

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1079

65th Legislature
2017 Regular Session

Passed by the House April 17, 2017
Yeas 98 Nays 0

Speaker of the House of Representatives

Passed by the Senate April 5, 2017
Yeas 48 Nays 0

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 1079** as passed by House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1079

AS AMENDED BY THE SENATE

Passed Legislature - 2017 Regular Session

State of Washington 65th Legislature 2017 Regular Session

By House Public Safety (originally sponsored by Representatives Orwall, Klippert, Goodman, Stokesbary, Kilduff, Chapman, McCabe, Hudgins, Jinkins, Ortiz-Self, Bergquist, Stanford, Griffey, Hargrove, Smith, Tarleton, Harmsworth, Ormsby, Muri, Van Werven, Kraft, Fey, Slatter, Sawyer, McBride, and Gregerson; by request of Attorney General)

READ FIRST TIME 01/24/17.

1 AN ACT Relating to no-contact orders for human trafficking and
2 promoting prostitution-related offenses; reenacting and amending RCW
3 26.50.110; adding new sections to chapter 9A.40 RCW; adding new
4 sections to chapter 9A.88 RCW; and prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 9A.40
7 RCW to read as follows:

8 (1) A defendant who is charged by citation, complaint, or
9 information with an offense involving trafficking, as described in
10 RCW 9A.40.100, and is not arrested, shall appear in court for
11 arraignment or initial appearance in person as soon as practicable,
12 but in no event later than fourteen days after the defendant is
13 served with the citation, complaint, or information. At that
14 appearance, the court shall determine the necessity of imposing or
15 extending a no-contact order, and consider the provisions of RCW
16 9.41.800 or other conditions of pretrial release according to the
17 procedures established by court rule for preliminary appearance or an
18 arraignment.

19 (2) Whenever a no-contact order is issued under this section, the
20 clerk of the court shall forward a copy of the order on or before the
21 next judicial day to the appropriate law enforcement agency specified

1 in the order. Upon receipt of the copy of the order, the law
2 enforcement agency shall enter the order for one year or until the
3 expiration date specified on the order into any computer-based
4 criminal intelligence information system available in this state used
5 by law enforcement agencies to list outstanding warrants. Entry into
6 the computer-based criminal intelligence information system
7 constitutes notice to all law enforcement agencies of the existence
8 of the order. The order is fully enforceable in any jurisdiction in
9 the state. Upon receipt of notice that an order has been terminated,
10 the law enforcement agency shall remove the order from the computer-
11 based criminal intelligence information system.

12 NEW SECTION. **Sec. 2.** A new section is added to chapter 9A.40
13 RCW to read as follows:

14 Any general authority Washington peace officer as defined in RCW
15 10.93.020 in this state may enforce this chapter as it relates to
16 orders restricting the defendants' ability to have contact with the
17 victim or others.

18 NEW SECTION. **Sec. 3.** A new section is added to chapter 9A.40
19 RCW to read as follows:

20 (1) Because of the likelihood of repeated harassment and
21 intimidation directed at those who have been victims of trafficking
22 as described in RCW 9A.40.100, before any defendant charged with or
23 arrested, for a crime involving trafficking, is released from
24 custody, or at any time the case remains unresolved, the court may
25 prohibit that person from having any contact with the victim whether
26 directly or through third parties.

27 At the initial preliminary appearance, the court shall determine
28 whether to extend any existing prohibition on the defendant's contact
29 with the victim. If there is no outstanding restraining or protective
30 order prohibiting that person from having contact with the victim,
31 the court may issue, by telephone, a no-contact order prohibiting the
32 person charged or arrested from having contact with the victim or
33 from knowingly coming within, or knowingly remaining within, a
34 specified distance of a location. The court may also consider the
35 provisions of RCW 9.41.800 or other conditions of pretrial release
36 according to the procedures established by court rule for preliminary
37 appearance or an arraignment.

1 (2) At the time of arraignment the court shall determine whether
2 a no-contact order shall be issued or extended. So long as the court
3 finds probable cause, the court may issue or extend a no-contact
4 order. The no-contact order shall terminate if the defendant is
5 acquitted or the charges are dismissed.

6 (3)(a) Willful violation of a court order issued under this
7 section is punishable under RCW 26.50.110.

8 (b) The written order shall contain the court's directives and
9 shall bear the legend: Violation of this order is a criminal offense
10 under chapter 26.50 RCW and the violator is subject to arrest; any
11 assault, drive-by shooting, or reckless endangerment that is a
12 violation of this order is a felony.

13 (4) Upon a motion with notice to all parties and after a hearing,
14 the court may terminate or modify the terms of an existing no-contact
15 order, including terms entered pursuant to RCW 9.41.800 related to
16 firearms or other dangerous weapons or to concealed pistol licenses.

