

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2622

66th Legislature
2020 Regular Session

Passed by the House March 9, 2020
Yeas 56 Nays 40

**Speaker of the House of
Representatives**

Passed by the Senate March 6, 2020
Yeas 29 Nays 19

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2622** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2622

AS AMENDED BY THE SENATE

Passed Legislature - 2020 Regular Session

State of Washington 66th Legislature 2020 Regular Session

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

READ FIRST TIME 02/07/20.

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)) The order must be personally served upon the
8 respondent or defendant if the order is entered in open court in the
9 presence of the respondent or defendant. The respondent or defendant
10 shall acknowledge receipt and service. If the respondent or defendant
11 refuses service, an agent of the court may indicate on the record
12 that the respondent or defendant refused service. The court shall
13 enter the service and receipt into the record. A copy of the order
14 and service shall be transmitted immediately to law enforcement. The
15 respondent must immediately surrender all firearms, dangerous
16 weapons, and any concealed pistol license in a safe manner to the
17 control of the local law enforcement agency on the day of the hearing
18 at which the respondent was present.~~

19 (3) At the time of surrender, a law enforcement officer taking
20 possession of firearms, dangerous weapons, and any concealed pistol
21 license shall issue a receipt identifying all firearms, dangerous
22 weapons, and any concealed pistol license that have been surrendered
23 and provide a copy of the receipt to the respondent. The law
24 enforcement agency shall file the original receipt with the court
25 within twenty-four hours after service of the order and retain a copy
26 of the receipt, electronically whenever electronic filing is
27 available.

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

1 (5) If a person other than the respondent claims title to any
2 firearms or dangerous weapons surrendered pursuant to this section,
3 and the person is determined by the law enforcement agency to be the
4 lawful owner of the firearm or dangerous weapon, the firearm or
5 dangerous weapon shall be returned to the lawful owner, provided
6 that:

7 (a) The firearm or dangerous weapon is removed from the
8 respondent's access, custody, control, or possession and the lawful
9 owner agrees by written document signed under penalty of perjury to
10 store the firearm or dangerous weapon in a manner such that the
11 respondent does not have access to or control of the firearm or
12 dangerous weapon;

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

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

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

33 (7) (a) If a court finds at the compliance review hearing, or any
34 other hearing where compliance with the order to surrender weapons is
35 addressed, that there is probable cause to believe the respondent was
36 aware of and failed to fully comply with the order, failed to appear
37 at the compliance review hearing, or violated the order after the
38 court entered findings of compliance, pursuant to its authority under
39 chapter 7.21 RCW, the court may initiate a contempt proceeding to
40 impose remedial sanctions on its own motion, or upon the motion of

1 the prosecutor, city attorney, or the petitioner's counsel, and issue
2 an order requiring the respondent to appear, provide proof of
3 compliance with the order, and show cause why the respondent should
4 not be held in contempt of court.

5 (b) If the respondent is not present in court at the compliance
6 review hearing or if the court issues an order to appear and show
7 cause after a compliance review hearing, the clerk of the court shall
8 electronically transmit a copy of the order to show cause to the law
9 enforcement agency where the respondent resides for personal service
10 or service in the manner provided in the civil rules of superior
11 court or applicable statute.

12 (c) The order to show cause served upon the respondent shall
13 state the date, time, and location of the hearing and shall include a
14 warning that the respondent may be held in contempt of court if the
15 respondent fails to promptly comply with the terms of the order to
16 surrender weapons and a warning that an arrest warrant could be
17 issued if the respondent fails to appear on the date and time
18 provided in the order.

19 (d) (i) At the show cause hearing, the respondent must be present
20 and provide proof of compliance with the underlying court order to
21 surrender weapons and demonstrate why the relief requested should not
22 be granted.

23 (ii) The court shall take judicial notice of the receipt filed
24 with the court by the law enforcement agency pursuant to subsection
25 (3) of this section. The court shall also provide sufficient notice
26 to the law enforcement agency of the hearing. Upon receiving notice
27 pursuant to this subsection, a law enforcement agency must:

28 (A) Provide the court with a complete list of firearms and other
29 dangerous weapons surrendered by the respondent or otherwise
30 belonging to the respondent that are in the possession of the law
31 enforcement agency; and

32 (B) Provide the court with verification that any concealed pistol
33 license issued to the respondent has been surrendered and the agency
34 with authority to revoke the license has been notified.

35 (iii) If the law enforcement agency has a reasonable suspicion
36 that the respondent is not in full compliance with the terms of the
37 order, the law enforcement agency must submit the basis for its
38 belief to the court, and may do so through the filing of an
39 affidavit.

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

4 (f) The court may order a respondent found in contempt of the
5 order to surrender weapons to pay for any losses incurred by a party
6 in connection with the contempt proceeding, including reasonable
7 attorneys' fees, service fees, and other costs. The costs of the
8 proceeding shall not be borne by the petitioner.

