

PROTECTION ORDERS BENCH GUIDE

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1. Quick And Effective Relief For Victims

- **Purpose Of RCW 7.105.** RCW 7.105.200(4), (5) and RCW 7.105.205(h) – The purpose of this chapter is “to provide victims quick and effective relief.”
- **Legislative Findings.** See RCW 7.105.900 (extensive; 4 pages).
- **Victims In Best Position.** RCW 7.105.900(4) – Victims are in the best position to know what their safety needs are and should be able to seek these crucial protections without having to rely on the criminal legal system process.
- **Goals Of RCW 7.105.** RCW 7.105.050(3) – The goals of RCW 7.105 are to –
 - **(1) Minimize Delay;**
 - **(2) Less Complex.** Make the system less complex;
 - **(3) Victim Support.** Provide sufficient victim support, consistency, safety, timeliness, and procedural fairness;
 - **(4) Electronic Filing And Systems.** Enable comprehensive use of electronic filing, case tracking, and records management systems;
 - **(5) Judicial Expertise.** Provide for judicial officers with expertise and training in protection orders and trauma-informed practices;
 - **(6) Judicial Officer Continuity At Each Hearing.** Provide for continuity of judicial officers at each hearing so the judicial officer will have greater familiarity with the parties, history, and allegations; and
 - **(7) Firearms Relinquishment.** Help ensure that there is compliance with timely and comprehensive firearms relinquishment to reduce risk of harm.
 - **(8) Prevent Competing Orders.** RCW 7.105.555(1) – To prevent the issuance of competing protection orders in different courts and to give courts needed information for the issuance of orders, the judicial information system or alternative databases must be available in each district, municipal, and superior court, and must include a database containing – [see statute].
- **Court Websites – Transfers, Court Calendars And Judicial Officer Assignment.** RCW 7.105.050(3) – To further goals of RCW 7.105, courts shall make publicly available in print and online information about their transfer procedures, court calendars, and judicial officer assignment.
- **Courts Should Consider Party Disparity In Resources And Representation.** RCW 7.105.200(1) – Courts should evaluate the needs and procedures best suited to individual hearings based on consideration of the totality of the circumstances, including disparities that may be apparent in the parties’ resources and representation by counsel.
- **In Addition To Other Remedies.** RCW 7.105.565(1) – Any proceeding under this chapter is in addition to other civil or criminal remedies.
- **Criminal Charges Not Required.** RCW 7.105.565(2) – Nothing in this chapter shall be construed as requiring criminal charges to be filed as a condition of a protection order being issued.

2. Dismissing Criminal Prosecution Undermines Protection Order Law

- **In Exchange For Civil Protection Order.** RCW 7.105.375 – The practice of dismissing or suspending a criminal prosecution in exchange for the issuance of a protection order undermines the purposes of this chapter. Nothing in this chapter shall be construed as encouraging that practice.

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3. Action Known As A Petition For A Protection Order

- **Six Types Of Petitions.** RCW 7.105.100(1) – There exists an action known as a petition for a protection order. The following types of petitions for a protection order may be filed – domestic violence; sexual assault; stalking, vulnerable adult, extreme risk, and antiharassment.

4. Courts Shall Prioritize Ex Parte Temporary Protection Orders

- **Ex Parte Temporary Orders.** RCW 7.105.105(12) – If a petitioner has requested an ex parte temporary protection order, because these are often emergent situations, the court shall prioritize review, either entering an order without a hearing or scheduling and holding an ex parte hearing in person, by telephone, by video, or by other electronic means on the day the petition is filed if possible.
 - **Within One Judicial Day.** Otherwise, it must be heard no later than the following judicial day.
 - **Clerk Duties.**
 - **Timely To Judicial Officer.** The clerk shall ensure that the request for an ex parte temporary protection order is presented timely to a judicial officer.
 - **Promptly Entered And To Petitioner.** Signed orders will be returned promptly to the clerk for entry and to the petitioner as specified in this section.
 - **Prioritize Hearings.** RCW 7.105.200(2)(a) – Courts shall prioritize hearings on petitions for ex parte temporary protection orders over less emergent proceedings.
- **ERPO Where LE The Petitioner.** See RCW 7.105.200(2)(b).

5. Statutory Definitions

- See RCW 7.105.010 for statutory definitions of words and phrases.

6. Jurisdiction

- **District And Superior Court Concurrent Jurisdiction.** RCW 7.105.050(1) – The superior and district courts have jurisdiction over domestic violence protection order proceedings, sexual assault protection order proceedings, stalking protection order proceedings, and antiharassment protection order proceedings under this chapter.
- **Extreme Risk – District Court May Issue Temporary PO.** RCW 7.105.070 – District courts have limited jurisdiction over the issuance and enforcement of temporary extreme risk protection orders issued under RCW 7.105.330. District court shall set the full hearing in superior court and transfer the case. District court may also extend temporary order.
- **Vulnerable Adult – Superior Court Jurisdiction.** RCW 7.105.065 – The superior courts have jurisdiction over vulnerable adult protection order proceedings under this chapter.

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7. Jurisdiction – Non-Residents

- **Personal Jurisdiction Over Non-Residents.** RCW 7.105.080(1) – A court of this state may exercise personal jurisdiction over a nonresident individual if –
 - **(a) Personally Served In WA.** The individual is personally served with a petition within this state; or
 - **(b) Consent Or Objection Waived.** The individual submits to the jurisdiction of this state by consent, entering a general appearance, or filing a responsive document having the effect of waiving any objection to consent to personal jurisdiction; or
 - **(c) Act(s) Within WA.** The act or acts of the individual or the individual’s agent giving rise to the petition or enforcement of a protection order occurred within this state; or
 - **(d) Either –**
 - **(i) Act(s) Outside State + Ongoing Pattern.** The act or acts of the individual or the individual’s agent giving rise to the petition or enforcement of a protection order occurred outside this state and are part of an ongoing pattern that has an adverse effect on the petitioner or a member of the petitioner’s family or household and the petitioner resides in this state; or
 - **(ii) Petitioner/Family Sought Safety In WA + Resides In WA.** As a result of the acts giving rise to the petition or enforcement of a protection order, the petitioner or a member of the petitioner’s family or household has sought safety or protection in this state and currently resides in this state;
 - **Communication While Petitioner/Family Resides In WA.** RCW 7.105.080(2) – For jurisdiction to be exercised under subsection (1)(d) of this section, the individual must have communicated with the petitioner or a member of the petitioner’s family, directly or indirectly, or made known a threat to the safety of the petitioner or member of the petitioner’s family, while the petitioner or member of the petitioner’s family resides in this state, or
 - **(e) Any Other Basis.** There is any other basis consistent with RCW 4.28.185 or with the Constitutions of this state and the United States.
- **Definitions.** RCW 7.105.080(3) – For the purposes of this section –
 - **(a) Communicated; Made Known.** “Communicated” or “made known” includes the following means: In person, through publication, by mail, telephonically, through an electronic communication site or medium, by text, or through other social media. Communication on any electronic medium that is generally available to any individual residing in the state is sufficient to exercise jurisdiction under subsection (1)(d) of this section.
 - **(b) Occurred Within This State.** An act or acts that “occurred within this state” include an oral or written statement made or published by a person outside of this state to any person in this state by means included in (a) of this subsection, or by means of interstate commerce or foreign commerce.

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8. Venue

- **Where Petitioner Resides (Exceptions)**. RCW 7.105.075 – An action for a protection order should be filed in the county where the petitioner resides. The petitioner may also file in –
 - **(1) Act Occurred**. The county where an act giving rise to the petition for a protection order occurred;
 - **(2) Child Primarily Resides**. The county where a child to be protected by the order primarily resides;
 - **(3) Residence Prior To Petitioner Relocating**. The county where the petitioner resided prior to relocating if relocation was due to the respondent's conduct; or
 - **(4) Nearest To Petitioner's Residence/Former Residence**. The court nearest to the petitioner's residence or former residence under subsection (3) of this section.
- **Court Shall Transfer Where Improper Venue**. RCW 7.105.100(7) – If a court reviewing the petition for a protection order or a request for a temporary protection order determines that the petition was not filed in the correct court, the court shall enter findings establishing the correct court, and direct the clerk to transfer the petition to the correct court and to provide notice of the transfer to all parties who have appeared.

9. AOC Forms

- **Forms**. RCW 7.105.115(1)(a) – The AOC shall develop and distribute standard forms for petitions and orders issued under this chapter, and facilitate the use of online forms for electronic filings.
- **Ruling On Protection Order**. RCW 7.105.225(6) – A court's ruling on a protection order must be filed by the court in writing and must be made by the court on the mandatory form developed by the administrative office of the courts.
- **Alternative Forms Permitted**. A non-AOC alternative form may be used but must contain substantially the same information as the forms developed by AOC. *Braatz v. Braatz*, 2 Wn.App.2d 889, ¶29 n.7, *review denied*, 190 Wn.2d 1031 (2018).

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10. Petition For Protection

- **Must Be Signed Under Penalty Of Perjury**. RCW 7.105.105(3).
- **Sworn Statements May Be Electronically Signed**. RCW 7.105.105(3) – Parties, attorneys, and witnesses may electronically sign sworn statements in all filings.
- **Parties Must Disclose Existence Of Other Litigation, Orders**. RCW 7.105.105(4) – The petitioner and the respondent must disclose the existence of any other litigation or of any other restraining, protection, or no-contact orders between the parties, to the extent that such information is known by the petitioner and the respondent.
 - **Shall Disclose Child Custody Or Placement**. The obligation to disclose the existence of any other litigation includes, but is not limited to, the existence of any other litigation concerning the custody or residential placement of a child of the parties as set forth in RCW 26.27.281.
- **Petition May Be Made Regardless Of Pending Litigation (Exception)**. RCW 7.105.105(5) – The petition may be made regardless of whether or not there is a pending lawsuit, complaint, petition, or other action between the parties, except –
 - **Party Realignment**. Where the court has realigned the parties under RCW 7.105.210.
- **Petition Permitted Where Petitioner Left Residence**. RCW 7.105.105(7) – A person’s right to petition for relief is not affected by the person leaving his or her residence or household.
- **Bond Prohibited**. RCW 7.105.105(8) – A petitioner is not required to post a bond to obtain relief in any proceeding for a protection order.
- **Petitioner Address/Identifying Location Information May Be Omitted**. RCW 7.105.105(10) – If the petition states that disclosure of the petitioner’s address or other identifying location information would risk harm to the petitioner or any member of the petitioner’s family or household, that address may be omitted from all documents filed with the court.
 - **Respondent Service On Petitioner – Alternative Address Or Email Address**. If the petitioner has not disclosed an address under this subsection, the petitioner shall designate an alternative address or email address at which the respondent may serve the petitioner.
- **Requiring Duplicative Forms Prohibited**. RCW 7.105.105(13) – Courts shall not require a petitioner to file duplicative forms.
- **Clerk Should Not Refuse To Accept Petition**. RCW 7.105.120(3) – Court clerks should not make an assessment of the merits of a petitioner’s petition for a protection order or refuse to accept for filing any petition that meets the basic procedural requirements.

11. Service And Court Fees Generally Prohibited

- **No Service Of Process Fees**. RCW 7.105.105(9)(a) – “No fees for service of process may be charged by a court or any public agency to petitioners seeking relief under this chapter.”
- **No Filing Fees Or Surcharges (Exception)**. RCW 7.105.105(9)(a) – Courts may not charge petitioners any fees or surcharges the payment of which is a condition precedent to the petitioner’s ability to secure access to relief under this chapter, except –
 - **Antiharassment Filing Fee Discretionary**. RCW 9.105.105(9)(b) – A filing fee may be charged for a petition for an antiharassment protection order.
 - **Kitsap District Court – Will Not Charge A Filing Fee**. District Court will exercise its statutory discretion and not charge a filing fee for antiharassment actions to ensure full access to the court for all individuals regardless of financial ability.

