

ENROLLED ACT NO. 83, HOUSE OF REPRESENTATIVES

SIXTY-THIRD LEGISLATURE OF THE STATE OF WYOMING
2015 GENERAL SESSION

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

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

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

7-3-512. Confidentiality in court proceedings.

The court shall enter an order providing for the confidentiality of the name, address, city and state of residence or any other information identifying residence of all parties involved in the sexual assault for all orders issued under W.S. 7-3-508 and 7-3-509.

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

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

(a) Prior to the filing of an information or indictment in district court charging a violation of an offense under this article, neither the names of the alleged actor or the victim of the charged offense nor any other information reasonably likely to disclose the ~~identity~~ identities of the ~~victim~~ parties shall be released

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or negligently allowed to be released to the public by any public employee except as authorized by the judge with jurisdiction over the criminal charges. The actor's name may be released to the public to aid or facilitate an arrest. This subsection shall not apply if release of the name or information is necessary to enforce an order for protection against the alleged actor.

7-3-506. Definitions.

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

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

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

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

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

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

(a) A petition for an order of protection may be filed by a victim of stalking, or the district attorney on behalf of the alleged victim, ~~may file with the court a~~

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~~petition for an order of protection.~~ A petition for an order of protection for a victim of sexual assault may be filed by:

(i) The victim;

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

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

(A) A minor;

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

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

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

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

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

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

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

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

(e) No testimony or evidence of the alleged actor in a hearing pursuant to subsection (a) of this section shall be admissible, including for impeachment purposes, or be deemed a waiver of any protection against self-incrimination under the constitution of the United States or of the state of Wyoming unless, prior to the

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hearing, an information or indictment has been filed in a district court charging the alleged actor of a violation of sexual assault as defined by W.S. 7-3-506(a)(iii).

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

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

(ii) Refrain from contacting, intimidating, threatening or otherwise interfering with the victim of the alleged offense and any other persons, including but not limited to members of the family or household of the victim, as the court may describe in the order. Prohibited contact under this paragraph includes telephone calls, mail, e-mail, texting, fax, contacting through social media using the internet or similar technology and any other form of communication.

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

(c) A request by the victim for the perpetrator to violate an order of protection issued under this section or

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a temporary order of protection issued under W.S. 7-3-508 shall constitute an affirmative defense to a charge of violation of the order by the perpetrator.

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

(b) An order of protection granted by the court under W.S. 7-3-509 shall be effective for a fixed period of time not to exceed one (1) year as provided in paragraphs (i) and (ii) of this subsection. Either party may move to modify, terminate or extend the order. The order may be extended repetitively upon a showing of good cause for additional periods of time, not to exceed one (1) year each, if the court finds from specific facts that a clear and present danger to the victim continues to exist. The period of time for an original order of protection shall be as follows:

(i) For conduct constituting stalking, the order of protection shall not exceed one (1) year;

(ii) For conduct constituting sexual assault the order of protection shall not exceed the longer of:

(A) Six (6) months; or

(B) The point in time the respondent is charged with sexual assault or a related criminal offense and the court ordered bond conditions for pre-trial release are at least as restrictive as the original order of protection.

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

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

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

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

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

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

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

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

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk