
HOUSE BILL 2457

State of Washington 65th Legislature 2018 Regular Session

By Representatives Goodman and Klippert

Read first time 01/09/18. Referred to Committee on Public Safety.

1 AN ACT Relating to timelines in criminal cases involving domestic
2 violence; amending RCW 10.99.050 and 9.95.210; creating a new
3 section; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature believes that the existing
6 language of RCW 10.99.050 has always authorized courts to issue
7 domestic violence no-contact orders in adult and juvenile cases that
8 last up to the adult statutory maximum in felony cases and up to the
9 maximum period for which an adult sentence can be suspended or
10 deferred in nonfelony cases. However, in *State v. Granath*, 200 Wn.
11 App. 26, 401 P.3d 405 (2017), the court of appeals recently
12 interpreted this provision to limit domestic violence no-contact
13 orders in nonfelony sentences to the duration of the defendant's
14 conditions of sentence. The legislature finds that this
15 interpretation inadequately protects victims of domestic violence.
16 The legislature intends to clarify the trial courts' authority to
17 issue a no-contact order that remains in place at least for the
18 period of time determined by the court, and until the defendant has
19 completed his or her sentence when the sentence extends beyond the
20 normal maximum due to consecutive sentences, tolling while on warrant
21 status, or another reason.

1 The legislature further finds that there is a discrepancy in
2 which sentences for nonfelony domestic violence offenses can be
3 suspended for up to five years in district and municipal courts, but
4 only for up to two years in superior courts in most cases, creating
5 inconsistent protection for victims. The legislature intends to
6 rectify this discrepancy and create a consistent standard for the
7 maximum duration of domestic violence no-contact orders in nonfelony
8 cases across all courts.

9 **Sec. 2.** RCW 10.99.050 and 2000 c 119 s 20 are each amended to
10 read as follows:

11 (1) When a defendant is found guilty of a crime and a condition
12 of the sentence restricts the defendant's ability to have contact
13 with the victim, such condition shall be recorded and a written
14 certified copy of that order shall be provided to the victim.

15 (2)(a) Willful violation of a court order issued under this
16 section is punishable under RCW 26.50.110.

17 (b) The written order shall contain the court's directives and
18 shall bear the legend: Violation of this order is a criminal offense
19 under chapter 26.50 RCW and will subject a violator to arrest; any
20 assault, drive-by shooting, or reckless endangerment that is a
21 violation of this order is a felony.

22 (c) An order issued pursuant to this section in conjunction with
23 a misdemeanor or gross misdemeanor sentence or disposition shall
24 remain in effect for a fixed period of time as determined by the
25 court, not to exceed five years from the date of sentencing or
26 disposition.

27 (d) An order issued pursuant to this section in conjunction with
28 a felony sentence or disposition shall remain in effect for a fixed
29 period of time determined by the court, not to exceed the adult
30 maximum sentence as stated in RCW 9A.20.021(1).

31 (e) If the defendant remains subject to imprisonment, community
32 supervision, conditional release, probation, or parole beyond the
33 time period designated by the court under (c) or (d) of this
34 subsection, the order issued pursuant to this section shall remain in
35 effect until expiration of that condition.

36 (f) A court's authority to modify an order issued pursuant to
37 this section includes, but is not limited to, the authority to extend
38 the expiration date of the order, subject to the limitations
39 identified in (c) through (e) of this subsection.

1 (3) Whenever an order prohibiting contact is issued pursuant to
2 this section, the clerk of the court shall forward a copy of the
3 order on or before the next judicial day to the appropriate law
4 enforcement agency specified in the order. Upon receipt of the copy
5 of the order the law enforcement agency shall enter the order for one
6 year or until the expiration date specified on the order into any
7 computer-based criminal intelligence information system available in
8 this state used by law enforcement agencies to list outstanding
9 warrants. Entry into the computer-based criminal intelligence
10 information system constitutes notice to all law enforcement agencies
11 of the existence of the order. The order is fully enforceable in any
12 jurisdiction in the state.

13 (4) If an order prohibiting contact issued pursuant to this
14 section is modified or terminated, the clerk of the court shall
15 notify the law enforcement agency specified in the order on or before
16 the next judicial day. Upon receipt of notice that an order has been
17 terminated, the law enforcement agency shall remove the order from
18 any computer-based criminal intelligence system.

19 **Sec. 3.** RCW 9.95.210 and 2012 1st sp.s. c 6 s 10 are each
20 amended to read as follows:

21 (1)(a) Except as provided in (b) of this subsection in granting
22 probation, the superior court may suspend the imposition or the
23 execution of the sentence and may direct that the suspension may
24 continue upon such conditions and for such time as it shall
25 designate, not exceeding the maximum term of sentence or two years,
26 whichever is longer.

