging that the respondent has 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. The hearing may be held in the court of any county or municipality in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation. [1984 c 263 § 12.]

FINAL BILL REPORT

SSB 5142

C 280 L 87

BY Senate Committee on Judiciary (originally sponsored by Senators Talmadge, Lee, Bottiger, Moore and Rinehart)

Providing protection from unlawful harassment.

Senate Committee on Judiciary

House Committee on Judiciary

SYNOPSIS AS ENACTED

BACKGROUND:

Washington's criminal harassment statute, RCW 9A.46, was intended to make certain kinds of harassment illegal. Toward that end, RCW 9A.46 makes it a crime to threaten to injure or harm another.

Law enforcement authorities report they are unable to make arrests in many harassment cases because RCW 9A.46 applies only where an express threat is made to the victim. Often the victim is subjected to a continued pattern of serious harassment, but no arrest is possible because no specific threat of harm is made.

SUMMARY:

This chapter is intended to provide victims of unlawful harassment with a speedy and inexpensive method of obtaining protection orders preventing unwanted contact between the victim and the harasser. "Unlawful harassment" is defined as a knowing and willful course of conduct directed at a specific person which seriously alarms, annoys, or harasses such person, and which 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 such distress to the victim. A set of factors the court must consider in deciding whether the conduct serves any legitimate or lawful purpose is provided. Nothing in the chapter is to be construed to infringe on any constitutionally protected right, including freedom of speech and freedom of assembly.

A victim of unlawful harassment may petition the superior courts for a civil antiharassment protection order. At the time the

petition is filed, the victim can request the court to issue a temporary antiharassment protection order to remain in effect for up to 14 days.

A hearing must be held on the victim's petition within 14 days after it is filed. If the court finds that unlawful harassment has taken place, it shall issue a civil antiharassment protection order which can remain in effect for up to one year.

A respondent who willfully disobeys an antiharassment protection order is guilty of a gross misdemeanor and may be subject to contempt of court penalties. The municipal and district courts have jurisdiction of any criminal actions brought under this chapter.

In granting antiharassment protection orders, the court is given broad discretion to grant relief, including orders restraining the respondent from contacting or following the petitioner and requiring the respondent to stay a stated distance from the petitioner's residence or work place.

A petitioner may not obtain a third temporary antiharassment protection order if the petitioner has previously obtained two such orders but has failed to obtain a permanent antiharassment protection order unless good cause for such failure can be shown.

VOTES ON FINAL PASSAGE:

Senate	47	0	
House	86	11	(House amended)
Senate	47	0	(Senate concurred)

EFFECTIVE: July 26, 1987

general fund for the biennium ending June 30, 1989, to the superintendent of public instruction to carry out the purposes of this act.

NEW SECTION. Sec. 3. This act shall expire July 1, 1989.

Passed the Senate March 17, 1987.
Passed the House April 24, 1987.
Approved by the Governor May 7, 1987.
Filed in Office of Secretary of State May 7, 1987.

CHAPTER 280

[Substitute Senate Bill No. 5142]

HARASSMENT—UNLAWFUL HARASSMENT DEFINED—PROTECTION ORDERS PROVIDED FOR

AN ACT Relating to protection from harassment; reenacting and amending RCW 10.31.100; adding a new chapter to Title 10 RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds that serious, personal harassment through repeated invasions of a person's privacy by acts and words showing a pattern of harassment designed to coerce, intimidate, or humiliate the victim is increasing. The legislature further finds that the prevention of such harassment is an important governmental objective. This chapter is intended to provide victims with a speedy and inexpensive method of obtaining civil antiharassment protection orders preventing all further unwanted contact between the victim and the perpetrator.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Unlawful harassment" means a knowing and wilful course of conduct directed at a specific person which seriously alarms, annoys, or harasses such person, and which serves no legitimate or lawful purpose. The course of conduct shall be such as would cause a reasonable person to suffer substantial emotional distress, and shall actually cause substantial emotional distress to the petitioner.

(2) "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. Constitutionally protected activity is not included within the meaning of "course of conduct."

NEW SECTION. Sec. 3. In determining whether the course of conduct serves any legitimate or lawful purpose, the court should consider whether:

(1) Any current contact between the parties was initiated by the respondent only or was initiated by both parties;

(2) The respondent has been given clear notice that all further contact with the petitioner is unwanted;

(3) The respondent's course of conduct appears designed to alarm, annoy, or harass the petitioner;

(4) 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;

(5) 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;

(6) Contact by the respondent with the petitioner or the petitioner's family has been limited in any manner by any previous court order.

NEW SECTION. Sec. 4. There shall exist an action known as a petition for an order for protection in cases of unlawful harassment.

(1) A petition for relief shall allege the existence of harassment and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought.

(2) 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.

