

POST-SECONDARY SCHOOLS IN WASHINGTON DESERVE BETTER
PROTECTIONS

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Abstract

Washington State is considered one of the country's leaders in passing laws centered around school safety and in protecting its citizens through the availability of various protection orders. However, under current Washington law a person must file for a protection order on their own behalf; schools, businesses, and other entities are not able to file on behalf of someone in their community. Schools, their faculty, and students are at a high risk of violence from dangerous individuals, yet post-secondary schools lack efficient means of filing for protection orders to protect these members of their communities. Every single targeted individual has to pay for and go through the administrative process individually. This Note proposes that despite recent revisions to protection order laws, the current regulations and protections in Washington are inadequate to protect post-secondary schools from violence, necessitating an amendment to allow a post-secondary school to file for a protection order on behalf of its employees and students. Most scholars discuss protection orders through a domestic violence lens, which overlooks the fact that protection orders can be used to help increase protection for people facing violence at the hands of someone with whom they do not have a close relationship.

School safety is a complex and varied issue that needs to be addressed in equally complex and varied ways. Schools need multiple avenues to deal with the everchanging landscape of the education field. This Note argues that protection orders are a vital tool that can help lessen the violence that post-secondary school communities face. If Washington State is to remain a leader in protection orders and school safety, it is vital that these options are made available to protect post-secondary schools.

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INTRODUCTION

In August of 2023, Zijie Yan, an associate professor at the University of North Carolina at Chapel Hill, was fatally shot by a graduate student in his department.¹ Professor Yan was working in his office in an on-campus research laboratory when the student came in and shot him seven times, before fleeing campus and leaving Professor Yan to die in the laboratory.²

In October of 2022, Thomas Meixner, a professor at the University of Arizona at Tucson, was fatally shot by an expelled graduate student.³ Professor Meixner had just finished teaching class before he was fatally shot in his office.⁴ In a dying exclamation, Professor Meixner called out, “I knew you were going to do this!”⁵ Professor Meixner’s last words are a painful reminder that violence in higher education is preventable.

In June of 2016, William “Bill” Klung, an associate professor at the University of California, Los Angeles (UCLA) was fatally shot by one of his former PhD advisees.⁶ Professor Klung was in a small office in the engineering building when the former student stormed in and shot Professor Klung before taking his own life shortly after.⁷

In February of 2010, Gopi Podila, Maria Ragland Davis, and Adriel D. Johnson Sr., biology professors at the University of Alabama in Huntsville, were

1. See Michael Levenson, *U.N.C. Graduate Student is Charged in Fatal Shooting of Professor*, N.Y. TIMES (Aug. 29, 2023), <https://www.nytimes.com/2023/08/29/us/unc-chapel-hill-shooting-gunman-charges.html>.

2. See Judith Retana, *UNC Professor Killed on Campus, Shot 7 Times: Autopsy*, CBS17 (Oct. 6, 2023, 6:17 AM), <https://www.cbs17.com/news/local-news/orange-county-news/unc-professor-killed-on-campus-shot-seven-times-autopsy/> (detailing the tragic day that Professor Yan had his life taken by a student who targeted him before fleeing).

3. See Ryan Quinn, *Faculty: Repeated Threats Unheeded, Professor Murdered*, INSIDE HIGHER ED. (Feb. 1, 2023), <https://www.insidehighered.com/news/2023/02/02/report-warnings-ignored-u-ariz-professor-killed> (explaining the fear that many professors felt and the requests for protection that were denied before the incident occurred).

4. See Jamie Donnelly, *Witnesses Describe Moments Before Fatal Shooting of University of Arizona Professor*, TUSCON.COM (Nov. 11, 2022), https://tucson.com/news/local/crime-courts/witnesses-describe-moments-before-fatal-shooting-of-university-of-arizona-professor/article_4dffd68-6163-11ed-9ffb-e76f27e24a2f.html (detailing the warning signs that led to the day that Professor Meixner lost his life).

5. *Id.*

6. See Matt Hamilton, Teresa Watanabe, Kate Mather & Richard Winton, *For UCLA Shooter Mainak Sarka, Sudden Rage After Years of Intense Academic Studies*, L.A. TIMES (June 3, 2016, 7:29 AM), <https://www.latimes.com/local/lanow/la-me-la-mainak-sarkar-ucla-shooter-20160602-snap-story.html> (detailing the tragedy and resultant confusion on UCLA’s campus as well as how further loss of life was prevented).

7. *See id.*

fatally shot by a fellow professor who had been denied tenure.⁸ Professors Podila, Davis, and Johnson Sr. were participating in a biology faculty meeting when their lives were taken by their disgruntled coworker, who also seriously injured three other faculty members.⁹

In April of 2007, Rebecca Griego, a program coordinator at the College of Architecture and Urban Planning at the University of Washington, was fatally shot by her abusive ex-boyfriend.¹⁰ Griego was alone in her office in Gould Hall when her former boyfriend entered and shot her multiple times, before turning the gun on himself.¹¹

Zijie Yan, Thomas Meixner, Bill Klung, Gopi Podila, Maria Ragland Davis, Adriel D. Johnson Sr., and Rebecca Griego are unfortunately not outliers. Every year too many people have their lives brutally taken from them while in a school building.¹² Some victims were seeking an education while others were just trying to exist in their workplace.¹³ School safety and violence prevention at schools must become a priority for lawmakers not only in Washington, D.C., but also for lawmakers across the United States (U.S.). School safety is an extremely

8. See Sarah Wheaton & Shaila Dewan, *Professor Said to be Charged After 3 Are Killed in Alabama*, N.Y. TIMES (Feb. 12, 2010), <https://www.nytimes.com/2010/02/13/us/13alabama.html> (recounting the alleged reasons for and the fear caused by the shooting).

9. See *id.*

10. See Jim Brunner & Nick Perry, *Months of Stalking End With 2 Dead at UW*, SEATTLE TIMES (April 3, 2007), <https://www.seattletimes.com/seattle-news/months-of-stalking-end-with-2-dead-at-uw/> (expanding on the details of how Griego's personal protection order did not effectively protect her at work).

11. See *id.* (explaining the extent of protection against the attacker was moving offices and warning coworkers).

12. See, e.g., *Key Findings*, VIOLENCE PREVENTION PROJECT, <https://www.theviolenceproject.org/key-findings/> (last visited Mar. 14, 2024) (presenting data of shooting at colleges and universities); *17 Facts About Gun Violence and School Shootings*, SANDY HOOK PROMISE, <https://www.sandyhookpromise.org/blog/gun-violence/facts-about-gun-violence-and-school-shootings/> (last visited Mar. 14, 2024) (stating that, in reference to students at K-12 schools, twelve children are killed and thirty-two students are injured every day by gun violence in the United States).

13. See, e.g., Gina Martinez, *The UNLV Shooting Victims Have Been Identified. Here's What We Know*, CBSNEWS (Dec. 8, 2023), <https://www.cbsnews.com/news/unlv-shooting-victims-identified-las-vegas/> (reporting on the tragedy at University of Nevada, Las Vegas where three professors were killed, and a fourth professor was injured as the result of a campus shooting); Sarah Rankin, *Suspect Caught in Fatal Shooting of 3 U.Va. Football Players*, APNEWS (Nov. 14, 2022), <https://apnews.com/article/university-of-virginia-shooting-live-updates-4cd9f0a64201d2460de887674fdfa02b> (reporting that three student athletes were killed and two other students were seriously injured after a shooting on University of Virginia's campus).

complicated problem¹⁴ that cannot be solved with one broad change. Instead, for the United States to reach a place where students and staff are not scared to go to school every day, there needs to be various tools offered to protect community members and to change this deadly part of society.

Protection orders are a type of legal mechanism used to keep named people safe. They could also be utilized to lessen the violence that school communities face, yet in almost every state they are totally unavailable to schools.¹⁵ This Note argues that changing protection order laws to allow for a post-secondary school to file on behalf of faculty, staff, or students creates a more efficient and cohesive system, leading to better protection measures. Protection orders empower a school to take an active role in protecting their communities rather than relying on outside security measures. This empowerment is a vital step in creating safer school environments that are founded on communication and trust between schools and their communities. Washington State is one of the country's leaders in both protection order regulations¹⁶ and laws centered on school safety, yet there is still a hole that must be mended for the interlaced goals of such legislation to be achieved.

The current regulations and protections in Washington only allow for an individual to file for a protection order on their own behalf.¹⁷ Thus, the laws are not enough to protect post-secondary schools. This Note calls Washington State legislators to action to change the current laws to allow a post-secondary school to file for a protection order on behalf of its employees and students. When every person within a school community is threatened necessitating a protection order,

14. See Mike McShane, *School Safety, School Choice, And More from the Schooling in America Survey*, FORBES (Aug. 1, 2023), <https://www.forbes.com/sites/mikemcshane/2023/08/01/school-safety-school-choice-and-more-from-the-schooling-in-america-survey/?sh=5328ad16346c>.

15. See *infra* note 72.

16. See WASH. REV. CODE ANN. § 7.105.900(1) (West 2023) (“Washington state has been a national leader in adopting legal protections to prevent and respond to abuse, violence, harassment, stalking, neglect, or other threatening behavior, through the enactment of different types of civil protection orders, which are intended to provide a fast, efficient means to obtain protection against perpetrators of these harms.”); *Annual Gun Law Scorecard*, GIFFORDS L. CTR., <https://giffords.org/lawcenter/resources/scorecard/#best-&-worst> (last visited Mar. 14, 2024) (presenting data that finds Washington to be in the top ten states for the strength of its gun violence prevention laws due to its laws banning assault weapons, creating a waiting period, and requiring mandatory safety training for gun purchases); Jay Inslee, *To End Gun Violence, Build on What Works*, WASH. STATE GOVERNOR’S OFF. (Mar. 3, 2023), (“Washington’s voters led the way by passing I-1639 in 2018, the most comprehensive gun control legislation in state history.”).

