

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5161

AN ORDINANCE regarding the enforcement of foreign protection orders, adding new sections to and amending Chapter 10A.92 of the Bellevue City Code.

WHEREAS, the State Legislature enacted the Foreign Protection Order Full Faith and Credit Act, Chapter 184, Laws of 1999, with the intent that violations of foreign protection orders be criminally prosecuted in this state; and

WHEREAS, a number of the violations of both foreign and state protection orders are defined as gross misdemeanors which must be adopted into the Bellevue City Code in order to be locally enforced and prosecuted; and

WHEREAS, the new state provisions need to be adopted and existing Bellevue City Code provisions need to be amended in order for foreign protection orders to be enforced and prosecuted by the City; now therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. A new section 10A.92.060, Definitions, is hereby added to the Bellevue City code, to read as follows:

10A.92.060 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Domestic or family violence" includes, but is not limited to, conduct when committed by one family member against another that is classified in the jurisdiction where the conduct occurred as a domestic violence crime or a crime committed in another jurisdiction that under the laws of this state would be classified as domestic violence under RCW 10.99.020.

(2) "Family or household members" means spouses, former spouses, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past, persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship, and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.

(3) "Foreign protection order" means an injunction or other order related to domestic or family violence, harassment, sexual abuse, or stalking, for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to another person issued by a court of

another state, territory, or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia, or any United States military tribunal, or a tribal court, in a civil or criminal action

(4) "Harassment" includes, but is not limited to, conduct that is classified in the jurisdiction where the conduct occurred as harassment or a crime committed in another jurisdiction that under the laws of this state would be classified as harassment under RCW 9A.46.040.

(5) "Judicial day" does not include Saturdays, Sundays, or legal holidays in Washington state.

(6) "Person entitled to protection" means a person, regardless of whether the person was the moving party in the foreign jurisdiction, who is benefited by the foreign protection order.

(7) "Person under restraint" means a person, regardless of whether the person was the responding party in the foreign jurisdiction, whose ability to contact or communicate with another person, or to be physically close to another person, is restricted by the foreign protection order.

(8) "Sexual abuse" includes, but is not limited to, conduct that is classified in the jurisdiction where the conduct occurred as a sex offense or a crime committed in another jurisdiction that under the laws of this state would be classified as a sex offense under RCW 9.94A.030.

(9) "Stalking" includes, but is not limited to conduct that is classified in the jurisdiction where the conduct occurred as stalking or a crime committed in another jurisdiction that under the laws of this state would be classified as stalking under RCW 9A.46.110.

(10) "Washington court" includes the superior, district and municipal courts of the state of Washington.

Section 2. A new section 10A.92.070, Valid Foreign Protection Orders, is hereby added to the Bellevue City Code, to read as follows:

10A.92.070 Valid Foreign Protection Orders.

A foreign protection order is valid if the issuing court had jurisdiction over the parties and the matter under the law of the state, territory, possession, tribe, or United States military tribunal. There is a presumption in favor of validity where an order appears authentic on its face.

A person under restraint must be given reasonable notice and the opportunity to be heard before the order of the foreign state, territory, possession, tribe or United States military tribunal was issued, provided, in the case of ex parte orders, notice and opportunity to be heard was given as soon as possible after the order was issued, consistent with due process.

Section 3. A new section 10A.92.080, Violation of Foreign Orders, is hereby added to the Bellevue City Code, to read as follows:

10A.92.080 Violation of Foreign Orders.

(1) Whenever a foreign protection order is granted to a person entitled to protection and the person under restraint knows of the foreign protection order, a violation of a provision prohibiting the person under restraint from contacting or communicating with another person, or of a provision excluding the person under

restraint from a residence, workplace, school, or day care, or a violation of any provision for which the foreign protection order specifically indicates that a violation will be a crime, is a gross misdemeanor, unless the violation is classified by the state as a felony under subsections (3) and (4) of Section 9, Chapter 184, Washington Laws of 1999.

(2) Upon conviction, and in addition to any other penalties provided by law, the court may require the person under restraint to submit to electronic monitoring. The court shall specify who will provide the electronic monitoring services, and the terms under which the monitoring will be performed. The order also may include a requirement that the person under restraint pay the costs of the monitoring. The court shall consider the ability of the convicted person to pay for electronic monitoring.

Section 4. A new section 10A.92.090, Child Custody Disputes, is hereby added to the Bellevue City Code, to read as follows:

10A.92.090 Child Custody Disputes.

(1) Any disputes regarding provisions in foreign protection orders dealing with custody of children, residential placement of children, or visitation with children shall be resolved judicially. The proper venue and jurisdiction for such judicial proceedings shall be determined in accordance with chapter 26.27 RCW and in accordance with the parental kidnapping prevention act, 28 U.S.C. 1738A.

(2) A peace officer shall not remove a child from his or her current placement unless:

(a) A writ of habeas corpus to produce the child has been issued by a superior court of this state; or

(b) There is probable cause to believe that the child is abused or neglected and the child would be injured or could not be taken into custody if it were necessary to first obtain a court order pursuant to RCW 12.34.050.

Section 5. Bellevue City Code 10A.92.030, Violation of a Restraining Order, is amended to read as follows:

A. Whenever a restraining order is issued pursuant to Title 26 RCW and the person to be restrained knows of the order, a violation of the provisions restricting the person from acts or threats of violence or of a provision excluding the person from the residence, workplace, school, or day care of another is a gross misdemeanor.

B. A person is deemed to have notice of a restraining order if:

1. The person to be restrained or the person's attorney signed the order;
2. The order recites that the person to be restrained or the person's attorney appeared in person before the court;
3. The order was served upon the person to be restrained; or
4. The peace officer gives the person oral or written evidence of the order by reading from it or handing to the person a certified copy of the original order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

C. It is a defense to prosecution under subsection A of this section that the court order was issued contrary to law or court rule.

D. Restraining orders issued under Title 26 RCW restraining the person from molesting or disturbing another party or from entering a party's home shall bear the legend required by statute.

Section 6. This ordinance shall take effect and be in force thirty (30) days after passage by the City Council.

Passed by the City Council this 7th day of September, 1999, and signed in authentication of its passage this 7th day of September, 1999.

(SEAL)

Mike Creighton, Mayor

Approved as to form:
Richard L. Andrews, City Attorney

Susan Irwin, Prosecuting Attorney

Lori Riordan, Assistant City Attorney

Attest:

Myrna L. Basich, City Clerk
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