27 (b) For a defendant sentenced for a domestic violence offense, or
28 under RCW 46.61.5055, the superior court may suspend the imposition
29 or the execution of the sentence and may direct that the suspension
30 continue upon such conditions and for such time as the court shall
31 designate, not to exceed five years. The court shall have continuing
32 jurisdiction and authority to suspend the execution of all or any
33 part of the sentence upon stated terms, including installment payment
34 of fines. A defendant who has been sentenced, and who then fails to
35 appear for any hearing to address the defendant's compliance with the
36 terms of probation when ordered to do so by the court shall have the
37 term of probation tolled until such time as the defendant makes his
38 or her presence known to the court on the record. Any time before
39 entering an order terminating probation, the court may modify or

1 revoke its order suspending the imposition or execution of the
2 sentence if the defendant violates or fails to carry out any of the
3 conditions of the suspended sentence.

4 (2) In the order granting probation and as a condition thereof,
5 the superior court may in its discretion imprison the defendant in
6 the county jail for a period not exceeding one year and may fine the
7 defendant any sum not exceeding the statutory limit for the offense
8 committed, and court costs. As a condition of probation, the superior
9 court shall require the payment of the penalty assessment required by
10 RCW 7.68.035. The superior court may also require the defendant to
11 make such monetary payments, on such terms as it deems appropriate
12 under the circumstances, as are necessary: (a) To comply with any
13 order of the court for the payment of family support; (b) to make
14 restitution to any person or persons who may have suffered loss or
15 damage by reason of the commission of the crime in question or when
16 the offender pleads guilty to a lesser offense or fewer offenses and
17 agrees with the prosecutor's recommendation that the offender be
18 required to pay restitution to a victim of an offense or offenses
19 which are not prosecuted pursuant to a plea agreement; (c) to pay
20 such fine as may be imposed and court costs, including reimbursement
21 of the state for costs of extradition if return to this state by
22 extradition was required; (d) following consideration of the
23 financial condition of the person subject to possible electronic
24 monitoring, to pay for the costs of electronic monitoring if that
25 monitoring was required by the court as a condition of release from
26 custody or as a condition of probation; (e) to contribute to a county
27 or interlocal drug fund; and (f) to make restitution to a public
28 agency for the costs of an emergency response under RCW 38.52.430,
29 and may require bonds for the faithful observance of any and all
30 conditions imposed in the probation.

31 (3) The superior court shall order restitution in all cases where
32 the victim is entitled to benefits under the crime victims'
33 compensation act, chapter 7.68 RCW. If the superior court does not
34 order restitution and the victim of the crime has been determined to
35 be entitled to benefits under the crime victims' compensation act,
36 the department of labor and industries, as administrator of the crime
37 victims' compensation program, may petition the superior court within
38 one year of imposition of the sentence for entry of a restitution
39 order. Upon receipt of a petition from the department of labor and

1 industries, the superior court shall hold a restitution hearing and
2 shall enter a restitution order.

3 (4) In granting probation, the superior court may order the
4 probationer to report to the secretary of corrections or such officer
5 as the secretary may designate and as a condition of the probation to
6 follow the instructions of the secretary for up to twelve months. If
7 the county legislative authority has elected to assume responsibility
8 for the supervision of superior court misdemeanor probationers
9 within its jurisdiction, the superior court misdemeanor probationer
10 shall report to a probation officer employed or contracted for by the
11 county. In cases where a superior court misdemeanor probationer is
12 sentenced in one county, but resides within another county, there
13 must be provisions for the probationer to report to the agency having
14 supervision responsibility for the probationer's county of residence.

15 (5) If the probationer has been ordered to make restitution and
16 the superior court has ordered supervision, the officer supervising
17 the probationer shall make a reasonable effort to ascertain whether
18 restitution has been made. If the superior court has ordered
19 supervision and restitution has not been made as ordered, the officer
20 shall inform the prosecutor of that violation of the terms of
21 probation not less than three months prior to the termination of the
22 probation period. The secretary of corrections will promulgate rules
23 and regulations for the conduct of the person during the term of
24 probation. For defendants found guilty in district court, like
25 functions as the secretary performs in regard to probation may be
26 performed by probation officers employed for that purpose by the
27 county legislative authority of the county wherein the court is
28 located.

29 (6) The provisions of RCW 9.94A.501 (~~and 9.94A.5011~~) apply to
30 sentences imposed under this section.

31 (7) For purposes of this section "domestic violence offense"
32 means a crime included in RCW 10.99.020 that is not a felony offense.

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