
SUBSTITUTE HOUSE BILL 2820

State of Washington

66th Legislature

2020 Regular Session

By House Civil Rights & Judiciary (originally sponsored by Representatives Klippert, Kilduff, Davis, Goodman, and Pollet)

READ FIRST TIME 02/07/20.

1 AN ACT Relating to court orders involving weapons or domestic
2 violence; amending RCW 10.99.040; and reenacting and amending RCW
3 9.41.800.

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

5 **Sec. 1.** RCW 9.41.800 and 2019 c 245 s 1 and 2019 c 46 s 5006 are
6 each reenacted and amended to read as follows:

7 (1) Any court when entering an order authorized under chapter
8 7.92 RCW, RCW 7.90.090, 9A.46.080, 10.14.080, 10.99.040, 10.99.045,
9 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26B.020, 26.50.060,
10 26.50.070, or 26.26A.470 shall, upon a showing by clear and
11 convincing evidence, that a party has: Used, displayed, or threatened
12 to use a firearm or other dangerous weapon in a felony, or is
13 ineligible to possess a firearm under the provisions of RCW 9.41.040:

14 (a) Require that the party immediately surrender all firearms and
15 other dangerous weapons;

16 (b) Require that the party immediately surrender any concealed
17 pistol license issued under RCW 9.41.070;

18 (c) Prohibit the party from accessing, obtaining, or possessing
19 any firearms or other dangerous weapons;

20 (d) Prohibit the party from obtaining or possessing a concealed
21 pistol license.

1 (2) Any court when entering an order authorized under chapter
2 7.92 RCW, RCW 7.90.090, 9A.46.080, 10.14.080, 10.99.040, 10.99.045,
3 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26B.020, 26.50.060,
4 26.50.070, or 26.26A.470 may, upon a showing by a preponderance of
5 the evidence but not by clear and convincing evidence, that a party
6 has: Used, displayed, or threatened to use a firearm or other
7 dangerous weapon in a felony, or is ineligible to possess a firearm
8 under the provisions of RCW 9.41.040:

9 (a) Require that the party immediately surrender all firearms and
10 other dangerous weapons;

11 (b) Require that the party immediately surrender a concealed
12 pistol license issued under RCW 9.41.070;

13 (c) Prohibit the party from accessing, obtaining, or possessing
14 any firearms or other dangerous weapons;

15 (d) Prohibit the party from obtaining or possessing a concealed
16 pistol license.

17 (3) During any period of time that the person is subject to a
18 court order issued under chapter 7.90, 7.92, 9A.46, 10.14, 10.99,
19 26.09, 26.10, 26.26A, 26.26B, or 26.50 RCW that:

20 (a) Was issued after a hearing of which the person received
21 actual notice, and at which the person had an opportunity to
22 participate;

23 (b) Restrains the person from harassing, stalking, or threatening
24 an intimate partner of the person or child of the intimate partner or
25 person, or engaging in other conduct that would place an intimate
26 partner in reasonable fear of bodily injury to the partner or child;
27 and

28 (c)(i) Includes a finding that the person represents a credible
29 threat to the physical safety of the intimate partner or child; and

30 (ii) By its terms, explicitly prohibits the use, attempted use,
31 or threatened use of physical force against the intimate partner or
32 child that would reasonably be expected to cause bodily injury, the
33 court shall:

34 (A) Require that the party immediately surrender all firearms and
35 other dangerous weapons;

36 (B) Require that the party immediately surrender a concealed
37 pistol license issued under RCW 9.41.070;

38 (C) Prohibit the party from accessing, obtaining, or possessing
39 any firearms or other dangerous weapons; and

1 (D) Prohibit the party from obtaining or possessing a concealed
2 pistol license.

3 (4) The court may order temporary surrender of all firearms and
4 other dangerous weapons, and any concealed pistol license, without
5 notice to the other party if it finds, on the basis of the moving
6 affidavit or other evidence, that irreparable injury could result if
7 an order is not issued until the time for response has elapsed.

8 (5) In addition to the provisions of subsections (1), (2), and
9 (4) of this section, the court may enter an order requiring a party
10 to comply with the provisions in subsection (1) of this section if it
11 finds that the possession of a firearm or other dangerous weapon by
12 any party presents a serious and imminent threat to public health or
13 safety, or to the health or safety of any individual.

14 (6) The requirements of subsections (1), (2), and (5) of this
15 section may be for a period of time less than the duration of the
16 order.

17 (7) The court may require the party to surrender all firearms and
18 other dangerous weapons in his or her immediate possession or control
19 or subject to his or her immediate possession or control, and any
20 concealed pistol license issued under RCW 9.41.070, to the local law
21 enforcement agency. Law enforcement officers shall use law
22 enforcement databases to assist in locating the respondent in
23 situations where the protected person does not know where the
24 respondent lives or where there is evidence that the respondent is
25 trying to evade service.

26 (8) If the court enters a protection order, restraining order, or
27 no-contact order that includes an order to surrender firearms,
28 dangerous weapons, and any concealed pistol license under this
29 section, the order must be served by a law enforcement officer.
30 However, the order must be personally served upon the respondent or
31 defendant if the order is entered in open court in the presence of
32 the respondent or defendant. The respondent or defendant shall
33 acknowledge receipt and service. If the respondent or defendant
34 refuses service, an agent of the court may indicate on the record
35 that the respondent or defendant refused service. The court shall
36 enter the service and receipt into the record. A copy of the order
37 and service shall be immediately transmitted to law enforcement.