17. An interested person is allowed to file for someone else if narrow circumstances are met and the petitioner includes a statement explaining their qualifications. See WASH. REV. CODE ANN. § 7.105.100 (West 2023).

it is unrealistic to have each person file and pay for a protection order individually. Washington should not wait until another tragedy happens to change its laws to protect professors, students, and employees on campuses.

Most academics discuss protection orders through a lens of curtailing domestic violence in the workplace.¹⁸ In contrast, this Note aims to shift lens to one of preventing school violence of all types. Despite this Note's lack of focus on domestic violence situations, because domestic violence is so pervasive and touches almost all places in the United States,¹⁹ it is near impossible to exclude domestic violence when generally discussing violence. Fortunately, Washington does have significant and broad protection order options for individuals facing domestic violence.²⁰ However, in a school setting it can be common that the relationship between a person threatening violence against a faculty member or student does not qualify for domestic violence protections in Washington.²¹ Therefore, it is necessary that the Washington legislature expands the scope of protections currently offered.

Part I of this Note provides background on protections orders in Washington State, as well as in Arizona, North Carolina, and California, because these states have protection order laws for schools or workplaces. Part II breaks down what post-secondary schools are, the dangers they face, and the protections that are currently in place for them. Finally, Part III details how current protections are not sufficient for post-secondary schools, how protection orders can provide an

18. See generally Njeri M. Rutledge, *Employers Know Best? The Application of Workplace Restraining Orders to Domestic Violence Cases*, 44 LOY. L.A. L. REV. 175 (2014) (advocating that workplace restraining orders should be allowed for employees facing domestic violence as long as the protected employee is involved at all points of the process); Sheryl L. Erdmann, *Eat the Carrot and Use the Stick: The Prevalence of Workplace Violence Demands Proactive Federal Regulation of Employers*, 43 VAL. U.L. REV. 725 (2009) (arguing the importance of requiring employers to protect employees in the workplace and the consequences that should follow when they fail to); Luis F. Antonetti-Zequeira, *Workplace Violence: Its Legal Perspective and its Socio-Economic Impact*, 36 REV. JURIDICA U. INTER. P.R. 93 (2001) (asserting that workplace violence is a pervasive problem that needs to be addressed by lawmakers).

19. See, e.g., *Domestic Violence Statistics*, NAT'L DOMESTIC VIOLENCE HOTLINE, <https://www.thehotline.org/stakeholders/domestic-violence-statistics/> (last visited Mar. 14, 2024) ("An average of 24 people per minute are victims of rape, physical violence or stalking by an intimate partner in the United States — more than 12 million women and men over the course of a single year.").

20. See WASH. REV. CODE ANN. § 7.105.100(1) (West 2023) (showing that a domestic violence victim can file for any of the protection orders).

21. See WASH. REV. CODE ANN. § 10.99.020(7), (8), (10) (West 2023); WASH REV CODE ANN. § 7.105.010(13) (West 2023) ("A petition for a domestic violence protection order must specify whether the petitioner and the respondent are intimate partners or family or household members.").

additional layer of protection, and why the optimal time to update Washington law is now.

I. PROTECTION ORDERS

This Part provides background on protection orders and the ways in which different types are similar, as well as how they can differ across states. Since this Note focuses on Washington State law, this Part provides a more in-depth review of Washington protection order laws and a broader overview of protection order laws in Arizona, North Carolina, and California.

A protection order is a vital legal tool in American society that provides a relatively easy and efficient way for someone to obtain protection against another person who is threatening or causing them harm.²² All states in the United States have some form of protection order,²³ but each state takes their own approach. Some states refer to protection orders as restraining orders, while in other states a restraining order is a category of protection order.²⁴ Across all states the type of order filed is dependent on the harm that a person is facing and the relationship they have with the perpetrator.²⁵

Protection orders for post-secondary institutions are uncommon, but protection orders for workplaces are not.²⁶ Usually, these orders can be requested

22. See WASH. REV. CODE ANN. § 7.105.900(3) (West 2023).

23. See *Overview of Protection Orders*, VAWNET, <https://vawnet.org/sc/overview-protection-orders> (last visited Mar. 14, 2024) [hereinafter *Overview of Protection Orders*] (“All fifty states and the District of Columbia have statutes for some form of protection order . . . Protection orders may cover, in addition to the survivor, children, other family members, roommates, or current romantic partners of the survivor . . . Some states allow pets to be protected by the same order . . . Some states include as part of the protection order visitation and custody for children of both the survivor and abuser. These are generally temporary and can be modified by divorce or other future family court orders.”).

24. See, e.g., WASH. REV. CODE ANN. § 7.105.010 (West 2023) (using the term civil protection orders); CONN. GEN. STAT. ANN. § 46b-15 (West 2023) (using the term restraining order); HAW. REV. STAT. ANN. § 586-5.5 (West 2024) (using the term protection order); N.J. STAT. ANN. § 2C:25-28 (West 2023) (using the term restraining order).

25. See *Overview of Protection Orders*, *supra* note 23.

26. See, e.g., GA. CODE ANN. § 34-1-7 (West 2023) (“Any employer whose employee has suffered unlawful violence or a credible threat of violence from any individual . . . may seek a temporary restraining order and an injunction on behalf of the employer.”); IND. CODE ANN. § 34-26-6-6 (West 2023) (“An employer may seek a temporary restraining order or injunction on behalf of an employee to prohibit further violence or threats of violence by a person.”); 28 R.I. GEN. LAWS ANN. § 28-52-2 (West 2023) (“If an employer, or an employer’s employee(s) or invitee(s), have: (1) Suffered unlawful violence by an individual; or (2) Received a threat of violence by an individual that can reasonably be construed as a threat that may be carried out at the worksite; or (3) Been stalked or harassed at the worksite; the employer may . . . seek a temporary restraining order.”).

by an employer on behalf of one or all of the employees at the company to keep their workplace safe and free from harassment and other types of violence.²⁷ These orders have become increasingly more important. According to recent data, mass shootings occur most frequently at workplaces,²⁸ putting post-secondary schools in a unique situation as they face danger both as a workplace and as a school.

Workplace protection orders do not directly translate into protection orders for post-secondary institutions, but they can serve as an essential tool in bridging the gap in Washington law to protect workers and students at schools. Arizona, North Carolina, and California are all states that have protection orders for workplaces or schools.²⁹

A. *Washington*

In Washington, there are six different types of civil protection orders: domestic violence, vulnerable adult, antiharassment, sexual assault, stalking, and extreme risk.³⁰ This Note focuses on both stalking and antiharassment protection orders. Washington's laws were updated three years ago to provide its residents with a more efficient way to seek legal protection from those who wish them harm. To understand how a protection order can help post-secondary schools, it is important to understand how the law is changed and how it currently operates. The type of order that can be sought depends on a few factors, such as the person filing, reason for filing, petitioner's relationship to the perpetrator, type of harm faced, and protection that the victim is seeking.³¹

27. See, e.g., NEV. REV. STAT. ANN. § 33.270 (West 2023) ("The court may issue a temporary order for protection against harassment in the workplace if it appears to the satisfaction of the court from specific facts shown by a verified application filed . . . that harassment in the workplace has occurred."); ARK. CODE ANN. § 11-5-115 (West 2023) ("If an employer or an employer's employee or invitee has: (1) Suffered unlawful violence by an individual . . . (2) Received a threat of violence by an individual which can reasonably be construed as a threat which may be carried out at the work site . . . (3) Been stalked or harassed at the work site . . . the employer may, in addition to, or instead of, filing criminal charges against the individual, seek a temporary restraining order, a preliminary injunction, or an injunction."); COLO. REV. STAT. ANN. § 13-14-104.5(7)(b) (West 2023) ("If the judge or magistrate finds that an imminent danger exists to the employees of a business entity, he or she may issue a civil protection order in the name of the business for the protection of the employees.").

28. See *infra* note 99 and accompanying text.

29. See ARIZ. REV. STAT. ANN. § 12-1810 (2024); N.C. GEN. STAT. ANN. § 95-261 (West 2023); CAL. CIV. PROC. CODE §§ 527.8, 527.85 (West 2024).

30. See WASH. REV. CODE ANN. § 7.105.100(1) (West 2023).

31. WASH. REV. CODE ANN. §§ 7.105.010–.900 (West 2023).

1. The 2021 Overhaul of Washington Law

In 2021 there was a large overhaul of Washington law which created the current laws on protection orders.³² Before this overhaul, protection order laws were not consolidated; there were many forms and filing procedures that varied based on what type of order a petitioner was requesting.³³ This led to a number of problems wherein petitioners had to jump through a series of hoops to seek the protection they needed. When protection order laws are convoluted or difficult to understand, the law can act as an additional bar to an at risk person seeking protection.³⁴ For the most part, the recent overhaul addressed many of gaps in the previous process of receiving a protection order.³⁵ One unresolved issue continues to be whether a nonperson, such as a school or entity, is capable of filing for a protection order for their students and employees.³⁶ In order to have the law work in the efficient way intended, legislators must update it and not wait for the issue to be presented to the courts again.

The question as to whether or not a corporate entity could petition an order of protection on behalf of its employees against an individual was novel when it was presented to the Washington State Court of Appeals in March of 2023.³⁷ However, the court decided to dismiss the case based on mootness since the new statutes concerning protection orders were enacted after it had granted discretionary review.³⁸ Because the new statute provided specific guidance as to when one may petition for another person, it was no longer proper for the appellate court to review the case before it.³⁹ While the new statute expressly

32. *See generally* WASH. REV. CODE ANN. §§ 7.105.010–900 (West 2023).

33. *See generally* WASH. REV. CODE §§ 10.14.010–800 (ineffective as of July 2022) (including, in part, information on filing instructions and fees, enforcement, and protection order types codified by statutory scheme).

