

SHB 1225 - S COMM AMD

By Committee on Law & Justice

ADOPTED 04/11/2019

1 Strike everything after the enacting clause and insert the
2 following:

3 **"Sec. 1.** RCW 10.99.030 and 2016 c 136 s 5 are each amended to
4 read as follows:

5 (1) ~~((All training relating to the handling of domestic violence~~
6 ~~complaints by law enforcement officers shall stress enforcement of~~
7 ~~criminal laws in domestic situations, availability of community~~
8 ~~resources, and protection of the victim. Law enforcement agencies and~~
9 ~~community organizations with expertise in the issue of domestic~~
10 ~~violence shall cooperate in all aspects of such training.~~

11 ~~(2) The criminal justice training commission shall implement by~~
12 ~~January 1, 1997, a course of instruction for the training of law~~
13 ~~enforcement officers in Washington in the handling of domestic~~
14 ~~violence complaints. The basic law enforcement curriculum of the~~
15 ~~criminal justice training commission shall include at least twenty~~
16 ~~hours of basic training instruction on the law enforcement response~~
17 ~~to domestic violence. The course of instruction, the learning and~~
18 ~~performance objectives, and the standards for the training shall be~~
19 ~~developed by the commission and focus on enforcing the criminal laws,~~
20 ~~safety of the victim, and holding the perpetrator accountable for the~~
21 ~~violence. The curriculum shall include training on the extent and~~
22 ~~prevalence of domestic violence, the importance of criminal justice~~
23 ~~intervention, techniques for responding to incidents that minimize~~
24 ~~the likelihood of officer injury and that promote victim safety,~~
25 ~~investigation and interviewing skills, evidence gathering and report~~
26 ~~writing, assistance to and services for victims and children,~~
27 ~~verification and enforcement of court orders, liability, and any~~
28 ~~additional provisions that are necessary to carry out the intention~~
29 ~~of this subsection.~~

30 ~~(3) The criminal justice training commission shall develop and~~
31 ~~update annually an in-service training program to familiarize law~~

1 enforcement officers with the domestic violence laws. The program
2 shall include techniques for handling incidents of domestic violence
3 that minimize the likelihood of injury to the officer and that
4 promote the safety of all parties. The commission shall make the
5 training program available to all law enforcement agencies in the
6 state.

7 ~~(4) Development of the training in subsections (2) and (3) of~~
8 ~~this section shall be conducted in conjunction with agencies having a~~
9 ~~primary responsibility for serving victims of domestic violence with~~
10 ~~emergency shelter and other services, and representatives to the~~
11 ~~statewide organization providing training and education to these~~
12 ~~organizations and to the general public.~~

13 ~~(5))~~ The primary duty of peace officers, when responding to a
14 domestic violence situation, is to enforce the laws allegedly
15 violated and to protect the complaining party.

16 ~~((6))~~ (2) (a) When a peace officer responds to a domestic
17 violence call and has probable cause to believe that a crime has been
18 committed, the peace officer shall exercise arrest powers with
19 reference to the criteria in RCW 10.31.100. The officer shall notify
20 the victim of the victim's right to initiate a criminal proceeding in
21 all cases where the officer has not exercised arrest powers or
22 decided to initiate criminal proceedings by citation or otherwise.
23 The parties in such cases shall also be advised of the importance of
24 preserving evidence.

25 (b) A peace officer responding to a domestic violence call shall
26 take a complete offense report including the officer's disposition of
27 the case.

28 ~~((7))~~ (3) (a) A peace officer who responds to a domestic
29 violence call and has probable cause to believe that a crime has been
30 committed shall:

31 (i) Seize all firearms and ammunition the peace officer has
32 reasonable grounds to believe were used or threatened to be used in
33 the commission of the offense;

34 (ii) Seize all firearms in plain sight or discovered pursuant to
35 a lawful search; and

36 (iii) Request consent to take temporary custody of any other
37 firearms and ammunition to which the alleged abuser has access until
38 a judicial officer has heard the matter.