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- **Petitioner – No Fees For Copies, Etc.** RCW 7.105.105(9)(a) – Petitioners shall be provided the necessary number of certified copies, forms, and instructional brochures free of charge, including a copy of the service packet that consists of all documents that are being served on the respondent.
- **Respondent – No Fee For Electronically Serviced PO.** RCW 7.105.105(9)(a) – A respondent who is served electronically with a protection order shall be provided a certified copy of the order free of charge upon request.

12. LECIF

- **Law Enforcement Confidential Information Form Required With Petition.** RCW 7.105.105(2) – The petition must be accompanied by a confidential document to be used by the courts and law enforcement to fully identify the parties and serve the respondent.
- **Service Of LECIF On Respondent** –
 - **Blank LECIF Should Be Served.** RCW 7.105.105(2) – The respondent should be provided a blank confidential party information form at the time of service.
 - **Blank LECIF Must Be Served.** RCW 7.105.160(1) – The respondent must be served with a blank confidential party information form as referred to in RCW 7.105.115(1)[e].
- **Exempt From Public Disclosure.** RCW 7.105.105(2) – This record will be exempt from public disclosure at all times, and restricted access to this form is governed by general rule 22 provisions governing access to the confidential information form.
- **Petitioner’s Fullest Ability.** RCW 7.105.105(2) – The petitioner is required to fill out the confidential party information form to the petitioner's fullest ability.
- **Court Shall Not Require Petitioner To Complete New LECIF (Exception).** RCW 7.105.400(5) – Courts shall not require a petitioner to complete a new confidential information form when a temporary protection order is reissued or when a full order for a fixed time period is entered, unless –
 - **New Information.** The petitioner indicates the information needs to be updated or amended.

13. LECIF – Respondent Shall File ASAP

- **Respondent Shall File LECIF At First Appearance.** RCW 7.105.105(2) – When the respondent first appears, the respondent must confirm with the court the respondent's identifying and current contact information, including electronic means of contact, and file this with the court.
- **Respondent Shall Confirm Contact Information At First Appearance.** RCW 7.105.160(1) – The respondent shall confirm with the court during his or her first appearance all necessary contact and identifying information, and file the form with the court.
- **Respondent Shall Provide Electronic Address Or Account To Court.** RCW 7.105.150(3) – To promote judicial economy and reduce delays, for respondents who are able to be served electronically, the respondent ... shall be required to provide his or her electronic address or electronic account associated with an email, text messaging, social media application, or other technology by filing the confidential party information form referred to in RCW 7.105.115(1).
- **Respondent Shall Provide LECIF ASAP.** RCW 7.105.150(3) – This must occur at the earliest point at which the respondent, parent, guardian, or conservator is in contact with the court so that electronic service can be effected for all subsequent motions, orders, and hearings.

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14. Temporary Protection Order – Ex Parte

- **Serious Immediate Harm Or Irreparable Injury Could Result.** RCW 7.105.305(1) – Where it appears from the petition and any additional evidence that the respondent has engaged in conduct against the petitioner that serves as a basis for a protection order under this chapter, and the petitioner alleges that serious immediate harm or irreparable injury could result if an order is not issued immediately without prior notice to the respondent, the court may grant an ex parte temporary protection order, pending a full hearing. T
- **Broad Discretion Granting Relief (Exception).** RCW 7.105.305(1) – The court has broad discretion to grant such relief as the court deems proper, including the forms of relief listed in RCW 7.105.310, provided –
 - **Respondent Cannot Comply.** That the court shall not order a form of relief listed in RCW 7.105.310 if it would not be feasible or appropriate for the respondent to comply with such a requirement before a full hearing may be held on the petition for a protection order.
- **Court Shall Consider Weapons Order.** RCW 7.105.305(1) – In issuing the order, the court shall consider the provisions of RCW 9.41.800, and order the respondent to surrender, and prohibit the respondent from accessing, having in his or her custody or control, possessing, purchasing, attempting to purchase or receive, or receiving, all firearms, dangerous weapons, and any concealed pistol license, as required in RCW 9.41.800.
- **Order Date, Time, Expiration.** RCW 7.105.305(2) – Any order issued under this section must contain the date, time of issuance, and expiration date.
- **Temporary PO With Or Without Hearing** – RCW 7.105.305(3) – The court may issue an ex parte temporary protection order on the petition with or without a hearing.
- **Temporary PO Denial – Full Hearing Unless No Prima Facie Allegations.** RCW 7.105.305(3) – If an ex parte temporary protection order is denied, the court shall still set a full hearing unless the court determines the petition does not contain prima facie allegations to support the issuance of any type of protection order.
 - **Temporary PO Decline Reasons Shall Be Filed.** RCW 7.105.305(3) – If the court declines to issue an ex parte temporary protection order as requested or declines to set a hearing, the court shall state the reasons in writing. The court's denial of a motion for an ex parte temporary protection order shall be filed with the court.
- **Full Hearing Within 14 Days (Exception).** RCW 7.105.305(4) – If a full hearing is set on a petition that is filed before close of business on a judicial day, the hearing must be set not later than 14 days from the date of the filing of the petition. If a full hearing is set on a petition that is submitted after close of business on a judicial day or is submitted on a nonjudicial day, the hearing must be set not later than 14 days from the first judicial day after the petition is filed, which
 - **Good Cause Extension.** [The 14 day requirement] may be extended for good cause.
- **Full Hearing Not Set – Petitioner May File Amended Petition Within 14 Days.** RCW 7.105.305(5) – If the court does not set a full hearing, the petitioner may file an amended petition within 14 days of the court's denial.
 - **Dismiss If Amended Petition Lacks Prima Facie Allegations.** If the court determines the amended petition does not contain prima facie allegations to support the issuance of any type of protection order ..., the court may enter an order dismissing the petition.
 - **Dismiss If Amended Petition Not Timely Filed.** If ... the petitioner fails to file an amended petition within the required time, the court may enter an order dismissing the petition.

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- **Antiharassment Ex Parte Temporary PO Prohibited – 2 Prior Temporary POs + No Full Order Granted (Exception)**. RCW 7.105.305(6) – 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**. Good cause for such failure can be shown.

15. Temporary Protection Order – Antiharassment Order Limitations

- **Certain Items In Temporary Protection Order Prohibited**. RCW 7.105.310(2) – In an antiharassment protection order proceeding, the court may grant the relief [listed below] only as part of a full antiharassment protection order –
 - **Exclude From Shared Residence**. RCW 7.105.310(1)(c),
 - **Child In Common**. RCW 7.105.310(1)(f), and
 - **Transfer Of Joint Assets**. RCW 7.105.310(1)(t).
- **Respondent’s Constitutionally Protected Free Speech**. RCW 7.105.310(3) – The court in granting a temporary antiharassment protection order or a civil antiharassment protection order shall not prohibit the respondent from exercising constitutionally protected free speech.
 - **Petitioner May Seek Other Remedies**. Nothing in this section prohibits the petitioner from utilizing other civil or criminal remedies to restrain conduct, or
 - **Unprotected Free Speech**. Nothing in this section prohibits .. communications not otherwise constitutionally protected.

16. Temporary Protection Order – Court Shall Designate LEA To Execute, Serve, Enforce Order

- **Order Must Designate Law Enforcement Agency**. RCW 7.105.320(1) – Orders issued under this chapter must include a designation of the appropriate law enforcement agency to execute, serve, or enforce the order. Any appropriate law enforcement agency should act where assistance is needed, even if the agency is not specifically named in the order, including assisting with the recovery of firearms as ordered.

17. Temporary Protection Order Provisions – Statutory List

- See discussion of statutory list at p. 27 – ¶61. **Protection Order Provisions – Statutory List**

18. Temporary Protection Orders – Enter Protection Order If Any Criteria Met

- **Court Shall Enter Appropriate PO Type**. RCW 7.105.100(5) – A petition for any type of protection order must not be dismissed or denied on the basis that the conduct alleged by the petitioner would meet the criteria for the issuance of another type of protection order. If a petition meets the criteria for a different type of protection order other than the one sought by the petitioner, the court shall consider the petitioner’s preference, and enter a temporary protection order or set the matter for a hearing as appropriate under the law.
 - **Stigma On Respondent Irrelevant**. The court’s decision on the appropriate type of order shall not be premised on alleviating any potential stigma on the respondent.

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19. Temporary Protection Orders – Prohibited Court Actions

- **Court Shall...** RCW 7.105.310(4) – The court shall not take any of the following actions in issuing a protection order –
 - **(a) Not Order Petitioner To Obtain Services.** The court may not order the petitioner to obtain services including, but not limited to, drug testing, victim support services, a mental health assessment, or a psychological evaluation.
 - **(b) Not Issue Temporary Without Petition Filed (Exception).** Except as provided in RCW 7.105.210 [realignment of parties], the court shall not issue a temporary protection order to any party unless the party has filed a petition or counter-petition for a protection order seeking relief in accordance with this chapter.
 - **(c) Not Deny Because Different Order Has Less Severe Impact On Respondent.** Under no circumstances shall the court deny the petitioner the type of protection order sought in the petition on the grounds that the court finds that a different type of protection order would have a less severe impact on the respondent.

20. Temporary Protection Orders – Reissuance

- **May Be Reissued.** RCW 7.105.400(1) – A temporary protection order issued under this chapter may be reissued for the following reasons –
 - **(a) Agreement.** Agreement of the parties;
 - **(b) To Effect Service.** To provide additional time to effect service of the temporary protection order on the respondent; or
 - **(c) Good Cause.** If the court, in writing, finds good cause to reissue the order.
- **Weapons Order (If One) Must Automatically Reissue.** RCW 7.105.400(2) – Any temporary orders to surrender and prohibit weapons must also be automatically reissued with the temporary protection order. But see –
 - **RCW 7.105.360(4)** – If the court issued a temporary protection order that included a temporary order to surrender and prohibit weapons, the temporary order to surrender and prohibit weapons must automatically reissue with the temporary protection order.
 - **Specific Findings Irreparable Injury Will Not Result.** If the court determines by a preponderance of the evidence that irreparable injury to the petitioner will not result through the modification or termination of the order to surrender and prohibit weapons as originally entered, then the court must make specific findings.
- **Rebuttal Presumption – Only 1 Reissue Or 30 Day Continuance (Exceptions).** RCW 7.105.400(3) – To ensure that a petitioner is not delayed in receiving a hearing on a petition for a protection order, there is a rebuttable presumption that a temporary protection order should not be reissued more than once or for more than 30 days at the request of the respondent, absent
 - **(a) Agreement.** Agreement of the parties,
 - **(b) Good Cause, or**
 - **(c) To Effect Service.** The need to provide additional time to effect service.

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- **Court Shall Not Require Petitioner To Complete New LECIF (Exception)**. RCW 7.105.400(5) – Courts shall not require a petitioner to complete a new confidential information form when a temporary protection order is reissued or when a full order for a fixed time period is entered, unless –
 - **New Information**. The petitioner indicates the information needs to be updated or amended.
- **Clerk Shall Transmit Order To Law Enforcement For Service + LECIF**. RCW 7.105.400(5) – The clerk shall transmit the order to the law enforcement agency identified in the order for service, along with a copy of the confidential party information form received from the respondent, if available, or the petitioner's confidential party information form to assist law enforcement in serving the order.

21. Service – Materials Required To Be Served

- **Initial Service Packet – Service On Respondent**. RCW 7.105.160(1) – If the petitioner is seeking a hearing on a petition for a protection order, the respondent must be served with –
 - the petition for a protection order,
 - any supporting declarations or other materials,
 - the notice of hearing,
 - any temporary protection order issued by the court,
 - any temporary order to surrender and prohibit weapons issued by the court, and
 - a blank confidential party information form as referred to in RCW 7.105.115(1).
- **Renewal Or Reissuance – Service On Respondent**. RCW 7.105.160(2) – If the petitioner is seeking the renewal or reissuance of a protection order, the respondent must be served with –
 - the motion to renew or reissue the protection order,
 - any supporting declarations or other materials, and
 - the notice of hearing.
- **Modify Or Terminate – Service On Other Party**. RCW 7.105.160(3) – If either party is seeking to modify or terminate a protection order, the other party must be served with –
 - the motion to modify or terminate the protection order,
 - any supporting declarations or other materials, and
 - the notice of hearing.
- **Any Other Motion – Service On Other Party**. RCW 7.105.160(4) – For any other motion filed by a party with the court, the other party must be served with –
 - all materials the moving party submitted to the court and
 - with any notice of hearing issued by the court related to the motion.

