

FINAL BILL REPORT

E2SHB 1715

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Synopsis as Enacted

Brief Description: Enacting comprehensive protections for victims of domestic violence and other violence involving family members or intimate partners.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Davis, Mosbrucker, Duerr, Griffey, Walen, Lekanoff, Morgan, Callan, Ramel, Thai, Rule, Ryu, Kloba, Chopp, Pollet, Chapman, Mena, Cortes, Eslick, Bergquist and Fey).

House Committee on Community Safety, Justice, & Reentry
House Committee on Appropriations
Senate Committee on Law & Justice
Senate Committee on Ways & Means

Background:

Civil Protection Orders.

A court may issue different types of civil protection orders to protect a person from the behavior of another. Separate types of protection orders exist for domestic violence, sexual assault, harassment, stalking, and vulnerable adult abuse. Also, a court may issue an extreme risk protection order to prohibit a person who poses a significant risk of harm to self or others from possessing, purchasing, accessing, or receiving a firearm.

Temporary Orders.

For most types of protection orders, where it appears that the respondent has engaged in conduct against the petitioner that serves as a basis for a protection order and the petitioner alleges that serious immediate harm or irreparable injury could result if an order is not issued immediately, the court may grant an *ex parte* temporary protection order, pending a full hearing. After a hearing, the court may issue a full protection order.

Service of the Order.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

After a court grants an order, if service of the order by law enforcement is required, the court must forward the order and supporting materials to the relevant law enforcement agency before the next judicial day. The law enforcement agency must give precedence to serving the order over other documents that are not of a similar emergency nature. When personal service is required, the law enforcement agency must attempt to serve the order within 24 hours when practicable, but not more than five days after receiving the order.

Judicial Officer Training.

Judicial officers are encouraged to complete training on the unique nature of protection order proceedings, including evidence-based training on procedural justice, trauma-informed practices, gender-based violence dynamics, coercive control, elder abuse, juvenile sex offending, teen dating violence, and the requirements for the surrender of weapons. The trainings should be provided on an ongoing basis as best practices, research on trauma, and legislation continue to evolve.

Crimes of Domestic Violence.

A person arrested for an offense involving domestic violence must appear in front of a magistrate within one judicial day after arrest. If the defendant is released before arraignment or trial, the court may prohibit the defendant from having contact with the victim. In issuing the order, the court must consider ordering the defendant to surrender all firearms, dangerous weapons, or any concealed pistol license.

At arraignment, the court must determine whether a no-contact order should be issued or extended. In issuing the order, the court may order the defendant to immediately surrender all firearms and any concealed pistol license to law enforcement upon release. The court may also require the defendant to submit to electronic monitoring. Upon conviction, the defendant may be ordered to reimburse the agency that provides the electronic monitoring.

Surrender of Firearms or Dangerous Weapons.

Orders to Surrender Firearms or Dangerous Weapons.

A court may order a person to surrender firearms, dangerous weapons, or a concealed pistol license as part of a protection order or no-contact order. In some instances, such an order is mandatory. The order may last for any period of time up to the duration of the order.

Law enforcement must emphasize swift and certain compliance with court orders prohibiting access, possession, and ownership of all firearms. A law enforcement officer serving an order that includes the surrender of firearms, dangerous weapons, or a concealed pistol license must inform the respondent that the order is effective immediately, conduct a search as permitted by law, and take possession of all firearms, dangerous weapons, and any

concealed pistol license belonging to the respondent that are surrendered, in plain sight, or discovered via lawful search.

Compliance Hearings.

A court must conduct a compliance hearing as soon as possible after receiving notice from enforcement of proof of service. At the hearing, the respondent must appear and provide proof of compliance with the court order. A compliance review hearing is not necessary if there is a sufficient showing (through attestation by the respondent, law enforcement verification, and other relevant evidence) that the person has timely and completely complied with the order.

A person in noncompliance with an order to surrender firearms, dangerous weapons, or a concealed pistol license is subject to contempt of court sanctions.

Timing of Surrender.

If the respondent was present at the hearing, the surrender must occur on the same day as the hearing. If the respondent was not present at the hearing, and personal service by a law enforcement officer is not possible, surrender must occur within 24 hours of alternate service. A party ordered to surrender firearms, dangerous weapons, or a concealed pistol license must file with the court proof of surrender and receipt or a declaration of non-surrender within five days of the entry of the order.

