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**HOUSE BILL 2622**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Representatives Kilduff, Walen, Senn, Pollet, and Davis

Read first time 01/16/20. Referred to Committee on Civil Rights & Judiciary.

1 AN ACT Relating to procedures for ensuring compliance with court  
2 orders requiring surrender of firearms, weapons, and concealed pistol  
3 licenses; and amending RCW 9.41.801 and 7.94.090.

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

5 **Sec. 1.** RCW 9.41.801 and 2019 c 245 s 2 are each amended to read  
6 as follows:

7 (1) Because of the heightened risk of lethality to petitioners  
8 when respondents to protection orders become aware of court  
9 involvement and continue to have access to firearms, and the  
10 frequency of noncompliance with court orders prohibiting possession  
11 of firearms, law enforcement and judicial processes must emphasize  
12 swift and certain compliance with court orders prohibiting access,  
13 possession, and ownership of firearms.

14 (2) A law enforcement officer serving a protection order, no-  
15 contact order, or restraining order that includes an order to  
16 surrender all firearms, dangerous weapons, and a concealed pistol  
17 license under RCW 9.41.800 shall inform the respondent that the order  
18 is effective upon service and the respondent must immediately  
19 surrender all firearms and dangerous weapons in his or her custody,  
20 control, or possession and any concealed pistol license issued under  
21 RCW 9.41.070, and conduct any search permitted by law for such

1 firearms, dangerous weapons, and concealed pistol license. The law  
2 enforcement officer shall take possession of all firearms, dangerous  
3 weapons, and any concealed pistol license belonging to the respondent  
4 that are surrendered, in plain sight, or discovered pursuant to a  
5 lawful search. Alternatively, if personal service is not required  
6 because the respondent was present at the hearing at which the order  
7 was entered, the respondent must immediately surrender all firearms,  
8 dangerous weapons, and any concealed pistol license in a safe manner  
9 to the control of the local law enforcement agency on the day of the  
10 hearing at which the respondent was present.

11 (3) At the time of surrender, a law enforcement officer taking  
12 possession of firearms, dangerous weapons, and any concealed pistol  
13 license shall issue a receipt identifying all firearms, dangerous  
14 weapons, and any concealed pistol license that have been surrendered  
15 and provide a copy of the receipt to the respondent. The law  
16 enforcement agency shall file the original receipt with the court  
17 within twenty-four hours after service of the order and retain a copy  
18 of the receipt, electronically whenever electronic filing is  
19 available.

20 (4) Upon the sworn statement or testimony of the petitioner or of  
21 any law enforcement officer alleging that the respondent has failed  
22 to comply with the surrender of firearms or dangerous weapons as  
23 required by an order issued under RCW 9.41.800, the court shall  
24 determine whether probable cause exists to believe that the  
25 respondent has failed to surrender all firearms and dangerous weapons  
26 in their possession, custody, or control. If probable cause exists,  
27 the court shall issue a warrant describing the firearms or dangerous  
28 weapons and authorizing a search of the locations where the firearms  
29 and dangerous weapons are reasonably believed to be and the seizure  
30 of all firearms and dangerous weapons discovered pursuant to such  
31 search.

32 (5) If a person other than the respondent claims title to any  
33 firearms or dangerous weapons surrendered pursuant to this section,  
34 and the person is determined by the law enforcement agency to be the  
35 lawful owner of the firearm or dangerous weapon, the firearm or  
36 dangerous weapon shall be returned to the lawful owner, provided  
37 that:

38 (a) The firearm or dangerous weapon is removed from the  
39 respondent's access, custody, control, or possession and the lawful  
40 owner agrees by written document signed under penalty of perjury to

1 store the firearm or dangerous weapon in a manner such that the  
2 respondent does not have access to or control of the firearm or  
3 dangerous weapon;

4 (b) The firearm or dangerous weapon is not otherwise unlawfully  
5 possessed by the owner; and

6 (c) The requirements of RCW 9.41.345 are met.

7 (6) Courts shall develop procedures to verify timely and complete  
8 compliance with orders to surrender weapons under RCW 9.41.800,  
9 including compliance review hearings to be held as soon as possible  
10 upon receipt from law enforcement of proof of service. A compliance  
11 review hearing is not required if the court can otherwise enter  
12 findings on the record or enter written findings that the proof of  
13 surrender or declaration of nonsurrender attested to by the person  
14 subject to the order, along with verification from law enforcement  
15 and any other relevant evidence, makes a sufficient showing that the  
16 person has timely and completely surrendered all firearms and  
17 dangerous weapons in their custody, control, or possession, and any  
18 concealed pistol license issued under RCW 9.41.070, to a law  
19 enforcement agency. If the court does not have a sufficient record  
20 before it on which to make such a finding, the court must set a  
21 review hearing to occur as soon as possible at which the respondent  
22 must be present and provide testimony to the court under oath  
23 verifying compliance with the court's order.

