



WASHINGTON STATE
WOMEN'S COMMISSION

CIVIL PROTECTION ORDERS LISTENING FORUM

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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) Inclusion of Coercive Control in the Definition of Domestic Violence,
- 2) How to Protect the Safety and Privacy of the Victim when Filing Evidence,
- 3) Harmonization of Jurisdiction,
- 4) Best Practices for Minor Petitioners and Respondents,
- 5) How to Protect the Safety and Privacy of the Victim when Filing Evidence,
- 6) How State Courts Can See the Existence of Protection Orders from other Jurisdictions,
- 7) How to Improve Access to Unrepresented Parties, and
- 8) Best Practices for Courts when Civil Protection Order Proceedings Coincide with Criminal Proceedings Concerning the Same Alleged Conduct.

VOICES OF WASHINGTON WOMEN

INCLUSION OF COERCIVE CONTROL IN THE DEFINITION OF DOMESTIC VIOLENCE

The headline is absolutely Yes! We should add coercive control!

-DV Survivor

When asked whether coercive control should be included in the legal definition of domestic violence, the overwhelming majority of participants, across the state, agreed that coercive controlling behavior needed to be given more judicial weight than currently being considered by civil protection order courts. According to survivors and survivor advocates, examples of coercive control are currently already being included in protection order petition narratives.

Stakeholders reported petitioners citing coercive controlling behaviors such as isolation from support systems and communities, financial control (bank accounts, debit cards, EBT cards, etc.), threats to immigration status, withholding or threatening to withhold one's child, withholding access to medical and reproductive healthcare, gaslighting tactics, acts of violence as an intimidation tactic (i.e., breaking things, throwing things, threats of harm to loved ones or pets), and abusive litigation tactics. However, the weight applied to claims of coercive controlling behaviors, as the law stands currently, is highly subjective and being inconsistently applied by different courts across the state.

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We know that in relationships and domestic violence relationships it doesn't start out with the sexual assault. It doesn't start out with the strangulation or the stalking. It starts with the coercive control and by not including it what we're basically saying is that we're allowing Survivors to experience extreme trauma, and it has to rise to a certain level before we'll even take it seriously and there's just so much that can be prevented if courts really included that.

-DV Stakeholder

To counteract the described subjectivity and inconsistency when interpreting the impact of coercive control in protection order cases, stakeholders across the state recommended increased mandated education for judges and commissioners on what coercive controlling behaviors are, how coercive control manifests in a relationship, the harm those behaviors cause, and how early intervention could prevent future harm.

“My big thing is that I really, really want the courts to be compelled to learn about the dynamics of domestic violence, all the aspects of it ... until they get additional education, they will likely make wrong decisions. I think especially when it's not the traditional scenario, like when you have a same sex couple.”

-DV Advocate

“Abusers are already using the system. They are already manipulating the system. This is not about expanding the abuser's power through adding coercive control. This is making sure victims and survivors have more tools and resources available. Let's stop just focusing on what abusers can do and can we really focus on what survivors are saying that they need.”

-DV Stakeholder

When asked if survivors and stakeholders are concerned that the addition of coercive control to the definition of domestic violence could be used by abusers against victims, most participants opined abusers already use the courts and the current system to further the control of the survivor. The majority opinion was this concern should not dissuade the Legislature from adding coercive control to the domestic violence definition.

However, there were a few differing opinions on this topic. One participant expressed apprehension with adding coercive control to the definition of domestic abuse over concern that it could pull coercive control in to a separate filing category from physical domestic violence matters. In that case, the advocate expressed concern this could distract from the petitioner's ability to paint a complete picture of the abuse and abusive behaviors endured for the court's consideration.

Another concern raised was about the wording of the definition, because if the definition is not carefully constructed, survivors could fall victim to unintended and unforeseen consequences. One advocate made reference to the unintended consequences of the “mandatory arrest law” which had been widely advocated for by domestic violence survivors, advocates, and organizations, but has resulted in some survivors who seek help from law enforcement having been arrested, further burdening them and contributing to their trauma.

