
SENATE BILL 5231

State of Washington

68th Legislature

2023 Regular Session

By Senators Salomon, Dhingra, Hasegawa, Hunt, Nobles, Pedersen, Valdez, and C. Wilson

Read first time 01/10/23. Referred to Committee on Law & Justice.

1 AN ACT Relating to the issuance of emergency domestic violence no
2 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))~~ A no-contact order, order to surrender and prohibit
5 weapons, or extreme risk protection order authorized by telephonic or
6 electronic means shall also be issued in writing as soon as possible,
7 and shall state that it may be extended as provided in subsection (3)
8 of this section. ~~((By January 1, 2011, the administrative office of~~
9 the courts shall develop a pattern form for all no-contact orders
10 issued under this chapter. A no-contact order issued under this
11 chapter must substantially comply with the pattern form developed by
12 the administrative office of the courts.))

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

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

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

1 (~~(e)~~) (d) If a no-contact order is issued or extended, the
2 court may also include in the conditions of release a requirement
3 that the defendant submit to electronic monitoring as defined in RCW
4 9.94A.030. If electronic monitoring is ordered, the court shall
5 specify who shall provide the monitoring services, and the terms
6 under which the monitoring shall be performed. Upon conviction, the
7 court may require as a condition of the sentence that the defendant
8 reimburse the providing agency for the costs of the electronic
9 monitoring.

10 (4) (a) Willful violation of a court order issued under subsection
11 (2), (3), or (~~(7)~~) (5) of this section is punishable under RCW
12 7.105.450.

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

22 (c) A certified copy of the order shall be provided to the
23 victim.

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

1 (b) Electronic service must be effected by transmitting copies of
2 the petition and any supporting materials filed with the petition,
3 any notice of hearing, and any orders, or relevant materials for
4 motions, to the respondent at the respondent's electronic address or
5 the respondent's electronic account associated with email, text
6 messaging, social media applications, or other technologies.
7 Verification of notice is required and may be accomplished through
8 read-receipt mechanisms, a response, a sworn statement from the
9 person who effected service verifying transmission and any follow-up
10 communications such as email or telephone contact used to further
11 verify, or an appearance by the respondent at a hearing. Sworn proof
12 of service must be filed with the court by the person who effected
13 service.

14 (c) A no-contact order, order to surrender and prohibit weapons,
15 or extreme risk protection order authorized by telephonic or
16 electronic means shall also be issued in writing as soon as possible
17 and shall state that it may be extended as provided in subsection (3)
18 of this section.

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

22 ~~((+6))~~ (7) Whenever ((a—no-contact)) an order is issued,
23 modified, or terminated under subsection (2) ((~~+~~)), (3), or (5) of
24 this section, the clerk of the court shall forward a copy of the
25 order on or before the next judicial day to the appropriate law
26 enforcement agency specified in the order. Upon receipt of the copy
27 of the order the law enforcement agency shall enter the order for one
28 year or until the expiration date specified on the order into any
29 computer-based criminal intelligence information system available in
30 this state used by law enforcement agencies to list outstanding
31 warrants. Entry into the computer-based criminal intelligence
32 information system constitutes notice to all law enforcement agencies
33 of the existence of the order. The order is fully enforceable in any
34 jurisdiction in the state. Upon receipt of notice that an order has
35 been terminated under subsection (3) of this section, the law
36 enforcement agency shall remove the order from the computer-based
37 criminal intelligence information system.

38 ~~((7) All courts shall develop policies and procedures by January~~
39 ~~1, 2011, to grant victims a process to modify or rescind a no-contact~~
40 ~~order issued under this chapter. The administrative office of the~~

1 ~~courts shall develop a model policy to assist the courts in~~
2 ~~implementing the requirements of this subsection.)~~)

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