
ENGROSSED SUBSTITUTE SENATE BILL 5231

State of Washington

68th Legislature

2023 Regular Session

By Senate Law & Justice (originally sponsored by Senators Salomon, Dhingra, Hasegawa, Hunt, Nobles, Pedersen, Valdez, and C. Wilson)

READ FIRST TIME 01/27/23.

1 AN ACT Relating to the issuance of emergency domestic violence
2 no-contact orders; and amending RCW 10.99.040.

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

4 **Sec. 1.** RCW 10.99.040 and 2021 c 215 s 122 are each amended to
5 read as follows:

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

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

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

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

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

20 (2)(a) Because of the likelihood of repeated violence directed at
21 those who have been victims of domestic violence in the past, when

1 any person charged with or arrested for a crime involving domestic
2 violence is released from custody before arraignment or trial on bail
3 or personal recognizance, the court authorizing the release may
4 prohibit that person from having any contact with the victim and
5 others. The jurisdiction authorizing the release shall determine
6 whether that person should be prohibited from having any contact with
7 the victim. If there is no ~~((outstanding))~~ restraining or
8 ~~((protective))~~ protection order already prohibiting that person from
9 having contact with the victim, the court authorizing release may
10 issue~~((, by telephone,))~~ a no-contact order prohibiting the person
11 charged or arrested from ~~((having))~~ making any attempt to contact
12 ~~((with the victim)), including nonphysical contact, the victim or the~~
13 victim's family or household members, either directly, indirectly, or
14 through a third party, excluding the defendant from a residence
15 shared with the victim, a workplace, school, or childcare, or from
16 knowingly coming within, or knowingly remaining within, a specified
17 distance of a location or vehicle, and other related prohibitions to
18 reduce risk of harm.

19 (b) ~~((In issuing the order, the court shall consider the~~
20 ~~provisions of))~~ The court shall verify that the requirements of RCW
21 10.99.030(3) have been satisfied, including that a sworn statement of
22 a peace officer has been submitted to the court, documenting that the
23 responding peace officers separated the parties and asked the victim
24 or victims at the scene about firearms, other dangerous weapons, and
25 ammunition which the defendant owns or has access to, and whether the
26 defendant has a concealed pistol license. If the sworn statement of a
27 peace officer or other information provided to the court indicates
28 there may be a risk of harm if the defendant has access to firearms,
29 dangerous weapons, or an active concealed pistol license, the court
30 shall verify that peace officers have temporarily removed and secured
31 all the firearms, dangerous weapons, and any concealed pistol
32 license. The court shall then determine whether an order to surrender
33 and prohibit weapons or an extreme risk protection order should be
34 issued pursuant to RCW 9.41.800 or chapter 7.105 RCW, ~~((and shall~~
35 ~~order the defendant to surrender, and prohibit))~~ prohibiting the
36 ~~((person))~~ defendant from possessing, ~~((all))~~ purchasing, receiving,
37 having in the defendant's control or custody, accessing, or
38 attempting to purchase or receive, any firearms, dangerous weapons,
39 and any concealed pistol license and shall order the defendant to
40 surrender, and prohibit the defendant from possessing, any firearms,

1 dangerous weapons, and any concealed pistol license as required in
2 RCW 9.41.800, or shall issue an extreme risk protection order as
3 required by chapter 7.105 RCW.

4 ~~((c) The no-contact order shall also be issued in writing as~~
5 ~~soon as possible, and shall state that it may be extended as provided~~
6 ~~in subsection (3) of this section. By January 1, 2011, the~~
7 ~~administrative office of the courts shall develop a pattern form for~~
8 ~~all no-contact orders issued under this chapter. A no-contact order~~
9 ~~issued under this chapter must substantially comply with the pattern~~
10 ~~form developed by the administrative office of the courts.))~~

11 (3) (a) At the time of arraignment, the court shall attempt to
12 determine whether there are any other active no-contact orders,
13 protection orders, or restraining orders involving the defendant to
14 assist the court in ensuring that any such order it may impose does
15 not lessen protections imposed by other courts through other such
16 orders, review the defendant's firearms purchase history provided by
17 the prosecutor pursuant to RCW 10.99.045, and any other firearms
18 information provided by law enforcement or court or jail staff, and
19 shall determine whether a no-contact order, an order to surrender and
20 prohibit weapons, or an extreme risk protection order shall be issued
21 or, if previously issued on an emergency basis, extended.

22 (b) So long as the court finds probable cause, the court may
23 issue or extend a no-contact order, an order to surrender and
24 prohibit weapons, or an extreme risk protection order, even if the
25 defendant fails to appear at arraignment. The no-contact order shall
26 terminate if the defendant is acquitted or the charges are dismissed.
27 To the extent the court is aware, the court shall advise the
28 defendant of the ongoing requirements of any other no-contact,
29 restraining, or protection order that remains in effect.