(3) All court clerks' offices shall make available simplified forms and instructional brochures. Any assistance or information provided by clerks under this section does not constitute the practice of law and clerks are not responsible for incorrect information contained in a petition.

(4) No filing fee may be charged for a petition filed in an existing action or under an existing cause number brought under this chapter in the jurisdiction where the relief is sought. Forms and instructional brochures shall be provided free of charge.

(5) A person is not required to post a bond to obtain relief in any proceeding under this section.

NEW SECTION. Sec. 5. The administrator for the courts shall develop and prepare, in consultation with interested persons, model forms and instructional brochures required under section 4(3) of this act.

NEW SECTION. Sec. 6. Persons seeking relief under this chapter may file an application for leave to proceed in forma pauperis on forms supplied by the court. If the court determines that a petitioner lacks the funds to pay the costs of filing, the petitioner shall be granted leave to proceed in forma pauperis and no filing fee or any other court related fees shall be charged by the court to the petitioner for relief sought under this chapter. If the petitioner is granted leave to proceed in forma pauperis, then no fees for service may be charged to the petitioner.

NEW SECTION. Sec. 7. 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 before the hearing. If timely service cannot be made, the court may set a new hearing date.

NEW SECTION. Sec. 8. (1) Upon filing a petition for a civil antiharassment protection order under this chapter, the petitioner may obtain an ex parte temporary antiharassment protection order. An ex parte temporary antiharassment protection order may be granted with or without notice upon the filing of an affidavit which, to the satisfaction of the court, shows reasonable proof of unlawful harassment of the petitioner by the respondent and that great or irreparable harm will result to the petitioner if the temporary antiharassment protection order is not granted.

(2) An ex parte temporary antiharassment protection order 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 personally 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.

(3) At the hearing, if the court finds by a preponderance of the evidence that unlawful harassment exists, a civil antiharassment protection order shall issue prohibiting such unlawful harassment. An order issued under this chapter shall be effective for not more than one year. At any time within the three months before the expiration of the order, the petitioner may apply for a renewal of the order by filing a new petition under this chapter.

(4) The court, in granting an ex parte temporary antiharassment protection order or a civil antiharassment protection order, shall have broad discretion to grant such relief as the court deems proper, including an order:

(a) Restraining the respondent from making any attempts to contact the petitioner;

(b) Restraining the respondent from making any attempts to keep the petitioner under surveillance; and

(c) Requiring the respondent to stay a stated distance from the petitioner's residence and workplace.

(5) A petitioner may not obtain an ex parte temporary antiharassment protection order against a respondent if the petitioner has previously obtained two such ex parte orders against the same respondent but has failed to obtain the issuance of a civil antiharassment protection order unless good cause for such failure can be shown.

NEW SECTION. Sec. 9. Nothing in this chapter shall preclude either party from representation by private counsel or from appearing on his or her own behalf.

NEW SECTION. Sec. 10. (1) An order issued under this chapter shall be personally served upon the respondent, except as provided in subsection (5) of this section.

(2) The sheriff of the county or the peace officers of the municipality in which the respondent resides shall serve the respondent personally unless the petitioner elects to have the respondent served by a private party.

(3) If the sheriff or municipal peace officer cannot complete service upon the respondent within ten days, the sheriff or municipal peace officer shall notify the petitioner.

(4) Returns of service under this chapter shall be made in accordance with the applicable court rules.

(5) If an order entered by the court recites that the respondent appeared in person before the court, the necessity for further service is waived and proof of service of that order is not necessary.

(6) Except in cases where the petitioner is granted leave to proceed in forma pauperis, municipal police departments serving documents as required under this chapter may collect the same fees for service and mileage authorized by RCW 36.18.040 to be collected by sheriffs.

NEW SECTION. Sec. 11. A copy of an antiharassment protection order granted under this chapter shall be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order.

Upon receipt of the order, the law enforcement agency shall forthwith enter the order for one year into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state.

NEW SECTION. Sec. 12. Any wilful disobedience by the respondent of any temporary antiharassment protection order or civil antiharassment protection order issued under this chapter shall subject the respondent to criminal penalties under this chapter. Any respondent who wilfully disobeys the terms of any order issued under this chapter may also, in the court's discretion, be found in contempt of court and subject to penalties under chapter 7.20 RCW.

NEW SECTION. Sec. 13. Protection orders authorized under this chapter shall not be issued for any action specifically covered by chapter 10.99 or 26.50 RCW.

NEW SECTION. Sec. 14. Nothing in this chapter shall preclude a petitioner's right to utilize other existing civil remedies.

NEW SECTION. Sec. 15. The superior courts shall have jurisdiction and cognizance of any civil actions and proceedings brought under this

chapter. The municipal and district courts shall have jurisdiction and cognizance of any criminal actions brought under sections 12 and 17 of this act.