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22. Service On Respondent – Methods Of Service

- See PO SERVICE BENCHCARD (RCW 7.105.150).
- **Court-Selected Agency Falls Outside Agency Jurisdiction.** RCW 7.105.325(4) – If a law enforcement agency receives a protection order for entry or service, but the order falls outside the agency's jurisdiction, the agency –
 - **Agency May Enter And Serve.** May enter and serve the order or
 - **Immediately Forward To Appropriate Agency.** May immediately forward it to the appropriate law enforcement agency for entry and service, and
 - **Documentation To Court – Verify Which Agency Entered And Will Serve.** Shall provide documentation back to the court verifying which law enforcement agency has entered and will serve the order.

23. Service – Timing

- **Not Less Than 5 Judicial Days Before Hearing Unless Waived.** RCW 7.105.165(1) – Unless waived by the nonmoving party, service must be completed on the nonmoving party not less than five judicial days before the hearing date.
 - **Service Cannot Be Made – New Hearing Date.** If service cannot be made, the court shall set a new hearing date and shall either –
 - **Require Additional Service.** Require an additional attempt at obtaining service or
 - **Service By Another Means.** Permit service by other means authorized in this chapter.
 - **Untimely Service – No Need To Re-Serve If Received.** RCW 7.105.165(3) – If the nonmoving party was served before the hearing, but less than five judicial days before the hearing, it is not necessary to re-serve materials that the nonmoving party already received,
 - **New Hearing Notice And Reissued Order Must Be Served.** But any new notice of hearing and reissued order must be served on the nonmoving party.
 - **Additional Service By Mail.** This additional service may be made by mail as an alternative to other authorized methods of service under this chapter.
 - **Mail Service Complete On Third Calendar Day.** If done by mail, this additional service is considered completed on the third calendar day after mailing.
 - **Maximum 2 Attempts Before Another Means Of Service (Exception).** RCW 7.105.165(1) – The court shall not require more than two attempts at obtaining service before permitting service by other means authorized in this chapter
 - **Party Requests More Time.** Unless the moving party requests additional time to attempt service.
 - **Service Completion Date.** RCW 7.105.165(2) – Service is completed –
 - **Personal Service.** On the day the respondent is served personally,
 - **Electronic Service.** On the date of transmission for electronic service,
 - **Service By Mail.** On the 10th calendar day after mailing for service by mail (.150(1)(c)), or
 - **Service By Publication.** On the date of the third publication when publication has been made for three consecutive weeks for service by publication (.150(1)(d)).

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24. Respondent Not Served + FTAs For Full PO Hearing (RCW 7.105.200(3))

- **Court Shall Reissue Temporary PO.** If the respondent does not appear for the full hearing and there is no proof of timely and proper service on the respondent, the court shall reissue any temporary protection order previously issued and reset the hearing date.
- **Reset Full Hearing Within 14 Days.** If a temporary protection order is reissued, the court shall reset the hearing date not later than 14 days from the reissue date.
- **Reset Full Hearing Within 30 Days – Mail Or Publication.** If a temporary protection order is reissued and the court permits service by mail or by publication, the court shall reset the hearing date not later than 30 days from the date of the order authorizing such service.
- **Good Cause Extension Of Statutory Time Frames.** These time frames may be extended for good cause.

25. Respondent Not Served – Court Shall Not Dismiss Over Petitioner Objection (Exception)

- **Petition Or Renew (Exception).** RCW 7.105.150(7) – The court shall not dismiss, over the objection of a petitioner, a petition for a protection order or a motion to renew a protection order based on the inability of law enforcement or the petitioner to serve the respondent, unless –
 - **Exception – No Service Method Remains.** The court determines that all available methods of service have been attempted unsuccessfully or are not possible.

26. Appointment Of Interpreters

- **Party’s Meaningful Access To The Court.** RCW 7.105.245(1), (2) – Pursuant to chapter 2.42 and 2.43 RCW, in order to ensure that parties have meaningful access to the court, an interpreter shall be appointed for any party who is deaf, hard of hearing, deaf-blind, or has a speech impairment and cannot readily understand or communicate in spoken language, or any person who cannot readily speak or understand the English language.
- **Court Shall Not Appoint Interpreter.** RCW 7.105.245(1), (2) Notwithstanding the provisions of chapter 2.42 RCW, the court shall not –
 - **(a) Not Qualified.** Appoint an interpreter who is not credentialed or duly qualified by the court to provide interpretation services; or
 - **(b) Advocate For Party.** Appoint a person to provide interpretation services if that person is serving as an advocate for the party.
- **Party Not Required To Make Further Interpreter Requests.** RCW 7.105.245(3) – Once an interpreter has been appointed for a party, the party shall no longer be required to make further requests for the appointment of an interpreter for subsequent hearings or proceedings.
 - **Clerk Or Administrator Responsible To Ensure Interpreter Available.** The clerk shall identify the party as a person who needs interpreter services and the clerk or the court administrator shall be responsible for ensuring that an interpreter is available for every subsequent hearing.
- **Interpret Preparing Forms/Orders + Court.** RCW 7.105.245(4) – The interpreter shall interpret for the party meeting with either counsel or court staff, or both, for the purpose of preparing forms and participating in the hearing and court-ordered assessments, and the interpreter shall sight translate any orders.

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- **Not Same Interpreter (Exceptions)**. RCW 7.105.245(5) – The same interpreter –
 - **Both Parties**. Shall not serve parties on both sides of the proceeding when not on the record,
 - **Court-Appointed Assessments**. Nor shall the interpreter appointed by the court for the proceeding be the same interpreter appointed for any court-ordered assessments,
 - **Exceptions**. Unless the court finds –
 - **Good Cause – Not Possible**. Good cause on the record to do so because it is not possible to obtain more than one interpreter for the proceeding, or
 - **Litigant Safety Not Compromised**. The safety of the litigants is not compromised, or
 - **Any Other Reason**. Any other reasons identified by the court.
- **Mandatory Private Interpreter Space**. RCW 7.105.245(6) – Courts shall make a private space available for parties, counsel, and/or court staff and interpreters to sight translate any written documents or to meet and confer.
- **Remote Appearance**. RCW 7.105.245(7) – When a hearing is conducted through telephone, video, or other electronic means, the court must make appropriate arrangements to permit interpreters to serve the parties and the court as needed.

27. Appointment Of Counsel For Petitioner

- **If Respondent Represented + Funding**. RCW 7.105.240 – Subject to the availability of amounts appropriated for this specific purpose, or as provided through alternative sources including, but not limited to, grants, local funding, or pro bono means, the court may appoint counsel to represent the petitioner if the respondent is represented by counsel.

28. Advocates And Support Persons

- **Sexual Assault/ Domestic Violence Advocate**. RCW 7.105.250(1) – Whether or not the petitioner has retained an attorney, a sexual assault or domestic violence advocate, as defined in RCW 5.60.060, shall be allowed to accompany the petitioner, or appear remotely with the petitioner, and confer with the petitioner during court proceedings.
 - **Not Representation Or Interpreter**. The sexual assault or domestic violence advocate shall not provide legal representation nor interpretation services.
 - **Allowed To Assist Petitioners**. Court administrators shall allow sexual assault and domestic violence advocates to assist petitioners with their protection orders. Sexual assault and domestic violence advocates are not engaged in the unauthorized practice of law when providing assistance of the types specified in this section.
 - **Not Identify On The Record (Exception)**. Unless the sexual assault or domestic violence advocate seeks to speak directly to the court, advocates shall not be required to be identified on the record beyond stating their role as a sexual assault or domestic violence advocate and identifying the program for which they work or volunteer for.
 - **Communication Protected**. Communications between the petitioner and a sexual assault and domestic violence advocate are protected as provided by RCW 5.60.060.

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- **Protection Order Advocate**. RCW 7.105.250(2) – Whether or not the petitioner has retained an attorney, a protection order advocate must be allowed to accompany the petitioner to any legal proceeding including, but not limited to, sitting or standing next to the petitioner, appearing remotely with the petitioner, and conferring with the petitioner during court proceedings, or addressing the court when invited to do so.
 - **(a) Definition**. For purposes of this section, “protection order advocate” means any employee or volunteer from a program that provides, as some part of its services, information, advocacy, counseling, or support to persons seeking protection orders.
 - **(b) Not Representation Or Interpreter**. The protection order advocate shall not provide legal representation nor interpretation services.
 - **(c) Not Identify On The Record (Exception)**. Unless a protection order advocate seeks to speak directly to the court, protection order advocates shall not be required to be identified on the record beyond stating his or her role as a protection order advocate and identifying the program for which he or she works or volunteers.
 - **(d) Privileges, Rights, Responsibilities**. A protection order advocate who is not employed by, or under the direct supervision of, a law enforcement agency, a prosecutor’s office, the child protective services section of the department of children, youth, and families as defined in RCW 26.44.020, or other governmental entity, has the same privileges, rights, and responsibilities as a sexual assault advocate and domestic violence advocate under RCW 5.60.060.
- **Support Person**. RCW 7.105.250(3) – Whether or not the petitioner has retained an attorney or has an advocate, the petitioner shall be allowed a support person to accompany the petitioner to any legal proceeding including, but not limited to, sitting or standing next to the petitioner, appearing remotely with the petitioner, and conferring with the petitioner during court proceedings.
 - **Any Person (Exceptions)**. The support person may be any third party of the petitioner’s choosing, provided that –
 - **(a) Not Representation Or Interpreter**. The support person shall not provide legal representation nor interpretation services; and
 - **(b) Communication About Petition Protected Without Consent**. A support person who is not employed by, or under the direct supervision of, a law enforcement agency, a prosecutor’s office, the child protective services section of the department of children, youth, and families as defined in RCW 26.44.020, or other government entity, may not, without the consent of the petitioner, be examined as to any communication between the petitioner and the support person regarding the petition.

29. Discovery Disfavored (RCW 7.105.200(7))

- **Discovery Only Where Court Finds Good Cause Shown**. Prehearing discovery under the civil court rules, including, but not limited to, depositions, requests for production, or requests for admission, is disfavored and only permitted if specifically authorized by the court for good cause shown.
- **Written Motion 6 Judicial Days Before Hearing**. A party seeking discovery shall file a written motion six judicial days prior to the hearing and served prior to the hearing.

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30. Requiring Bench Copies Prohibited (Exception)

- **Duplicate Or Working Copies Prohibited (Exception)**. RCW 7.105.200(11) – Courts shall not require parties to submit duplicate or working copies of pleadings or other materials filed with the court, unless
 - **Illegible Or Not Scannable**. The document or documents cannot be scanned or are illegible.

31. Remote Hearings

- **Enhance Access To Justice For All**. RCW 7.105.205(1) – Hearings ... may be conducted in person or remotely in order to enhance access for all parties.
- **Court's Discretion**. RCW 7.105.205(2) – In the court's discretion, parties, witnesses, and others ... may attend a hearing ..., in person or remotely, including by telephone, video, or other electronic means where possible.
 - **Request At Least 3 Judicial Days Before Hearing**. No later than three judicial days before the hearing, the parties may request to appear at the hearing, with witnesses, remotely by telephone, video, or other electronic means.
 - **Court Shall Grant (Exception)**. The court shall grant any request for a remote appearance unless –
 - **Good Cause To Remote**. The court finds good cause to require in-person attendance or attendance through a specific means.
 - **Kitsap District Court**. Protection order participants may appear in person or remotely. No motion requesting to appear remotely is required.
- **Courts Shall Assure Identity**. RCW 7.105.205(3) – Courts shall require assurances of the identity of persons who appear by telephone, video, or other electronic means.
- **No Court Fees For Remote**. RCW 7.105.205(3) – Courts may not charge fees for remote appearances.
- **No Livestreaming (Exception)**. RCW 7.105.205(4) – Courts shall not post or stream proceedings or recordings of protection order hearings online unless –
 - **(a) All Parties Waive**. A waiver has been received from all parties, or
 - **(b) No In-Person Public Access To Courtroom**. The hearing is being conducted online and members of the public do not have in-person access to observe or listen to the hearing.
 - **Public Should Be Able To Observe/Listen**. Unless the court orders a hearing to be closed to the public consistent with the requirements of Washington law, courts should provide access to members of the public who wish to observe or listen to a hearing conducted by telephone, video, or other electronic means.
- **Kitsap District Court**. Kitsap County Courthouse courtrooms are open to the public.