39 (b) The peace officer shall separate the parties and then inquire
40 of the victim: (i) If there are any firearms or ammunition in the

1 home that are owned or possessed by either party; (ii) if the alleged
2 abuser has access to any other firearms located off-site; and (iii)
3 whether the alleged abuser has an active concealed pistol license, so
4 that there is a complete record for future court proceedings. The
5 inquiry should make clear to the victim that the peace officer is not
6 asking only about whether a firearm was used at the time of the
7 incident but also under other circumstances, such as whether the
8 alleged abuser has kept a firearm in plain sight in a manner that is
9 coercive, has threatened use of firearms in the past, or has
10 additional firearms in a vehicle or other location. Law enforcement
11 personnel may use a pictorial display of common firearms to assist
12 the victim in identifying firearms.

13 (c) The peace officer shall document all information about
14 firearms and concealed pistol licenses in the incident report. The
15 incident report must be coded to indicate the presence of or access
16 to firearms so that personal recognizance screeners, prosecutors, and
17 judicial officers address the heightened risk to victim, family, and
18 peace officer safety due to the alleged abuser's access to firearms.

19 (d) A law enforcement agency shall comply with the provisions of
20 RCW 9.41.340 and 9.41.345 before the return of any firearm or
21 ammunition seized under this subsection to the owner or individual
22 from who the firearm or ammunition was obtained.

23 (4) When a peace officer responds to a domestic violence call,
24 the officer shall advise victims of all reasonable means to prevent
25 further abuse, including advising each person of the availability of
26 a shelter or other services in the community, and giving each person
27 immediate notice of the legal rights and remedies available. The
28 notice shall include handing each person a copy of the following
29 statement:

30 "IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you can ask the
31 city or county prosecuting attorney to file a criminal
32 complaint. You also have the right to file a petition in
33 superior, district, or municipal court requesting an order
34 for protection from domestic abuse which could include any of
35 the following: (a) An order restraining your abuser from
36 further acts of abuse; (b) an order directing your abuser to
37 leave your household; (c) an order preventing your abuser
38 from entering your residence, school, business, or place of
39 employment; (d) an order awarding you or the other parent

1 custody of or visitation with your minor child or children;
2 ~~((and))~~ (e) an order restraining your abuser from molesting
3 or interfering with minor children in your custody; and (f)
4 an order requiring your abuser to turn in any firearms and
5 concealed pistol license in the abuser's possession or
6 control to law enforcement and prohibiting the abuser from
7 possessing or accessing firearms or a concealed pistol
8 license for the duration of the civil order. The forms you
9 need to obtain a protection order are available in any
10 municipal, district, or superior court.

11 Information about shelters and alternatives to domestic
12 violence is available from a statewide twenty-four-hour toll-
13 free hotline at (include appropriate phone number). The
14 battered women's shelter and other resources in your area
15 are (include local information)"

16 ~~((8))~~ (5) The peace officer may offer, arrange, or facilitate
17 transportation for the victim to a hospital for treatment of injuries
18 or to a place of safety or shelter.

19 ~~((9) The law enforcement agency shall forward the offense report~~
20 ~~to the appropriate prosecutor within ten days of making such report~~
21 ~~if there is probable cause to believe that an offense has been~~
22 ~~committed, unless the case is under active investigation. Upon~~
23 ~~receiving the offense report, the prosecuting agency may, in its~~
24 ~~discretion, choose not to file the information as a domestic violence~~
25 ~~offense, if the offense was committed against a sibling, parent,~~
26 ~~stepparent, or grandparent.~~

27 ~~(10) Each law enforcement agency shall make as soon as~~
28 ~~practicable a written record and shall maintain records of all~~
29 ~~incidents of domestic violence reported to it.~~

30 ~~(11) Records kept pursuant to subsections (6) and (10) of this~~
31 ~~section shall be made identifiable by means of a departmental code~~
32 ~~for domestic violence.~~