24 (7)(a) If a court finds at the compliance review hearing, or any  
25 other hearing where compliance with the order to surrender weapons is  
26 addressed, that there is probable cause to believe the respondent was  
27 aware of, and failed to fully comply with, an order to surrender  
28 weapons issued against the respondent, or if the respondent failed to  
29 appear at the compliance review hearing, or if the respondent  
30 violated the underlying order after the court entered findings of  
31 compliance, the court shall initiate a contempt proceeding to impose  
32 remedial sanctions on its own motion or the motion of the prosecutor,  
33 city attorney, or the petitioner's counsel, and issue an order  
34 requiring the respondent to appear and show cause why the respondent  
35 should not be held in contempt of court pursuant to chapter 7.21 RCW.

36 (b) If the respondent is not present in court at the compliance  
37 review hearing or if the court issues an order to appear and show  
38 cause after a compliance review hearing, service of the order to show  
39 cause shall be by personal service or in the manner provided in the  
40 civil rules of superior court or applicable statute.

1 (c) The order to show cause served upon the respondent shall  
2 state the date, time, and location of the hearing and shall include a  
3 warning that the respondent may be held in contempt of court if the  
4 respondent fails to promptly comply with the terms of the order to  
5 surrender weapons and a warning that an arrest warrant could be  
6 issued if the respondent fails to appear on the date and time  
7 provided in the order.

8 (d) At the show cause hearing, the respondent must be present and  
9 provide testimony to the court under oath and any other relevant  
10 evidence regarding compliance with the underlying court order to  
11 surrender weapons. The court shall also require verification from a  
12 law enforcement agency that all weapons have been surrendered and the  
13 concealed pistol license has been surrendered and revoked.

14 (e) If the court finds the respondent in contempt, the court may  
15 impose remedial sanctions designed to ensure swift compliance with  
16 the order to surrender weapons.

17 (f) The court may order a respondent found in contempt of the  
18 order to surrender weapons to pay for any losses incurred by a party  
19 in connection with the contempt proceeding, including costs and  
20 reasonable attorneys' fees.

21 (8) All law enforcement agencies must have policies and  
22 procedures to provide for the acceptance, storage, and return of  
23 firearms, dangerous weapons, and concealed pistol licenses that a  
24 court requires must be surrendered under RCW 9.41.800. A law  
25 enforcement agency holding any firearm or concealed pistol license  
26 that has been surrendered under RCW 9.41.800 shall comply with the  
27 provisions of RCW 9.41.340 and 9.41.345 before the return of the  
28 firearm or concealed pistol license to the owner or individual from  
29 whom it was obtained.

30 ~~((+8))~~ (9) The administrative office of the courts shall create  
31 a statewide pattern form to assist the courts in ensuring timely and  
32 complete compliance in a consistent manner with orders issued under  
33 this chapter. The administrative office of the courts shall report  
34 annually on the number of orders issued under this chapter by each  
35 court, the degree of compliance, and the number of firearms obtained,  
36 and may make recommendations regarding additional procedures to  
37 enhance compliance and victim safety.

38 **Sec. 2.** RCW 7.94.090 and 2017 c 3 s 10 (Initiative Measure No.  
39 1491) are each amended to read as follows:

1 (1) Upon issuance of any extreme risk protection order under this  
2 chapter, including an ex parte extreme risk protection order, the  
3 court shall order the respondent to surrender to the local law  
4 enforcement agency all firearms in the respondent's custody, control,  
5 or possession and any concealed pistol license issued under RCW  
6 9.41.070.

7 (2) The law enforcement officer serving any extreme risk  
8 protection order under this chapter, including an ex parte extreme  
9 risk protection order, shall request that the respondent immediately  
10 surrender all firearms in his or her custody, control, or possession  
11 and any concealed pistol license issued under RCW 9.41.070, and  
12 conduct any search permitted by law for such firearms. The law  
13 enforcement officer shall take possession of all firearms belonging  
14 to the respondent that are surrendered, in plain sight, or discovered  
15 pursuant to a lawful search. Alternatively, if personal service by a  
16 law enforcement officer is not possible, or not required because the  
17 respondent was present at the extreme risk protection order hearing,  
18 the respondent shall surrender the firearms in a safe manner to the  
19 control of the local law enforcement agency within forty-eight hours  
20 of being served with the order by alternate service or within forty-  
21 eight hours of the hearing at which the respondent was present.