34. WASH. REV. CODE ANN. § 7.105.900(5) (West 2023) (“The legislature finds that these improvements are needed to help ensure that protection orders and corresponding court processes are more easily accessible to all litigants, particularly parties who may experience higher barriers to accessing justice.”).

35. *See, e.g., id.*; Walla Walla Union Bull. v. Guerrero, No. 38627-9-III, 2023 WL 2531241, at *1 (Wash. Ct. App. Mar. 16, 2023) (granting review of the lower court’s decision to allow an employer to file for a protection order on behalf of their employee, despite the fact that the restraining order at issue had expired, thus technically rendering the case moot, because “the question of whether a corporation may petition for a protection order on behalf of its employees was a significant question of Washington law that would be of continuing and substantial public concern”).

36. *See Guerrero*, 2023 WL 2531241, at *2.

37. *Id.* at *1.

38. *Id.* at *2.

39. *Id.*

states when a person may file on behalf of another,⁴⁰ there is no mention of whether or when entities, schools, corporations, or employers could file for a protection order. Washington State legislators emphasized that “[t]hese civil protection orders are essential tools designed to address significant harms impacting individuals as well as communities,” yet school communities are not allowed to seek these protections as the law exists today.⁴¹ For legislators to meet the goals in this statute and to avoid further confusion and harm, the law needs to be updated to address this unresolved issue.

2. Type of Order

The type of protection order a person may receive depends on the type of harm they are subject to and on who is causing the harm. A petitioner who is experiencing harm from an intimate partner or a member from their house or family is encouraged by the courts to file a domestic violence protection order.⁴² Additionally, a person experiencing a type of harm that could be covered under one of the specific protection order categories is encouraged to file under that specific category rather than the general category of an antiharassment protection order.⁴³ While petitioners are encouraged to file under as specific of a category as possible, the order may not be dismissed or denied just because the alleged conduct would have fit “better” under a different order.⁴⁴

To file for a stalking protection order, a petitioner must allege that someone is stalking them.⁴⁵ The term stalking on its own is ambiguous, especially in the digital age, so the Revised Code of Washington provides additional definitions.⁴⁶ “Stalking” can mean intentionally and repeatedly harassing or following another person, or repeatedly monitoring, tracking, surveilling a person or their actions.⁴⁷ The Washington State legislature recently added “cyber harassment” as another

40. See WASH. REV. CODE ANN. § 7.105.100(c), (f) (West 2023).

41. WASH. REV. CODE ANN. § 7.105.900(3) (West 2023).

42. See generally WASH. REV. CODE ANN. § 7.105.100 (West 2023) (“A petitioner who has been sexually assaulted or stalked by an intimate partner or a family or household member should, but is not required to, seek a domestic violence protection order, rather than a sexual assault protection order or a stalking protection order.”).

43. *Id.*

44. WASH. REV. CODE ANN. § 7.105.100(5) (West 2023).

45. See WASH. REV. CODE ANN. § 7.105.100(1)(c) (West 2023) (“A petition for a stalking protection order, which must allege the existence of stalking committed against the petitioner or petitioners by the respondent.”).

46. WASH. REV. CODE ANN. § 7.105.010(34) (West 2023); WASH. REV. CODE ANN. § 9A.46.110 (West 2023).

47. WASH. REV. CODE ANN. § 7.105.010(34) (West 2023); WASH. REV. CODE § 9A.46.110 (West 2023).

way that a person can experience stalking.⁴⁸ Cyber harassment is when someone uses electronic means, not including phone calls, to intentionally harass or intimidate another person.⁴⁹

To file for an antiharassment protection order, a petitioner must allege that someone has been unlawfully harassing them.⁵⁰ Similar to stalking, the term “unlawful harassment” warranted additional clarification.⁵¹ Unlawful harassment can either be a series of actions or a “course of conduct” against someone that “seriously alarms, annoys, harasses, or is detrimental to [that] person.”⁵² It can also be just one act of violence or threat of violence directed at a specific person. If it is just one instance it must be substantial; to warrant this heightened level, the threat must be malicious and intentional or the harassment must involve a weapon or firearm.⁵³

3. Who Can File

Stalking and antiharassment protection orders have the same allowances regarding who may petition for a protection order, including on behalf of someone else. These include allowing petitioners to file on behalf of:

- (i) Himself or herself;
- (ii) A minor child, where the petitioner is the parent, legal guardian, or custodian;
- (iii) A vulnerable adult, where the petitioner is an interested person; or
- (iv) Any other adult for whom the petitioner demonstrates to the court’s satisfaction that the petitioner is interested in the adult’s well-being, the court’s intervention is necessary, and the adult cannot file the petition because of age, disability, health, or inaccessibility.⁵⁴

48. WASH. REV. CODE ANN. § 7.105.010(34)(b) (West 2023).

49. WASH. REV. CODE ANN. § 9A.90.120 (West 2023).

50. *See* WASH. REV. CODE ANN. § 7.105.100(1)(f) (West 2023) (“A petition for an antiharassment protection order, which must allege the existence of unlawful harassment committed against the petitioner or petitioners by the respondent.”).

51. WASH. REV. CODE ANN. § 7.105.010(36) (West 2023).

52. *Id.*

53. *See id.*

54. WASH. REV. CODE ANN. § 7.105.100(1)(c), (f) (West 2023).

Notably, only individuals may petition for protection orders.⁵⁵ The statute also allows for an individual to file on behalf of someone else only if the person needing protection fits within the narrowly tailored definition of a vulnerable adult,⁵⁶ or if the person is unable to file for themselves.⁵⁷ It does not leave discretion for situations in which a protection order may be crucial to protect an entity like a school or business.⁵⁸ By leaving schools and entities out of the protection order statutes, the law leaves a hole in protections available to Washington State residents.

Protection orders in Washington state currently provide individuals with broad and efficient protection in their personal lives. However, it is crucial that these protections are widened to provide post-secondary schools with the same broad and efficient ways to protect their communities.

B. Arizona

Arizona has five types of protection orders, most of which are similar to those in other states.⁵⁹ However, Arizona also protects workplaces by allowing an employer to file for an Injunction Against Workplace Harassment.⁶⁰ This prevents the defendant from being able to access the employer's property or contact any of the workplace's employees while performing work duties.⁶¹ If a specific employee is being targeted by the alleged harassment, the employer must make a good faith effort to inform the employee(s) of the employer's intention to file, before the employer can request an injunction against workplace

55. *Id.*

56. *See* WASH. REV. CODE ANN. § 7.105.010(37) (West 2023) ("Vulnerable adult includes a person: Sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself; or Subject to a guardianship . . . or adult subject to conservatorship . . . ; or Who has a developmental disability . . . ; or Admitted to any facility; or Receiving services from home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW; or Receiving services from a person under contract with the department of social and health services to provide services in the home under chapter 74.09 or 74.39A RCW; or Who self-directs his or her own care and receives services from a personal aide under chapter 74.39 RCW.").

57. *See* WASH. REV. CODE ANN. § 7.105.100(1)(c)(iv) (West 2023).

58. *See* Walla Walla Union Bull. v. Guerrero, No. 38627-9-III, 2023 WL 2531241, at *2 (Wash. Ct. App. Mar. 16, 2023) (denying the petition for a protection order by a business because of the narrowness of WASH. REV. CODE § 7.105.100(1)(c), (f)).

59. *See* ARIZ. REV. STAT. ANN. § 13-3602 (2024) (describing protection orders and the protections offered); *Legal Information: Arizona*, WOMENSLAW, <https://www.womenslaw.org/laws/az/restraining-orders#node-28493> (last visited Mar. 17, 2024).

60. *See* ARIZ. REV. STAT. ANN. § 12-1810 (2024).

61. *Id.*

harassment.⁶² The injunction is granted if the employer shows “reasonable evidence of workplace harassment by the defendant or that good cause exists to believe that great or irreparable harm would result to the employer or any other person who enters the employer’s property or who is performing official work duties.”⁶³ While this is a tool that an employer can use to provide additional protection at their workplace, having the option does not increase their duty nor liability to provide this safe workplace.⁶⁴

C. North Carolina

North Carolina has two types of protection orders: domestic violence protective orders and civil no contact orders.⁶⁵ A civil no contact order allows, but does not require, employers to file on behalf of an employee who is experiencing harassment at their workplace.⁶⁶ These orders protect an employee while they are at work or performing any of the duties of their jobs.⁶⁷ The employer must include the targeted employee in the process of filing by requesting their consent to determine if there are safety concerns.⁶⁸ If the employee does not consent to the process, the employer may not retaliate against them.⁶⁹ North Carolina further safeguards employees by barring an employer from taking an adverse employment action against an employee that decides to take a reasonable amount of time off work to obtain their own relief under a separate protection order.⁷⁰ These additional protections for employees can encourage them to actually seek help from their employers and maintain open communication to create a safer workplace for everyone involved.

62. *Id.*

63. ARIZ. REV. STAT. ANN. § 12-1810(E) (2024).

64. ARIZ. REV. STAT. ANN. § 12-1810(M)(1) (2024).

65. *See How to Get a Protection Order*, N.C. JUD. BRANCH, <https://www.nccourts.gov/help-topics/domestic-violence/how-to-get-a-protection-order#about-3974> (last visited Mar. 15, 2024) (explaining the difference between a “50B order” and a “50C order” in North Carolina).

66. N.C. GEN. STAT. ANN. § 95-261 (West 2023); *see also* N.C. GEN. STAT. ANN. § 95-271 (West 2023) (“This Article does not expand, diminish, alter, or modify any duty of any employer to provide a safe workplace for employees and other persons.”).