33 ~~(12) Commencing January 1, 1994, records of incidents of domestic~~
34 ~~violence shall be submitted, in accordance with procedures described~~
35 ~~in this subsection, to the Washington association of sheriffs and~~
36 ~~police chiefs by all law enforcement agencies. The Washington~~
37 ~~criminal justice training commission shall amend its contract for~~
38 ~~collection of statewide crime data with the Washington association of~~
39 ~~sheriffs and police chiefs:~~

1 ~~(a) To include a table, in the annual report of crime in~~
2 ~~Washington produced by the Washington association of sheriffs and~~
3 ~~police chiefs pursuant to the contract, showing the total number of~~
4 ~~actual offenses and the number and percent of the offenses that are~~
5 ~~domestic violence incidents for the following crimes: (i) Criminal~~
6 ~~homicide, with subtotals for murder and nonnegligent homicide and~~
7 ~~manslaughter by negligence; (ii) forcible rape, with subtotals for~~
8 ~~rape by force and attempted forcible rape; (iii) robbery, with~~
9 ~~subtotals for firearm, knife or cutting instrument, or other~~
10 ~~dangerous weapon, and strongarm robbery; (iv) assault, with subtotals~~
11 ~~for firearm, knife or cutting instrument, other dangerous weapon,~~
12 ~~hands, feet, aggravated, and other nonaggravated assaults; (v)~~
13 ~~burglary, with subtotals for forcible entry, nonforcible unlawful~~
14 ~~entry, and attempted forcible entry; (vi) larceny theft, except motor~~
15 ~~vehicle theft; (vii) motor vehicle theft, with subtotals for autos,~~
16 ~~trucks and buses, and other vehicles; (viii) arson; and (ix)~~
17 ~~violations of the provisions of a protection order or no-contact~~
18 ~~order restraining the person from going onto the grounds of or~~
19 ~~entering a residence, workplace, school, or day care, provided that~~
20 ~~specific appropriations are subsequently made for the collection and~~
21 ~~compilation of data regarding violations of protection orders or no-~~
22 ~~contact orders;~~

23 ~~(b) To require that the table shall continue to be prepared and~~
24 ~~contained in the annual report of crime in Washington until that time~~
25 ~~as comparable or more detailed information about domestic violence~~
26 ~~incidents is available through the Washington state incident based~~
27 ~~reporting system and the information is prepared and contained in the~~
28 ~~annual report of crime in Washington; and~~

29 ~~(c) To require that, in consultation with interested persons, the~~
30 ~~Washington association of sheriffs and police chiefs prepare and~~
31 ~~disseminate procedures to all law enforcement agencies in the state~~
32 ~~as to how the agencies shall code and report domestic violence~~
33 ~~incidents to the Washington association of sheriffs and police~~
34 ~~chiefs.))~~

35 (6) An appointed or elected public official, public employee, or
36 public agency as defined in RCW 4.24.470, or units of local
37 government and its employees, as provided in RCW 36.28A.010, are
38 immune from civil liability for damages arising out of the seizure or
39 lack of seizure of a firearm, unless it is shown that the official,
40 employee, or agency acted with gross negligence or in bad faith.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 10.99

2 RCW to read as follows:

3 (1) All training relating to the handling of domestic violence
4 complaints by law enforcement officers must stress enforcement of
5 criminal laws in domestic situations, availability of community
6 resources, and protection of the victim. Law enforcement agencies and
7 community organizations with expertise in the issue of domestic
8 violence shall cooperate in all aspects of such training.