22 (3) At the time of surrender, a law enforcement officer taking  
23 possession of a firearm or concealed pistol license shall issue a  
24 receipt identifying all firearms that have been surrendered and  
25 provide a copy of the receipt to the respondent. Within seventy-two  
26 hours after service of the order, the officer serving the order shall  
27 file the original receipt with the court and shall ensure that his or  
28 her law enforcement agency retains a copy of the receipt.

29 (4) Upon the sworn statement or testimony of the petitioner or of  
30 any law enforcement officer alleging that the respondent has failed  
31 to comply with the surrender of firearms as required by an order  
32 issued under this chapter, the court shall determine whether probable  
33 cause exists to believe that the respondent has failed to surrender  
34 all firearms in his or her possession, custody, or control. If  
35 probable cause exists, the court shall issue a warrant describing the  
36 firearms and authorizing a search of the locations where the firearms  
37 are reasonably believed to be and the seizure of any firearms  
38 discovered pursuant to such search.

39 (5) If a person other than the respondent claims title to any  
40 firearms surrendered pursuant to this section, and he or she is

1 determined by the law enforcement agency to be the lawful owner of  
2 the firearm, the firearm shall be returned to him or her, provided  
3 that:

4 (a) The firearm is removed from the respondent's custody,  
5 control, or possession and the lawful owner agrees to store the  
6 firearm in a manner such that the respondent does not have access to  
7 or control of the firearm; and

8 (b) The firearm is not otherwise unlawfully possessed by the  
9 owner.

10 (6) Upon the issuance of a one-year extreme risk protection  
11 order, the court shall order a new compliance review hearing date and  
12 require the respondent to appear not later than three judicial days  
13 from the issuance of the order. The court shall require a showing  
14 that the ~~((person subject to the order))~~ respondent has surrendered  
15 any firearms in ~~((his or her))~~ the respondent's custody, control, or  
16 possession, and any concealed pistol license issued under RCW  
17 9.41.070 to a law enforcement agency. The court may dismiss the  
18 hearing upon a satisfactory showing that the respondent has timely  
19 and completely surrendered all firearms in the respondent's custody,  
20 control, or possession and any concealed pistol license issued under  
21 RCW 9.41.070 to a law enforcement agency, and is in compliance with  
22 the order. If the court does not have a sufficient record before it  
23 on which to make such a finding, the court must set a review hearing  
24 to occur as soon as possible, at which the respondent must be present  
25 and provide testimony to the court under oath verifying compliance  
26 with the court's order.

27 (7)(a) If a court finds at the compliance review hearing, or any  
28 other hearing where compliance with the order is addressed, that  
29 there is probable cause to believe the respondent was aware of, and  
30 failed to fully comply with, the order, or if the respondent failed  
31 to appear at the compliance review hearing, or if the respondent  
32 violated the underlying order after the court entered findings of  
33 compliance, the court shall initiate a contempt proceeding on its own  
34 motion, or the motion of the prosecutor, city attorney, or the  
35 petitioner's counsel, to impose remedial sanctions, and issue an  
36 order requiring the respondent to appear and show cause why the  
37 respondent should not be held in contempt of court pursuant to  
38 chapter 7.21 RCW.

39 (b) If the respondent is not present in court at the compliance  
40 review hearing or if the court issues an order to appear and show

1 cause after a compliance review hearing, service of the order to show  
2 cause shall be by personal service or in the manner provided in the  
3 civil rules of superior court or applicable statute.

4 (c) The order to show cause served upon the respondent shall  
5 state the date, time, and location of the hearing and shall include a  
6 warning that the respondent may be held in contempt of court if the  
7 respondent fails to promptly comply with the terms of the extreme  
8 risk protection order and a warning that an arrest warrant could be  
9 issued if the respondent fails to appear on the date and time  
10 provided in the order to show cause.

11 (d) At the show cause hearing, the respondent must be present and  
12 provide testimony to the court under oath and any other relevant  
13 evidence regarding compliance with the extreme risk protection order.  
14 The court shall also require verification from a law enforcement  
15 agency that all firearms have been surrendered and the concealed  
16 pistol license has been surrendered and revoked.

17 (e) If the court finds the respondent in contempt, the court may  
18 impose remedial sanctions designed to ensure swift compliance with  
19 the order to surrender weapons.

20 (f) The court may order a respondent found in contempt of the  
21 order to pay for any losses incurred by a party in connection with  
22 the contempt proceeding, including costs and reasonable attorneys'  
23 fees.

24 (8) All law enforcement agencies must develop policies and  
25 procedures by June 1, 2017, regarding the acceptance, storage, and  
26 return of firearms required to be surrendered under this chapter. A  
27 law enforcement agency holding any surrendered firearm or concealed  
28 pistol license shall comply with the provisions of RCW 9.41.340 and  
29 9.41.345 before the return of the firearm or concealed pistol license  
30 to the owner or individual from whom it was obtained.

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