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32. Remote Hearings – Requirements (RCW 7.105.205(5))

- **(a) How To Remote; Interpreter; Disability.** Courts should include directions to access a hearing remotely in the order setting the hearing and in any order granting a party's request for a remote appearance. Such orders shall also include directions to request an interpreter and accommodations for disabilities;
- **(b) Wait Times.** Courts should endeavor to give a party or witness appearing by telephone no more than a one-hour waiting time by the court for the hearing to begin. For remote hearings, if the court anticipates the parties or witnesses will need to wait longer than one hour to be called or connected, the court should endeavor to inform them of the estimated start time of the hearing;
- **(c) Warnings That Being Recorded; Copies; Strictly Prohibited.** Courts should inform the parties before the hearing begins that the hearing is being recorded by the court, in what manner the public is able to view the hearing, how a party may obtain a copy of the recording of the hearing, and that recording or broadcasting any portion of the hearing by any means other than the court record is strictly prohibited without prior court approval;
- **(d) Prevent Harassment/Intimidation.** To minimize trauma, while allowing remote hearings to be observed by the public, courts should take appropriate measures to prevent members of the public or the parties from harassing or intimidating any party or witness to a case. Such practices may include, but are not limited to, disallowing members of the public from communicating with the parties or with the court during the hearing, ensuring court controls over microphone and viewing settings, and announcing limitations on allowing others to record the hearing;
- **(e) Sign Language.** Courts shall use technology that accommodates American sign language and other languages;
- **(f) Protect Privacy.** To help ensure that remote access does not undermine personal safety or privacy, or introduce other risks, courts should protect the privacy of telephone numbers, emails, and other contact information for parties, witnesses, and others authorized by this chapter to participate in protection order proceedings, and inform them of these safety considerations. Materials available to persons appearing remotely should include warnings not to state their addresses or telephone numbers at the hearing, and that they should ensure that background surroundings do not reveal their location;
- **(g) Unable To Connect To Court.** Courts should provide the parties, in orders setting the hearing, with a telephone number and an email address for the court, which the parties may use to inform the court if they have been unable to appear remotely for a hearing.
 - **Before Taking Action Due To FTA.** Before dismissing or granting a petition due to the petitioner or respondent not appearing for a remote hearing, or the court not being able to reach the party via telephone or video, the court shall check for any notifications to the court regarding issues with remote access or other technological difficulties.
 - **Mandatory Reset And Reissue Temporary PO.** If any party has provided such notification to the court, the court shall not dismiss or grant the petition, but shall reset the hearing by continuing it and reissuing any temporary order in place.
 - **Motion For Reconsideration.** If a party was unable to provide the notification regarding issues with remote access or other technological difficulties on the day of the hearing prior to the court's ruling, that party may seek relief via a motion for reconsideration.

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33. Continuances – Rebuttable Presumption Against Delay

- **Continuance For Witness Notice Or To Seek Counsel Discretionary.** RCW 7.105.200(5) – If either party requests a continuance to allow for proper notice of witnesses or to afford a party time to seek counsel, the court may continue the hearing.
 - **Rebuttable Presumption Against Delay.** RCW 7.105.200(5) – In considering the request, the court should consider the rebuttable presumption against delay and the purpose of this chapter to provide victims quick and effective relief.
- **Court Shall Reissue Temporary PO And Weapons Order.** RCW 7.105.200(6) – If the court continues a hearing for any reason, the court shall reissue any temporary orders, including orders to surrender and prohibit weapons, issued with or without notice.
- **Party Hindered By Remote Appearance + Others Present (Children) May Request Continuance.** RCW 7.105.205(h) – A party attending a hearing remotely who is unable to participate in the hearing outside the presence of others who reside with the party, but who are not part of the proceeding including, but not limited to, children, and who asserts that the presence of those individuals may hinder the party’s testimony or the party’s ability to fully and meaningfully participate in the hearing, may request a continuance on that basis.
 - **Rebuttable Presumption Against Delay.** Such requests may be granted in the court’s discretion. In considering the request, the court may consider the rebuttable presumption against delay and the purpose of this chapter to provide victims quick and effective relief.

34. Continuances – Parallel Criminal Proceeding

- **Judicial Notice.** RCW 7.105.230(1) – The court may take judicial notice of a parallel criminal proceeding for the related conduct involving the same parties, including whether the defendant in that action waived speedy trial.
- **Rebuttal Presumption Against Delay + Quick And Effective Relief.** RCW 7.105.200(4) – When considering any request to stay, continue, or delay a hearing under this chapter because of the pendency of a parallel criminal investigation or prosecution of the respondent, courts shall apply a rebuttable presumption against such delay and give due recognition to the purpose of this chapter to provide victims quick and effective relief.
 - See also RCW 7.105.400(4) (same language).
- **Mandatory Factors Courts Must Consider For Stay.**
 - See RCW 7.105.200(a) – (h) and RCW 7.105.400(4)(a) – (h) (same language); and
 - *King v. Olympic Pipeline Co.*, 104 Wn.App. 338, *review denied*, 143 Wn.2d 1012 (2001). See also the template titled *Reissue Of Temporary Protection Order-Parallel Criminal Case*.

35. Courtroom Location Of Parties (RCW 7.105.200(12))

- **Gather In Separate Locations.** Courts shall, if possible, have petitioners and respondents in protection order proceedings gather in separate locations.
- **Staggered Times.** Courts shall, if possible, have petitioners and respondents enter and depart the court room at staggered times.
- **Petitioner Leaves Courtroom First + Security To Vehicle.** Where the option is available, for safety purposes, the court should arrange for petitioners to leave the court premises first and to have court security escort petitioners to their vehicles or transportation.

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36. Court Rules And Evidence Rules

- **Special Proceedings**. RCW 7.105.200(1) – Hearings under this chapter are special proceedings.
- **Statutory Procedures Supersede Inconsistent Civil Rules**. RCW 7.105.200(1) – The procedures established under this chapter for protection order hearings supersede inconsistent civil court rules.
 - **CRLJ 81(a)** – These rules do not apply where inconsistent with rules or statutes applicable to special proceedings or infractions.
- **Evidence Rules Need Not Be Applied (Exceptions)**. RCW 7.105.200(8) – The rules of evidence need not be applied, other than with respect to privileges, the requirements of the rape shield statute under RCW 9A.44.020, and evidence rules 412 [sexual offense victim’s past behavior] and 413 [immigration status].
 - **Petitioner Prior Sexual Activity Or Reputation**. RCW 7.105.200(9)(a) – The prior sexual activity or the reputation of the petitioner is inadmissible except [see statute for exceptions and procedures required for admissibility].
 - **Petitioner Capacity To Consent**. RCW 7.105.200(10) – When a petitioner has alleged incapacity to consent to sexual conduct or sexual penetration due to intoxicants, alcohol, or other condition, the court must determine on the record whether the petitioner had the capacity to consent.
 - **ER 1101(c)(4)** – These rules (other than with respect to privileges, the rape shield statute and ER 412 [sexual offense victim’s past behavior] need not be applied in the following situations: ... (4) Protection order proceedings under chapters 7.90, 7.92, 7.94, 10.14, 26.50 and 74.34 RCW.
 - **Note** – RCW 7.105 has not yet been added to ER 1101(c)(4).

37. Evidence At Full Hearing

- RCW 7.105.200(5) – Hearings may be conducted upon the information provided in –
 - (1) **Petition**. The sworn petition.
 - (2) **Live Testimony Of Party**. Live testimony of the parties should they choose to testify, and
 - (3) **Sworn Declarations**. Any additional sworn declarations.

38. Court Shall Deny Non-Party Witness Live Testimony (Exception)

- **Live Testimony Of Party Permitted**. RCW 7.105.200(5) – Live testimony of the parties permitted should they choose to testify.
- **Live Testimony Of Non-Party Witness Prohibited (Exception)**. RCW 7.105.200(5) – Live testimony of witnesses other than the parties may be requested by a party, but shall not be permitted unless –
 - **Necessary And Material**. The court finds that live testimony of witnesses other than the parties is necessary and material.

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39. Cross Examination

- **No Bright Line Rule Prohibiting Cross Examination.** A bright line rule prohibiting cross examination or live testimony in protection order hearings is inappropriate.
- **Courts Should Consider Mathews Test.** Trial courts should consider the *Mathews* balancing test [below], and weigh the likely value of cross examination against the potential damage that testifying may have. An individualized inquiry into the facts of the case by the trial court is necessary. *Aiken v. Aiken*, 187 Wn.2d 491, ¶27 (2017) (RCW 26.50 DV action).
- **The Mathews Due Process Test.** Due process may require live testimony or cross examination in civil proceedings. *Aiken*, ¶¶9,13. Due process is a flexible concept; the level of procedural protection varies based on the circumstances. *Aiken*, ¶19. While a trial court is not required in every PO proceeding to allow live testimony or cross examination, a trial court must consider the due process balancing test of *Mathews v. Eldridge*, 96 S.Ct. 893 (1976), *Aiken*, ¶¶13,19 –
 - **(1) Private Interest.** The [respondent's] private interest impacted by the government [trial court's] action;
 - **(2) Risk and Probable Value.** The risk of an erroneous deprivation of such interest through the procedures used [e.g. affidavits, depositions, documentary evidence], and the probable value, if any, of additional or substitute procedural safeguards [cross examination through live testimony]; and
 - **(3) Additional Burden.** The government interest [in protecting victims], including the additional burden that added procedural safeguards [such as cross examination through live testimony] would entail.
- **Cross Examination Is A Powerful Instrument.** Cross examination is a powerful instrument in eliciting truth or discovering error in a statement. *Aiken*, ¶26 (2017).
- **Cross Examination May Be Used To Intimidate.** Cross examination may also be used for purposes other than truth seeking. The nature and purpose of witness examination are to elicit honest testimony, not fearful responses, and to procure the truth, not cause intimidation. *Aiken*, ¶26.
- **Court May Deny Cross Examination Of Non-Party Witness In PO Case.** Nothing in the protection action statutory scheme explicitly requires a trial court to allow respondent to cross examine a minor who has accused him of sexual abuse. Trial court's denial of cross examination of the child affirmed. *Gourley v. Gourley*, 158 Wn.2d 460, ¶¶25-27 (2006) (RCW 26.50 DV action).
- **Cross Examination Of Protection Order Party Probably Required When Requested.** Cross examination is beyond any doubt the greatest legal engine ever invented for the discovery of truth. This is especially important where a petitioner may be seeking to take advantage through the use of the PO process.. *Aiken*, ¶¶31-34 (Madsen, J., concurring, joined by Wiggins, J.).

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40. Judicial Information System Consultation Mandatory Before Ruling

- **JIS**. RCW 7.105.230(1) – Before ruling on an order under this chapter, the court shall consult the judicial information system to determine the –
 - (1) criminal history,
 - (2) history of criminal victimization,
 - (3) history of being a respondent or petitioner in a protection order proceeding, or
 - (4) pendency of other proceedings involving the parties.
- **Court Shall Disclose**. RCW 7.105.230(3) – When the court proposes to consider information from the judicial information system or another criminal or civil database, the court shall –
 - **(1) Disclose**. Disclose the information to each party present at the hearing;
 - **(2) Opportunity To Be Heard**. On timely request, provide each party with an opportunity to be heard; and
 - **(3) Safety**. Take appropriate measures to alleviate safety concerns of the parties.
- **Court Need Not Disclose If Not Considered**. RCW 7.105.230(3) – The court has discretion not to disclose information that the court does not propose to consider. See also ER 1101(c)(4) which is similar.

