
Judiciary Committee

HB 1642

Title: An act relating to criminal violations of no-contact orders, protection orders, and restraining orders.

Brief Description: Concerning criminal violations of no-contact orders, protection orders, and restraining orders.

Sponsors: Representatives Pedersen, Lantz, Williams, Moeller, Wood, Kirby, O'Brien, Chase, Ormsby and Green.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Provides that a violation of a restraint provision prohibiting contact with a protected party in a no-contact, restraining, or protection order is a gross misdemeanor, regardless of whether the violation is one for which an arrest is required.

Hearing Date: 2/7/07

Staff: Trudes Tango (786-7384).

Background:

There are several different types of no-contact, protection, and restraining orders. The provisions in these orders can vary. For example, domestic violence protection orders may include provisions: (a) restraining the respondent from committing acts of domestic violence; (b) excluding the person from another's residence, workplace, school, or daycare; (c) prohibiting the respondent from coming within a specified distance of a location; (d) restraining the respondent from contact with a victim of domestic violence or the victim's children; and (e) ordering that the petitioner have access to essential personal effects and use of a vehicle.

A restraining order issued in a dissolution proceeding may include many of the same provisions in a domestic violence protection order, and may also: (a) restrain one party from molesting or disturbing another person; (b) restrain the respondent from transferring, selling, removing, or concealing property; and (c) restrain the respondent from removing a minor child from the jurisdiction.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

A no-contact order, which can be issued when a person has been arrested or charged with a domestic violence crime, prohibits the person from having any contact with the victim.

Regardless of the type of order, violations of no-contact, protection, and restraining orders are punishable under the Domestic Violence Protection Act. Violations of these orders can constitute contempt of court, a gross misdemeanor, or a felony, depending on the circumstances.

The relevant part of the statute establishing when a violation is a gross misdemeanor reads:

Whenever an order is granted under this chapter, chapter 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or there is a valid foreign protection order as defined in RCW 26.52.020, and the respondent or person to be restrained knows of the order, a violation of the restraint provisions, or of a provision excluding the person from a residence, workplace, school, or day care, or of a provision prohibiting a person from knowingly coming within, or knowingly remaining within, a specified distance of a location, or of a provision of a foreign protection order specifically indicating that a violation will be a crime, *for which an arrest is required under RCW 10.31.100(2) (a) or (b)*, is a gross misdemeanor except as provided in subsections (4) and (5) of this section.

Some trial courts have interpreted the statute to require that the violation of a restraint provision be one for which an arrest is required under RCW 10.31.100(2)(a) or (b) in order for the violation of the order to be a gross misdemeanor. An arrest is required under RCW 10.31.100(2)(a) when, among other things, the person violates a provision restraining the person from committing acts of threats or violence. Thus, some trial courts have ruled that a violation of a no-contact order is a gross misdemeanor when the person violates the restraint provision of the order by committing acts of threats or violence. Short of acts of threats or violence, a violation of a restraint provision in an order is punishable as contempt of court.

Summary of Bill:

The provision describing when it is a gross misdemeanor to violate a no-contact, protection, or restraining order is amended.

It is a gross misdemeanor when a person who is subject to a no-contact, protection, or restraining order knows of the order and violates a restraint provision prohibiting contact with a protected party. A violation of a restraint provision does not need to be a violation for which an arrest is required in order for the violation to constitute a gross misdemeanor.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.