

SENATE BILL REPORT

SHB 1079

As Reported by Senate Committee On:
Law & Justice, March 29, 2017

Title: An act relating to no-contact orders for human trafficking and promoting prostitution-related offenses.

Brief Description: Creating a criminal no-contact order for human trafficking and promoting prostitution-related offenses.

Sponsors: House Committee on Public Safety (originally sponsored by Representatives Orwall, Klippert, Goodman, Stokesbary, Kilduff, Chapman, McCabe, Hudgins, Jinkins, Ortiz-Self, Bergquist, Stanford, Griffey, Hargrove, Smith, Tarleton, Harmsworth, Ormsby, Muri, Van Werven, Kraft, Fey, Slatter, Sawyer, McBride and Gregerson; by request of Attorney General).

Brief History: Passed House: 2/13/17, 97-0.

Committee Activity: Law & Justice: 3/22/17, 3/29/17 [DPA].

Brief Summary of Amended Bill

- Creates procedures for entry of no-contact orders enforced by general authority law enforcement to prohibit defendants from contacting victims when charged with or convicted of Trafficking and Promoting Prostitution offenses.
- Authorizes the court to impose a no-contact order beginning with arrest or citation and continuing until the case resolves, and directs the order to be provided to law enforcement.
- Authorizes the court to consider the provisions of RCW9.41.800 when issuing a no-contact order prior to releasing someone before arraignment, and permits a defendant to request modification or termination of the order.
- Makes technical changes for consistent language with other statutes.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended.

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.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pedersen, Ranking Minority Member; Angel, Darneille, Frockt and Wilson.

Staff: Melissa Burke-Cain (786-7755)

Background: 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. No-contact orders prohibit contact of any kind with the victim and forbid the respondent from being within a set distance of specific locations. They also may involve a surrender of firearms, depending on the restrained person's criminal history. There are specialized procedures and requirements for no-contact orders for harassment, domestic violence, and stalking. Generally, a violation of a no-contact order is a gross misdemeanor, except a violation can be elevated to a Class C felony when tied to an assault or for a repeat violation.

A person is guilty of Trafficking in the second degree when the person: (1) recruits, harbors, transports, transfers, provides, obtains, or receives by any means another person, knowing that force, fraud, or coercion will be used to cause the person to engage in forced labor, involuntary servitude, a sexually explicit act or a commercial sex act, or that the person has not reached 18 years of age and is caused to engage in a sexually explicit act or a commercial sex act; or (2) benefits financially or receives anything of value from participation in a venture that has engaged in the above acts.

The offense is Trafficking in the first degree if the acts involve kidnapping, sexual motivation, or illegal harvesting of human organs or result in a death.

Trafficking in the second degree is a Class A felony with a seriousness level of XII, and Trafficking in the first degree is a Class A felony with a seriousness level of XIV.

A person is guilty of Promoting Prostitution in the first degree if the person knowingly advances prostitution:

- by compelling a person by threat or force to engage in prostitution or profits from prostitution which results from such threat or force; or
- by compelling a person with a mental incapacity or developmental disability that renders the person incapable of consent to engage in prostitution or profits from prostitution that results from such compulsion.

A person is guilty of Promoting Prostitution in the second degree if the person knowingly profits from prostitution or advances prostitution.

Promoting Prostitution in the first degree is a Class B felony with a seriousness level of VIII. Promoting Prostitution in the second degree is a Class C felony with a seriousness level of III.

Summary of Amended Bill: Specialized no-contact orders are created for Trafficking and Promoting Prostitution offenses.

When a person is charged with or arrested for Trafficking or Promoting Prostitution, the court may issue a no-contact order prohibiting the defendant from having any contact with the victim or impose additional conditions including restrictions on firearms. A no-contact order may be issued at any time during the case beginning with the citation or arrest and continuing until the case concludes. The no-contact order must be sent to law enforcement so that general authority Washington peace officers enforce the order. So long as the court finds probable cause, the court may issue or extend a no-contact order even if the defendant fails to appear in court. A defendant may ask the court to modify or terminate the no-contact order including firearms restrictions.

A violation of a no-contact order is a gross misdemeanor, except a violation can be elevated to a Class C felony when tied to an assault or for a repeat violation. If a person is convicted of violating a no-contact order, the court may require the defendant to submit to electronic monitoring.

A no-contact order is terminated if the defendant is acquitted or the charges are dismissed.

EFFECT OF LAW & JUSTICE COMMITTEE AMENDMENT(S):

- Clarifies that general authority Washington peace officers enforce the no-contact order.
- Permits a defendant to seek modification or termination of the no-contact order, including weapons restrictions.
- Authorizes the court to impose a no-contact order beginning with arrest or citation and continuing until the case resolves.
- Requires notice of the no-contact order to be provided to law enforcement.
- Conforms language to match other current language in statute.
- Authorizes the court to consider the provisions of RCW9.41.800 when issuing a no-contact order prior to releasing someone before arraignment.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This bill provides an extra margin of protection for trafficking and prostitution victims. Often, persons who are trafficked or involved in commercial sexual exploitation are threatened with death or injury to themselves or their families if they cooperate in a criminal case. For immigrant sex trafficking victims, their visa status may require them to testify against their traffickers. Some stay in the situation or are afraid to seek help without a protection order. There are advocates in the immigrant communities who are also survivors and can help when there is a no-contact order to alert police officers to violations of the order as they learn about them in their work with survivors. Family members living outside the US may be more resistant to

coercion when they know their family member here in Washington has legal protection. A no-contact order is needed because law enforcement does not have a way to know when the judge orders conditions of release. A no-contact order will allow law enforcement to act more quickly to protect the victim than the current law's conditions of release allow. A no-contact order is very important to victims in this situation. The relationship between the victim and the perpetrator is one of a vulnerable human to a predator. The no-contact order would take the burden off of the victim who can say, "I want to be around you, but I cannot because of the court order." It starts the process of getting away from the perpetrator.

Persons Testifying: PRO: Representative Tina Orwall, Prime Sponsor; Velma Veloria, Faith Action Network; Emma Catague, Fil. Comm. of Seattle, Fil. Against Violence; Basu Sutapa, Assistant Director UW Women's Center; Farshad Talebi, Office of the Attorney General; Coreen Schnepf, Kitsap County Prosecuting Attorney's Office; Natalie Mays, Kitsap Prosecuting Attorney's Office.

Persons Signed In To Testify But Not Testifying: None.