Notification.

Law enforcement agencies must develop a notification protocol that allows a family or household member or intimate partner to use an incident or case number to request to be notified when a law enforcement returns a privately owned firearm to the individual from whom it was obtained. The notification may be made by telephone, email, text message, or another method that allows notification to be provided without unnecessary delay. The notification must occur within one business day of a law enforcement agency determining the firearm must be returned. The law enforcement agency may hold the firearm in custody for 72 hours after the notification has been provided.

Residential Protections.

The Address Confidentiality Program.

The Address Confidentiality Program is a program through which a victim of domestic violence, sexual assault, trafficking, or stalking may apply to the Secretary of State to utilize an address designated by the Secretary of State in government records. The program may also be utilized by family members residing with the applicant.

Personal Financial Affairs Reporting for Government Officials.

Elected officials, certain appointed state officials, charter school directors, and professional staff in the Legislature and the Governor's office must file an annual statement of financial affairs with the Public Disclosure Commission, otherwise known as an F-1. Although a filer's residential address is not included on an F-1 form, the addresses of properties owned by the filer or a family member are included. Judges, prosecutors, sheriffs, and their immediate family members are allowed to provide alternate descriptions of real property on their F-1 forms.

Law Enforcement Training.

As part of the basic law enforcement curriculum, the Criminal Justice Training Commission (CJTC) must include at least 20 hours of training on the law enforcement response to domestic violence. The training must include material on the extent and prevalence of domestic violence, the importance of criminal justice intervention, techniques for responding that minimize the risk of officer injury and promote victim safety, investigation and interviewing skills, evidence gathering and report writing, assistance and services for victims and children, verification and enforcement of court orders, and liability. The CJTC must also develop and update an in-service training program to familiarize law enforcement officers with domestic violence laws.

The Automated Notification Systems.

The Washington Association of Sheriffs and Police Chiefs (WASPC) operates the Statewide Automated Protected Person Notification System to automatically notify a registered person via the person's choice of telephone or email when a respondent subject to a court order has attempted to purchase or acquire a firearm and been denied based on a background check or transfer application that indicates the respondent is ineligible to possess a firearm under state or federal law. The WASPC also operates the Statewide Automated Victim Information and Notification System to notify a victim upon the occurrence of specified events involving an offender housed in any state, city, or county correctional facility.

Summary:

Electronic Monitoring with Victim Notification Technology.

Subject to appropriated funds, the Board for Judicial Administration (Board) must adopt standards on electronic monitoring with victim notification technology (EMVNT) by June 1, 2024. The Board must solicit input from courts, local governments, monitoring agencies, and statewide associations representing law enforcement leaders, prosecutors, domestic violence victims, the Department of Corrections, and domestic violence agencies. The standards must:

- establish best practices for the operation of EMVNT by monitoring agencies, with the goal of improving victim safety;
- establish protocols for implementing court orders that include EMVNT, including protocols for the installation and removal of monitoring devices to ensure uninterrupted monitoring services following release from detainment or incarceration; and
- establish any additional requirements necessary to promote compliance with statutory electronic monitoring requirements, which may include training requirements for court officials, peace officers, 911 dispatchers, local corrections officers and staff, and other appropriate practitioners.

Subject to appropriated funds, the Board must also develop a model policy on EMVNT based on best practices where the technology is currently being used in Washington. Each law enforcement agency in the state must adopt its own policy based on the model policy.

Civil Proceedings.

Temporary Orders.

In any proceeding in which the court enters a temporary protection order that includes a temporary order to surrender and prohibit weapons, and after the hearing the court denies the petition for a full protection order, the order to surrender and prohibit weapons stays in effect during the period within which the petitioner may file a motion for reconsideration or revision. If the petitioner files such a motion, the order to surrender and prohibit weapons stays in effect until the motion is resolved.

If the petitioner is present at the hearing, the court must notify the petitioner verbally of the procedures and timelines for filing a motion for reconsideration or a motion for revision. The court must provide the petitioner with written information explaining the procedures and timelines for filing a motion for reconsideration or a motion for revision. The information must also include contact information for civil legal aid organizations that may assist the petitioner.

The order to surrender and prohibit weapons does not stay in effect, and notification is not required, if allowing the order to remain in effect would be manifestly unjust.