67. N.C. GEN. STAT. ANN. § 95-264 (West 2023).

68. N.C. GEN. STAT. ANN. § 95-261 (West 2023).

69. *Id.*

70. N.C. GEN. STAT. ANN. § 95-270 (West 2023).

D. California

Through California protection order laws, an employer can protect employees at the workplace⁷¹ and a post-secondary school can protect students while at school.⁷² California's workplace violence restraining order is similar to orders in Arizona and North Carolina.⁷³ It allows an employer to seek protection for an employee who is the target of stalking, harassment, threats of violence, or other forms of violence.⁷⁴ This restraining order can also be requested to protect multiple employees or household members of threatened employees.⁷⁵ Effectively, this statute allows an employer to protect a wider variety of people in an effort to prevent workplace violence.⁷⁶ While schools are able to use this statute to protect faculty and staff, there used to be no efficient way for California schools to protect students.

In 2009, however, California passed the Private Post-Secondary School Violence Prevention Order, a statute that authorizes an officer of a private post-secondary school to file for a protection order on behalf of a student, or many students, at the discretion of the court.⁷⁷ This bill was introduced and passed as a result of an incident at a post-secondary school where a student followed through with threats resulting in another student being attacked.⁷⁸ The school then moved to file a restraining order against the attacker for the school and the other students.⁷⁹ The school's application for a restraining order was denied and the school was instead instructed to have each person individually file.⁸⁰

Initially, this bill was proposed as an amendment to the existing law that allowed for workplace restraining orders⁸¹ to consider students at post-secondary schools as employees to ensure that schools could act on students' behalf.⁸² However, this caused confusion and instead was reworked to become a separate

71. CAL. CIV. PROC. CODE § 527.8 (West 2024).

72. CAL. CIV. PROC. CODE § 527.85 (West 2024).

73. *See supra* Section I.B., I.C.

74. CAL. CIV. PROC. CODE § 527.8 (West 2024).

75. *Id.*

76. CAL. CIV. PROC. CODE § 527.8(3) (West 2024).

77. CAL. CIV. PROC. CODE § 527.85 (West 2024).

78. *See Temporary Restraining Orders: Schools Hearing on SB 188 Before the Assemb. Comm. on Judiciary*, 2009–2010 Leg., Reg. Sess. 3 (Cal. 2009) [hereinafter *Temporary Restraining Orders: Schools*].

79. *Id.*

80. *Id.*

81. *See generally* CAL. CIV. PROC. CODE § 527.8 (West 2024).

82. *See Temporary Restraining Orders: Schools Hearing on SB 188 Before the S. Comm. on Educ.*, 2009–2010 Leg., Reg. Sess. 1–2 (Cal. 2009) [hereinafter *SB 188 Before S. Comm. on Educ.*].

statute for ease of understanding.⁸³ It was also changed to avoid confusion and redundancy, because schools were already able to file for a protection order for faculty and staff under a workplace protection order.⁸⁴ From there, this bill had an interesting journey before it became codified. It was introduced as a bill to allow all schools, not just private post-secondary schools, to file for a protection order.⁸⁵ However this was narrowed. According to the Assembly Judiciary Committee's analysis:

[T]he bill is appropriately limited to the private postsecondary schools whose students are the subject of off-campus threats that are understood to be carried out on campus because law enforcement officials advise that these threats are not covered by existing criminal and civil protections, and excludes minors and public schools and where serious and countervailing constitutional, educational, parental, due-process and other important legal rights and concerns are implicated.⁸⁶

Moreover, comparable with Arizona and North Carolina, a written consent from the targeted student is required and the school must show a credible threat of violence for the restraining order to be granted.⁸⁷ Similar to the workplace protection orders discussed, the option to file for a protection order under this statute does not “modify in any way the duty of a post-secondary school to provide a safe environment.”⁸⁸ Due to California's existing legislation, it made logical sense to create a separate bill to ensure that schools could protect students as well as staff.

California is a leader in protection order laws because it is the only state to have these broad protections for students and employees.⁸⁹ Washington State has the opportunity to join California as a leader in this area. Unlike California,

83. See *Temporary Restraining Orders: Schools*, *supra* note 78, at 3.

84. CAL. CIV. PROC. CODE § 527.8 (West 2024).

85. See *SB 188 Before S. Comm. on Educ.*, *supra* note 82, at 2.

86. *Temporary Restraining Orders: Schools*, *supra* note 78, at 3.

87. CAL. CIV. PROC. CODE § 527.85(a) (West 2024).

88. CAL. CIV. PROC. CODE § 527.85(u) (West 2024).

89. This is based on the author's research for this Note. See, e.g., *Restraining Orders: Workplace Violence Restraining Orders*, WOMENSLAW, <https://www.womenslaw.org/laws/ca/restraining-orders/workplace-violence-restraining-orders> (last updated Jan. 11, 2024) (providing general information for the broad workplace restraining order requirements in California). For an overview of domestic violence state laws pertaining to a variety of topics, including protection orders, see *Legal Information*, WOMENSLAW, <https://www.womenslaw.org/laws?reset-state=1> (last visited Mar. 17, 2024).

Washington has the opportunity to implement these protections proactively before anyone else gets hurt.⁹⁰

II. POST-SECONDARY SCHOOLS: THE VIOLENCE FACED AND PROTECTIONS IN PLACE

Education is one of the foundational pillars of American society, because it provides people with the necessary knowledge to be productive members of our democratic society.⁹¹ While school attendance through high school is generally compulsory,⁹² a student may choose to continue their education afterwards. Post-secondary education,⁹³ which comes after completing high school or an equivalent degree, is a way for students to continue their education and possibly increase their job opportunities.⁹⁴ Colleges and universities are types of post-secondary schools, but so are trade or vocational schools.⁹⁵ Post-secondary schools have unique communities made up of students as well as faculty and staff members,⁹⁶ which necessarily entails unique dangers and necessary protections. It is important to note that many post-secondary schools maintain on-campus security groups, which can prove useful in protecting community members from

90. See *A Look at Shootings at Washington Schools*, SPOKESMAN-REV. (Sept. 13, 2017), <https://www.spokesman.com/stories/2017/sep/13/a-look-at-shootings-at-washington-schools/> (providing a historical summary of Washington State school shootings).

91. See *Brown v. Bd. of Educ.*, 347 U.S. 483, 493 (1954).

92. See, e.g., WASH. REV. CODE ANN. § 28A.225.010 (West 2023) (requiring youth between the ages of eight and eighteen to attend school); ARIZ. REV. STAT. ANN. § 15-801 (2024) (requiring youth between the ages of six and sixteen to attend school); CAL. EDUC. CODE § 48200 (West 2024) (requiring youth between the ages of six and eighteen to attend school); N.D. CENT. CODE ANN. § 15.1-20-01 (West 2023) (requiring youth between the ages of seven and sixteen to attend school).

93. Post-secondary education can also be referred to as “higher education” or “tertiary education,” among other terms. See Emily Summers, *Everything You Need to Know About Getting a Post-Secondary Education*, THROUGH EDUC. (Dec. 10, 2019), <https://througheducation.com/everything-you-need-to-know-about-getting-a-post-secondary-education/>.

94. See *id.*

95. Vocational courses can focus on teaching the necessary skills for specific professions, including that of electrician, cosmetologist, commercial pilot, and paralegal. See *id.*

96. See Jackson Holtz, *Enrollment Strong for the University of Washington’s Fall 2020 Entering Class*, UNIV. OF WASH.: UW NEWS (Oct. 27, 2020), <https://www.washington.edu/news/2020/10/27/enrollment-strong-for-the-university-of-washingtons-fall-2020-entering-class/> (stating that University of Washington had a total of 60,418 students across its three campuses in 2020); *UW Staff Demographic Baseline Report*, UNIV. OF WASH. HUM. RES. (Dec. 2020), <https://hr.uw.edu/diversity/wp-content/uploads/sites/23/2020/12/DemographicBaseline-Report-20201216.pdf> (showing that University of Washington had 26,136 employees in 2020).

physical violence or disturbances.⁹⁷ Additionally most post-secondary schools work closely with local law enforcement to work toward a safer school experience.⁹⁸ This Part provides background on the types of violent situations post-secondary schools are facing, from physical to virtual. It also looks to the current protections that are in place for these situations.

A. *Physical Violence*

Violence at schools and workplaces has unfortunately become commonplace in the United States. Post-secondary schools, which function both as a school and as a workplace, are a uniquely dangerous zone for the people in their communities. Excluding K-12 schools, mass shootings most frequently occur at workplaces.⁹⁹ It is tragic that Zijie Yan, Thomas Meixner, Bill Klung, Gopi Podila, Maria Ragland Davis, Adriel D. Johnson Sr., and Rebecca Griego are not unique in that they were all killed by a disgruntled individual at the post-secondary schools where they worked. It is also unfortunate that gun violence is not a new phenomenon.¹⁰⁰ Gun violence can be difficult to prevent and predict. But with the right legal tools, prevention is possible when someone is on the “pathway to violence” prevention is difficult.¹⁰¹

97. See, e.g., *Campus Security & Public Safety*, GONZ. UNIV., <https://www.gonzaga.edu/about/our-campus-location/campus-safety> (last visited Mar. 15, 2024) (providing an example of a campus security group).

98. See *What Campus Police Are and Are Not: 7 Important Distinctions*, AXON (Aug. 2023), <https://www.axon.com/resources/campus-police>.

99. See Sharon Shahid & Megan Duzor, *History of Mass Shooters*, VOA NEWS (June 1, 2021), <https://projects.voanews.com/mass-shootings/>. Jillian Peterson, PhD, and James Densley, PhD, built a new database of mass shooters with a focus on having others use the research to change policy and prevent mass shootings. This research was then published and analyzed with Voice of America and The Violence Prevention Project. See *id.*; *Key Findings*, *supra* note 12 (“The Violence Prevention Project is a nonpartisan nonprofit focused on reducing violence through research that is both accessible and geared toward action.”).

100. See, e.g., Jeff Wallenfeldt, *Texas Tower Shooting of 1966*, BRITANNICA, <https://www.britannica.com/event/Texas-Tower-shooting-of-1966> (last updated Dec. 23, 2023) (recounting the shooting infamously known as the Texas Tower shooting, the first recorded university shooting, where the shooter killed fifteen and injured thirty-one individuals).