NEW SECTION. Sec. 16. For the purposes of this chapter an action may be brought in:

(1) Any county in which the alleged acts of unlawful harassment occurred;

(2) Any county where any respondent resides at the time the petition is filed; or

(3) Any county where a respondent may be served if it is the same county where a respondent resides.

NEW SECTION. Sec. 17. Any respondent who wilfully disobeys any civil antiharassment protection order issued pursuant to this chapter shall be guilty of a gross misdemeanor.

NEW SECTION. Sec. 18. Upon application with notice to all parties and after a hearing, the court may modify the terms of an existing order under this chapter. In any situation where an order is terminated or modified before its expiration date, the clerk of the court shall forward on or before the next judicial day a true copy of the modified order or the termination order to the appropriate law enforcement agency specified in the modified order or termination order. Upon receipt of the order, the law enforcement agency shall promptly enter it in the law enforcement information system.

NEW SECTION. Sec. 19. Nothing in this chapter shall be construed to infringe upon any constitutionally protected rights including, but not limited to, freedom of speech and freedom of assembly.

Sec. 20. Section 1, chapter 198, Laws of 1969 ex. sess. as last amended by section 3, chapter 267, Laws of 1985 and by section 9, chapter 303, Laws of 1985 and RCW 10.31.100 are each reenacted and amended to read as follows:

A police officer having probable cause to believe that a person has committed or is committing a felony shall have the authority to arrest the person without a warrant. A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the presence of the officer, except as provided in subsections (1) through (5) of this section.

(1) Any police officer having probable cause to believe that a person has committed or is committing a misdemeanor or gross misdemeanor, involving physical harm or threats of harm to any person or property or the unlawful taking of property or involving the use or possession of cannabis shall have the authority to arrest the person.

(2) A police officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

(a) An order has been issued of which the person has knowledge under RCW 10.99.040(2), 10.99.050, 26.09.060, chapter 26.26 RCW, or chapter 26.50 RCW restraining the person and the person has violated the terms of the order restraining the person from acts or threats of violence or excluding the person from a residence; or

(b) The person is eighteen years or older and within the preceding four hours has assaulted that person's spouse, former spouse, or a person eighteen years or older with whom the person resides or has formerly resided and the officer believes: (i) A felonious assault has occurred; (ii) an assault has occurred which has resulted in bodily injury to the victim, whether the injury is observable by the responding officer or not; or (iii) that any physical action has occurred which was intended to cause another person reasonably to fear imminent serious bodily injury or death. Bodily injury means physical pain, illness, or an impairment of physical condition. When the officer has probable cause to believe that spouses, former spouses, or other persons who reside together or formerly resided together have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary physical aggressor. In making this determination, the officer shall make every reasonable effort to consider: (i) The intent to protect victims of domestic violence under RCW 10.99.010; (ii) the comparative extent of injuries inflicted or serious threats creating fear of physical injury; and (iii) the history of domestic violence between the persons involved.

(3) Any police officer having probable cause to believe that a person has committed or is committing a violation of any of the following traffic laws shall have the authority to arrest the person:

(a) RCW 46.52.010, relating to duty on striking an unattended car or other property;

(b) RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(c) RCW 46.61.500 or 46.61.530, relating to reckless driving or racing of vehicles;

(d) RCW 46.61.502 or 46.61.504, relating to persons under the influence of intoxicating liquor or drugs;

(e) RCW 46.20.342, relating to driving a motor vehicle while operator's license is suspended or revoked;

(f) RCW 46.61.525, relating to operating a motor vehicle in a negligent manner.

(4) A law enforcement officer investigating at the scene of a motor vehicle accident may arrest the driver of a motor vehicle involved in the accident if the officer has probable cause to believe that the driver has

committed in connection with the accident a violation of any traffic law or regulation.

(5) Any police officer having probable cause to believe that a person has committed or is committing a violation of RCW 88.02.095 shall have the authority to arrest the person.

(6) A police officer may arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that an order has been issued of which the person has knowledge under chapter 10.— RCW (sections 1 through 19 of this 1987 act) and the person has violated the terms of that order.

(7) Except as specifically provided in subsections (2), (3), and (4) of this section, nothing in this section extends or otherwise affects the powers of arrest prescribed in Title 46 RCW.

((~~(7)~~)) (8) No police officer may be held criminally or civilly liable for making an arrest pursuant to RCW 10.31.100(2) or (6) if the police officer acts in good faith and without malice.

NEW SECTION. Sec. 21. Sections 1 through 19 of this act shall constitute a new chapter in Title 10 RCW.

NEW SECTION. Sec. 22. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate April 20, 1987.
Passed the House April 16, 1987.
Approved by the Governor May 7, 1987.
Filed in Office of Secretary of State May 7, 1987.