9 (2) The criminal justice training commission shall implement by
10 the effective date of this section, a course of instruction for the
11 training of law enforcement officers in Washington in the handling of
12 domestic violence complaints. The basic law enforcement curriculum of
13 the criminal justice training commission must include at least twenty
14 hours of basic training instruction on the law enforcement response
15 to domestic violence. The course of instruction, the learning and
16 performance objectives, and the standards for the training must be
17 developed by the commission and focus on enforcing the criminal laws,
18 safety of the victim, and holding the perpetrator accountable for the
19 violence. The curriculum must include training on the extent and
20 prevalence of domestic violence, the importance of criminal justice
21 intervention, techniques for responding to incidents that minimize
22 the likelihood of officer injury and that promote victim safety,
23 investigation and interviewing skills, evidence gathering and report
24 writing, assistance to and services for victims and children,
25 verification and enforcement of court orders, liability, and any
26 additional provisions that are necessary to carry out the intention
27 of this subsection.

28 (3) The criminal justice training commission shall develop and
29 update annually an in-service training program to familiarize law
30 enforcement officers with domestic violence laws. The program must
31 include techniques for handling incidents of domestic violence that
32 minimize the likelihood of injury to the officer and that promote the
33 safety of all parties. The commission shall make the training program
34 available to all law enforcement agencies in the state.

35 (4) Development of the training in subsections (2) and (3) of
36 this section must be conducted in conjunction with agencies having a
37 primary responsibility for serving victims of domestic violence with
38 emergency shelter and other services, and representatives to the
39 statewide organization providing training and education to these
40 organizations and to the general public.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 10.99

2 RCW to read as follows:

3 (1) A law enforcement agency shall forward the offense report
4 regarding any incident of domestic violence to the appropriate
5 prosecutor within ten days of making such report if there is probable
6 cause to believe that an offense has been committed, unless the case
7 is under active investigation. Upon receiving the offense report, the
8 prosecuting agency may, in its discretion, choose not to file the
9 information as a domestic violence offense, if the offense was
10 committed against a sibling, parent, stepparent, or grandparent.

11 (2) Each law enforcement agency shall make as soon as practicable
12 a written record and shall maintain records of all incidents of
13 domestic violence reported to it.

14 (3) Records kept pursuant to RCW 10.99.030 and this section must
15 be made identifiable by means of a departmental code for domestic
16 violence.

17 (4) Commencing on the effective date of this section, records of
18 incidents of domestic violence must be submitted, in accordance with
19 procedures described in this subsection, to the Washington
20 association of sheriffs and police chiefs by all law enforcement
21 agencies. The criminal justice training commission shall amend its
22 contract for collection of statewide crime data with the Washington
23 association of sheriffs and police chiefs:

24 (a) To include a table, in the annual report of crime in
25 Washington produced by the Washington association of sheriffs and
26 police chiefs pursuant to the contract, showing the total number of
27 actual offenses and the number and percent of the offenses that are
28 domestic violence incidents for the following crimes: (i) Criminal
29 homicide, with subtotals for murder and nonnegligent homicide and
30 manslaughter by negligence; (ii) forcible rape, with subtotals for
31 rape by force and attempted forcible rape; (iii) robbery, with
32 subtotals for firearm, knife or cutting instrument, or other
33 dangerous weapon, and strongarm robbery; (iv) assault, with subtotals
34 for firearm, knife or cutting instrument, other dangerous weapon,
35 hands, feet, aggravated, and other nonaggravated assaults; (v)
36 burglary, with subtotals for forcible entry, nonforcible unlawful
37 entry, and attempted forcible entry; (vi) larceny theft, except motor
38 vehicle theft; (vii) motor vehicle theft, with subtotals for autos,
39 trucks and buses, and other vehicles; (viii) arson; and (ix)
40 violations of the provisions of a protection order or no-contact

1 order restraining the person from going onto the grounds of or
2 entering a residence, workplace, school, or day care, provided that
3 specific appropriations are subsequently made for the collection and
4 compilation of data regarding violations of protection orders or no-
5 contact orders;

6 (b) To require that the table shall continue to be prepared and
7 contained in the annual report of crime in Washington until that time
8 as comparable or more detailed information about domestic violence
9 incidents is available through the Washington state incident-based
10 reporting system and the information is prepared and contained in the
11 annual report of crime in Washington; and

12 (c) To require that, in consultation with interested persons, the
13 Washington association of sheriffs and police chiefs prepare and
14 disseminate procedures to all law enforcement agencies in the state
15 as to how the agencies shall code and report domestic violence
16 incidents to the Washington association of sheriffs and police
17 chiefs.

