

FINAL BILL REPORT

ESHB 1840

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Synopsis as Enacted

Brief Description: Concerning firearms laws for persons subject to no-contact orders, protection orders, and restraining orders.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Goodman, Hope, Hunter, Pedersen, Bergquist, Habib, Fey, Ryu, Jenkins, Pollet and Tharinger).

House Committee on Judiciary
Senate Committee on Law & Justice

Background:

Protection Orders, No-Contact Orders, and Restraining Orders.

There are various types of civil protection orders a court may impose to restrict a person's ability to have contact with another person. A court may enter an ex parte temporary protection order and, upon a full hearing, a final order that lasts for a fixed term or, in some cases, is permanent. Additionally, courts may issue no-contact orders to protect victims during the pendency of criminal proceedings, and these orders may also be imposed or extended as a condition of release or sentence. A court may impose a restraining order in a variety of contexts, but they are commonly entered in family law proceedings to keep the parties from coming into contact with one another or to prevent removal of, or injury to, a child.

Unlawful Possession of a Firearm.

State Law.

A person is guilty of Unlawful Possession of a Firearm in the first degree if the person owns, possesses, or has in his or her control any firearm after having previously been convicted of a serious offense. A "serious offense" includes, among other things, any crime of violence, various class B felonies, any felony with a deadly weapon verdict, and certain vehicular related crimes when committed while under the influence of alcohol or drugs or while driving recklessly. Unlawful Possession of a Firearm in the first degree is a class B felony.

A person is guilty of Unlawful Possession of a Firearm in the second degree, a class C felony, if the person owns, possesses, or has in his or her control any firearm and the person:

- has previously been convicted of any felony (other than a serious offense);

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- has previously been convicted of certain gross misdemeanors committed by one family or household member against another;
- has previously been involuntarily committed for mental health treatment;
- is under the age of 18 (with some exceptions); or
- is free on bond or personal recognizance pending trial, appeal, or sentencing for a serious offense.

Federal Law.

Certain categories of people are disqualified from possessing firearms under federal law, including persons who have been convicted of a domestic violence offense and persons subject to certain restraining orders. The order must have been issued after notice and an opportunity for the person to participate; restrain the person from harassing, stalking, or threatening an intimate partner or the person's or intimate partner's child; and include a finding that the restrained person is a credible threat to the physical safety of an intimate partner or child, or terms restraining the person from using or threatening physical force against an intimate partner or child. The term "intimate partner" includes a person's spouse or former spouse, a parent of the person's child, and a person's current or former cohabitant.

Surrender of Firearms and Dangerous Weapons.

Under state law, a person subject to most types of protection orders, no-contact orders, or restraining orders may, under some circumstances, be required to surrender their firearms, dangerous weapons, and concealed pistol license while the order is in place. In entering an order, if the person to be restrained has used or threatened to use a firearm in the commission of a felony, or is otherwise disqualified from having a firearm, the court either may or must require the person to surrender their firearms, dangerous weapons, and concealed pistol license, depending on the evidence presented.

Sexual assault protection orders are not included in the statutory provisions allowing or requiring a court to order weapons surrender. Sexual assault protection orders are available to victims of nonconsensual sexual conduct or penetration that gives rise to a reasonable fear of future dangerous acts. These orders provide a remedy for victims of sexual assault who do not qualify for a domestic violence protection order.

Summary:

Sexual assault protection orders are included in the provisions of current law that require or allow a court to order a restrained party to surrender his or her firearms, dangerous weapons, and concealed pistol license when there is evidence that the party has used or threatened to use a firearm in the commission of a felony or is otherwise ineligible to possess a firearm.

Provisions are added prohibiting any person restrained under certain protection, no-contact, and restraining orders from possessing a firearm, dangerous weapon, or concealed pistol license while the order is in place. For the restrictions to apply the order must: (1) have been issued after notice and an opportunity of the person to participate; (2) restrain the person from harassing, stalking, or threatening an intimate partner or the person's or intimate partner's child; (3) include a finding that the restrained person is a credible threat to the physical safety of an intimate partner or the child of an intimate partner or the person; and (4) by its terms, restrain the person from using or threatening physical force against an intimate

partner or child. An intimate partner includes a current or former spouse or domestic partner, a person with whom the restrained person has a child in common, or a person with whom the restrained person has cohabitated or is cohabitating as part of a dating relationship.

Possession of a firearm while subject to a qualifying protection, no-contact, or restraining order constitutes Unlawful Possession of a Firearm in the second degree. When entering a qualifying order the court must:

- require the respondent to surrender any firearm or other dangerous weapon;
- prohibit the respondent from obtaining or possessing a firearm or other dangerous weapon;
- require the party to surrender their concealed pistol license; and
- prohibit the party from obtaining or possessing a concealed pistol license.

The Administrative Office of the Courts is required to develop pattern forms for use in documenting a restrained person's compliance with an order to surrender firearms, dangerous weapons, and the person's concealed pistol license. When surrender of these items is ordered, the restrained person must file the appropriate form with the court within five judicial days.

All law enforcement agencies must develop policies and procedures regarding acceptance, storage, and return of weapons required to be surrendered.

Votes on Final Passage:

House	61	37
House	97	0
Senate	49	0

Effective: June 12, 2014
December 1, 2014 (Section 5)