CHAPTER 281

[Senate Bill No. 5172]

VICTIMS AND WITNESSES OF CRIMES—CONTINUATION OF ASSISTANCE PROGRAMS—VEHICULAR HOMICIDE PROOF REQUIREMENTS MODIFIED—BENEFITS MODIFIED

AN ACT Relating to victims or witnesses of crimes; amending RCW 7.68.035, 9.94A.140, 9.94A.142, 13.40.190, 7.68.020, and 7.68.070; creating a new section; adding a new section to chapter 7.68 RCW; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 10, chapter 302, Laws of 1977 ex. sess. as last amended by section 13, chapter 443, Laws of 1985 and RCW 7.68.035 are each amended to read as follows:

(1) Whenever any person is found guilty in any superior court of having committed a crime, except as provided in subsection (2) of this section, there shall be imposed by the court upon such convicted person a penalty

assessment. The assessment shall be in addition to any other penalty or fine imposed by law and shall be seventy dollars for each case or cause of action that includes one or more convictions of a felony or gross misdemeanor and forty-five dollars for any case or cause of action that includes convictions of only one or more misdemeanors.

(2) The assessment imposed by subsection (1) of this section shall not apply to motor vehicle crimes defined in Title 46 RCW except those defined in the following sections: RCW 46.61.520, 46.61.522, 46.61.024, 46.52.090, 46.70.140, 46.65.090, 46.61.502, 46.61.504, 46.52.100, 46.20.410, 46.52.020, 46.10.130, 46.09.130, 46.61.525, 46.61.685, 46.61.530, 46.61.500, 46.61.015, 46.52.010, 46.44.180, 46.10.090(2), and 46.09.120(2).

(3) Whenever any person accused of having committed a crime posts bail in superior court pursuant to the provisions of chapter 10.19 RCW and such bail is forfeited, there shall be deducted from the proceeds of such forfeited bail a penalty assessment, in addition to any other penalty or fine imposed by law, equal to the assessment which would be applicable under subsection (1) of this section if the person had been convicted of the crime.

(4) Such penalty assessments shall be paid by the clerk of the superior court to the county treasurer who shall monthly transmit the money as provided in RCW 10.82.070. ((~~Until June 30, 1987,~~)) Each county shall deposit not less than one and seventy-five one-hundredths percent of the money it retains under RCW 10.82.070 and chapter 3.62 RCW and all money it receives under subsection (8) of this section into a fund maintained exclusively for the support of comprehensive programs to encourage and facilitate testimony by the victims of crimes and witnesses to crimes. ((~~After that date, each county shall continue to provide for such comprehensive programs.~~)) A program shall be considered "comprehensive" only after approval of the department upon application by the county prosecuting attorney. The department shall approve as comprehensive only programs which:

(a) Provide comprehensive services to victims and witnesses of all types of crime with particular emphasis on serious crimes against persons and property. It is the intent of the legislature to make funds available only to programs which do not restrict services to victims or witnesses of a particular type or types of crime and that such funds supplement, not supplant, existing local funding levels;

(b) Are administered by the county prosecuting attorney either directly through the prosecuting attorney's office or by contract between the county and agencies providing services to victims of crime;

(c) Make a reasonable effort to inform the known victim or his surviving dependents of the existence of this chapter and the procedure for making application for benefits;

(d) Assist victims in the restitution and adjudication process; and

C-155-X

City of Seattle

ORDINANCE 113640

AN ORDINANCE relating to the Criminal Code, adding a new Section 12A.06.190 making it a crime to violate a civil anti-harassment protection order.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. A new section is added to Chapter 12A.06 of the Seattle Municipal Code as follows: 12A.06.190. VIOLATION OF CIVIL ANTIHARASSMENT PROTECTION ORDER.

Whenever a civil anti-harassment protection order is issued by a court of competent jurisdiction any respondent or person to be restrained who wilfully disobeys the order shall be guilty of a crime punishable by a fine of not more than Five Thousand Dollars ($5,000.00), or by imprisonment in the City Jail for not more than one year, or by both such fine and imprisonment.

Section 2. 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 28th day of September, 1987, and signed by me in open session in authentication of its passage this 28th day of September, 1987.

DOLORES SIBONGA,
President Pro tem of the City Council.

Approved by me this 5th day of October, 1987.

CHARLES ROYER,
Mayor.

Filed by me this 5th day of October, 1987.

Attest: NORWARD J. BROOKS,
City Comptroller and City Clerk.

(Seal) By THERESA DUNBAR,
Deputy Clerk.

Publication ordered by NORWARD J. BROOKS, Comptroller & City Clerk.

Date of official publication in Daily Journal of Commerce, Seattle, October 9, 1987. (C-155-X)

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 refered 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. 113640

was published on October 9, 1987

R. Spicuzza

Subscribed and sworn to before me on

October 9, 1987

Barbara A. Jones

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