18 **Sec. 4.** RCW 10.99.040 and 2015 c 287 s 9 are each amended to
19 read as follows:

20 (1) Because of the serious nature of domestic violence, the court
21 in domestic violence actions:

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

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

26 (c) Shall waive any requirement that the victim's location be
27 disclosed to any person, other than the attorney of a criminal
28 defendant, upon a showing that there is a possibility of further
29 violence: PROVIDED, That the court may order a criminal defense
30 attorney not to disclose to his or her client the victim's location;
31 and

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

34 (2)(a) Because of the likelihood of repeated violence directed at
35 those who have been victims of domestic violence in the past, when
36 any person charged with or arrested for a crime involving domestic
37 violence is released from custody before arraignment or trial on bail
38 or personal recognizance, the court authorizing the release may
39 prohibit that person from having any contact with the victim. The

1 jurisdiction authorizing the release shall determine whether that
2 person should be prohibited from having any contact with the victim.
3 If there is no outstanding restraining or protective order
4 prohibiting that person from having contact with the victim, the
5 court authorizing release may issue, by telephone, a no-contact order
6 prohibiting the person charged or arrested from having contact with
7 the victim or from knowingly coming within, or knowingly remaining
8 within, a specified distance of a location.

9 (b) In issuing the order, the court shall consider the provisions
10 of RCW 9.41.800, and shall order the defendant to surrender, and
11 prohibit the person from possessing, all firearms, dangerous weapons,
12 and any concealed pistol license as required in RCW 9.41.800.

13 (c) The no-contact order shall also be issued in writing as soon
14 as possible, and shall state that it may be extended as provided in
15 subsection (3) of this section. By January 1, 2011, the
16 administrative office of the courts shall develop a pattern form for
17 all no-contact orders issued under this chapter. A no-contact order
18 issued under this chapter must substantially comply with the pattern
19 form developed by the administrative office of the courts.

20 (3)(a) At the time of arraignment the court shall determine
21 whether a no-contact order shall be issued or extended. So long as
22 the court finds probable cause, the court may issue or extend a no-
23 contact order even if the defendant fails to appear at arraignment.
24 The no-contact order shall terminate if the defendant is acquitted or
25 the charges are dismissed.

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

34 (c) If a no-contact order is issued or extended, the court may
35 also include in the conditions of release a requirement that the
36 defendant submit to electronic monitoring as defined in RCW
37 9.94A.030. If electronic monitoring is ordered, the court shall
38 specify who shall provide the monitoring services, and the terms
39 under which the monitoring shall be performed. Upon conviction, the
40 court may require as a condition of the sentence that the defendant

1 reimburse the providing agency for the costs of the electronic
2 monitoring.

3 (4) (a) Willful violation of a court order issued under subsection
4 (2), (3), or (7) of this section is punishable under RCW 26.50.110.

5 (b) The written order releasing the person charged or arrested
6 shall contain the court's directives and shall bear the legend:
7 "Violation of this order is a criminal offense under chapter 26.50
8 RCW and will subject a violator to arrest; any assault, drive-by
9 shooting, or reckless endangerment that is a violation of this order
10 is a felony. You can be arrested even if any person protected by the
11 order invites or allows you to violate the order's prohibitions. You
12 have the sole responsibility to avoid or refrain from violating the
13 order's provisions. Only the court can change the order."

14 (c) A certified copy of the order shall be provided to the
15 victim.

16 (5) If a no-contact order has been issued prior to charging, that
17 order shall expire at arraignment or within seventy-two hours if
18 charges are not filed.