101. “The pathway to violence” is the idea that people who perpetrate school attacks, typically follow a “detectable progression of behavior.” Maria Carrasco, *Preventing Gun Violence on Campus*, INSIDE HIGHER ED., (June 9, 2022), <https://www.insidehighered.com/news/2022/06/10/colleges-step-efforts-prevent-gun-violence-campus>. This means that with the right tools and people paying attention to “at risk” individuals, large acts of violence can be prevented.

Another threat to post-secondary schools is how easy it is to access most schools. Many post-secondary schools have campuses that provide an open layout with plenty of beautiful outdoor areas to allow students and other community members to enjoy between academic or work responsibilities.¹⁰² While these campuses provide for a lot of enrichment, their open nature can prove difficult in protecting a school from someone with ill intentions.¹⁰³ Many schools now require “tap-in” systems that are tied to student identification cards.¹⁰⁴ Systems like this are useful, but they are not foolproof as someone can easily, out of social gesture, hold the door for someone that is behind them and/or be unaware the person walking right behind them is not a student or school employee. Schools are also able to call the police and have a person removed from campus for trespassing.¹⁰⁵ While this protection can be a helpful legal protection to ensure someone is not welcome on campus,¹⁰⁶ it is not without its flaws.¹⁰⁷

102. See *The World’s Most Beautiful College Campuses*, FORBES (Mar. 1, 2010), <https://www.forbes.com/2010/03/01/most-beautiful-campus-lifestyle-college.html?sh=f31a3e0360b4>.

103. See Liz Bowie, Abby Zimmardi & Greg Morton, *After a Series of Shootings, Morgan State is Striving for Safety. It’s Not Alone*, BALT. BANNER (Oct. 13, 2023), <https://www.thebaltimorebanner.com/education/higher-education/colleges-safe-campuses-morgan-state-bowie-state-towson-university-5R3KUZR6KNBK3FR2Z27H35OV2A/> (“Colleges and universities say they want open campuses, but they’re also struggling to keep them safe.”).

104. See Kaitlyn Puckett, *Safety and Security on Campus: Student Perceptions and Influence on Enrollment 54* (Aug. 2022) (B.A. thesis, East Tennessee State University) (on file online at <https://dc.etsu.edu/cgi/viewcontent.cgi?article=5637&context=etd>) (discussing identification cards as a security measure).

105. See, e.g., WASH. ADMIN. CODE § 172-122-200 (2024) (allowing the president or president’s designee of Eastern Washington University to deny or withdraw access to buildings); TEX. EDUC. CODE ANN. § 51.204 (West 2023) (stating it is unlawful to “trespass on the grounds of an institution of higher education”); Elina Lingappa, *Private Colleges Want More Power to Police Trespassers. Here’s What You Need to Know*, LOC. NEWS MATTERS (June 2022), <https://localnewsmatters.org/2022/06/03/private-colleges-want-more-power-to-police-trespassers-heres-what-you-need-to-know/> (explaining that trespassing on campuses of K-12 schools and public universities in California is a misdemeanor, but private colleges can only give warnings).

106. See WASH. REV. CODE §§ 9A.52.070, .080 (West 2024).

107. Trespassing an individual or a group can turn into bad publicity for a school. See, e.g., Michael Cusanelli, *Brown University Drops Student Trespassing Charges Following Burlington Shooting*, NBC5 (Nov. 28, 2023), <https://www.mynbc5.com/article/brown-university-trespassing-charges-protest/45973563#> (discussing Brown University’s decision to drop twenty trespassing charges against student protesters to bring the community together); Kathryn Palmer, *Union Employees Arrested for Trespassing on Community College Campus*, INSIDE HIGHER ED. (Sept. 1, 2023), <https://www.insidehighered.com/news/faculty-issues/labo>

B. *Cyber Violence*

The violence facing post-secondary schools does not end at physical violence; these schools also have to worry about violence carried out through the internet, often called cyber violence.¹⁰⁸ This violence can be perpetrated by a disgruntled student that faced disciplinary action, who already knows the contact information for professors and administrators.¹⁰⁹ However, the violence can also be done by someone who is outside the school community that has a personal disdain for the school, as it can be all too easy to access school contact information online.¹¹⁰

The majority of post-secondary schools have websites that can be found through any common search engine.¹¹¹ Further, most of these websites include pages with “Faculty Directories,” where a professor’s name, email, department, and courses are all on display.¹¹² Having this information can create transparency and ease of access to professors. This information can also allow a person with ill intentions the information they need to harass or harm faculty members.¹¹³

r-unionization/2023/09/01/two-union-employees-arrested-trespassing-2-year (detailing a situation where two union representatives were trespassed by the school leading to a lot of bad publicity when reports of the situation were reported by news outlets and representatives made negative comments about the school on social media platforms and threatened litigation).

108. See Cybercrime Convention Comm., *Mapping Study on Cyberviolence*, COUNCIL OF EUROPE (July 9, 2018), <https://rm.coe.int/t-cy-mapping-study-on-cyberviolence-final/1680a1307c> (“Cyberviolence is the use of computer systems to cause, facilitate, or threaten violence against individuals that results in, or is likely to result in, physical, sexual, psychological or economic harm or suffering and may include the exploitation of the individual’s circumstances, characteristics or vulnerabilities.”).

109. See, e.g., Colleen Flaherty, *When Students Harass Professors*, INSIDE HIGHER ED. (Mar. 4, 2018), <https://www.insidehighered.com/news/2018/03/05/contra-power-harassment-professors-students-isnt-common-its-real> (describing a situation in which a female student was repeatedly sexually harassing a male professor via school emails).

110. See Erika Hayasaki, *The Lurker*, THE VERGE (Oct. 25, 2023), <https://www.theverge.com/c/features/23903125/lurker-online-harassment-stalking-asian-academics> (detailing the vicious stalking and harassment that professors faced from a specific student and stating many of the professors had never taught or interacted with this student).

111. See, e.g., GONZ. UNIV., <https://www.gonzaga.edu/> (last visited Mar. 15, 2024); UNIV. OF WASH., <https://www.washington.edu/> (last visited Mar. 15, 2024); RENTON TECH. COLL., <https://rtc.edu/> (last visited Nov. 15, 2024).

112. See, e.g., *Campus Directory*, CENTRALIA COLL., <https://www.centralia.edu/about/locations/directory.aspx> (last visited Mar. 15, 2024); *Faculty and Staff Directories*, SEATTLE UNIV., <https://www.seattleu.edu/directories/faculty-and-staff/> (last visited Mar. 15, 2024); *Faculty Search*, WHITWORTH UNIV., <https://forms.whitworth.edu/directory/faculty> (last visited Mar. 15, 2024).

113. Paola Rodriguez, *New Emails Reveal Harassment UA Faculty Received from Suspect*, AZPM NEWS (Sept. 29, 2023), <https://news.azpm.org/p/news-splash/2023/9/29/217>

Students are not safe from this type of violence either, as most post-secondary schools use the same email address format across the entire school.¹¹⁴ This can again make it easier for a person to contact a member of a school community with harassing or violent messages. In situations where someone is facing constant harassment through cyberspace it can be incredibly difficult for a school to prevent it.

While schools can potentially make it so that no one outside of the network can email a member of the network, this can get complicated and lead to emails getting lost. Blocking an email address¹¹⁵ does not prove to be effective either because it is very easy to simply create a new email address. One option that exists for individuals facing cyber harassment is to file an antiharassment protection order.¹¹⁶ In theory, the post-secondary school is able to pay for these when necessary and can help with the filing process,¹¹⁷ but the individual must be willing to file on their own behalf. This can be incredibly time-consuming if a group of individuals is being targeted.

Cyber harassment is not just carried out via email; people with ill feelings toward a school can also use social media to cause harm. While social media allows individuals a way to stay connected with people and to share ideas on a larger level, these platforms can also become spaces that are used to promote violence and harm. In fact, according to Marisa Randazzo, an executive director at an intelligence software company that specializes in threat assessment: “[A] person planning a mass shooting often tells other people ahead of time about their plans. Would-be perpetrators frequently post messages on social media.”¹¹⁸ On Facebook it is relatively easy to create a “group” page and invite people to

626-new-emails-reveal-harassment-ua-faculty-received-from-suspect/ (detailing the explicit emails that a suspect sent many faculty members at the University of Arizona before fatally shooting Professor Meixner).

114. See Aaron Peters, *How to Get an .Edu Email Account*, LIFEWIRE (Oct. 15, 2020), <https://www.lifewire.com/how-to-get-an-edu-email-4628279#:~:text=The%20,.the%20way%20through%20graduate%20school>.

115. See *Resources for Dealing with Disturbing or Hate-Filled Email*, PENN STATE, <https://www.psu.edu/news/information-technology/story/resources-dealing-disturbing-or-hate-filled-email/> (Aug. 29, 2023) (informing students and faculty of options for dealing with cyberviolence, explaining some of the difficulties that a school can face when trying to combat cyberviolence, and providing instructions for how to block a sender on a school email account) [hereinafter PENN STATE Resources].

116. See WASH. REV. CODE ANN. § 9A.90.120(2)(b)(v) (West 2023); WASH. REV. CODE ANN. § 7.105.100(1)(f) (West 2023).

117. This payment process would be completely up to the school’s discretion, and between the school administration and the person who is filing for their own protection order.

118. Carrasco, *supra* note 102 (asserting that many people post plans publicly to encourage someone to stop their actions).