Service of the Order.

The first attempt at service of an order must occur within 24 hours unless an emergency situation renders service infeasible. If such an emergency prevents service, law enforcement must attempt service as soon as possible.

Judicial Officer Training.

The training that judicial officers are encouraged to complete must include material on domestic violence homicide prevention and best practices for the surrender of weapons. Subject to appropriated funds, the Administrative Office for the Courts (AOC) must develop training in all required topics, which must be provided free of charge to judicial officers.

Extreme Risk Protection Orders.

The firearms that a respondent may be ordered to surrender as part of an extreme risk protection order are expanded to include firearms subject to the respondent's immediate possession or control.

Crimes of Domestic Violence.

In a domestic violence proceeding, a court may not deny a no-contact order based on the existence of an applicable civil protection order preventing the defendant from contacting the victim. If a defendant enters into a deferred prosecution or stipulated order of continuance, the applicable order or agreement may require the defendant to pay the costs of electronic monitoring.

Surrender of Firearms or Dangerous Weapons.

Criminal Sentencing.

In any criminal proceeding, when determining conditions of release, a judicial officer must consider the defendant's firearms history.

Orders to Surrender Firearms, Dangerous Weapons, and Concealed Pistol Licenses.

The types of orders that necessitate the issuance of an order to surrender of firearms, dangerous weapons, and concealed pistol licenses are expanded to include orders pertaining to trafficking, sexual assault, promoting prostitution, or driving under the influence. Such an order must include all firearms and dangerous weapons in the person's custody, control, or possession, in addition to firearms and dangerous weapons in the person's immediate possession or control.

Compliance Hearings.

A compliance review hearing must be held for any case where the court has indication that the respondent has in the respondent's possession, custody, or control firearms, dangerous weapons, or a concealed pistol license. Once the hearing has been set, service by law enforcement must be prioritized to minimize the time during which the respondent could access the respondent's firearms, dangerous weapons, or concealed pistol license.

If the court is considering waiving or delaying the compliance review hearing, the petitioner, law enforcement, or the state or city attorney may request that the compliance hearing be held if there is reasonable suspicion to believe that the respondent has not surrendered all firearms, dangerous weapons, and any concealed pistol license, or is otherwise out of compliance with the court's order. A hearing may only be waived if the court is able to make a finding of compliance.

When making findings regarding compliance, the court should consider any available Department of Licensing and Washington State Patrol firearms records. In criminal cases, the court should consider the police report and any documentation of firearms or their recovery. In civil cases, the court should consider the protection order narrative, any sections of the protection order petition that specifically reference or inquire about firearms and other dangerous weapons, any attachments to the protection order petition, any affidavits from law enforcement or the petitioner in response to a respondent's declaration regarding firearms surrender, or other relevant evidence regarding firearms, dangerous weapons, or a concealed pistol license in the person's custody, control, or possession.

Prosecutors may submit written information for purposes of verifying compliance with an order to surrender firearms or dangerous weapons. If the court finds that a person is in noncompliance with an order to surrender firearms or dangerous weapons, it may issue an arrest warrant. The court may impose additional sanctions for failure to appear.

Instead of requiring the order to state that voluntarily surrendering firearms or weapons (or providing testimony relevant to such surrender) may not be used against the respondent in certain prosecutions, it is explicitly stated that such surrender or testimony may not be used against the respondent. Complying with an order to surrender and prohibit weapons and any information directly or indirectly derived from the surrender or testimony are added to the items that may not be used against the respondent. The criminal prosecution pursuant to which the order was issued is added to the list of prosecutions for which the surrender or testimony may not be used against the respondent. The surrender or testimony may be used against the respondent in prosecutions for perjury, giving a false statement, or otherwise failing to comply with the order.

If a person subject to the order invokes the privilege against self-incrimination at the time of issuance of the order or at a subsequent hearing, the court may afford the person an opportunity to demonstrate that compliance with the surrender provision of the order would expose the person to a realistic threat of self-incrimination in a subsequent or pending criminal proceeding. The court may conduct this portion of the proceeding *ex parte* or receive evidence *in camera*, without the presence of the prosecuting attorney after the court conducts an analysis under *State v. Bone-Club* and concludes that the courtroom may be closed.

