

# HOUSE BILL REPORT

## HB 2820

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**As Reported by House Committee On:**  
Civil Rights & Judiciary

**Title:** An act relating to court orders involving weapons or domestic violence.

**Brief Description:** Concerning court orders involving weapons or domestic violence.

**Sponsors:** Representatives Klippert, Kilduff, Davis, Goodman and Pollet.

**Brief History:**

**Committee Activity:**

Civil Rights & Judiciary: 2/4/20, 2/5/20 [DPS].

**Brief Summary of Substitute Bill**

- Requires personal service of an order to surrender weapons on a defendant or respondent who is present at a hearing where a protective order is entered.
- Allows a court to consider additional sources of information when determining whether to prohibit firearms possession as part of a domestic violence no-contact order.

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### HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Kilduff, Chair; Thai, Vice Chair; Goodman, Hansen, Kirby, Klippert, Orwall, Peterson, Rude, Valdez, Walen and Ybarra.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Dufault, Assistant Ranking Minority Member.

**Staff:** Ingrid Lewis (786-7289).

**Background:**

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

There are a number of protection orders, restraining orders, and no-contact orders (protective orders) that allow a court to restrain a person from having contact with or threatening another

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person or that exclude the person from certain locations or coming within a specified distance of certain locations. Protection orders are available for victims of domestic violence, stalking, harassment, sexual assault, and vulnerable adult abuse. In addition to protection orders, a court may enter a civil restraining order in family law proceedings that may include provisions restraining a person from contacting another or excluding the person from certain locations. In the context of criminal proceedings, a court may issue a no-contact order to protect the victim of the crime during the pendency of the criminal proceedings or as a condition of the sentence.

Generally, a violation of a protective order is a gross misdemeanor offense. A violation of some orders is a class C felony if the person violating the order has two prior convictions for violations of a similar order or if the violation involved an assault or reckless endangerment.

*Surrender of Firearms and Dangerous Weapons.* A person who is subject to a protective order may be required to surrender his or her firearms, dangerous weapons, and concealed pistol license (CPL) while the order is in place. A protective order that includes an order to surrender firearms, dangerous weapons, and any CPL must require immediate surrender and must be served by a law enforcement officer.

*Domestic Violence No-Contact Orders.* Domestic violence offenses are certain crimes committed by either one family member or household member against another or one intimate partner against another intimate partner. A domestic violence no-contact order may be issued in criminal cases and prohibits a defendant from contacting or knowingly coming or remaining within a specified distance of a location of a victim of such a crime. Willful violation of a domestic violence no-contact order is a crime punishable as a gross misdemeanor and becomes a felony offense under some circumstances.

A law enforcement officer responding to a domestic violence call must take a complete offense report, which includes documentation about an alleged abuser's access to firearms. When considering the release of a defendant charged with a domestic violence offense, a court is required to determine the necessity of a no-contact order and issue or extend one if necessary. In its determination, a court must consider all information in the incident report concerning the defendant's possession of and access to firearms and whether firearms were removed at the time of the incident. The court may include a firearm prohibition as a condition of release and order the defendant to surrender all firearms to a law enforcement agency upon release.

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### **Summary of Substitute Bill:**

*Surrender of Firearms and Dangerous Weapons.* If a protective order is entered in open court with the defendant or respondent present, an order to surrender must be served on the defendant or respondent. A record and acknowledgment of receipt service must be made on the record. If the respondent or defendant refuses service, the court may indicate the refusal on the record. A copy of the order and service shall be immediately transmitted to law enforcement.

*Domestic Violence No-Contact Orders.* In addition to all information documented in a law enforcement officer domestic violence incident report, a court must consider a declaration in support of probable cause or other summary documentation of the incident report when issuing a domestic violence no-contact order.

**Substitute Bill Compared to Original Bill:**

The substitute bill changes sentence structure and modifies service of process of an order to surrender weapons by:

- providing that when personal service is attempted at a proceeding, a respondent or defendant's refusal of service may be indicated on the record;
- requiring immediate transmission of a copy of the order and service to law enforcement; and
- removing language pertaining to service on defense counsel.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Staff Summary of Public Testimony:**

(In support) Under current law an order to surrender weapons must be served by a law enforcement officer. Sometimes law enforcement is not present in the courtroom at the time an order is issued, so they must find the individual for service. The bill allows the order of surrender of weapons to be served on the defendant while in open court which promotes efficiency. In addition, if a law enforcement officer encounters someone who has violated an order, the officer can verify service in the system.

This bill also allows courts to review a declaration in support of probable cause or other summary documentation related to a law enforcement incident. Currently, law only allows the court to review an incident report. The additional information acknowledges the different terminology used between jurisdictions.

The bill does not impinge on a person's Second Amendment rights. The bill is about serving an order, having the respondent acknowledge service, and placing a record of the service on the record.

(Opposed) None.

(Other) There is interest in ensuring that a court enters a record of personal service into a system that law enforcement can access. The most dangerous time for a petitioner in a protection order is when the respondent gets served. There is a notification system that the Washington Association of Sheriffs and Police Chiefs operates, which allows a petitioner in a

protection order to register to be automatically notified that a respondent has been served. This allows a petitioner to take appropriate protective measures.

**Persons Testifying:** (In support) Representative Klippert, prime sponsor; and Intisar Surur, Superior Court Judges' Association.

(Other) Russell Brown, Washington Association of Prosecuting Attorneys; and James McMahan, Washington Association of Sheriffs and Police Chiefs.

**Persons Signed In To Testify But Not Testifying:** None.