

HOUSE BILL NO. HB0017

Sexual assault protection orders.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

1 AN ACT relating to criminal procedure; modifying provisions
 2 relating to stalking protection orders; providing for
 3 protection orders for victims of sexual assault; providing
 4 definitions; specifying confidentiality requirements;
 5 providing for extensions of orders; and providing for an
 6 effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 7-3-512 is created to read:

11

12 **7-3-512. Confidentiality in court proceedings.**

13

14 The court shall enter an order providing for the
 15 confidentiality of the name, address, city and state of
 16 residence or any other information identifying residence of

1 all parties involved in the sexual assault for all orders
2 issued under W.S. 7-3-508 and 7-3-509.

3

4 **Section 2.** W.S. 6-2-319(a), 7-3-506(a), 7-3-507(a),
5 (b) and (e), 7-3-508(b), (c) and by creating a new
6 subsection (d), 7-3-509(a)(intro), (ii), (b) and by
7 creating a new subsection (c), 7-3-510(b) and (d) and
8 7-3-511(a), (b)(i), (ii) and (c) are amended to read:

9

10 **6-2-319. Names not to be released; restrictions on**
11 **disclosures or publication of information; violations;**
12 **penalties.**

13

14 (a) Prior to the filing of an information or
15 indictment in district court charging a violation of an
16 offense under this article, neither the names of the
17 alleged actor or the victim of the charged offense nor any
18 other information reasonably likely to disclose the
19 ~~identity~~identities of the ~~victim~~parties shall be released
20 or negligently allowed to be released to the public by any
21 public employee except as authorized by the judge with
22 jurisdiction over the criminal charges. The actor's name
23 may be released to the public to aid or facilitate an

1 arrest. This subsection shall not apply if release of the
2 name or information is necessary to enforce an order for
3 protection against the alleged actor.

4
5 **7-3-506. Definitions.**

6
7 (a) As used in W.S. 7-3-506 through ~~7-3-511~~ 7-3-512:

8
9 (i) "Court" means the circuit court ~~or the~~
10 ~~district court~~ in the county where an alleged victim of
11 stalking or sexual assault resides, or where the alleged
12 perpetrator of the stalking or sexual assault is found;

13
14 (ii) "Order of protection" means a court order
15 granted for the protection of a victim of stalking or a
16 victim of sexual assault;

17
18 (iii) "Sexual assault" means any act made
19 criminal pursuant to W.S. 6-2-302 and 6-2-303 and 6-2-314
20 through 6-2-318 or an attempt or conspiracy to commit such
21 act;

22

1 ~~(iii)~~ (iv) "Stalking" means conduct as defined by
2 W.S. 6-2-506(b).

3
4 **7-3-507. Petition for order of protection; contents;**
5 **requisites; indigent petitioners.**

6
7 (a) A petition for an order of protection may be
8 filed by a victim of stalking, or the district attorney on
9 behalf of the alleged victim, ~~may file with the court a~~
10 ~~petition for an order of protection.~~ A petition for an
11 order of protection for a victim of sexual assault may be
12 filed by:

13
14 (i) The victim;

15
16 (ii) If the victim consents, the district
17 attorney on behalf of the victim; or

18
19 (iii) Any person with legal authority to act on
20 behalf of the victim if the victim is:

21
22 (A) A minor;

23

1 (B) A vulnerable adult as defined in W.S.
2 35-20-102(a)(xviii);

3

4 (C) Any other adult who, because of age,
5 disability, health or inaccessibility, cannot file the
6 petition.

7

8 (b) The petition shall be accompanied or supplemented
9 by one (1) or more sworn affidavits setting out specific
10 facts showing the alleged stalking or sexual assault and
11 the identity of the alleged ~~stalker~~perpetrator.

12

13 (e) A petition may be filed under this section
14 whether or not the individual who is alleged to have
15 engaged in a course of conduct prohibited under W.S.
16 6-2-506 or engaged in the conduct specified in W.S.
17 7-3-506(a)(iii) has been charged or convicted ~~under W.S.~~
18 ~~6-2-506~~ for the alleged crime.

19

20 **7-3-508. Temporary order of protection; setting**
21 **hearing.**

22

1 (b) If the court determines from the specific facts
2 shown by the petition and supporting affidavits that there
3 exists a clear and present danger of further stalking,
4 sexual assault or of serious physical adverse consequences
5 to any person, the court may grant ex parte a temporary
6 order of protection pending the hearing, and shall cause a
7 copy of the temporary order of protection to be served on
8 each party, either within or outside of this state. The
9 court may prescribe terms in the temporary order of
10 protection which it deems sufficient to protect the victim
11 and any other person pending the hearing, including but not
12 limited to the elements described in W.S. 7-3-509(a).