9 (8) All law enforcement agencies must have policies and
10 procedures to provide for the acceptance, storage, and return of
11 firearms, dangerous weapons, and concealed pistol licenses that a
12 court requires must be surrendered under RCW 9.41.800. A law
13 enforcement agency holding any firearm or concealed pistol license
14 that has been surrendered under RCW 9.41.800 shall comply with the
15 provisions of RCW 9.41.340 and 9.41.345 before the return of the
16 firearm or concealed pistol license to the owner or individual from
17 whom it was obtained.

18 ~~((+8))~~ (9) The administrative office of the courts shall create
19 a statewide pattern form to assist the courts in ensuring timely and
20 complete compliance in a consistent manner with orders issued under
21 this chapter. The administrative office of the courts shall report
22 annually on the number of orders issued under this chapter by each
23 court, the degree of compliance, and the number of firearms obtained,
24 and may make recommendations regarding additional procedures to
25 enhance compliance and victim safety.

26 **Sec. 2.** RCW 7.94.090 and 2017 c 3 s 10 (Initiative Measure No.
27 1491) are each amended to read as follows:

28 (1) Upon issuance of any extreme risk protection order under this
29 chapter, including an ex parte extreme risk protection order, the
30 court shall order the respondent to surrender to the local law
31 enforcement agency all firearms in the respondent's custody, control,
32 or possession and any concealed pistol license issued under RCW
33 9.41.070.

34 (2) The law enforcement officer serving any extreme risk
35 protection order under this chapter, including an ex parte extreme
36 risk protection order, shall request that the respondent immediately
37 surrender all firearms in his or her custody, control, or possession
38 and any concealed pistol license issued under RCW 9.41.070, and
39 conduct any search permitted by law for such firearms. The law

1 enforcement officer shall take possession of all firearms belonging
2 to the respondent that are surrendered, in plain sight, or discovered
3 pursuant to a lawful search. The order must be personally served upon
4 the respondent or defendant if the order is entered in open court in
5 the presence of the respondent or defendant. The respondent or
6 defendant shall acknowledge receipt and service. If the respondent or
7 defendant refuses service, an agent of the court may indicate on the
8 record that the respondent or defendant refused service. The court
9 shall enter the service and receipt into the record. A copy of the
10 order and service shall be transmitted immediately to law
11 enforcement. Alternatively, if personal service by a law enforcement
12 officer is not possible, (~~or not required because the respondent was~~
13 ~~present at the extreme risk protection order hearing,~~) the
14 respondent shall surrender the firearms in a safe manner to the
15 control of the local law enforcement agency within forty-eight hours
16 of being served with the order by alternate service (~~or within~~
17 ~~forty-eight hours of the hearing at which the respondent was~~
18 ~~present~~)).

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

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

36 (5) If a person other than the respondent claims title to any
37 firearms surrendered pursuant to this section, and he or she is
38 determined by the law enforcement agency to be the lawful owner of
39 the firearm, the firearm shall be returned to him or her, provided
40 that:

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

5 (b) The firearm is not otherwise unlawfully possessed by the
6 owner.

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

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

35 (b) If the respondent is not present in court at the compliance
36 review hearing or if the court issues an order to appear and show
37 cause after a compliance review hearing, the clerk of the court shall
38 electronically transmit a copy of the order to show cause to the law
39 enforcement agency where the respondent resides for personal service

1 or service in the manner provided in the civil rules of superior
2 court or applicable statute.

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

10 (d) (i) At the show cause hearing, the respondent must be present
11 and provide proof of compliance with the extreme risk protection
12 order and demonstrate why the relief requested should not be granted.

13 (ii) The court shall take judicial notice of the receipt filed
14 with the court by the law enforcement agency pursuant to subsection
15 (3) of this section. The court shall also provide sufficient notice
16 to the law enforcement agency of the hearing. Upon receiving notice
17 pursuant to this subsection, a law enforcement agency must:

18 (A) Provide the court with a complete list of firearms
19 surrendered by the respondent or otherwise belonging to the
20 respondent that are in the possession of the law enforcement agency;
21 and

22 (B) Provide the court with verification that any concealed pistol
23 license issued to the respondent has been surrendered and the agency
24 with authority to revoke the license has been notified.

25 (iii) If the law enforcement agency has a reasonable suspicion
26 that the respondent is not in full compliance with the terms of the
27 order, the law enforcement agency must submit the basis for its
28 belief to the court, and may do so through the filing of an
29 affidavit.

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

33 (f) The court may order a respondent found in contempt of the
34 order to pay for any losses incurred by a party in connection with
35 the contempt proceeding, including reasonable attorneys' fees,
36 service fees, and other costs. The costs of the proceeding shall not
37 be borne by the petitioner.

38 (8) All law enforcement agencies must develop policies and
39 procedures by June 1, 2017, regarding the acceptance, storage, and
40 return of firearms required to be surrendered under this chapter. A

1 law enforcement agency holding any surrendered firearm or concealed
2 pistol license shall comply with the provisions of RCW 9.41.340 and
3 9.41.345 before the return of the firearm or concealed pistol license
4 to the owner or individual from whom it was obtained.

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