“join.”¹¹⁹ Groups tend to be focused on creating a community of people interested in the same topic.¹²⁰ Privacy settings for groups range from “public” and fully open to the public to “secret” and only visible to members within.¹²¹ Once a group is made, members can post what they choose with little monitoring,¹²² thus allowing people to join hateful groups and share ideas. Facebook is not the only online platform that struggles to monitor and remove hateful groups.¹²³ These hate-fueled online groups can and have led to the incitement of violence targeted toward individuals and larger audiences, like businesses, schools, or even entire countries.¹²⁴

An issue that arises for entities like schools, is that there is little that can be done to remove these harmful groups past “reporting” them via the procedures offered by the platform that their messages are posted on.¹²⁵ Reporting a group does not necessarily result in permanent change and can be inefficient.¹²⁶ Violence perpetrated through social media can be difficult to address and handle

119. See *What to Know Before You Create a Facebook Page*, META BUS. HELP CTR., <https://www.facebook.com/business/help/366099230478737?id=939256796236247> (last visited Mar. 17, 2024).

120. See *About Facebook Groups*, META BUS. HELP CTR., <https://www.facebook.com/businesshelp/786348878426465?id=939256796236247> (last visited Mar. 17, 2024).

121. *Id.*

122. *Id.*

123. See, e.g., Christine Hauser, *Reddit Bans Nazi Groups and Others in Crackdown on Violent Crime*, N.Y. TIMES (Oct. 26, 2017), <https://www.nytimes.com/2017/10/26/us/reddit-violence-policy.html> (detailing the policy changes Reddit was trying to implement to remove hate speech, which had become commonplace on the platform); Aisha Counts & Eari Nakano, *Harmful Content Has Surged on Twitter, Keeping Advertisers Away*, TIME (July 19, 2023), <https://time.com/6295711/twitters-hate-content-advertisers/> (breaking down the consequences of lessening moderation of harmful speech and violent rhetoric).

124. See Neema Hakim, *How Social Media Companies Could Be Complicit in Incitement to Genocide*, 21 CHI. J. INT’L L. 83, 83 (2020) (discussing possible international law violations and liabilities when a social media company allows for the incitement of violence); Eliza Mackintosh, *Facebook Knew It Was Being Used to Incite Violence in Ethiopia. It Did Little to Stop the Spread, Documents Show*, CNN BUS. (Oct. 25, 2021), <https://www.cnn.com/2021/10/25/business/ethiopia-violence-facebook-papers-cmd-intl/index.html> (reporting on Facebook’s lack of intervention when violent posts were made encouraging civil war in Ethiopia).

125. See *Report Inappropriate or Abusive Things on Facebook*, FACEBOOK HELP CTR., <https://www.facebook.com/help/212722115425932> (last visited Nov. 17, 2023) (detailing how a user can report content on the platform) [hereinafter *Report Inappropriate or Abusive Things on Facebook*].

126. See *Report a Group to Facebook*, FACEBOOK HELP CTR., https://www.facebook.com/help/1181817071988168?helpref=faq_content (last visited Mar. 17, 2024) (“Please keep in mind that reporting something to Facebook doesn’t guarantee that it will be removed.”).

for post-secondary schools, especially if the harmful and violent language used is targeted at the institution and not at an individual. If the violence is aimed at one person, the victim is able to individually file for a protection order, but—similar to if emails are being used nefariously—the school cannot file. If there are direct threats made to the school, an administrator can reach out to local law enforcement and alert the school community. But this is usually only done in more extreme circumstances.¹²⁷ These obstacles create situations where schools do not take action to respond to threats of violence until it could be too late.¹²⁸

The Coronavirus Disease 2019 (COVID-19) pandemic changed the way the American education system operated in a multitude of ways. One way that schools shifted was to hold classes online, which did not fully go away after the pandemic restrictions lessened.¹²⁹ Some schools still operate fully online while others offer hybrid asynchronous and in-person options.¹³⁰ An issue that came up during the initial offerings of Zoom classes was a “new kind of attack where perpetrators join and deliberately disrupt virtual meetings,” also called “zoombombing.”¹³¹ These incidents had become a large enough problem that the

127. See, e.g., Edward Lewis, *Police Charge Man with Trespassing on Campus of King’s College*, TIMES LEADER (Mar. 24, 2021), <https://www.timesleader.com/news/1128788/police-charge-man-with-trespassing-on-campus-of-kings-college> (reporting on arrest of a man after he drunkenly forced himself into a storage room at King’s College); Kenyatta Gilbert, *Statement on Vandalism at Mays Hall*, THE DIG (Dec. 29, 2023), <https://thedig.howard.edu/announcements/statement-vandalism-mays-hall> (regarding letter from Howard University’s Dean in response to vandalism on campus that went viral online).

128. See Quinn, *supra* note 3 (discussing tragedy where group of professors and a student were being consistently harassed by the same person and the group made many reports to different authorities, but action was not taken and eventually the harasser killed one of the professors).

129. See Steven Salzberg, *Zoom is Crushing Students’ Spirits. It’s Time to Come Back to Class*, FORBES (May 16, 2022), <https://www.forbes.com/sites/stevensalzberg/2022/05/16/zoom-is-crushing-college-students-and-not-in-a-good-way/?sh=c812c0e7a9df>.

130. See, e.g., *Hybrid Course Design*, UNIV. OF COLO. BOULDER, <https://www.colorado.edu/assett/faculty-resources/resources/hybrid-course-design> (last visited Mar. 17, 2024) (offering “hybrid courses that replace a portion of traditional face-to-face instruction with web-based online learning”); *All Online Degree Programs*, ASU ONLINE, <https://asuonline.asu.edu/online-degree-programs/> (last visited Mar. 17, 2024) (offering the option to earn a degree completely online); Thayne M. McCulloh, *Fall 2020 Announcement to Students & Families*, GONZ. UNIV. (Apr. 27, 2020), <https://www.gonzaga.edu/about/president-leadership/messages-media/2020/fall-2020-announcement-to-students-families> (regarding letter from Gonzaga University president informing the community that the school would be returning to in-person instruction on campus).

131. Chen Ling, Utkucan Balci, Jeremy Blackburn & Gianluca Stringhini, *A First Look at Zoombombing*, 2021 IEEE SYMPOSIUM ON SEC. AND PRIV. 1452, 1452 (2021).

Federal Bureau of Investigations (FBI) became involved and invited people to report the cybercrimes to them.¹³²

In these situations, if it were a student that had perpetrated the act the school could take disciplinary action. If it was not a student, the school was left mostly without the ability to respond in a meaningful way, other than reporting it to local law enforcement. The latter can prove to be useful as few people want a criminal record, but it also leaves the school without the power to inform the community of what action is being taken. And while the incidents did lessen with the threat of criminal enforcement from the FBI,¹³³ the harm these incidents caused was far reaching.¹³⁴

Post-secondary schools face a variety of different types of violence, yet they are left without the power to act until something serious has happened, necessitating a change to the laws. Post-secondary schools should be afforded the option to take proactive action before another tragedy strikes.

III. PROTECTION ORDERS ARE NECESSARY FOR SCHOOLS

Post-secondary schools do have protections currently in place that allow schools to react to harm done to their communities. Many schools have campus security groups that can handle issues that arise unexpectedly and other disturbances of the peace.¹³⁵ If there is someone physically on campus, the school can alert the police and charge the individual with trespassing. Schools can work with social media companies to report harmful and violent posts.¹³⁶ If someone is using email or other electronically communicated messages to stalk

132. See Lindsay McKenzie, *Zoombombing Often an 'Inside Job'*, INSIDE HIGHER ED. (Feb. 16, 2021), <https://www.insidehighered.com/news/2021/02/17/college-zoombombing-incidents-often-incited-students#>.

133. *Id.*

134. See Megan Carroll, *FBI, Spokane Police Investigating Racist 'Zoom-bomb' Attack on Gonzaga's Black Student Union*, KREM2 (Nov. 12, 2020), <https://www.krem.com/article/news/crime/gonzaga-black-student-union-targeted-racial-slurs-zoom-meeting/293-a617d59e-d65f-44e2-9453-6307ff60d84e> (describing the calls to action made of the school to fully investigate after a student group faced hateful and harmful speech during their meeting).

135. See, e.g., *Services*, GONZ. UNIV., <https://www.gonzaga.edu/about/our-campus-location/campus-safety/services> (last visited Mar. 15, 2024) (listing out the services offered by campus security, including patrol, escort, incident response, and crime prevention services); see also 20 U.S.C §1092(f)(1) (requiring post-secondary schools through campus security programs “to collect . . . information with respect to campus crime statistics and campus security policies of that institution, and . . . each year thereafter, prepare, publish, and distribute, through appropriate publications or mailings, to all current students and employees, and to any applicant for enrollment or employment upon request, an annual security report”).

136. See *Report Inappropriate or Abusive Things on Facebook*, *supra* note 126.

and harass school members, a school can work to block and report users.¹³⁷ If someone is using online classrooms as a platform for harm, a post-secondary school is able to work with local law enforcement and federal agencies to stop the issue.¹³⁸ When an individual at a post-secondary school is being targeted, they are able to file for a protection order on their own behalf.¹³⁹ This Part asserts that these offered protections are not enough to proactively protect post-secondary institutions, and that protection orders can fill some of the gaps left by the current options. It also argues that now is the best time to amend the Washington protection order laws.

A. *Current Protections Are Not Enough*

A counterargument could be made that if post-secondary schools have all of the aforementioned possible options,¹⁴⁰ lawmakers should not waste their time by expanding any further protections to institutions. This critique refuses to acknowledge that while the current protections are useful tools, adding protection orders to the arsenal of protections will arguably lead to *safer* post-secondary schools. Additionally, protection orders empower schools to protect their own communities rather than relying on outside agencies to handle threats and dangers that arise.

A post-secondary school should have a designated person¹⁴¹ responsible for filing for a protection order for their school.¹⁴² This official could initiate the filing process once a formal process between the school and the endangered person or group of people was complete. From there, if the court chooses to grant the protection order the school will be able to communicate the success with the individuals involved. This part of the process is crucial as ensuring that there are

137. See, e.g., PENN STATE Resources *supra* note 116 (“At Penn State, when someone reports being the recipient of hate email, University Police and Public Safety, as well as IT personnel, attempt to identify the sender — although the likelihood of being able to do so is limited. Senders may be bots — computer programs that operate as an agent for an individual or other program — or individuals who intentionally avoid providing personally identifiable information by using accounts specifically created for these kinds of attacks.”).