However, a theme repeatedly expressed statewide was survivors frequently described greater ongoing hurtful impact of abusers’ coercive controlling behaviors in comparison to the physical abuse they had endured.

Thinking about mandatory arrest, how that was really advocated for because it was thought that that was really going to make the difference... but in the end, did not serve survivors or meant that they got arrested instead. There was an outcome that was not even seen as a possibility. So, it does feel that way in this in this situation as well ... there's that potential for it to be something that works against a survivor rather than for survivor. Do we have what we need to in order to make that distinction?

- DV Advocate

“In support groups, survivors tend to talk about coercive control way more than they ever mention physical violence.”

-DV Legal Advocate

VOICES OF WASHINGTON WOMEN

HARMONIZATION OF JURISDICTION

I think the more accessible we can make it for people the better it is.

-DV Legal Advocate

Participants were asked about their experiences with filing for protection orders and in which court they would like to see the petitions addressed. The majority of stakeholders who expressed an opinion, expressed a preference for protection order cases being handled in Superior/Family Court, regardless of whether children are involved. Many participants expressed because domestic violence implicates a family dynamic, Family Court is more appropriate for protection order hearings given the experience of the judges.

Court Accessibility

More pressing than the issue of court jurisdiction for survivors and survivor advocates was the predominant theme of increased accessibility. Accessibility included: allowing for online filing; allowing for virtual and phone court appearances; and being able to file for a protection order in the court that is closest to the petitioner.

In addition to continuing the practice of remote court appearances beyond the COVID-19 pandemic, stakeholders want to see increased coordination within the court system. For example, one recommendation was that if a protection order petition is filed in the wrong court, the court clerks could facilitate access by assuming responsibility for transferring the petition to the correct court, along with providing the petitioner with the appropriate court jurisdiction information before an appearance date, rather than adding the burden for refile on the petitioner. This would reduce the likelihood the petitioner would travel to court only to have a judge or commissioner send them to a different court on a different date, prolonging the process.

I think every protection order should be seen in Superior Court... These are serious crimes in my opinion, sexual assault, domestic violence, even, acts of harassment -- I think those warrant to be seen in a Superior Court setting.”

-DV Legal Advocate



On occasion you will even see [the petitioner] got the wrong paperwork, which is really frustrating ... we're going to fill it out and [the court] is going to deny you when you go downstairs and you're going to have to do it all again.

-DV Legal Advocate

Additionally, stakeholders expressed the need for printed, streamlined information in multiple languages for petitioners that advise them on how to successfully file for a protection order. Although the needs of each county differed based on distance to various courts, the feedback was clear that equitable accessibility was crucial.

Furthermore, self-identified survivors reported better outcomes in their cases when there was consistency in the judge or commissioner presiding over their case throughout the process. They expressed that the consistency is beneficial as it allows the judge or commissioner presiding over the case the ability to see and recognize a pattern of behavior over time. They further expressed the desire to have their domestic violence protection order cases heard in Family Court as they felt those judges were better educated on and more attune with domestic violence dynamics.

Amidst the wide support from survivors and advocates for the ability to appear in court remotely, there are concerns that have arisen. One significant concern pertains to instances in which petitioners have been given wrong information about how to appear virtually or telephonically, resulting in a protection order being terminated or the petition dismissed due to failure to appear. Such errors result in further burdens on petitioners as they must start the process over and they face increased financial strain.



I never had the same commissioner twice when I would go for a TRO or TO. I saw at least 3-4 different commissioners. I did not feel my final commissioner was well-versed in DV dynamics, especially abusive use of conflict, which resulted in both of us being hit with TROs which had a huge impact on my parenting plan going forward.