17 (5)(a) A defendant's motion to terminate or modify a no-contact
18 order must include a declaration setting forth facts supporting the
19 requested order for termination or modification. The court shall deny
20 the motion unless it finds that adequate cause for hearing the motion
21 is established by the declarations. If the court finds that the
22 defendant established adequate cause, the court shall set a date for
23 hearing the defendant's motion.

24 (b) The court may terminate or modify the terms of a no-contact
25 order, including terms entered pursuant to RCW 9.41.800 related to
26 firearms or other dangerous weapons or to concealed pistol licenses,
27 if the defendant proves by a preponderance of the evidence that there
28 has been a material change in circumstances such that the defendant
29 is not likely to engage in or attempt to engage in physical or
30 nonphysical contact with the victim if the order is terminated or
31 modified. The victim bears no burden of proving that he or she has a
32 current reasonable fear of harm by the defendant.

33 (c) A defendant may file a motion to terminate or modify pursuant
34 to this section no more than once in every twelve-month period that
35 the order is in effect, starting from the date of the order and
36 continuing through any renewal.

37 (6) Whenever a no-contact order is issued, modified, or
38 terminated under this section, the clerk of the court shall forward a
39 copy of the order on or before the next judicial day to the
40 appropriate law enforcement agency specified in the order. Upon

1 receipt of the copy of the order the law enforcement agency shall
2 enter the order for one year or until the expiration date specified
3 on the order into any computer-based criminal intelligence
4 information system available in this state used by law enforcement
5 agencies to list outstanding warrants. Entry into the computer-based
6 criminal intelligence information system constitutes notice to all
7 law enforcement agencies of the existence of the order. The order is
8 fully enforceable in any jurisdiction in the state. Upon receipt of
9 notice that an order has been terminated, the law enforcement agency
10 shall remove the order from the computer-based criminal intelligence
11 information system.

12 NEW SECTION. **Sec. 4.** A new section is added to chapter 9A.40
13 RCW to read as follows:

14 (1) If a defendant is found guilty of the crime of trafficking
15 under RCW 9A.40.100 and a condition of the sentence restricts the
16 defendant's ability to have contact with the victim, the condition
17 must be recorded and a written certified copy of that order must be
18 provided to the victim by the clerk of the court. Willful violation
19 of a court order issued under this section is punishable under RCW
20 26.50.110. The written order must contain the court's directives and
21 shall bear the legend: Violation of this order is a criminal offense
22 under chapter 26.50 RCW and the violator is subject to arrest; any
23 assault, drive-by shooting, or reckless endangerment that is a
24 violation of this order is a felony.

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

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 9A.88
2 RCW to read as follows:

3 (1) A defendant who is charged by citation, complaint, or
4 information with an offense involving promoting prostitution in the
5 first degree as described in RCW 9A.88.070 or promoting prostitution
6 in the second degree as described in RCW 9A.88.080 and not arrested
7 shall appear in court for arraignment or initial appearance in person
8 as soon as practicable, but in no event later than fourteen days
9 after the defendant is served with the citation, complaint, or
10 information. At that appearance, the court shall determine the
11 necessity of imposing or extending a no-contact order, and consider
12 the provisions of RCW 9.41.800 or other conditions of pretrial
13 release according to the procedures established by court rule for
14 preliminary appearance or an arraignment.

15 (2) Whenever a no-contact order is issued under this section, the
16 clerk of the court shall forward a copy of the order on or before the
17 next judicial day to the appropriate law enforcement agency specified
18 in the order. Upon receipt of the copy of the order, the law
19 enforcement agency shall enter the order for one year or until the
20 expiration date specified on the order into any computer-based
21 criminal intelligence information system available in this state used
22 by law enforcement agencies to list outstanding warrants. Entry into
23 the computer-based criminal intelligence information system
24 constitutes notice to all law enforcement agencies of the existence
25 of the order. The order is fully enforceable in any jurisdiction in
26 the state. Upon receipt of notice that an order has been terminated,
27 the law enforcement agency shall remove the order from the computer-
28 based criminal intelligence information system.

29 NEW SECTION. **Sec. 6.** A new section is added to chapter 9A.88
30 RCW to read as follows:

31 Any general authority Washington peace officer as defined in RCW
32 10.93.020 in this state may enforce this chapter as it relates to
33 orders restricting the defendants' ability to have contact with the
34 victim or others.