38 **Sec. 2.** RCW 10.99.040 and 2019 c 367 s 4 are each amended to
39 read as follows:

1 (1) Because of the serious nature of domestic violence, the court
2 in domestic violence actions:

3 (a) Shall not dismiss any charge or delay disposition because of
4 concurrent dissolution or other civil proceedings;

5 (b) Shall not require proof that either party is seeking a
6 dissolution of marriage prior to instigation of criminal proceedings;

7 (c) Shall waive any requirement that the victim's location be
8 disclosed to any person, other than the attorney of a criminal
9 defendant, upon a showing that there is a possibility of further
10 violence: PROVIDED, That the court may order a criminal defense
11 attorney not to disclose to his or her client the victim's location;
12 and

13 (d) Shall identify by any reasonable means on docket sheets those
14 criminal actions arising from acts of domestic violence.

15 (2)(a) Because of the likelihood of repeated violence directed at
16 those who have been victims of domestic violence in the past, when
17 any person charged with or arrested for a crime involving domestic
18 violence is released from custody before arraignment or trial on bail
19 or personal recognizance, the court authorizing the release may
20 prohibit that person from having any contact with the victim. The
21 jurisdiction authorizing the release shall determine whether that
22 person should be prohibited from having any contact with the victim.
23 If there is no outstanding restraining or protective order
24 prohibiting that person from having contact with the victim, the
25 court authorizing release may issue, by telephone, a no-contact order
26 prohibiting the person charged or arrested from having contact with
27 the victim or from knowingly coming within, or knowingly remaining
28 within, a specified distance of a location.

29 (b) In issuing the order, the court shall consider the provisions
30 of RCW 9.41.800, and shall order the defendant to surrender, and
31 prohibit the person from possessing, all firearms, dangerous weapons,
32 and any concealed pistol license as required in RCW 9.41.800.

33 (c) The no-contact order shall also be issued in writing as soon
34 as possible, and shall state that it may be extended as provided in
35 subsection (3) of this section. By January 1, 2011, the
36 administrative office of the courts shall develop a pattern form for
37 all no-contact orders issued under this chapter. A no-contact order
38 issued under this chapter must substantially comply with the pattern
39 form developed by the administrative office of the courts.

1 (3) (a) At the time of arraignment the court shall determine
2 whether a no-contact order shall be issued or extended. So long as
3 the court finds probable cause, the court may issue or extend a no-
4 contact order even if the defendant fails to appear at arraignment.
5 The no-contact order shall terminate if the defendant is acquitted or
6 the charges are dismissed.

7 (b) In issuing the order, the court shall consider all
8 information documented in the incident report, declaration in support
9 of probable cause, or other summary documentation of the police
10 incident report concerning the person's possession of and access to
11 firearms and whether law enforcement took temporary custody of
12 firearms at the time of the arrest. The court may as a condition of
13 release prohibit the defendant from possessing or accessing firearms
14 and order the defendant to immediately surrender all firearms and any
15 concealed pistol license to a law enforcement agency upon release.

16 (c) If a no-contact order is issued or extended, the court may
17 also include in the conditions of release a requirement that the
18 defendant submit to electronic monitoring as defined in RCW
19 9.94A.030. If electronic monitoring is ordered, the court shall
20 specify who shall provide the monitoring services, and the terms
21 under which the monitoring shall be performed. Upon conviction, the
22 court may require as a condition of the sentence that the defendant
23 reimburse the providing agency for the costs of the electronic
24 monitoring.

25 (4) (a) Willful violation of a court order issued under subsection
26 (2), (3), or (7) of this section is punishable under RCW 26.50.110.

27 (b) The written order releasing the person charged or arrested
28 shall contain the court's directives and shall bear the legend:
29 "Violation of this order is a criminal offense under chapter 26.50
30 RCW and will subject a violator to arrest; any assault, drive-by
31 shooting, or reckless endangerment that is a violation of this order
32 is a felony. You can be arrested even if any person protected by the
33 order invites or allows you to violate the order's prohibitions. You
34 have the sole responsibility to avoid or refrain from violating the
35 order's provisions. Only the court can change the order."

36 (c) A certified copy of the order shall be provided to the
37 victim.

38 (5) If a no-contact order has been issued prior to charging, that
39 order shall expire at arraignment or within seventy-two hours if
40 charges are not filed.

1 (6) Whenever a no-contact order is issued, modified, or
2 terminated under subsection (2) or (3) of this section, the clerk of
3 the court shall forward a copy of the order on or before the next
4 judicial day to the appropriate law enforcement agency specified in
5 the order. Upon receipt of the copy of the order the law enforcement
6 agency shall enter the order for one year or until the expiration
7 date specified on the order into any computer-based criminal
8 intelligence information system available in this state used by law
9 enforcement agencies to list outstanding warrants. Entry into the
10 computer-based criminal intelligence information system constitutes
11 notice to all law enforcement agencies of the existence of the order.
12 The order is fully enforceable in any jurisdiction in the state. Upon
13 receipt of notice that an order has been terminated under subsection
14 (3) of this section, the law enforcement agency shall remove the
15 order from the computer-based criminal intelligence information
16 system.

17 (7) All courts shall develop policies and procedures by January
18 1, 2011, to grant victims a process to modify or rescind a no-contact
19 order issued under this chapter. The administrative office of the
20 courts shall develop a model policy to assist the courts in
21 implementing the requirements of this subsection.

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