13

14 (c) A temporary order of protection issued under
15 paragraph (b) of this section shall contain a notice that
16 willful violation of any provision of the order constitutes
17 a crime as defined by W.S. 7-3-510(c), and can result in
18 immediate arrest. ~~and~~ Orders involving stalking shall also
19 state that a violation may in some cases subject the
20 perpetrator to enhanced penalties for felony stalking under
21 W.S. 6-2-506(e).

22

1 (d) An ex parte temporary order of protection issued
2 under this section shall not be admissible as evidence in
3 any subsequent criminal proceeding or civil action for
4 damages arising from the conduct alleged in the petition or
5 the order.

6
7 **7-3-509. Order of protection; contents; remedies;**
8 **order not to affect title to property.**

9
10 (a) Following a hearing under W.S. 7-3-508(a) and
11 upon a finding that conduct constituting stalking or sexual
12 assault has been committed, the court shall enter an order
13 of protection ordering the respondent to refrain from any
14 further acts of stalking or sexual assault involving the
15 victim or any other person. As a part of any order of
16 protection, the court may direct that the respondent:

17
18 (ii) Refrain from contacting, intimidating,
19 threatening or otherwise interfering with the victim of the
20 alleged offense and any other persons, including but not
21 limited to members of the family or household of the
22 victim, as the court may describe in the order. Prohibited
23 contact under this paragraph includes telephone calls,

1 mail, e-mail, texting, fax, contacting through social media
2 using the internet or similar technology and any other form
3 of communication.

4
5 (b) The order shall contain a notice that willful
6 violation of any provision of the order constitutes a crime
7 as defined by W.S. 7-3-510(c) ~~7~~ and can result in immediate
8 arrest. ~~and~~ Orders involving stalking shall also state that
9 a violation may in some cases subject the perpetrator to
10 enhanced penalties for felony stalking under W.S.
11 6-2-506(e).

12
13 (c) A request by the victim for the perpetrator to
14 violate an order of protection issued under this section or
15 a temporary order of protection issued under W.S. 7-3-508
16 shall constitute an affirmative defense to a charge of
17 violation of the order by the perpetrator.

18
19 **7-3-510. Service of order; duration and extension of**
20 **order; violation; remedies not exclusive.**

21
22 (b) An order of protection granted by the court under
23 W.S. 7-3-509 shall be effective for a fixed period of time

1 not to exceed ~~one (1) year~~ three (3) months. The original
2 order of protection will terminate three (3) months after
3 issuance unless the respondent is charged or convicted of
4 stalking or sexual assault within that period. Either party
5 may move to modify, terminate or extend the order. The
6 order may be extended repetitively upon a showing of good
7 cause for additional periods of time not to exceed ~~one (1)~~
8 ~~year~~ three (3) months each upon the court finding from
9 specific facts that a clear and present danger to the
10 victim continues to exist.

11

12 (d) The remedies provided by W.S. 7-3-506 through
13 ~~7-3-511~~ 7-3-512 are in addition to any other civil or
14 criminal remedy available under the law.

15

16 **7-3-511. Emergency assistance by law enforcement**
17 **officers; limited liability.**

18

19 (a) A person who allegedly has been a victim of
20 stalking or sexual assault may request the assistance of a
21 law enforcement agency, which shall respond to the request
22 in a manner appropriate to the circumstances.

23

1 (b) A law enforcement officer or agency responding to
2 the request for assistance may take whatever steps are
3 reasonably necessary to protect the victim, including:

4
5 (i) Advising the victim of the remedies
6 available under W.S. 7-3-506 through ~~7-3-511~~ 7-3-512 and
7 the availability of shelter, medical care, counseling,
8 safety planning, victim's rights counseling and other
9 services;

10
11 (ii) Advising the victim, when appropriate, of
12 the procedure for initiating proceedings under W.S. 7-3-506
13 through ~~7-3-511~~ 7-3-512 or criminal proceedings and the
14 importance of preserving evidence; and

15
16 (c) Any law enforcement agency or officer responding
17 to a request for assistance under W.S. 7-3-506 through
18 ~~7-3-511~~ 7-3-512 is immune from civil liability when
19 complying with the request, provided that the agency or
20 officer acts in good faith and in a reasonable manner.

21

1 **Section 3.** This act is effective July 1, 2015.

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3

(END)