35 NEW SECTION. **Sec. 7.** A new section is added to chapter 9A.88
36 RCW to read as follows:

37 (1) Because of the likelihood of repeated harassment and
38 intimidation directed at those who have been victims of promoting

1 prostitution in the first degree under RCW 9A.88.070 or promoting
2 prostitution in the second degree under RCW 9A.88.080, before any
3 defendant charged with or arrested, for a crime involving promoting
4 prostitution is released from custody, or at any time the case
5 remains unresolved, the court may prohibit that person from having
6 any contact with the victim whether directly or through third
7 parties. If there is no outstanding restraining or protective order
8 prohibiting that person from having contact with the victim, the
9 court may issue, by telephone, a no-contact order prohibiting the
10 person charged or arrested from having contact with the victim or
11 from knowingly coming within, or knowingly remaining within, a
12 specified distance of a location. The court may also consider the
13 provisions of RCW 9.41.800 or other conditions of pretrial release
14 according to the procedures established by court rule for preliminary
15 appearance or an arraignment.

16 (2) At the time of arraignment, the court shall determine whether
17 a no-contact order shall be issued or extended. So long as the court
18 finds probable cause, the court may issue or extend a no-contact
19 order. The no-contact order shall terminate if the defendant is
20 acquitted or the charges are dismissed.

21 (3)(a) Willful violation of a court order issued under this
22 section is punishable under RCW 26.50.110.

23 (b) The written order shall contain the court's directives and
24 shall bear the legend: Violation of this order is a criminal offense
25 under chapter 26.50 RCW and the violator is subject to arrest; any
26 assault, drive-by shooting, or reckless endangerment that is a
27 violation of this order is a felony.

28 (4) Upon a motion with notice to all parties and after a hearing,
29 the court may terminate or modify the terms of an existing no-contact
30 order, including terms entered pursuant to RCW 9.41.800 related to
31 firearms or other dangerous weapons or to concealed pistol licenses.

32 (5)(a) A defendant's motion to terminate or modify a no-contact
33 order must include a declaration setting forth facts supporting the
34 requested order for termination or modification. The court shall deny
35 the motion unless it finds that adequate cause for hearing the motion
36 is established by the declarations. If the court finds that the
37 defendant established adequate cause, the court shall set a date for
38 hearing the defendant's motion.

39 (b) The court may terminate or modify the terms of a no-contact
40 order, including terms entered pursuant to RCW 9.41.800 related to

1 firearms or other dangerous weapons or to concealed pistol licenses,
2 if the defendant proves by a preponderance of the evidence that there
3 has been a material change in circumstances such that the defendant
4 is not likely to engage in or attempt to engage in physical or
5 nonphysical contact with the victim if the order is terminated or
6 modified. The victim bears no burden of proving that he or she has a
7 current reasonable fear of harm by the defendant.

8 (c) A defendant may file a motion to terminate or modify pursuant
9 to this section no more than once in every twelve-month period that
10 the order is in effect, starting from the date of the order and
11 continuing through any renewal.

12 (6) Whenever a no-contact order is issued, modified, or
13 terminated under this section, the clerk of the court shall forward a
14 copy of the order on or before the next judicial day to the
15 appropriate law enforcement agency specified in the order. Upon
16 receipt of the copy of the order the law enforcement agency shall
17 enter the order for one year or until the expiration date specified
18 on the order into any computer-based criminal intelligence
19 information system available in this state used by law enforcement
20 agencies to list outstanding warrants. Entry into the computer-based
21 criminal intelligence information system constitutes notice to all
22 law enforcement agencies of the existence of the order. The order is
23 fully enforceable in any jurisdiction in the state. Upon receipt of
24 notice that an order has been terminated, the law enforcement agency
25 shall remove the order from the computer-based criminal intelligence
26 information system.

27 NEW SECTION. **Sec. 8.** A new section is added to chapter 9A.88
28 RCW to read as follows:

29 (1) If a defendant is found guilty of the crime of promoting
30 prostitution in the first degree under RCW 9A.88.070 or promoting
31 prostitution in the second degree under RCW 9A.88.080, and a
32 condition of the sentence restricts the defendant's ability to have
33 contact with the victim or witnesses, the condition must be recorded
34 and a written certified copy of that order must be provided to the
35 victim or witnesses by the clerk of the court. Willful violation of a
36 court order issued under this section is punishable under RCW
37 26.50.110. The written order must contain the court's directives and
38 shall bear the legend: Violation of this order is a criminal offense
39 under chapter 26.50 RCW and the violator is subject to arrest; any

1 assault, drive-by shooting, or reckless endangerment that is a
2 violation of this order is a felony.

3 (2) Whenever a no-contact order is issued under this section, the
4 clerk of the court shall forward a copy of the order on or before the
5 next judicial day to the appropriate law enforcement agency specified
6 in the order. Upon receipt of the copy of the order, the law
7 enforcement agency shall enter the order for one year or until the
8 expiration date specified on the order into any computer-based
9 criminal intelligence information system available in this state used
10 by law enforcement agencies to list outstanding warrants. Entry into
11 the computer-based criminal intelligence information system
12 constitutes notice to all law enforcement agencies of the existence
13 of the order. The order is fully enforceable in any jurisdiction in
14 the state. Upon receipt of notice that an order has been terminated,
15 the law enforcement agency shall remove the order from the computer-
16 based criminal intelligence information system.

