



Idaho Statutes

Idaho Statutes are updated to the website July 1 following the legislative session.

TITLE 18
CRIMES AND PUNISHMENTS
CHAPTER 79
MALICIOUS HARASSMENT

18-7907. ACTION FOR PROTECTION. (1) There shall exist an action known as a "petition for a protection order" in cases where a person intentionally engages in the following conduct:

(a) Stalks, in any degree, as described in sections 18-7905 and 18-7906, Idaho Code;

(b) Telephones another with the intent to terrify, threaten, or intimidate such other person and addresses to such other person any threat to inflict injury or physical harm to the person addressed or any member of his family and engages in such conduct with any device that provides transmission of messages, signals, facsimiles, video images, or other communication by means of telephone, telegraph, cable, wire, or the projection of energy without physical connection between persons who are physically separated from each other; or

(c) Based upon another person's race, color, religion, ancestry, or national origin, intimidates or harasses another person or causes, or threatens to cause, physical injury to another person or damage to any real or personal property of another person.

(2) A person may seek relief from such conduct for himself, his children or his ward by filing a verified petition for a protection order with the magistrate division of the district court, alleging specific facts that a person for whom protection is sought was the victim of such conduct within the ninety (90) days immediately preceding the filing of the petition and that such conduct is likely to occur in the future. Evidence of such conduct occurring prior to such ninety (90) day period may be admissible to show that conduct committed within the ninety (90) day period is part of a course or pattern of conduct as described in subsection (1) of this section and may be admissible as otherwise permitted in accordance with court rule and decisional law.

(3) Upon the filing of a verified petition for a protection order, the court shall hold a hearing within fourteen (14) days to determine whether the relief sought shall be granted unless the court determines that the petition fails to state sufficient facts to warrant relief authorized by this section. If either party is represented by counsel at such hearing, the court shall grant a request for a continuance of the proceedings so that counsel may be obtained by the other party. Such order may require either the petitioner or respondent, or both, to pay for costs, including reasonable attorney's fees.

(4) Upon a showing by a preponderance of the evidence that a person for whom protection is sought in the petition was the victim of conduct committed by the respondent that constitutes conduct as described in subsection (1) of this section, within ninety (90) days immediately preceding the filing of the petition, and that such conduct is likely to occur in the future to such person, the court may issue a protection order. Such protection order may:

(a) Direct the respondent to refrain from conduct described in subsection (1) of this section;

(b) Order the respondent to refrain from contacting the petitioner or any other person for whom the petition sought protection; and

(c) Grant such other relief and impose such other restrictions as the court deems proper, that may include a requirement that the respondent not knowingly remain within a certain distance of the protected person, which distance restriction may not exceed one thousand five hundred (1,500) feet.

(5) The petition and the court's protection order shall be served on the respondent in the manner provided in section 39-6310, Idaho Code.

(6) (a) Notice of a protection order shall be forwarded by the clerk of the court, on or before the next judicial day, to the appropriate law enforcement agency.

(b) Upon receipt of such notice, the law enforcement agency shall forthwith enter the order into the Idaho public safety and security information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the Idaho public safety and security 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.

(c) Law enforcement agencies shall establish procedures reasonably adequate to assure that an officer approaching or actually at the scene of an incident may be informed of the existence of such protection order.

(7) Any relief granted by a protection order, other than a judgment for costs, shall be for a fixed period not to exceed one (1) year; provided that a protection order obtained pursuant to this section may, upon motion and upon good cause shown, be renewed, modified, or terminated by further order of the court with notice to all parties and after a hearing or written stipulation filed with the court.

(8) Whenever a protection order, or an ex parte temporary protection order issued pursuant to this chapter, is granted and the respondent or person to be restrained was served a copy of the order in the manner provided in section 39-6310, Idaho Code, a violation of the provisions of the order shall be a misdemeanor punishable by not to exceed one (1) year in jail and a fine not to exceed five thousand dollars (\$5,000). A peace officer may arrest without a warrant and take into custody a person who the peace officer has probable cause to believe has violated such order.

(9) A petition shall be filed in the county of the respondent's residence, the petitioner's residence or where the petitioner is temporarily residing.

(10) A person may file a single verified petition seeking relief pursuant to this chapter and section 39-6304, Idaho Code. Such petition shall separately set forth the matters pertaining to each such provision of law. All procedural and substantive requirements governing petitions for domestic violence protection orders under chapter 63, title 39, Idaho Code, shall apply with respect to the issuance of such domestic violence protection orders.

(11) As used in this section, "contact" means any actual physical contact; contact or attempted contact, directly or indirectly, by telephone, pager, e-mail, facsimile or other oral, written or electronic means of communication.

History:

[18-7907, added 2016, ch. 270, sec. 1, p. 725; am. 2019, ch. 162, sec. 1, p. 547.]

How current is this law?