30 ~~((b) In issuing the order, the court shall consider all~~
31 ~~information documented in the incident report concerning the person's~~
32 ~~possession of and access to firearms and whether law enforcement took~~
33 ~~temporary custody of firearms at the time of the arrest. The court~~
34 ~~may as a condition of release prohibit the defendant from possessing~~
35 ~~or accessing firearms and order the defendant to immediately~~
36 ~~surrender all firearms and any concealed pistol license to a law~~
37 ~~enforcement agency upon release.))~~

38 (c) If a no-contact order is issued or extended, the court may
39 also include in the conditions of release a requirement that the
40 defendant submit to electronic monitoring as defined in RCW

1 9.94A.030. If electronic monitoring is ordered, the court shall
2 specify who shall provide the monitoring services, and the terms
3 under which the monitoring shall be performed. Upon conviction, the
4 court may require as a condition of the sentence that the defendant
5 reimburse the providing agency for the costs of the electronic
6 monitoring.

7 (4) (a) Willful violation of a court order issued under
8 (~~subsection (2), (3), or (7) of~~) this section is punishable under
9 RCW 7.105.450, 7.105.455, 7.105.460, or 9.41.800.

10 (b) The written order releasing the person charged or arrested
11 shall contain the court's directives and shall bear the legend:
12 "Violation of this order is a criminal offense under chapter 7.105
13 RCW and will subject a violator to arrest; any assault, drive-by
14 shooting, or reckless endangerment that is a violation of this order
15 is a felony. You can be arrested even if any person protected by the
16 order invites or allows you to violate the order's prohibitions. You
17 have the sole responsibility to avoid or refrain from violating the
18 order's provisions. Only the court can change the order."

19 (c) A certified copy of the order shall be provided to the
20 victim.

21 (5) (a) A peace officer may request an emergency no-contact order,
22 order to surrender and prohibit weapons, or extreme risk protection
23 order from a judicial officer on behalf of and with the consent of
24 the victim of an alleged act involving domestic violence if the
25 victim is able to provide such consent. If the victim is
26 incapacitated as a result of the alleged act of domestic violence, a
27 peace officer may request an emergency no-contact order, order to
28 surrender and prohibit weapons, or extreme risk protection order on
29 his or her behalf. The request shall be made based upon the sworn
30 statement of a peace officer and may be made in person, by telephone,
31 or by electronic means. If the court finds probable cause to believe
32 that the victim is in imminent danger of domestic violence based on
33 an allegation of the recent commission of an act involving domestic
34 violence, the court shall issue an emergency no-contact order and an
35 order to surrender and prohibit weapons or an extreme risk protection
36 order as required by RCW 9.41.800 or chapter 7.105 RCW.

37 (b) If the court issues an order to surrender and prohibit
38 weapons or an extreme risk protection order, and has not verified
39 that peace officers have temporarily removed and secured all firearms
40 and dangerous weapons, and any concealed pistol license, all orders

1 issued by the court must be personally served by a peace officer and
2 the peace 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, as required by RCW 9.41.801.

6 (c) If the court does not issue an order to surrender and
7 prohibit weapons or an extreme risk protection order, or has verified
8 that all firearms, dangerous weapons, and any concealed pistol
9 license have been temporarily removed by law enforcement, service of
10 the court's orders may be effected electronically. Electronic service
11 must be effected by a law enforcement agency transmitting copies of
12 the petition and any supporting materials filed with the petition,
13 any notice of hearing, and any orders, or relevant materials for
14 motions, to the defendant at the defendant's electronic address or
15 the defendant's electronic account associated with email, text
16 messaging, social media applications, or other technologies.
17 Verification of notice is required and may be accomplished through
18 read-receipt mechanisms, a response, a sworn statement from the
19 person who effected service verifying transmission and any follow-up
20 communications such as email or telephone contact used to further
21 verify, or an appearance by the defendant at a hearing. Sworn proof
22 of service must be filed with the court by the person who effected
23 service.

24 (d) A no-contact order, order to surrender and prohibit weapons,
25 or extreme risk protection order authorized by telephonic or
26 electronic means shall also be issued in writing as soon as possible
27 and shall state that it may be extended as provided in subsection (3)
28 of this section.

29 (6) If a no-contact order has been issued prior to charging, that
30 order shall expire at arraignment or within seventy-two hours if
31 charges are not filed.

32 ~~((+6))~~ (7) Whenever ((a—no-contact)) an order is issued,
33 modified, or terminated under ((subsection (2) or (3) of)) this
34 section, the clerk of the court shall forward a copy of the order on
35 or before the next judicial day to the appropriate law enforcement
36 agency specified in the order. Upon receipt of the copy of the order
37 the law enforcement agency shall enter the order for one year or
38 until the expiration date specified on the order into any computer-
39 based criminal intelligence information system available in this
40 state used by law enforcement agencies to list outstanding warrants.

1 Entry into the computer-based criminal intelligence information
2 system constitutes notice to all law enforcement agencies of the
3 existence of the order. The order is fully enforceable in any
4 jurisdiction in the state. Upon receipt of notice that an order has
5 been terminated under subsection (3) of this section, the law
6 enforcement agency shall remove the order from the computer-based
7 criminal intelligence information system.

8 ~~((7) All courts shall develop policies and procedures by January
9 1, 2011, to grant victims a process to modify or rescind a no-contact
10 order issued under this chapter. The administrative office of the
11 courts shall develop a model policy to assist the courts in
12 implementing the requirements of this subsection.))~~

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