17 **Sec. 9.** RCW 26.50.110 and 2015 c 275 s 15 and 2015 c 248 s 1 are
18 each reenacted and amended to read as follows:

19 (1)(a) Whenever an order is granted under this chapter, chapter
20 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10, 26.26,
21 or 74.34 RCW, any temporary order for protection granted under
22 chapter 7.40 RCW pursuant to chapter 74.34 RCW, or there is a valid
23 foreign protection order as defined in RCW 26.52.020, and the
24 respondent or person to be restrained knows of the order, a violation
25 of any of the following provisions of the order is a gross
26 misdemeanor, except as provided in subsections (4) and (5) of this
27 section:

28 (i) The restraint provisions prohibiting acts or threats of
29 violence against, or stalking of, a protected party, or restraint
30 provisions prohibiting contact with a protected party;

31 (ii) A provision excluding the person from a residence,
32 workplace, school, or day care;

33 (iii) A provision prohibiting a person from knowingly coming
34 within, or knowingly remaining within, a specified distance of a
35 location;

36 (iv) A provision prohibiting interfering with the protected
37 party's efforts to remove a pet owned, possessed, leased, kept, or
38 held by the petitioner, respondent, or a minor child residing with
39 either the petitioner or the respondent; or

1 (v) A provision of a foreign protection order specifically
2 indicating that a violation will be a crime.

3 (b) Upon conviction, and in addition to any other penalties
4 provided by law, the court:

5 (i) May require that the respondent submit to electronic
6 monitoring. The court shall specify who shall provide the electronic
7 monitoring services, and the terms under which the monitoring shall
8 be performed. The order also may include a requirement that the
9 respondent pay the costs of the monitoring. The court shall consider
10 the ability of the convicted person to pay for electronic monitoring.

11 (ii) Shall impose a fine of fifteen dollars, in addition to any
12 penalty or fine imposed, for a violation of a domestic violence
13 protection order issued under this chapter. Revenue from the fifteen
14 dollar fine must be remitted monthly to the state treasury for
15 deposit in the domestic violence prevention account.

16 (2) A peace officer shall arrest without a warrant and take into
17 custody a person whom the peace officer has probable cause to believe
18 has violated an order issued under this chapter, chapter 7.92, 7.90,
19 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW,
20 any temporary order for protection granted under chapter 7.40 RCW
21 pursuant to chapter 74.34 RCW, or a valid foreign protection order as
22 defined in RCW 26.52.020, that restrains the person or excludes the
23 person from a residence, workplace, school, or day care, or prohibits
24 the person from knowingly coming within, or knowingly remaining
25 within, a specified distance of a location, if the person restrained
26 knows of the order. Presence of the order in the law enforcement
27 computer-based criminal intelligence information system is not the
28 only means of establishing knowledge of the order.

29 (3) A violation of an order issued under this chapter, chapter
30 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10, 26.26,
31 or 74.34 RCW, or of a valid foreign protection order as defined in
32 RCW 26.52.020, shall also constitute contempt of court, and is
33 subject to the penalties prescribed by law.

34 (4) Any assault that is a violation of an order issued under this
35 chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99,
36 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection
37 order as defined in RCW 26.52.020, and that does not amount to
38 assault in the first or second degree under RCW 9A.36.011 or
39 9A.36.021 is a class C felony, and any conduct in violation of such

1 an order that is reckless and creates a substantial risk of death or
2 serious physical injury to another person is a class C felony.

3 (5) A violation of a court order issued under this chapter,
4 chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10,
5 26.26, or 74.34 RCW, or of a valid foreign protection order as
6 defined in RCW 26.52.020, is a class C felony if the offender has at
7 least two previous convictions for violating the provisions of an
8 order issued under this chapter, chapter 7.90, 9A.40, 9A.46, 9A.88,
9 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign
10 protection order as defined in RCW 26.52.020. The previous
11 convictions may involve the same victim or other victims specifically
12 protected by the orders the offender violated.

13 (6) Upon the filing of an affidavit by the petitioner or any
14 peace officer alleging that the respondent has violated an order
15 granted under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88,
16 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign
17 protection order as defined in RCW 26.52.020, the court may issue an
18 order to the respondent, requiring the respondent to appear and show
19 cause within fourteen days why the respondent should not be found in
20 contempt of court and punished accordingly. The hearing may be held
21 in the court of any county or municipality in which the petitioner or
22 respondent temporarily or permanently resides at the time of the
23 alleged violation.

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