-DV Survivor

Remote Court Appearances

Another concern cited regarding remote court appearances is the lag time between the protection order having been granted and when it is uploaded in the law enforcement system. One stakeholder cited cases in which abusers were able to continue to abuse and harass the survivor without repercussion because the petitioner did not yet have a copy of the issued order, and law enforcement was unable to verify the existence of the order in the system. Participants strongly recommended that orders be uploaded into the law enforcement system and emailed to the petitioner immediately at the conclusion of the hearing.



We've also had some access issues with folks going for Protection Orders and then getting the wrong information about how to virtually or telephonically come into court for their date. Then their order is terminated and thrown out. They have to start all over again. Which is problematic for working class folks who have to take off the middle of their day or a full day of work to get access to court at all, even if they're coming in virtually. So that's peripheral, but also central for their experience.

-DV Legal Advocate



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

- Family Law Attorney

BEST PRACTICES FOR MINOR RESPONDENTS AND PETITIONERS

There is often more concern about the abuser’s future, than the impact this has on this young [victim] who may be may have been experiencing dating violence, may have been experiencing stalking.”

-SA Stakeholder

When asked about best practices for handling minor respondents and petitioners, participants described different responses depending on school district size. In the counties where the school district is sufficiently large enough to support multiple school options, courts generally will issue orders that provide that the respondent or petitioner move to another school within the district. However, many participants indicated that the school districts in their communities did not have that capacity. In those cases, the courts issue orders that require that the parties do their best to avoid each other while at the same school. Stakeholders expressed concern that schools play the role of enforcing protection orders on their own. The stakeholders that shared their opinions on this topic universally stated that schools tend to handle the violation of protection orders internally and do not formally involve law enforcement.

Petition Filing for a Minor

Another topic frequently discussed by participants across the state related to who should be able to file the petition for a minor. Participants expressed the concern that many minor victims do not want or are uncomfortable involving their parents in petitioning, especially when sexual assault is involved.

While other participants identified privacy concerns as a reason that parents declined to file for a protection order. Even when the parents might support the need for a protection order they are often frightened that their home address would become public record and fear the negative repercussions that information could have on their family if shared.

I did have a parent that declined to file one come work with me recently – they chose not to file on the basis of needing their address to stay confidential.. and retaliation associated with that. Also, the school resource officer, the police officer stationed at that school, declined to provide a copy of the police report.. We called together and he declined again. But, on the basis of needing to share the address and not being able to get any evidence at all, the parent decided just not to file.

-DV Legal Advocate

Minor Respondent and Petitioner Overview

Though the experience of navigating protection orders with minor petitioners and respondents varied across the state, a common concern expressed by participants was that judges and commissioners seem to worry more about how the incident and subsequent protection order will negatively affect the future of the respondent with, seemingly, little regard for how the victim is negatively affected by the court's decision.



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

-Attorney

HOW TO PROTECT VICTIM SAFETY AND PRIVACY WHEN FILING EVIDENCE IN PROTECTION ORDER PROCEEDINGS



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

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.

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.



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

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.



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

**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 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.

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

**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.



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

CONCLUSIONARY THOUGHT FROM SURVIVORS



**It feels as though the burden is on the
Survivor to hold their abuser accountable.**

**-Spoken by one DV Survivor & echoed by all in the
Survivor Listening Session**

It was widely expressed by self-identified survivors that they feel it is primarily incumbent on them to hold their abuser accountable, and that the legal system fails to act to keep them safe. Moreover, survivors relayed they felt further victimized while going through the legal system as their abuser continuously used, or is using, the court system to continue the abuse. Examples included abusers using such tactics such as litigation abuse and abusive use of manipulation and conflict, especially in the process of creating parenting plans. WSWC heard from several self-identified survivors who had been embroiled in fighting their abuser in the legal system for over a decade. These survivors reported being financially drained and emotionally harmed as a result.

This report was prepared in coordination with the Gender & Justice Commission to inform their larger report to the Legislature.

[You can view the full report from the Gender and Justice Commission here.](#)

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