41. Existing Orders In Other Cases – Judicial Notice

- **Mandatory Judicial Notice Of Existing Orders Before Entering PO**. RCW 7.105.105(4) – To the extent possible, the court shall take judicial notice of any existing restraining, protection, or no-contact orders between the parties before entering a protection order.
- **Court Shall Not Allow Conduct Prohibited By Another Order**. RCW 7.105.105(4) – The court shall not include provisions in a protection order that would allow the respondent to engage in conduct that is prohibited by another restraining, protection, or no-contact order between the parties that was entered in a different proceeding.
 - **Court Administrator Shall Verify Terms Of Other Orders**. The court administrator shall verify for the court the terms of any existing protection order governing the parties.

42. Court Shall Not Delay Nor Deny Relief – Pending Case Or Relief Elsewhere

- **Relief Available In Another Action**. RCW 7.105.105(6) – Relief under this chapter must not be denied or delayed on the grounds that the relief is available in another action.
- **Pending Proceeding**. RCW 7.105.105(6) – The court shall not defer acting on a petition for a protection order ... that the petitioner is otherwise entitled to under this chapter because there is, or could be, another proceeding involving the parties including, but not limited to, any potential or pending family law matter or criminal matter.

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43. Court Shall Grant Protection Order – Proven By A Preponderance

- **Petitioner Proves By Preponderance.** RCW 7.105.225(1) – The court shall issue a protection order if it finds by a preponderance of the evidence that the petitioner has proved that the “petitioner” has been subjected to [(d) vulnerable adult and (e) extreme risk omitted] –
 - **(a) Domestic Violence.** Domestic violence by the respondent.
 - **(b) Sexual Assault.** Nonconsensual sexual conduct or nonconsensual sexual penetration by the respondent.
 - **(c) Stalking.** Stalking by the respondent.
 - **(f) Antiharassment.** Unlawful harassment by the respondent.
- **“Petitioner” Definition.** RCW 7.105.010(28) – “Petitioner” means any named petitioner or any other person identified in the petition on whose behalf the petition is brought.

44. Court Shall Not Grant Less Than Full Relief Requested

- **Another Proceeding Involving Parties.** RCW 7.105.105(6) – The court shall ... not grant a petitioner less than the full relief that the petitioner is otherwise entitled to under this chapter because there is, or could be, another proceeding involving the parties including, but not limited to, any potential or pending family law matter or criminal matter.

45. Denial Or Dismissal – Improper Grounds

- **Denial Or Dismissal Prohibited.** RCW 7.105.225(2) – The court may not deny or dismiss a petition for a protection order on the grounds that [(a) minor party omitted] –
 - **(b) Not Report To LE.** The petitioner did not report the conduct giving rise to the petition to law enforcement;
 - **(c) Existing Order In Criminal Or DV Case.** A no-contact order or a restraining order that restrains the respondent’s contact with the petitioner has been issued in a criminal proceeding or in a domestic relations proceeding;
 - **(d) Relief Available Elsewhere.** The relief sought by the petitioner may be available in a different action or proceeding, or criminal charges are pending against the respondent;
 - **(e) Conduct Not Recent; Passage Of Time.** The conduct at issue did not occur recently or because of the passage of time since the last incident of conduct giving rise to the petition; or
 - **(f) Respondent’s Residence.** The respondent no longer lives near the petitioner.

46. Denial Or Dismissal – Improper Grounds – Sexual Assault

- **Proof Of Physical Injury Not Required.** RCW 7.105.225(3) – In proceedings where the petitioner alleges that the respondent engaged in nonconsensual sexual conduct or nonconsensual sexual penetration, the court shall not require proof of physical injury on the person of the petitioner or any other forensic evidence. Denial of a remedy to the petitioner may not be based, in whole or in part, on evidence that –
 - (a) The respondent was voluntarily intoxicated;
 - (b) The petitioner was voluntarily intoxicated; or
 - (c) The petitioner engaged in limited consensual sexual touching.

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47. Denial Or Dismissal – Improper Grounds – Stalking

- **Proof Of Respondent’s Intentions Not Required.** RCW 7.105.225(4) – In proceedings where the petitioner alleges that the respondent engaged in stalking, the court may not require proof of the respondent’s intentions regarding the acts alleged by the petitioner.

48. Denial Of Protection Order – Written Reasons

- **Particular Reasons.** RCW 7.105.225(5) – If the court declines to issue a protection order, the court shall state in writing the particular reasons for the court’s denial.
- **Court Shall Explain.** RCW 7.105.225(5) – The court shall also explain from the bench:
 - **(a) Refile If New Evidence.** That the petitioner may refile a petition for a protection order at any time if the petitioner has new evidence to present that would support the issuance of a protection order;
 - **(b) Right To Reconsideration; Appeal.** The parties’ rights to seek revision, reconsideration, or appeal of the order; and
 - **(c) Right To Recording.** The parties’ rights to have access to the court transcript or recording of the hearing.

49. Denial Of Petitioner’s Minor Or Vulnerable Adult – Written Reasons

- **Particular Reasons.** RCW 7.105.225(5) – If the court declines a request to include one or more of the petitioner’s family or household member who is a minor or a vulnerable adult in the order, the court shall state the reasons for that denial in writing.

50. Protection Orders – Relief Court Deems Proper

- **Court Granted Broad Discretion.** RCW 7.105.310(1) – In issuing any type of protection order, other than an ex parte temporary antiharassment protection order as limited by subsection (2) of this section, and other than an extreme risk protection order [see RCW 7.105.330 to .355], the court shall have broad discretion to grant such relief as the court deems proper...

51. Protection Orders – Relief Not Ordered In Temporary Protection Order

- **Court Shall Consider Petitioner’s Requested Relief.** RCW 7.105.305(1) – If the court does not order all the relief requested by the petitioner in an ex parte temporary protection order, the court shall still consider ordering such relief at the full hearing on the petition for a protection order.

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52. Protection Orders – Prohibited Court Actions

- **Court Shall Not.** RCW 7.105.310(4) – The court shall not take any of the following actions in issuing a protection order –
 - **(a) Order Petitioner To Obtain Services.** The court may not order the petitioner to obtain services including, but not limited to, drug testing, victim support services, a mental health assessment, or a psychological evaluation.
 - **(b) Issue Full Order Without Notice, Opportunity, And Service.** The court shall not issue a full protection order to any party except upon notice to the respondent and the opportunity for a hearing pursuant to a petition or counter-petition filed and served by the party seeking relief in accordance with this chapter.
 - **(c) Deny Because Different Order Has Less Severe Impact.** Under no circumstances shall the court deny the petitioner the type of protection order sought in the petition on the grounds that the court finds that a different type of protection order would have a less severe impact on the respondent.

53. Protection Orders – Court Shall Designate Law Enforcement Agency

- **Order Must Designate Law Enforcement Agency.** RCW 7.105.320(1) – Orders issued under this chapter must include a designation of the appropriate law enforcement agency to execute, serve, or enforce the order. Any appropriate law enforcement agency should act where assistance is needed, even if the agency is not specifically named in the order, including assisting with the recovery of firearms as ordered.

54. Protection Orders – Who Participated? How Appeared? Respondent Appear?

- **Orders Must Include...** RCW 7.105.360(1) – Orders issued by the court following a hearing –
 - **Who Participated?** Must identify the persons who participated in the hearing and
 - **How They Appeared?** Whether each person appeared in person, by telephone, by video, or by other electronic means.
 - **Respondent Appeared – Knowledge Of Order.** If the respondent appeared at the hearing, the order must identify that the respondent has knowledge of the court's order.

55. Protection Orders – Agreed Orders Prohibited (Exception)

- **Credible Threat?** RCW 7.105.360(2) – Courts shall not accept agreed orders unless –
 - **Findings Whether Credible Threat.** There are findings indicating whether the respondent is a credible threat to the physical safety of the protected person or child.

56. Protection Orders – Weapons Order Entered?

- **Protection Orders Shall Include Whether Weapons Order Entered.** RCW 7.105.360(3) – The court shall ensure that in issuing protection orders, including, but not limited to, orders to reissue temporary protection orders and orders to renew protection orders, the court specifies whether the respondent is ordered to surrender, and prohibited from possessing, firearms and dangerous weapons.

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57. Protection Orders – Respondent Aliases

- **Protection Orders Must Include Aliases**. RCW 7.105.360(5) – If the court has information regarding any of the respondent’s known aliases, that information must be included in the protection order.

58. Protection Order Provisions – Duration

- **Specify Expiration Date**. RCW 7.105.310(5) – The order shall specify the date the order expires, if any.
- **Permanent Order – 99 Years**. RCW 7.105.310(5) – For permanent orders, the court shall set the date to expire 99 years from the issuance date.
- **Fixed Duration Or Permanent Order**. RCW 7.105.315(1) – When issuing an order after notice to the respondent and a hearing, the court may either grant relief for a fixed period of time or enter a permanent order of protection.
- **Protection Order Shall Not Be Less Than 1 Year (Exceptions)**. RCW 7.105.315(1) – The court shall not grant relief for less than one year unless –
 - **Petitioner Requests Shorter Period**. The petitioner has specifically requested relief for a shorter period of time, or
 - **Antiharassment Order Entered**. [may be shorter than 1 year]
- **No Presumptive Protection Order Length**.
 - **Former One Year Presumption**. Former RCW 10.14.080(4) required an antiharassment order “shall be effective for not more than one year unless the court finds that the respondent is likely to resume unlawful harassment of the petitioner when the order expires.”
 - **Relief The Court Deems Proper**. RCW 7.105.310(5) eliminated this statutory duration limitation. The decision concerning the length of a protection order is set forth in RCW 7.105.310(1) (“[T]he court shall have broad discretion to grant such relief as the court deems proper.”)
- **Kitsap District Court – Start With Petitioner’s Duration Request**. Given the lack of statutory guidance concerning how the court is to exercise its discretion concerning the duration of a protection order, District Court will start by asking the petitioner how long they would like the order to be in existence. Then the respondent will be asked for their position.
 - **Make A Record Concerning Duration**. Regardless of the duration, the judge should make a record as to why that duration was entered (even if the duration is 1 year).
- **Respondent’s Minor Children**. See RCW 7.105.315(2).

59. Protection Order Provisions – Method Of Service (RCW 7.105.310(5))

- **Method Of Service [see RCW 7.105.150]**. The order shall also state whether the court issued the protection order following personal service, service by electronic means, service by mail, or service by publication, and whether the court has approved service by mail or publication of an order issued under this section.

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60. Protection Order Provisions – Court Shall Advise Petitioner

- **Court Shall Advise Petitioner When PO Issued.** RCW 7.105.465(1) – When the court issues a protection order under this chapter, the court shall advise the petitioner that –
 - **Respondent Must Know Of Order.** The respondent may not be subjected to the penalties set forth in this chapter for a violation of the order unless the respondent knows of the order.