138. See Carroll, *supra* note 135.

139. See WASH. REV. CODE ANN. § 7.105.100 (West 2023).

140. See *supra* text accompanying notes 136–40.

141. See, e.g., CAL. CIV. PROC. CODE § 527.85(a) (West 2024) (defining who must file for the school).

142. Depending on how the Washington law is amended, the school official responsible for filing could be defined by statute or it could be left to the school’s discretion. The current Washington protection order statute requires that, in a situation where an interested person wants to file for someone else, narrow circumstances must be met and the petitioner must include a statement explaining their qualifications. See WASH. REV. CODE ANN § 7.105.100(4) (West 2023).

clear and open lines of communication between all parties involved—school security, local police, school administrators, and the victims—and ensures the broadest net of protection from violence at the school from a known dangerous individual. Once the order is successfully served, steps can be taken to prevent the perpetrator from contacting or interacting with the victim or at-risk party.

For example, allowing a school to file for a protection order against someone who frequently trespasses ensures that local law enforcement, as well as on campus security groups, are made aware that the situation has risen to a degree high enough to warrant additional protection. Trespassing is arguably a common enough crime that might not be taken seriously enough to assume that someone who is violating a trespass notice is dangerous.¹⁴³ However, if there is a known protection order against the trespassing individual, the school can take immediate action against them.¹⁴⁴ This threat of being charged with a misdemeanor or worse can potentially dissuade an individual from continuing their actions. Every trespassing situation will not call for a protection order to be filed, but allowing a school the choice to file for a protection order against someone who is frequently coming to campus to harass the community ensures that the situations that do need extra protection can receive them.

Opening protection orders to include post-secondary schools additionally allows schools to handle many of the issues that arise around social media and harassment or stalking through electronic messages. Washington law includes cyber harassment and cyberstalking as qualifying actions to seek a protection order.¹⁴⁵ When a school is being targeted online by one violent and disgruntled individual, if the institution is able to file a protection order for the harassment, the person would have to cease their actions or face violating a protection order.¹⁴⁶ Allowing for protection orders in these cyberspaces ensures that schools can react to dangerous or violent people without having to wait and hope that the social media platform will find the language to be violent.¹⁴⁷

One possible argument against allowing a post-secondary school to file for an antiharassment protection order is that a school should not be able to silence a person's speech just because they are saying something negative about the

143. See Lingappa, *supra* note 106 (trespassing on school campuses may result in a warning or a misdemeanor depending on the school).

144. See WASH. REV. CODE ANN. § 7.105.450 (West 2023) (explaining that knowingly violating a protection order constitutes a gross misdemeanor).

145. See WASH. REV. CODE ANN. § 7.105.100 (West 2023); WASH. REV. CODE ANN. § 9A.90.120 (West 2023); WASH. REV. CODE ANN. § 1.105.010(34) (West 2023).

146. See WASH. REV. CODE ANN. § 7.105.450(1) (West 2023).

147. See Megan Riesmeyer, *The Dark Side of Technological Advances: How Technology has Enabled Domestic Violence and the Contributing Role of the First Amendment*, 59 GONZ. L. REV. 93, 139 (2024) (discussing the need for social media platforms to proactively prevent the use of their technologies to commit cyberviolence).

school.¹⁴⁸ However, freedom of speech is not a limitless right. Fighting words,¹⁴⁹ the advocacy of unlawful conduct,¹⁵⁰ and true threats¹⁵¹ are not protected under the First Amendment.¹⁵² Additionally, the U.S. Supreme Court decided more than fifty years ago that speech likely to cause a disturbance in schools is not protected by the freedom of speech shield.¹⁵³ A school seeking a protection order to protect their community from someone who is making threats against the school or specific individuals is not looking to infringe upon the respondent's First Amendment rights, but rather to take proactive steps to prevent a tragedy. Further, to successfully file for and be granted an order, the school must show that it qualifies for this level of protection.¹⁵⁴ If a protection order is sought to infringe upon a person's First Amendment right then it is unlikely that it will be granted, or it is at minimum likely to be appealed.

If a person is being targeted by harassment or stalking, they are able to file for a protection order on their own.¹⁵⁵ It may seem redundant and unnecessary to allow a post-secondary school to seek a protection order on someone's behalf when they can do it themselves, but it actually provides additional protections for the victim and creates a more efficient solution. A school would have the option to file a protection order on behalf of a large group of people or just one endangered person. Having a school file for a protection order could also create separation between the perpetrator and the victim, as the order would be filed under the institution's name rather than the victims'.

A hypothetical situation where this could arise is one involving an aggrieved student that had been expelled from a university in Washington State, where they had been a student for multiple years. This student knows the twelve professors on the disciplinary board responsible for expelling them, and the student also likely had classes with the professors and knows them from before the disciplinary action. Once the student is expelled, they go on an online rampage, creating a social media page dedicated to posting hateful calls to action to get these professors fired from the university. When this page does not lead to action being taken, the expelled student starts sending threatening emails to the professors individually. The professors file reports with the school as they begin

148. See Jonathan Turley, 'Your Speech is Violence': The Left's New Mantra to Justify Campus Violence, THE HILL, (June 3, 2023), <https://thehill.com/opinion/education/4032778-your-speech-is-violence-the-lefts-new-mantra-to-justify-campus-violence/>.

149. See, e.g., *Chaplinsky v. New Hampshire*, 315 U.S. 568, 571–72 (1942).

150. See, e.g., *Brandenburg v. Ohio*, 395 U.S. 444, 447 (1969).

151. See, e.g., *Counterman v. Colorado*, 600 U.S. 66, 72 (2023).

152. See U.S. CONST. amend. I.

153. See *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 513 (1969).

154. WASH. REV. CODE ANN. § 7.105.100 (West 2023).

155. *Id.*

to truly fear for their safety at the school. The school attempts to file a protection order for the group of professors, but it is denied as entities cannot file on an individual's behalf. The school now instructs each professor to file for an antiharassment protection order, but they do not all want to proceed with filing.

A professor could be opposed to filing for a multitude of reasons. They could be fearful that having their name on the protection order will further enrage the angered individual. Individually filing could provide personal information, like their home address, to someone who already seeks to harm them. Further, protection orders are usually public record¹⁵⁶ and a person forced to individually file may not want their name and address that readily available to the public when they already face threats of violence due to, in part for, their career choice and way of livelihood.

In a situation like this, the school is stuck in a hard place. The university may want to protect the professors but cannot file for the group and the individuals that do not want to file cannot be forced to do so. If this aggrieved student follows through on their threats the school could face liability for not doing more to prevent the harm caused.¹⁵⁷ For the professors that do file, each person must navigate the court requirements of filing for the protection order, and they will be required to individually pay for any filing fees that the court may assess.¹⁵⁸

This situation is the unfortunate reality that exists for post-secondary schools in Washington State right now. Individually filing is both strenuous on the people in need of protection and on the courts. And while there is only a filing fee for an antiharassment protection order,¹⁵⁹ which the school can choose to pay, this

156. See *Access to Court Records Brochure*, WASH. CTS., <https://www.courts.wa.gov/newsinfo/index.cfm?fa=newsinfo.displayContent&theFile=content/accessToCourtRecords> (last visited Mar. 17, 2024) (listing unavailable court records, wherein protection orders are not listed).

157. The law on this differs in many states, but in some states schools owe a duty of care to take reasonable measures to prevent foreseeable risks to protect students from harm. If this duty is not met, the school can be held liable under tort law for negligence. *Compare* *Emery v. Talledega Coll.*, 169 F. Supp. 3d 1271, 1281, 1285–87 (N.D. Ala. 2016) (finding that the college had no duty to protect the student from a campus shooting because under Alabama law there is no duty to protect from criminal acts unless there is a special relationship or circumstance and Talledega College had neither), *with* *Regents of Univ. of Cal. v. Superior Ct. (Regents II)*, 240 Cal. Rptr. 3d 675, 687 (Cal. Ct. App. 2018) (stating that “a university’s duty to protect students from foreseeable acts of violence is governed by the ordinary negligence standard of care”).

158. WASH. REV. CODE ANN. § 7.105.105 (West 2023).

159. WASH. REV. CODE ANN. § 7.105.105(9) (West 2023) (“(a) No fees for service of process may be charged by a court or any public agency to petitioners seeking relief under this chapter . . . Petitioners shall be provided the necessary number of certified copies, forms, and instructional brochures free of charge, including a copy of the service packet that consists of

can get expensive especially if there is a situation where a large group of people need protection. If a post-secondary school is granted the power to file for a group of members it cuts back on potential administrative and financial costs. Additionally, allowing a school to file for a protection order does not take away an individual's ability to file on their own behalf, or to opt out of the school's protection order altogether.

B. *The Time is Now*

There have been attempts in the past to increase workplace safety through the enactment of new protection order laws, but these proposals all died before leaving the Washington Senate floor.¹⁶⁰ During those legislative sessions, legislators may not have grasped the importance of these proposals, but current Washington State legislators clearly believe that protection orders are useful tools in protecting their constituents,¹⁶¹ as proven by the large overhaul of laws in the last few years.¹⁶² Because of the recent mass change to the law, now is the best time to propose an additional update to protection orders.

1. Legislative Intent

The change in laws that became effective in 2022 did not come about just because Washington State legislators ran out of ways to improve the beautiful state they represent, rather it was with the purpose of “modernizing, harmonizing, and improving the efficacy and accessibility of laws concerning civil protection orders.”¹⁶³ It was brought to their attention that protection order laws were scattered and difficult for victims to access.¹⁶⁴ For that reason, the lawmakers centered the improvements around accessibility and emphasized that “these improvements are needed to help ensure that protection orders and corresponding court processes are more easily accessible to all litigants.”¹⁶⁵ Therefore, an amendment that increases the accessibility and ease at which a post-secondary school can protect their community is entirely aligned with the lawmakers' intent.

all documents that are being served on the respondent . . . (b) A filing fee may be charged for a petition for an antiharassment protection order. . . .”)

