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## **OLR Bill Analysis**

### **sHB 5341**

#### ***AN ACT CONCERNING THE DESIGNATION OF A PERSON CONVICTED OF CRIMINAL VIOLATION OF A STANDING CRIMINAL PROTECTIVE ORDER AS A PERSISTENT OFFENDER.***

#### **SUMMARY:**

This bill subjects a standing criminal protective order violator to an enhanced penalty for persistent offenders if, in addition to violating the order, he or she has a prior conviction for certain crimes. It also adds criminal violation of a standing criminal protective order to the list of prior convictions that can subject someone to the enhanced persistent offender penalty.

As of October 1, 2010, the law renamed standing criminal restraining orders as standing criminal protective orders. The bill ensures that anywhere the term standing criminal protective order is used in the statutes, it includes standing criminal restraining orders issued before October 1, 2010.

EFFECTIVE DATE: October 1, 2014, and applicable to convictions entered on and after that date.

#### **PERSISTENT OFFENDERS OF CERTAIN CRIMES**

By law, to be considered a persistent offender a person must (1) stand convicted of certain crimes and (2) have a prior conviction of certain crimes. The bill adds criminal violation of a standing criminal protective order to the list of crimes for which a person can stand convicted to qualify as a persistent offender. Under existing law, someone must stand convicted of one of the following crimes:

1. 3<sup>rd</sup> degree assault;
2. 2<sup>nd</sup> degree stalking, threatening, or harassment;

3. 1<sup>st</sup> or 2<sup>nd</sup> degree criminal trespass; or
4. criminal violation of other types of victim protection orders (a protective or restraining order).

To be sentenced as a persistent offender, the person must have a prior conviction of certain crimes. The bill adds a prior conviction of criminal violation of a standing criminal protective order to this list. Under existing law, a person must have a prior conviction of:

1. a capital felony committed before April 25, 2012 or class A felony;
2. a class B felony, except promoting 1<sup>st</sup> degree prostitution and 1<sup>st</sup> degree larceny;
3. a class C felony, except promoting 2<sup>nd</sup> degree prostitution and bribing jurors;
4. 2<sup>nd</sup> or 3<sup>rd</sup> degree assault, 3<sup>rd</sup> degree burglary or robbery, 3<sup>rd</sup> degree sexual assault, 2<sup>nd</sup> degree stalking or harassment, 2<sup>nd</sup> degree threatening, 1<sup>st</sup> degree unlawful restraint, 1<sup>st</sup> or 2<sup>nd</sup> degree criminal trespass, or criminal use of a firearm or electronic defense weapon;
5. criminal violation of other types of victim protection orders (a protective or restraining order); or
6. a similar crime in another state.

By law, the enhanced penalty is the sentence for the next more serious degree of the crime.

By subjecting a standing criminal protective order violator to the enhanced penalty if he or she has one of the required prior convictions, the bill increases the penalty for such a violator from a class D, which is the penalty for criminal violation of such an order, to a class C felony. By law, a class D felony is punishable by up to five years in prison, a fine of up to \$5,000, or both. A class C felony is punishable

by one to 20 years in prison, a fine of up to \$10,000, or both.

## **BACKGROUND**

### ***Standing Criminal Protective Orders***

The law allows the court to issue one of these orders when:

1. someone is convicted of a family violence crime or certain other crimes against a family or household member and
2. the history, character, nature, and circumstances of the offender's conduct indicates that the order best serves the victim's and public's interests.

For most family violence crimes, the court need only find good cause to issue the order.

The court sets the order's duration and terms and can modify or revoke it for good cause.

## **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 38 Nay 0 (03/28/2014)