61. Protection Order Provisions – Statutory List

- **Protection Order May Include The Following Relief Provisions.** RCW 7.105.310(1)(a) to (1)(v) –
 - **(a) No Harm.** Restrain the respondent from committing any of the following acts against the petitioner and other persons protected by the order: Domestic violence; nonconsensual sexual conduct or nonconsensual sexual penetration; sexual abuse; stalking; acts of abandonment, abuse, neglect, or financial exploitation against a vulnerable adult; and unlawful harassment;
 - **(b) No Contact.** Restrain the respondent from making any attempts to have contact, including nonphysical contact, with –
 - **Petitioner,** or
 - **Minors.** Petitioner's family or household members who are minors or
 - **Adults.** Other members of the petitioner's household, either directly, indirectly, or through third parties regardless of whether those third parties know of the order;
 - **(c) Shared Residence.** Exclude the respondent from the residence that the parties share;
 - **(d) Residence, Workplace, School, Daycare.** Exclude the respondent from the residence, workplace, or school of the petitioner; or from the day care or school of a minor child;
 - **(e) Distance Bubble.** Restrain the respondent from knowingly coming within, or knowingly remaining within, a specified distance from a specified location including, but not limited to, a residence, school, day care, workplace, the protected party's person, and the protected party's vehicle.
 - **At Least 1,000 Feet Distance Presumption (Exception).** The specified distance shall presumptively be at least 1,000 feet, unless –
 - **Good Cause.** Court for good cause finds that a shorter specified distance is appropriate;
 - **(f) Child In Common.** If the parties have children in common, make residential provisions with regard to their minor children on the same basis as is provided in chapter 26.09 RCW. However, parenting plans as specified in chapter 26.09 RCW must not be required under this chapter. The court may not delay or defer relief under this chapter on the grounds that the parties could seek a parenting plan or modification to a parenting plan in a different action. A protection order must not be denied on the grounds that the parties have an existing parenting plan in effect. A protection order may suspend the respondent's contact with the parties' children under an existing parenting plan, subject to further orders in a family law proceeding;
 - **(g) DV Perpetrator Or Sex Offender Treatment.** Order the respondent to participate in a state-certified domestic violence perpetrator treatment program approved under RCW 43.20A.735 or a state-certified sex offender treatment program approved under RCW 18.155.070;

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- **(h) Mental Health Or Chemical Dependency Evaluation – Ability To Pay.** Order the respondent to obtain a mental health or chemical dependency evaluation. If the court determines that a mental health evaluation is necessary, the court shall clearly document the reason for this determination and provide a specific question or questions to be answered by the mental health professional. The court shall consider the ability of the respondent to pay for an evaluation. Minors are presumed to be unable to pay. The parent or legal guardian is responsible for costs unless the parent or legal guardian demonstrates inability to pay;
- **(i) Parties Are Students In Same School – Respondent Transfer.** In cases where the petitioner and the respondent are students who attend the same public or private elementary, middle, or high school, the court, when issuing a protection order and providing relief, shall consider, among the other facts of the case, the severity of the act, any continuing physical danger, emotional distress, or educational disruption to the petitioner, and the financial difficulty and educational disruption that would be caused by a transfer of the respondent to another school. The court may order that the respondent not attend the public or private elementary, middle, or high school attended by the petitioner. If a minor respondent is prohibited attendance at the minor’s assigned public school, the school district must provide the student comparable educational services in another setting. In such a case, the district shall provide transportation at no cost to the respondent if the respondent's parent or legal guardian is unable to pay for transportation. The district shall put in place any needed supports to ensure successful transition to the new school environment. The court shall send notice of the restriction on attending the same school as the petitioner to the public or private school the respondent will attend and to the school the petitioner attends;
- **(j) Require Respondent To Pay Court And Petitioner Costs And Fees.** Require the respondent to pay the administrative court costs and service fees, as established by the county or municipality incurring the expense, and to reimburse the petitioner for costs incurred in bringing the action, including reasonable attorneys’ fees or limited license legal technician fees when such fees are incurred by a person licensed and practicing in accordance with state supreme court admission and practice rule 28, the limited practice rule for limited license legal technicians. Minors are presumed to be unable to pay. The parent or legal guardian is responsible for costs unless the parent or legal guardian demonstrates inability to pay;
- **(k) Surveillance.** Restrain the respondent from harassing, following, monitoring, keeping under physical or electronic surveillance, cyber harassment as defined in RCW 9A.90.120, and using telephonic, audiovisual, or other electronic means to monitor the actions, location, or communication of the petitioner or the petitioner’s family or household members who are minors or other members of the petitioner’s household. For the purposes of this subsection, “communication” includes both “wire communication” and “electronic communication” as defined in RCW 9.73.260;
- **(l) Electronic Monitoring.** Other than for respondents who are minors, require the respondent to submit to electronic monitoring. The order must specify who shall provide the electronic monitoring services and the terms under which the monitoring must be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the respondent to pay for electronic monitoring;
- **(m) Weapons Order.** Consider the provisions of RCW 9.41.800, and order the respondent to surrender, and prohibit the respondent from accessing, having in his or her custody or control, possessing, purchasing, attempting to purchase or receive, or receiving, all firearms, dangerous weapons, and any concealed pistol license, as required in RCW 9.41.800;

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- **(n) Essential Personal Effects**. Order possession and use of essential personal effects. The court shall list the essential personal effects with sufficient specificity to make it clear which property is included.
 - **Pets**. Personal effects may include pets. The court may order that a petitioner be granted the exclusive custody or control of any pet owned, possessed, leased, kept, or held by the petitioner, respondent, or minor child residing with either the petitioner or respondent, and may prohibit the respondent from interfering with the petitioner's efforts to obtain the pet. The court may also prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance of specified locations where the pet is regularly found;
 - **“Essential Personal Effects” Definition**. RCW 7.105.010(11) – Means those items necessary for a person’s immediate health, welfare, and livelihood. “Essential personal effects” includes, but is not limited to, clothing, cribs, bedding, medications, personal hygiene items, cellular phones and other electronic devices, and documents, including immigration, health care, financial, travel, and identity documents.
- **(o) Use Of Vehicle**. Order use of a vehicle;
- **(p) Abusive Litigation, Frivolous Filings, Libelous Communications, False Reports**. Enter an order restricting the respondent from engaging in abusive litigation as set forth in chapter 26.51 RCW or in frivolous filings against the petitioner, making harassing or libelous communications about the petitioner to third parties, or making false reports to investigative agencies. A petitioner may request this relief in the petition or by separate motion. A petitioner may request this relief by separate motion at any time within five years of the date the protection order is entered even if the order has since expired. A stand-alone motion for an order restricting abusive litigation may be brought by a party who meets the requirements of chapter 26.51 RCW regardless of whether the party has previously sought a protection order under this chapter, provided the motion is made within five years of the date the order that made a finding of domestic violence was entered. In cases where a finding of domestic violence was entered pursuant to an order under chapter 26.09, *26.26, or 26.26A RCW, a motion for an order restricting abusive litigation may be brought under the family law case or as a stand-alone action filed under this chapter, when it is not reasonable or practical to file under the family law case;
- **(q) Vulnerable Adult Abuse**. Restrain the respondent from committing acts of abandonment, abuse, neglect, or financial exploitation against a vulnerable adult;
- **(r) Vulnerable Adult Income Accounting**. Require an accounting by the respondent of the disposition of the vulnerable adult’s income or other resources;
- **(s) Transfer Of Property Up To 90 Days**. Restrain the transfer of either the respondent’s or vulnerable adult’s property, or both, for a specified period not exceeding 90 days;
- **(t) Transfer Of Joint Assets**. Order financial relief and restrain the transfer of jointly owned assets;
- **(u) Intimate Images**. Restrain the respondent from possessing or distributing intimate images, as defined in RCW 9A.86.010, depicting the petitioner including, but not limited to, requiring the respondent to: Take down and delete all intimate images and recordings of the petitioner in the respondent’s possession or control; and cease any and all disclosure of those intimate images. The court may also inform the respondent that it would be appropriate to ask third parties in possession or control of the intimate images of this protection order to take down and delete the intimate images so that the order may not inadvertently be violated; or

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- **(v) Other Relief As Necessary.** Order other relief as it deems necessary for the protection of the petitioner and other family or household members who are minors or vulnerable adults for whom the petitioner has sought protection, including
 - **Law Enforcement Directives.** Orders or directives to a law enforcement officer, as allowed under this chapter.

62. Protection Order Provisions – Petitioner Law Enforcement Standby

- **Law Enforcement Assistance.** RCW 7.105.320 – (1) When an order is issued under this chapter upon request of the petitioner, the court may order a law enforcement officer to accompany the petitioner and assist in placing the petitioner in possession of those items indicated in the order or to otherwise assist in the execution of the order of protection.
 - **Order Must List All Items With Specificity.** The order must list all items that are to be included with sufficient specificity to make it clear which property is included.
- **Law Enforcement Shall Comply.** RCW 7.105.320(2) – Upon order of a court, a law enforcement officer shall accompany the petitioner and assist in placing the petitioner in possession of all items listed in the order and to otherwise assist in the execution of the order.

63. Protection Order Provisions – Respondent Law Enforcement Standby

- **Respondent To Vacate Residence.** RCW 7.105.320(3) – When the respondent is ordered to vacate the residence or other shared property, the respondent may be permitted by the court to remove personal clothing, personal items needed during the duration of the order, and any other items specified by the court, while a law enforcement officer is present.
- RCW 7.105.320(4) – Where orders involve surrender of firearms, dangerous weapons, and concealed pistol licenses, those items must be secured and accounted for in a manner that prioritizes safety and compliance with court orders.

64. Protection Order Provisions – Antiharassment Order Limitations

- **Only In Full Protection Order.** RCW 7.105.310(2) – In an antiharassment protection order proceeding, the court may grant the relief [listed below] only as part of a full antiharassment protection order.
 - **Exclude From Shared Residence.** RCW 7.105.310(1)(c),
 - **Child In Common.** RCW 7.105.310(1)(f), and
 - **Transfer Of Joint Assets.** RCW 7.105.310(1)(t)(t).
- **Respondent’s Constitutionally Protected Free Speech.** RCW 7.105.310(3) – The court in granting a temporary antiharassment protection order or a civil antiharassment protection order shall not prohibit the respondent from exercising constitutionally protected free speech.
 - **Petitioner May Seek Other Remedies.** Nothing in this section prohibits the petitioner from utilizing other civil or criminal remedies to restrain conduct, or
 - **Unprotected Free Speech.** Nothing in this section prohibits .. communications not otherwise constitutionally protected.

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65. Realignment Of Parties – Antiharassment Or DV (RCW 7.105.210)

- **Petitioner Is Harasser/Abuser + Respondent The Victim**. In proceedings where the petitioner is seeking a domestic violence protection order or an antiharassment protection order, the court may realign the designation of the parties as “petitioner” and “respondent” where the court finds that the original petitioner is the abuser or harasser and the original respondent is the victim of domestic violence or unlawful harassment.
- **Temporary Order**. The court may issue a temporary protection order in accordance with this chapter until –
 - **Realigned Victim Must Prepare Petition**. The victim is able to prepare a petition for a protection order in accordance with this chapter.

66. Mutual Protection Orders Not Permitted

- **District Court Will Not Grant Mutual Protection Orders**. RCW 7.105 is unclear concerning a court’s authority to grant mutual protection orders where only the petitioner files a petition. As a policy matter, District Court will not grant mutual protection orders whether sua sponte or pursuant to a party’s request.
 - **Respondent May File Their Own Petition**. Instead, the court should direct the respondent to file their own petition if they want to do so. In this way, a new case will be created and the former petitioner will have a full opportunity to respond to the new petition at the full hearing.

67. Modification Or Termination Of Protection Order

- **DV, Sexual Assault, Stalking, Antiharassment Orders**. This section applies to modification or termination of domestic violence protection orders, sexual assault protection orders, stalking protection orders, and antiharassment protection orders.
- **Court May Modify Or Terminate Upon Motion, Notice, Hearing**. RCW 7.105.500(1) – Upon a motion with notice to all parties and after a hearing, the court may modify the terms of an existing protection order or terminate an existing order.
- **Written Materials And Evidence**. RCW 7.105.500(2) – All motions to modify or terminate shall be based on the written materials and evidence submitted to the court.
- **Opposing Declarations**. RCW 7.105.500(2) – The nonmoving parties to the proceeding may file opposing declarations.
- **Respondent’s Motion – Repeat Filing Prohibited (Once Every 12 Months)**. RCW 7.105.500(7) – A respondent may file a motion to modify or terminate an order no more than once in every 12-month period that the order is in effect, starting from the date of the order and continuing through any renewal period.
- **Respondent’s Motion – No Hearing Unless Court Finds Respondent Established Adequate Cause**. RCW 7.105.500(2) – The court shall set a hearing only if the court finds that adequate cause is established.
 - **If Adequate Cause Found, Hearing At Least 14 Days Later**. If the court finds that the respondent established adequate cause, the court shall set a date for hearing the respondent’s motion, which must be at least 14 days from the date the court finds adequate cause.
- **Respondent’s Motion – Declaration Required**. RCW 7.105.500(2) – A respondent’s motion to modify or terminate an existing protection order must include a declaration setting forth facts supporting the requested order for modification or termination.