If the person subject to the order establishes a realistic threat of self-incrimination, the court must afford the relevant prosecuting attorney an opportunity to offer an immunity

agreement tailored specifically to the firearms or weapons implicated by the potential self-incrimination. Any immunity should be narrowly tailored to address any realistic threat of self-incrimination while ensuring that any other firearms not implicated are surrendered. Any additional immunity may only be extended by the prosecuting attorney.

If the prosecuting attorney declines to extend immunity, the court's order must provide for the surrender of every firearm, dangerous weapon, and concealed pistol license that does not implicate a realistic threat of self-incrimination. The order's prohibitions regarding accessing, receiving, or attempting to purchase or receive any firearm, dangerous weapon, or concealed pistol license remain in effect.

The requirement that the person subject to the order fully comply with the order is not diminished. The burden remains on the person to prove compliance.

It is clarified that the AOC's annual report on orders to surrender firearms must include both *ex parte* and full orders. The report must also include, if available:

- the type of protection order, no-contact order, restraining order, or criminal charge with which the order was issued;
- the duration of the order;
- the period of time from issuance of the order until the court's finding of compliance;
- any violations;
- the nature of the violations;
- any sanctions imposed;
- the number of firearms obtained pursuant to each order;
- whether subsequent orders were issued involving the same respondent; and
- recommendations regarding additional procedures, training, or data collection and reporting.

Timing of Surrender.

A person ordered to surrender firearms, dangerous weapons, or a concealed pistol license as part of a criminal proceeding must file with the court:

- a completed proof of surrender receipt form;
- a declaration that the person has no firearms, dangerous weapons, or concealed pistol license; or
- other evidence sufficient to establish full and timely compliance with the order.

The verification of compliance must be provided to the court within 24 hours of service, unless the order is pursuant to a criminal proceeding. In a criminal proceeding, if the person subject to the order is in custody, proof of compliance must be provided to the court before the person is released from custody. Otherwise, proof of compliance must be provided before the conclusion of the sentencing hearing. If the court finds that surrender of all firearms, dangerous weapons, or any concealed pistol license is not possible prior to release or prior to the conclusion of the hearing, arrangements for surrender must be made and approved by

the court prior to the person's release from custody or prior to the conclusion of the hearing. The court must order a law enforcement officer to accompany the person to the location where the firearms, dangerous weapons, and concealed pistol license are located so that they are surrendered directly to the law enforcement officer. Surrender to local law enforcement must occur in a safe manner and proof of compliance must be provided to the court within 24 hours of either the person's release from custody or the conclusion of the sentencing hearing.

By December 30, 2023, the AOC must develop and distribute any new or updated forms necessary to implement the provisions relating to the surrender of firearms, dangerous weapons, concealed pistol licenses.

Notification.

Law enforcement notification protocols must require, prior to the return of a firearm, notification to any person identified in a no-contact order, restraining order, protection order and any identified victim of the crime that resulted in the firearm surrender. Notification must occur within one business day to a family member, a household member, or an intimate partner has requested notification or if notice to an identified victim or protected person is required.

Before a firearm may be returned, five business days must have elapsed from the time the firearm was obtained by law enforcement in all cases, instead of only cases involving domestic violence.

Prosecutors may submit written information for purposes of verifying compliance.

Residential Protections.

The Address Confidentiality Program.

The Address Confidentiality Program is expanded to include all persons residing with the applicant.

Personal Financial Affairs Reporting for Government Officials.

The type of individuals who are allowed to provide alternate descriptions of real property on their personal financial affairs forms are expanded to include participants in the Address Confidentiality Program.

Domestic Violence High-Risk Teams.

Subject to appropriated funds, the Department of Commerce must administer a pilot program to implement domestic violence high-risk teams. A domestic violence program

must be the lead or co-lead of the high-risk teams. The high-risk teams must include:

- early identification of the most dangerous cases through evidence-based lethality assessments;
- increased access to supportive services for high-risk victims;
- increased perpetrator monitoring and accountability; and
- a coordinated response to high-risk cases through a multidisciplinary team.

Center of Excellence.

Subject to appropriated funds, the University of Washington must develop a plan to establish the Center of Excellence in Research, Policy, and Practice to Reduce Domestic violence (Center of Excellence). The University of Washington's School of Public Health must lead the development of the plan, which must be developed with relevant disciplines across the schools of the University of Washington. Plan development must also include the Arlene Moris Women's Center and the following schools: the School of Social Work, the School of Medicine, the School of Law, the School of Nursing.