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

35 (7) All courts shall develop policies and procedures by January
36 1, 2011, to grant victims a process to modify or rescind a no-contact
37 order issued under this chapter. The administrative office of the
38 courts shall develop a model policy to assist the courts in
39 implementing the requirements of this subsection.

1 **Sec. 5.** RCW 9.41.345 and 2018 c 226 s 1 are each amended to read
2 as follows:

3 (1) Before a law enforcement agency returns a privately owned
4 firearm, the law enforcement agency must:

5 (a) Confirm that the individual to whom the firearm will be
6 returned is the individual from whom the firearm was obtained or an
7 authorized representative of that person;

8 (b) Confirm that the individual to whom the firearm will be
9 returned is eligible to possess a firearm pursuant to RCW 9.41.040;

10 (c) Ensure that the firearm is not otherwise required to be held
11 in custody or otherwise prohibited from being released; and

12 (d) Ensure that twenty-four hours have elapsed from the time the
13 firearm was obtained by law enforcement, unless the firearm was
14 seized in connection with a domestic violence call pursuant to RCW
15 10.99.030, in which case the law enforcement agency must ensure that
16 five business days have elapsed from the time the firearm was
17 obtained.

18 (2)(a) Once the requirements in subsections (1) and (3) of this
19 section have been met, a law enforcement agency must release a
20 firearm to the individual from whom it was obtained or an authorized
21 representative of that person upon request without unnecessary delay.

22 (b)(i) If a firearm cannot be returned because it is required to
23 be held in custody or is otherwise prohibited from being released, a
24 law enforcement agency must provide written notice to the individual
25 from whom it was obtained within five business days of the individual
26 requesting return of his or her firearm and specify the reason the
27 firearm must be held in custody.

28 (ii) Notification may be made via email, text message, mail
29 service, or personal service. For methods other than personal
30 service, service shall be considered complete once the notification
31 is sent.

32 (3) If a family or household member has requested to be notified
33 pursuant to RCW 9.41.340, a law enforcement agency must:

34 (a) Provide notice to the family or household member within one
35 business day of verifying that the requirements in subsection (1) of
36 this section have been met; and

37 (b) Hold the firearm in custody for seventy-two hours from the
38 time notification has been provided.

39 (4)(a) A law enforcement agency may not return a concealed pistol
40 license that has been surrendered to or impounded by the law

1 enforcement agency for any reason to the licensee until the law
2 enforcement agency determines the licensee is eligible to possess a
3 firearm under state and federal law and meets the other eligibility
4 requirements for a concealed pistol license under RCW 9.41.070.

5 (b) A law enforcement agency must release a concealed pistol
6 license to the licensee without unnecessary delay, and in no case
7 longer than five business days, after the law enforcement agency
8 determines the requirements of (a) of this subsection have been met.

9 (5) The provisions of chapter 130, Laws of 2015 and subsection
10 (4) of this section shall not apply to circumstances where a law
11 enforcement officer has momentarily obtained a firearm or concealed
12 pistol license from an individual and would otherwise immediately
13 return the firearm or concealed pistol license to the individual
14 during the same interaction.

15 NEW SECTION. **Sec. 6.** If any provision of this act or its
16 application to any person or circumstance is held invalid, the
17 remainder of the act or the application of the provision to other
18 persons or circumstances is not affected."

SHB 1225 - S COMM AMD
By Committee on Law & Justice

ADOPTED 04/11/2019

19 On page 1, line 4 of the title, after "officers;" strike the
20 remainder of the title and insert "amending RCW 10.99.030, 10.99.040,
21 and 9.41.345; and adding new sections to chapter 10.99 RCW."

EFFECT: Requires a peace officer responding to a domestic
violence call to additionally seize all firearms in plain sight or
discovered pursuant to a lawful search; extends local government
immunity from civil liability to damages arising from the seizure or
lack of seizure of a firearm unless the employee or agency acted with
gross negligence or in bad faith.

--- END ---