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- **Respondent's Motion – Burden Of Proof – Substantial Change In Circumstances.** RCW 7.105.500(3) – Upon the motion of a respondent, the court may not modify or terminate an existing protection order unless the respondent proves by a preponderance of the evidence that there has been a substantial change in circumstances such that –
 - **Not Resume, Engage, Attempt To Engage.** The respondent will not resume, engage in, or attempt to engage in, the following acts against the petitioner or those persons protected by the protection order if the order is terminated or modified –
 - **(a) Domestic Violence.** Acts of domestic violence, in cases involving domestic violence protection orders;
 - **(b) Sexual Assault.** Physical or nonphysical contact, in cases involving sexual assault protection orders;
 - **(c) Stalking.** Acts of stalking, in cases involving stalking protection orders; or
 - **(d) Unlawful Harassment.** Acts of unlawful harassment, in cases involving antiharassment protection orders.
 - **Petitioner Has No Burden – Fear Of Harm.** The petitioner bears no burden of proving that he or she has a current reasonable fear of harm by the respondent.
- **Substantial Change In Circumstances – Factors.** RCW 7.105.500(4) – In determining whether there has been a substantial change in circumstances, the court may consider the following unweighted factors, and no inference is to be drawn from the order in which the factors are listed –
 - **(a) Acts Against Petitioner/Others.** Whether the respondent has committed or threatened sexual assault, domestic violence, stalking, or other harmful acts against the petitioner or any other person since the protection order was entered;
 - **(b) Violation Of Order.** Whether the respondent has violated the terms of the protection order and the time that has passed since the entry of the order;
 - **(c) Suicide.** Whether the respondent has exhibited suicidal ideation or attempts since the protection order was entered;
 - **(d) Criminal Conviction.** Whether the respondent has been convicted of criminal activity since the protection order was entered;
 - **(e) Responsibility/Treatment.** Whether the respondent has either acknowledged responsibility for acts of sexual assault, domestic violence, stalking, or behavior that resulted in the entry of the protection order, or successfully completed state-certified perpetrator treatment or counseling since the protection order was entered;
 - **(f) Drug Or Alcohol Abuse.** Whether the respondent has a continuing involvement with drug or alcohol abuse, if such abuse was a factor in the protection order;
 - **(g) Consent.** Whether the petitioner consents to terminating the protection order, provided that consent is given voluntarily and knowingly; or
 - **(h) Other Factors.** Other factors relating to a substantial change in circumstances.
- **Substantial Change In Circumstances – Prohibited Factor – No Violations.** RCW 7.105.500(5) – In determining whether there has been a substantial change in circumstances, the court may not base its determination on the fact that time has passed without a violation of the order.

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- **Severe Acts – Court May Deny Termination Sua Sponte**. RCW 7.105.500(6) – Regardless of whether there is a substantial change in circumstances, the court may decline to terminate a protection order if it finds that the acts of domestic violence, sexual assault, stalking, unlawful harassment, and other harmful acts that resulted in the issuance of the protection order were of such severity that the order should not be terminated.
- **Ex Parte Modification – Protected Person’s New Child**. RCW 7.105.500(8) – If a person who is protected by a protection order has a child or adopts a child after a protection order has been issued, but before the protection order has expired, the petitioner may seek to include the new child in the order of protection on an ex parte basis if the child is already in the physical custody of the petitioner.
 - **Respondent’s Child – Hearing And Notice Required**. If the restrained person is the legal or biological parent of the child, a hearing must be set and notice given to the restrained person prior to final modification of the full protection order.
- **Petitioner’s Costs And Attorneys’ Fees**. RCW 7.105.500(9) – A court may require the respondent to pay the petitioner for costs incurred in responding to a motion to modify or terminate a protection order, including reasonable attorneys’ fees.
- **Clerk Shall Forward To Law Enforcement Same Day**. RCW 7.105.515 – In any situation where a protection order issued under this chapter is modified or terminated before its expiration date, the clerk of the court shall forward on the same day a true copy of the modified order or the termination order to the law enforcement agency specified in the modified or termination order.
- **Law Enforcement Shall Promptly Enter In Or Remove From Database**. RCW 7.105.515 – Upon receipt of the order, the law enforcement agency shall promptly enter it in the computer-based criminal intelligence information system, or if the order is terminated, remove the order from the computer-based criminal intelligence information system.

68. Termination Of Protection Order – Extreme Risk

- See RCW 7.105.505.

69. Modification Or Termination Of Protection Order – Vulnerable Adult

- See RCW 7.105.510.

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70. Renewal Of Protection Order

- **Motion To Renew – Within 90 Days Before Order Expires.** RCW 7.105.405(1) – If the court grants a protection order for a fixed time period, the petitioner may file a motion to renew the order at any time within the 90 days before the order expires.
 - **Petitioner Must State Reasons.** The motion for renewal must state the reasons the petitioner seeks to renew the protection order.
- **Court Shall Order Hearing – Not Later Than 14 Days.** RCW 7.105.405(1) – Upon receipt of a motion for renewal, the court shall order a hearing, which must be not later than 14 days from the date of the order.
- **Service On Respondent – Not Less Than 5 Judicial Days Before Hearing.** RCW 7.105.405(1) – Service must be made on the respondent not less than five judicial days before the hearing, as provided in RCW 7.105.150.
- **Uncontested + No Modification.** RCW 7.105.405(2) – If the motion for renewal is uncontested and the petitioner seeks no modification of the order, the order may be renewed on the basis of the petitioner’s motion and statement of the reason for the requested renewal.
- **Petitioner – No Burden Of Fear Of Harm.** RCW 7.105.405(3) – The petitioner bears no burden of proving that he or she has a current reasonable fear of harm by the respondent.
- **Burden On Respondent – Substantial Change In Circumstances + Not Resume Acts.** RCW 7.105.405(4) – The court shall grant the motion for renewal unless the respondent proves by a preponderance of the evidence that there has been a substantial change in circumstances and the following –
 - **(a) Domestic Violence.** For a domestic violence protection order, that the respondent proves that the respondent will not resume acts of domestic violence against the petitioner or the petitioner’s family or household members who are minors or vulnerable adults when the order expires;
 - **(b) Sexual Assault.** For a sexual assault protection order, that the respondent proves that the respondent will not engage in, or attempt to engage in, physical or nonphysical contact with the petitioner when the order expires;
 - **(c) Stalking.** For a stalking protection order, that the respondent proves that the respondent will not resume acts of stalking against the petitioner or the petitioner’s family or household members when the order expires;
 - **(d) Vulnerable Adult.** For a vulnerable adult protection order, that the respondent proves that the respondent will not resume acts of abandonment, abuse, financial exploitation, or neglect against the vulnerable adult when the order expires; or
 - **(e) Antiharassment.** For an antiharassment protection order, that the respondent proves that the respondent will not resume harassment of the petitioner when the order expires.

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- **Substantial Change – Factors**. RCW 7.105.405(5) – In determining whether there has been a substantial change in circumstances, the court may consider the following unweighted factors, and no inference is to be drawn from the order in which the factors are listed –
 - **(a) Acts Against Petitioner/Others**. Whether the respondent has committed or threatened sexual assault; domestic violence; stalking; abandonment, abuse, financial exploitation, or neglect of a vulnerable adult; or other harmful acts against the petitioner or any other person since the protection order was entered;
 - **(b) Violation Of Protection Order/Time**. Whether the respondent has violated the terms of the protection order and the time that has passed since the entry of the order;
 - **(c) Suicide**. Whether the respondent has exhibited suicidal ideation or attempts since the protection order was entered;
 - **(d) Criminal Conviction**. Whether the respondent has been convicted of criminal activity since the protection order was entered;
 - **(e) Responsibility/Treatment**. Whether the respondent has either: Acknowledged responsibility for acts of sexual assault, domestic violence, or stalking, or acts of abandonment, abuse, financial exploitation, or neglect of a vulnerable adult, or behavior that resulted in the entry of the protection order; or successfully completed state-certified perpetrator treatment or counseling since the protection order was entered;
 - **(f) Drug Or Alcohol Use**. Whether the respondent has a continuing involvement with drug or alcohol abuse, if such abuse was a factor in the protection order; and
 - **(g) Other Factors**. Other factors relating to a substantial change in circumstances.
- **Court Shall Not Deny Renewal – Impermissible Factors**. RCW 7.105.405(6) – The court shall not deny a motion to renew a protection order for any of the following reasons:
 - **(a) No Order Violations**. The respondent has not violated the protection order previously issued by the court;
 - **(b) Minor**. The petitioner or the respondent is a minor;
 - **(c) Not Reported To Law Enforcement**. The petitioner did not report the conduct giving rise to the protection order, or subsequent violations of the protection order, to law enforcement;
 - **(d) Order In Another Proceeding**. A no-contact order or a restraining order that restrains the respondent's contact with the petitioner has been issued in a criminal proceeding or in a domestic relations proceeding;
 - **(e) Relief Available Elsewhere**. The relief sought by the petitioner may be available in a different action or proceeding;
 - **(f) Passage Of Time**. The passage of time since the last incident of conduct giving rise to the issuance of the protection order; or
 - **(g) Residence**. The respondent no longer lives near the petitioner.
- **No Change In Protection Order Terms (Exception)**. RCW 7.105.405(7) – The terms of the original protection order must not be changed on a motion for renewal unless –
 - **Petitioner Requested Change**. The petitioner has requested the change.
- **Duration Of Order**. RCW 7.105.405(8) – The court may renew the protection order for –
 - **Fixed Time Period (1 Year Or Longer)**. Another fixed time period of no less than one year, or
 - **Permanent Order (99 Years)**. May enter a permanent order [RCW 7.105.310(5)].

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- **Duration Of Order – Parties’ Children.** RCW 7.105.405(9) – If the protection order includes the parties’ children, a renewed protection order may be issued for more than one year, subject to subsequent orders entered in a proceeding under chapter 26.09, 26.26A, or 26.26B RCW.
- **Petitioner Costs, Attorneys’ Fees.** RCW 7.105.405(10) – The court may award court costs, service fees, and reasonable attorneys’ fees to the petitioner as provided in RCW 7.105.310(1)(j).
- **Court Denies Renewal – Written Reasons.** RCW 7.105.405(11) – If the court declines to renew the protection order, the court shall state, in writing in the order, the particular reasons for the court's denial.
- **Court Denies Renewal – Respondent’s Children.** See RCW 7.105.405(11).
- **Respondent Under Age 18.** See RCW 7.105.405(12).