160. S. 6024, 58th Leg., Reg. Sess. (Wash. 2003); S. 5552, 62nd Leg., Reg. Sess. (Wash. 2011).

161. WASH. REV. CODE ANN. § 7.105.900 (West 2023).

162. See discussion *supra* Section I.A.

163. H.R. REP. NO. 67-1320, at 1 (Wash. 2021).

164. WASH. REV. CODE ANN. § 7.105.900 (West 2023).

165. *Id.*

When updating the protection order laws, Washington State legislators created an extreme risk protection order, which can be sought to restrict a person's gun rights.¹⁶⁶ In creating this new protection order, Washington State legislators demonstrated the importance they place on using protection orders to prevent injuries and death from guns.¹⁶⁷ The legislative findings¹⁶⁸ detail that protection orders are successful at lessening gun violence because people display warning signs prior to carrying out violent acts.¹⁶⁹ A protection order can therefore act as an intervening force, after the warning sign is displayed to actually prevent a violent act from being carried out. Lawmakers created extreme risk protection orders as a proactive measure to stop violence before it is carried out by allowing individuals to intervene when there are clear warning signs that someone is at risk of becoming lethally violent. For this reason, a post-secondary school protection order that would allow a school to take the same precautionary measures to prevent violence from reaching a campus would be in alignment with the legislators' intent to create better protection order laws.

2. Past Proposed Legislation

The 2021 legislation session is not the first time that Washington State lawmakers considered updating protection order laws. Rather, there have been two attempted bills, one in 2003 and another in 2011, that focused on

166. WASH. REV. CODE ANN. § 7.105.100(e) (West 2023) (“A petition for an extreme risk protection order . . . must allege that the respondent poses a significant danger of causing personal injury to self or others by having in the respondent’s custody or control, purchasing, possessing, accessing, receiving, or attempting to purchase or receive, a firearm.”).

167. WASH. REV. CODE ANN. § 7.105.900(f) (West 2023) (“Every year, over 100,000 persons in our country are victims of gunshot wounds and 38,000 individuals lose their lives from gun violence. . . . Extreme risk protection orders allow for the temporary removal of the most lethal means of suicide from the situation, saving lives of those at risk. . . . Restricting firearms access in these moments of crisis is an important way to prevent gun violence and save lives. Many mass shooters displayed warning signs prior to their killings Temporarily removing firearms under these circumstances is an important tool to prevent suicide, homicide, and community violence.”).

168. Legislative Findings are where some of the reasonings for and supporting data supporting a law or set of laws can be found. *See* WASH. REV. CODE ANN. § 7.105.900 (West 2023).

169. WASH. REV. CODE ANN. § 7.105.900(f) (West 2023) (“Studies show that individuals who engage in certain dangerous behaviors are significantly more likely to commit violence toward themselves or others in the near future. These behaviors, which can include other acts or threats of violence, self-harm, or the abuse of drugs or alcohol, are warning signs that the person may soon commit an act of violence. Individuals who pose a danger to themselves or others often exhibit signs that alert family, household members, or law enforcement to the threat.”).

implementing a system to allow for protective orders centered around workplace safety.¹⁷⁰ Both bills died before making it out of committee when the sessions adjourned.¹⁷¹ These bills, while not passed, provide a useful foundation for future proposed legislation, like the type advocated for here.¹⁷² While past legislators were not ready to pass laws concerning workplace protections, it is likely that current legislators will be. They have shown that they find protection orders and school safety to be of great importance,¹⁷³ so it is time that another proposal is made.

The prior legislators that heard the first proposals highlighted some of the concerns they had, giving future bill writers the ability to address topics that might have been forgotten otherwise. One concern regarded the consent of the individual that is on the receiving end of harassment, stalking, or other negative action that warrants a protection order.¹⁷⁴ Washington State legislators have made it clear that “victims are in the best position to know what their safety needs are.”¹⁷⁵ Therefore, if a school wants to request a protection order because a certain member of the school community is being harassed, it must make a good faith effort to acquire the consent of that individual before requesting a protection order.

California, North Carolina, and Arizona all include language that aims at handling the consent aspect when allowing an order to be filed on behalf of another person.¹⁷⁶ In California, a school must seek the consent of the targeted student before moving forward with filing.¹⁷⁷ In Arizona, an employer needs to make a good faith effort to inform a targeted employee regarding the intention to file.¹⁷⁸ And finally, in North Carolina, an employer must include a targeted employee in the process to assess possible safety concerns.¹⁷⁹ Since it is possible

170. S. 6024, 58th Leg., Reg. Sess. (Wash. 2003); S. 5552, 62nd Leg., Reg. Sess. (Wash. 2011).

171. S. 6024, 58th Leg., Reg. Sess. (Wash. 2003); S. 5552, 62nd Leg., Reg. Sess. (Wash. 2011).

172. See discussion *supra* Section III.A.

173. WASH. REV. CODE ANN. § 7.105.900 (West 2023); WASH. REV. CODE ANN. § 28A.400.345 (West 2023) (official note) (“The legislature finds that schools should be a place in which all youth feel safe . . .”).

174. *An Act Relating to Protections Against Workplace Harassment in Antiharassment Protection Orders on SB 5552 Before the S. Comm. on Labor, Commerce & Consumer Protections*, 62nd Leg., Reg. Sess. 2 (Wash. 2011) (summary of bill).

175. WASH. REV. CODE ANN. § 7.105.900 (West 2023).

176. See CAL. CIV. PROC. CODE § 527.85(a) (West 2024); N.C. GEN. STAT. ANN. § 95-261 (West 2023); ARIZ. REV. STAT. ANN. § 12-1810 (2024).

177. See CAL. CIV. PROC. CODE § 527.85 (West 2024).

178. See ARIZ. REV. STAT. ANN. § 12-1810 (2024).

179. See N.C. GEN. STAT. ANN. § 95-261 (West 2023).

that a protection order could further endanger a targeted individual, it is crucial to include the student or staff member in the process of filing for a protection order.

With consent being built into the process of a school seeking a protection order, it can open communication between school administrators and a targeted individual. However, Washington has the opportunity to be a leader in this legal situation by building consent into the entire process of a post-secondary school filing a protection order.¹⁸⁰ Meaning, a school would need to ask a targeted individual if they wanted updates of the situation moving forward. If they answered in the affirmative, the school would then need to inform a targeted individual of each procedural step taken or any relevant updates, such as when the order is actually filed, when it expires, important court dates, further proceedings or extensions. Keeping someone involved throughout the entire process keeps communication channels open and can empower individuals in their own safety.

With the failed bills, Washington State legislators were also concerned that if a post-secondary school was allowed to file for a protection order on behalf of others that there would be additional liabilities.¹⁸¹ In creating additional protections for post-secondary community members, a school should not face additional consequences. The issue would arise if a school did not seek a protection order even though it could have, or if an order was requested for the safety of the community without express consent from one of the targeted individuals. These worries are easily addressed with statutory language, an example of which can be seen in California that states: “This section shall not be construed as expanding, diminishing, altering, or modifying the duty, if any, of a postsecondary educational institution to provide a safe environment for students and other persons.”¹⁸² The goal of including these protection orders as an option in Washington is to equip post-secondary schools with another safety tool, not to open up schools to more litigation.

Post-secondary school protection orders are crucial to closing protection gaps that exist for higher education institutions, and now is the ideal time to propose this change in legislation to Washington lawmakers based on their demonstrated priorities.

180. See Rutledge, *supra* note 18, at 178 (discussing the lack of consent throughout the process of filing for a workplace protection order on behalf of an employee).

181. S. REP. NO. 5552-62 (Wash. Feb. 8, 2011).

182. CAL. CIV. PRO CODE § 527.85(u) (West 2024); *see also* ARIZ. REV. STAT. § 12-1810(M)(1) (2024) (“This section does not: Expand, diminish, alter or modify the duty of an employer to provide a safe workplace for its employees and other persons.”); N.C. GEN. STAT. § 95-271 (West 2023) (“This Article does not expand, diminish, alter, or modify any duty of any employer to provide a safe workplace for employees and other persons.”).

CONCLUSION

Protection orders have proven to be an effective tool to protect citizens across the United States. Washington State proclaims itself as a leader of these protection orders that have broad sweeping provisions intended to protect the most people possible. It is also a state that takes proactive measures to prevent further loss of life from gun violence. Washington State legislators should not wait until another tragedy takes place at a post-secondary school. Instead, the laws should be amended to allow schools to protect themselves from known dangerous people.

Education is the backbone of American society. School teaches youth the foundations of how to exist as productive members of our society, and post-secondary schools give people a chance to further their education and carve out better opportunities for themselves. It is time that legislators value protecting students and the people who run our schools effectively. The protections currently offered to post-secondary schools are not enough and will not be until protection orders are offered to these institutions. The violence that schools face will not disappear with the enactment of one law or the change of one amendment to a law. While it is a pervasive and ever present issue that requires dedication from lawmakers and community members, that undeniable reality does not mean making one change is pointless.

It is time that Washington State legislators put the law where their mouths are and amend Section 7.105.100 of the Revised Code of Washington to allow post-secondary schools to file for antiharassment and stalking protection orders. Protection orders will not eradicate the fear that school community members live with, but such a legal method of protection can, in a meaningful way, alleviate some of that fear. And if a protection order saves one life or prevents one tragedy at a post-secondary school then it is worth the administrative hassle to amend the law to protect our schools. And Washington State legislators should not stop at protection orders. Rather, school safety at all levels should be at the top of the state's priority list until people can seek an education without fearing the sounds of bullets ricocheting through their hallways.