
Judiciary Committee

HB 1840

Title: An act relating to firearms laws concerning persons subject to no-contact orders, protection orders, and restraining orders.

Brief Description: Concerning firearms laws for persons subject to no-contact orders, protection orders, and restraining orders.

Sponsors: Representatives Goodman, Hope, Hunter, Pedersen, Bergquist, Habib, Fey, Ryu, Jinkins, Pollet and Tharinger.

Brief Summary of Bill

- Adds possession of a firearm while subject to certain protection, no-contact, and restraining orders to the list of what constitutes unlawful possession of a firearm in the second degree.
- Requires a person subject to certain protection, no-contact, or restraining orders to surrender their firearms, dangerous weapons, and concealed pistol license while the order is in place.
- Adds sexual assault protection orders to the list of orders qualifying for weapons surrender.
- Requires law enforcement agencies to develop policies and procedures for seizure and return of weapons required to be surrendered.

Hearing Date: 2/20/13

Staff: Omeara Harrington (786-7136).

Background:

Protection Orders, No-Contact Orders, and Restraining Orders.

There are a number of civil protection orders a court may grant to restrict a person's ability to have contact with another person. A court may grant an ex parte temporary protection order and,

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upon a full hearing, a final order that lasts for a fixed term or, in some cases, is permanent. Additionally, courts may issue no-contact orders to protect victims during the pendency of criminal proceedings, and these orders may also be imposed or extended as a condition of release or sentence. A court may order a restraining order in a variety of contexts, but they are commonly entered in family law proceedings to keep the parties from coming into contact with one another or to prevent removal of or injury to a child.

Sexual assault protection orders are available to victims of nonconsensual sexual conduct or penetration that gives rise to a reasonable fear of future dangerous acts. These orders provide a remedy for victims of sexual assault who do not qualify for a domestic violence protection order.

Unlawful Possession of a Firearm.

A person is guilty of Unlawful Possession of a Firearm in the first degree if the person owns, possesses, or has in his or her control, any firearm after having previously been convicted of a serious offense. A "serious offense" includes, among other things, any crime of violence, various class B felonies, any felony with a deadly weapon verdict, certain vehicular related crimes when committed while under the influence of alcohol or drugs or while driving recklessly.

A person is guilty of Unlawful Possession of a Firearm in the second degree if the person owns, possesses, or has in his or her control any firearm and the person:

- has previously been convicted of any felony (other than a serious offense);
- has previously been convicted of certain specified gross misdemeanors committed by one family or household member against another;
- has previously been involuntarily committed for mental health treatment;
- is under the age of 18 (with some exceptions); or
- is free on bond or personal recognizance pending trial, appeal, or sentencing for a serious offense.

Unlawful Possession of a Firearm in the first degree is a class B felony ranked at seriousness level VII under the SRA. For a defendant who has no prior convictions other than the predicate serious offense, the standard sentencing range is 21 to 27 months. In the second degree, it is a class C felony ranked at seriousness level III under the SRA. For an offender who has no prior convictions, the standard sentence range is one to three months, and for an offender who has one prior felony conviction, the standard sentence range is three to eight months.

Surrender of Firearms and Dangerous Weapons.

A person subject to a protection order, no contact order, or restraining order may, under some circumstances, be required to surrender their firearms, dangerous weapons, and concealed pistol license while the order is in place. In entering most orders, if the person to be restrained has used or threatened to use a firearm in the commission of a felony, or is otherwise disqualified from having a firearm, the court either may or must require the person to surrender their firearms, dangerous weapons, and concealed pistol license, depending on the evidence presented.

Certain categories of people are disqualified from possessing firearms under federal law, including persons who have been convicted of a domestic violence offense, and persons subject to certain restraining orders. Qualifying orders include those that were issued after notice and an opportunity for the person to participate, restrain the person from harassing, stalking, or threatening an intimate partner or the child of an intimate partner, and include either: (1) a

finding that the restrained person is a credible threat to the physical safety of an intimate partner or the child of an intimate partner; or (2) terms restraining the person from committing certain criminal acts against an intimate partner or the child of an intimate partner. An intimate partner includes a person's spouse or former spouse, a parent of the person's child, and a person's current or former cohabitant.

Summary of Bill:

Additional restrictions on the ability to possess a firearm, dangerous weapon, or concealed pistol license are placed on persons subject to certain listed protection, no-contact, and restraining orders. The restrictions only apply when the order was issued after notice and an opportunity of the person to participate. Additionally, the order must either include a finding that the restrained person is a credible threat to the physical safety of an intimate partner or an intimate partner's child, or, by its terms, restrain the person from committing certain criminal acts against an intimate partner or the child of an intimate partner. An intimate partner includes a current or former spouse or domestic partner, a person with whom the restrained person has a child in common, or is a person with whom the restrained person has cohabitated or is cohabitating.

Possessing a firearm while subject to a qualifying protection, no-contact, or restraining order constitutes unlawful possession of a firearm in the second degree.

When entering a qualifying protection, no-contact, or restraining order the court must:

- require the respondent to surrender any firearm or other dangerous weapon;
- prohibit the respondent from obtaining or possessing a firearm or other dangerous weapon;
- require the party to surrender their concealed pistol license; and
- prohibit the party from obtaining or possessing a concealed pistol license.

Sexual assault protection orders are included in the provisions of current law that require firearms, dangerous weapons, and concealed pistol licenses to be surrendered by restrained parties.

All law enforcement agencies must develop policies and procedures regarding acceptance, seizure, storage, and return of weapons required to be surrendered.

Appropriation: None.

Fiscal Note: Requested on February 13, 2013.

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