The University of Washington must develop a report summarizing the plan, which must include the following topics:

- conducting scientifically rigorous intimate partner violence research that informs policy and practice in Washington;
- disseminating existing research findings and best practices in order to proliferate evidence-based intimate partner violence policy and practice;
- promoting effective strategies to reduce the incidence of domestic violence and domestic violence homicide; and
- engaging in strategic planning efforts with relevant stakeholders to develop policy recommendations to improve the state's response to domestic violence.

In developing the plan, the University of Washington must establish an external stakeholder group to ensure that:

- all work conducted by the Center of Excellence is informed by survivors of domestic violence, including Black, Indigenous, and survivors of color as well as LGBTQ survivors;
- ensure that research interventions are holistic, trauma-informed, and antiracist; and
- policy recommendations are appropriate and effective for Washington's diverse communities.

The University of Washington must include in the stakeholder group survivors of intimate partner violence, including low-income communities, immigrants, refugee communities, people with religious diversity, people with physical disabilities, children and other family members of survivors, representatives from systems that interact with survivors and perpetrators, and representatives from communities disproportionately impacted by intimate partner violence in order to guide development of the plan's overarching goals and strategic vision. The University of Washington must provide stipends to stakeholder participants to the extent necessary to maximize participation.

The University of Washington must provide a report to the relevant committees of the Legislature with its findings and recommendations as soon as practicable, but no later than January 15, 2024. Subject to appropriated funds, the University of Washington must begin implementation of the plan by July 1, 2024.

Law Enforcement Training.

Subject to appropriated funds, the domestic violence training that is part of the basic law enforcement curriculum is expanded to include domestic violence homicide prevention, the intersection of firearms and domestic violence, best practices for serving and enforcing protection orders, best practices for implementation and enforcement of orders to surrender and prohibit weapons and extreme risk protection orders, the impacts that trauma may have on domestic violence victims, and understanding the risks of traumatic brain injury posed by domestic violence. Additionally, the investigation and interviewing skills that are part of the training must be trauma-informed.

Subject to appropriated funds, the in-service training program is expanded to include training on domestic violence homicide prevention, the intersection of firearms and domestic violence, best practices for serving and enforcing protection orders, and assistance to, and services for, victims and children.

Subject to appropriated funds, the CJTC must provide ongoing specialized, intensive, and integrative training for persons responsible for investigating domestic violence cases involving intimate partners. The training must be based on a victim-centered, trauma-informed approach to responding to domestic violence. Among other subjects, the training must include content on the neurobiology of trauma and trauma-informed interviewing, counseling, and investigative techniques.

The training must:

- be based on research-based practices and standards;
- offer participants an opportunity to practice interview skills and receive feedback from instructors;
- minimize the trauma of all persons who are interviewed during investigations;
- provide methods of reducing the number of investigative interviews necessary whenever possible;
- assure, to the extent possible, that investigative interviews are thorough, objective, and complete;
- recognize needs of special populations;
- recognize the nature and consequences of domestic violence victimization;
- require investigative interviews to be conducted in a manner most likely to permit the interviewed persons the maximum emotional comfort under the circumstances;
- address record retention and retrieval;
- address documentation of investigative interviews; and

- educate investigators on the best practices for notifying victims of significant events in the investigative process.

In developing the training, the CJTC must seek advice from the Washington Association of Sheriffs and Police Chiefs, organizations representing victims of domestic violence, survivors of domestic violence, and experts on domestic violence and the neurobiology of trauma. The CJTC must consult with the Washington Association of Prosecuting Attorneys in an effort to design training containing consistent elements for all professionals engaged in interviewing and interacting with domestic violence victims in the criminal legal system.

The CJTC must develop the training and begin offering it by January 1, 2025. Officers assigned to regularly investigate domestic violence must complete the training within one year of being assigned or by July 1, 2027, whichever is later.

Votes on Final Passage:

House	69	25	
Senate	38	11	(Senate amended)
House			(House refused to concur/asked Senate to recede)
Senate	42	7	(Senate receded/amended)
House	91	7	(House concurred)

Effective: July 23, 2023