71. Enforcement And Penalties – Antiharassment

- **Gross Misdemeanor – Willful Disobedience Of Certain Protection Order Provisions.** RCW 7.105 .455(2) – A willful disobedience by a respondent age 18 years or over of any of the following provisions of an antiharassment protection order issued under this chapter is a gross misdemeanor –
 - **(a) Violation Of Restraint Provisions Against A Protected Party** – The restraint provisions prohibiting –
 - **Acts Or Threats Of Violence, or**
 - **Unlawful Harassment, or**
 - **Stalking, or**
 - **No Contact, or**
 - **(b) Exclusion.** A provision excluding the person from a residence, workplace, school, or day care; or
 - **(c) Distance Bubble – Protected Person Or Vehicle.** A provision prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, a protected party’s person, or a protected party’s vehicle; or
 - **(d) Pets.** A provision prohibiting interfering with the protected party’s efforts to remove a pet owned, possessed, leased, kept, or held by the petitioner, the respondent, or a minor child residing with either the petitioner or the respondent.
- **Appearances Are Mandatory, Cannot Be Waived.** RCW 7.105.455(7).
- **Arrested – Mandatory Next Day Return In Person.** RCW 7.105.455(5) – A defendant arrested for violating any antiharassment protection order issued under this chapter is required to appear in person before a magistrate within one judicial day after the arrest.
 - **Court Shall Consider No Contact Order & Other Release Conditions.** At the time of the appearance, the court shall determine the necessity of imposing a no-contact order or other conditions of pretrial release in accordance with RCW 9A.46.050.
- **Not Arrested – Mandatory Arraignment Within 14 Days In Court.** RCW 7.105.455(6) – A defendant who is charged by citation, complaint, or information with violating any antiharassment protection order issued under this chapter and not arrested shall appear in court for arraignment in accordance with RCW 9A.45.050.

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72. Enforcement And Penalties – Antiharassment – Contempt

- **Contempt.** RCW 7.105.455(3) – Any respondent age 18 years or over who willfully disobeys the terms of any antiharassment protection order issued under this chapter may also, in the court's discretion, be found in contempt of court and subject to penalties under chapter 7.21 RCW.
- **Contempt – Respondent Under Age 18.** See RCW 7.105.455(4).

73. Enforcement And Penalties – DV, Stalking, Sexual Assault, VA

- **Gross Misdemeanor – Violation Of Certain Protection Order Provisions.** RCW 7.105.450(1)(a) – A violation of any of the following provisions of the order is a gross misdemeanor –
 - **(i) Violation Of Restraint Provisions Against A Protected Party** – The restraint provisions prohibiting –
 - **Acts Or Threats Of Violence**, or
 - **Stalking**, or
 - **No Contact**, or
 - **(ii) Exclusion.** A provision excluding the person from a residence, workplace, school, or day care; or
 - **(iii) Distance Bubble – Protected Person Or Vehicle.** A provision prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, a protected party's person, or a protected party's vehicle; or
 - **(iv) Pets.** A provision prohibiting interfering with the protected party's efforts to remove a pet owned, possessed, leased, kept, or held by the petitioner, the respondent, or a minor child residing with either the petitioner or the respondent; or
 - **(v) Canadian DV Or Foreign PO – Violation A Crime.** A provision of a foreign protection order or a Canadian domestic violence protection order specifically indicating that a violation will be a crime.
- **Class C Felony.**
 - **Assault In Violation Of Order.** RCW 7.105.450(4).
 - **Reckless Violation Of Order + Substantial Risk Of Death Or Serious Physical Injury.** RCW 7.105.450(4).
 - **2 Previous Protection Order Convictions.** RCW 7.105.450(5).
- **Upon Protection Order Violation Conviction** –
 - **Court May Impose Electronic Monitoring.** RCW 7.105.450(1)(b)(i).
 - **Court Shall Impose \$15 DV Prevention Fund Fine (If DVPO Conviction).** RCW 7.105.450(1)(b)(ii).
- **Mandatory Arrest – Probable Cause Violation Of Certain Protection Order Provisions.** RCW 7.105.450(2).
- **Appearances Are Mandatory, Cannot Be Waived.** RCW 7.105.450(8).

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- **Arrested – Mandatory Next Day Return In Person.** RCW 7.105.450(6)(a) – A defendant arrested for violating a domestic violence protection order, sexual assault protection order, stalking protection order, or vulnerable adult protection order, or an order granted under chapter 9A.40, 9A.44, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.26A, or 26.26B RCW, or a valid foreign protection order as defined in RCW 26.52.020, or a Canadian domestic violence protection order as defined in RCW 26.55.010, is required to appear in person before a magistrate within one judicial day after the arrest.
 - **Court Shall Consider No Contact Order & Other Release Conditions.** At the time of the appearance, the court shall determine the necessity of imposing a no-contact order or other conditions of pretrial release.
- **Not Arrested – Mandatory Arraignment Within 14 Days In Person.** RCW 7.105.450(6)(b) – A defendant who is charged by citation, complaint, or information with violating any protection order identified in (a) of this subsection and not arrested shall appear in court for arraignment in person as soon as practicable, but in no event later than 14 days after the next day on which court is in session following the issuance of the citation or the filing of the complaint or information.

74. Enforcement And Penalties – DV, Stalking, Sexual Assault, VA – Contempt

- **Contempt.** RCW 7.105.450(3).
- **Contempt – Show Cause Hearing.** RCW 7.105.450(7) – Upon the filing of an affidavit by the petitioner or any law enforcement officer alleging that the respondent has violated a domestic violence protection order, a sexual assault protection order, a stalking protection order, or a vulnerable adult protection order, or an order granted under chapter 9A.40, 9A.44, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.26A, or 26.26B RCW, or a valid foreign protection order as defined in RCW 26.52.020, or a Canadian domestic violence protection order as defined in RCW 26.55.010, the court may issue an order to the respondent, requiring the respondent to appear and show cause within 14 days as to why the respondent should not be found in contempt of court and punished accordingly.
 - **Venue – Where Respondent Resides.** 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.

75. Enforcement And Penalties – Extreme Risk Protection Order

- See RCW 7.105.460.

76. Enforcement And Penalties – Respondent’s Knowledge Of Order

- **Court Shall Advise Petitioner When PO Issued.** RCW 7.105.465(1) – When the court issues a protection order under this chapter, the court shall advise the petitioner that –
 - **Respondent Must Know Of Order.** The respondent may not be subjected to the penalties set forth in this chapter for a violation of the order unless the respondent knows of the order.

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- **Law Enforcement Shall Determine Respondent's Knowledge Upon Violation.** RCW 7.105.465(2) – When a law enforcement officer investigates a report of an alleged violation of a protection order issued under this chapter, the officer shall attempt to determine whether the respondent knew of the existence of the protection order.
 - **Service On Respondent – Present.** If the law enforcement officer determines that the respondent did not, or probably did not, know about the protection order and the officer is provided a current copy of the order, the officer shall serve the order on the respondent if the respondent is present.
 - **Service On Respondent – Not Present.** If the respondent is not present, the officer shall make reasonable efforts to serve a copy of the order on the respondent.
 - **Receipt To Petitioner.** If the officer serves the respondent with the petitioner's copy of the order, the officer shall give the petitioner a receipt indicating that the petitioner's copy has been served on the respondent.
 - **Enforce Compliance After Service.** After the officer has served the order on the respondent, the officer shall enforce prospective compliance with the order.
- **Entry In LE Database Not Required For Enforcement.** RCW 7.105.465(3) – Presentation of an unexpired, certified copy of a protection order with proof of service is sufficient for a law enforcement officer to enforce the order regardless of the presence of the order in the law enforcement computer-based criminal intelligence information system.

77. Protection Orders – Database Entry

- **Clerk Shall Enter Into JIS The Same Day.** RCW 7.105.325(1) – The clerk of the court shall enter any protection order, including temporary protection orders, issued under this chapter into a statewide judicial information system on the same day such order is issued, if possible, but no later than the next judicial day.
- **Clerk Shall Immediately Forward Electronically To Law Enforcement Agency.** RCW 7.105.325(2) – A copy of a protection order granted under this chapter, including temporary protection orders, must be forwarded immediately by the clerk of the court, by electronic means if possible, to the law enforcement agency specified in the order.
- **Law Enforcement Shall Immediately Enter Order In Database(s).** RCW 7.105.325(2) – Upon receipt of the order, the law enforcement agency shall immediately enter the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants.
 - **Remain In Computer Until Expiration Date.** The order must remain in the computer until the expiration date specified on the order.
 - **Weapons Order – National Database.** If the court has entered an order that prohibits the respondent from possessing or purchasing a firearm, the law enforcement agency shall also enter the order into the national instant criminal background check system and any other federal or state computer-based systems used by law enforcement or others to identify prohibited purchasers of firearms.
 - **Remain In System For Period In Order.** The order must remain in each system for the period stated in the order, and the law enforcement agency shall only expunge orders from the systems that have expired or terminated.

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- **Notice To All Law Enforcement – Fully Enforceable In WA**. Entry into the computer-based criminal intelligence 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.
- **Method Of Service In Database(s)**. RCW 7.105.325(3) – The information entered into the computer-based criminal intelligence information system must include notice to law enforcement on whether the order was personally served, served by electronic means, served by publication, or served by mail.
- **Court-Selected Agency Falls Outside Agency Jurisdiction**. RCW 7.105.325(4) – If a law enforcement agency receives a protection order for entry or service, but the order falls outside the agency’s jurisdiction, the agency –
 - **Agency May Enter And Serve**. May enter and serve the order or
 - **Immediately Forward To Appropriate Agency**. May immediately forward it to the appropriate law enforcement agency for entry and service, and
 - **Documentation To Court – Verify Which Agency Entered And Will Serve**. Shall provide documentation back to the court verifying which law enforcement agency has entered and will serve the order.

78. Protection Orders – Clerical Or Technical Errors (RCW 7.105.365)

- **May Correct At Any Time**. After a protection order is issued, the court may correct clerical or technical errors in the order at any time.
- **Sua Sponte Or After Receiving Notice Or Error**. The court may correct errors either on the court’s own initiative or upon notice to the court of an error.
- **Notice And Copy Of Corrected Order**. If the court corrects an error in an order, the court shall provide notice of the correction to the parties and the person who notified the court of the error, and shall provide a copy of the corrected order.
- **Clerk Shall Forward Corrected Order To Law Enforcement Agency By Next Judicial Day**. The court shall direct the clerk to forward the corrected order on or before the next judicial day to the law enforcement agency specified in the order.

79. Extreme Risk Protection Orders

- **ERPOs Have Separate Provisions From Other Other Types**. See RCW 7.105.330 to .355.

80. Firearms Surrender – Must Be Secured

- **Prioritize Safety And Compliance**. RCW 7.105.320(4) – Where orders involve surrender of firearms, dangerous weapons, and concealed pistol licenses, those items must be secured and accounted for in a manner that prioritizes safety and compliance with court orders.

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81. Compliance Hearings

- **Only Respondent's Appearance Required.** RCW 7.105.235(1) – For compliance hearings, only the respondent is required to appear if the court is reviewing compliance with any conditions of the order.
- **Petitioner May Appear.** RCW 7.105.235(1) – The petitioner may appear at such hearing and provide evidence to the court regarding the respondent's compliance with the order.
- **Petitioner's Response To Compliance.** RCW 7.105.235(1) – Petitioner may also file a declaration in response to respondent's representation of compliance with any conditions of the order.
 - **Court May Ask Petitioner To Appear.** After reviewing such a declaration by the petitioner, the court may ask the petitioner to appear at the hearing or provide additional declaration or documentation to address disputed issues.
- **Compliance Order Must Be Served If Respondent FTA.** RCW 7.105.235(2) – Any orders entered by the court pursuant to a compliance hearing must be served on the respondent if the respondent failed to appear at the hearing at which the court entered the orders.
- **Best Efforts To Notify Petitioner Of Compliance Outcome.** RCW 7.105.235(3) – The court shall use its best efforts to notify the petitioner of the outcome of the compliance hearing including, but not limited to, informing the petitioner on whether the respondent is found to be out of compliance with an order to surrender and prohibit weapons.
 - **Electronic Notice.** Such notice should be provided to the petitioner by electronic means if possible, but may also be made by telephone or another method that allows notification to be provided without unnecessary delay.

82. Compliance Hearings – Contempt – Prosecutor Assistance Required

- **Petitioner Cannot Afford Attorney + Ask Prosecutor + Probable Cause.** RCW 7.105.470 – When a party alleging a violation of a protection order issued under this chapter states that the party is unable to afford private counsel and asks the prosecuting attorney for the county or the attorney for the municipality in which the order was issued for assistance, the attorney shall initiate and prosecute a contempt proceeding if there is probable cause to believe that the violation occurred.
- **Reasonable Attorney's Fee.** 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.