
HOUSE BILL 2305

State of Washington

66th Legislature

2020 Regular Session

By Representatives Doglio, Pollet, and Appleton

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1 AN ACT Relating to firearms laws concerning persons subject to
2 vulnerable adult protection orders; amending RCW 74.34.130; and
3 reenacting and amending RCW 9.41.800 and 9.41.040.

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

5 **Sec. 1.** RCW 9.41.800 and 2019 c 245 s 1 and 2019 c 46 s 5006 are
6 each reenacted and amended to read as follows:

7 (1) Any court when entering an order authorized under chapter
8 7.92 RCW, RCW 7.90.090, 9A.46.080, 10.14.080, 10.99.040, 10.99.045,
9 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26B.020, 26.50.060,
10 26.50.070, (~~(e)~~) 26.26A.470, 74.34.120, or 74.34.130 shall, upon a
11 showing by clear and convincing evidence, that a party has: Used,
12 displayed, or threatened to use a firearm or other dangerous weapon
13 in a felony, or is ineligible to possess a firearm under the
14 provisions of RCW 9.41.040:

15 (a) Require that the party immediately surrender all firearms and
16 other dangerous weapons;

17 (b) Require that the party immediately surrender any concealed
18 pistol license issued under RCW 9.41.070;

19 (c) Prohibit the party from accessing, obtaining, or possessing
20 any firearms or other dangerous weapons;

1 (d) Prohibit the party from obtaining or possessing a concealed
2 pistol license.

3 (2) Any court when entering an order authorized under chapter
4 7.92 RCW, RCW 7.90.090, 9A.46.080, 10.14.080, 10.99.040, 10.99.045,
5 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26B.020, 26.50.060,
6 26.50.070, (~~(e)~~) 26.26A.470, 74.34.120, or 74.34.130 may, upon a
7 showing by a preponderance of the evidence but not by clear and
8 convincing evidence, that a party has: Used, displayed, or threatened
9 to use a firearm or other dangerous weapon in a felony, or is
10 ineligible to possess a firearm under the provisions of RCW 9.41.040:

11 (a) Require that the party immediately surrender all firearms and
12 other dangerous weapons;

13 (b) Require that the party immediately surrender a concealed
14 pistol license issued under RCW 9.41.070;

15 (c) Prohibit the party from accessing, obtaining, or possessing
16 any firearms or other dangerous weapons;

17 (d) Prohibit the party from obtaining or possessing a concealed
18 pistol license.

19 (3) During any period of time that the person is subject to a
20 court order issued under chapter 7.90, 7.92, 9A.46, 10.14, 10.99,
21 26.09, 26.10, 26.26A, 26.26B, (~~(e)~~) 26.50, or 74.34 RCW that:

22 (a) Was issued after a hearing of which the person received
23 actual notice, and at which the person had an opportunity to
24 participate;

25 (b) Restrains the person from harassing, stalking, or threatening
26 an intimate partner of the person or child of the intimate partner or
27 person, or engaging in other conduct that would place an intimate
28 partner in reasonable fear of bodily injury to the partner or child;
29 and

30 (c)(i) Includes a finding that the person represents a credible
31 threat to the physical safety of the intimate partner or child; and

32 (ii) By its terms, explicitly prohibits the use, attempted use,
33 or threatened use of physical force against the intimate partner or
34 child that would reasonably be expected to cause bodily injury, the
35 court shall:

36 (A) Require that the party immediately surrender all firearms and
37 other dangerous weapons;

38 (B) Require that the party immediately surrender a concealed
39 pistol license issued under RCW 9.41.070;

1 (C) Prohibit the party from accessing, obtaining, or possessing
2 any firearms or other dangerous weapons; and

3 (D) Prohibit the party from obtaining or possessing a concealed
4 pistol license.

5 (4) The court may order temporary surrender of all firearms and
6 other dangerous weapons, and any concealed pistol license, without
7 notice to the other party if it finds, on the basis of the moving
8 affidavit or other evidence, that irreparable injury could result if
9 an order is not issued until the time for response has elapsed.

10 (5) In addition to the provisions of subsections (1), (2), and
11 (4) of this section, the court may enter an order requiring a party
12 to comply with the provisions in subsection (1) of this section if it
13 finds that the possession of a firearm or other dangerous weapon by
14 any party presents a serious and imminent threat to public health or
15 safety, or to the health or safety of any individual.

16 (6) The requirements of subsections (1), (2), and (5) of this
17 section may be for a period of time less than the duration of the
18 order.

19 (7) The court may require the party to surrender all firearms and
20 other dangerous weapons in his or her immediate possession or control
21 or subject to his or her immediate possession or control, and any
22 concealed pistol license issued under RCW 9.41.070, to the local law
23 enforcement agency. Law enforcement officers shall use law
24 enforcement databases to assist in locating the respondent in
25 situations where the protected person does not know where the
26 respondent lives or where there is evidence that the respondent is
27 trying to evade service.

28 (8) If the court enters a protection order, restraining order, or
29 no-contact order that includes an order to surrender firearms,
30 dangerous weapons, and any concealed pistol license under this
31 section, the order must be served by a law enforcement officer.

32 **Sec. 2.** RCW 74.34.130 and 2007 c 312 s 6 are each amended to
33 read as follows:

34 (1) The court may order relief as it deems necessary for the
35 protection of the vulnerable adult, including, but not limited to the
36 following:

37 ~~((1))~~ (a) Restraining respondent from committing acts of
38 abandonment, abuse, neglect, or financial exploitation against the
39 vulnerable adult;

1 ~~((2))~~ (b) Excluding the respondent from the vulnerable adult's
2 residence for a specified period or until further order of the court;

3 ~~((3))~~ (c) Prohibiting contact with the vulnerable adult by
4 respondent for a specified period or until further order of the
5 court;

6 ~~((4))~~ (d) Prohibiting the respondent from knowingly coming
7 within, or knowingly remaining within, a specified distance from a
8 specified location;

9 ~~((5))~~ (e) Requiring an accounting by respondent of the
10 disposition of the vulnerable adult's income or other resources;

11 ~~((6))~~ (f) Restraining the transfer of the respondent's and/or
12 vulnerable adult's property for a specified period not exceeding
13 ninety days; and

14 ~~((7))~~ (g) Requiring the respondent to pay a filing fee and
15 court costs, including service fees, and to reimburse the petitioner
16 for costs incurred in bringing the action, including a reasonable
17 attorney's fee.

18 (2) In issuing the order, the court shall consider the provisions
19 of RCW 9.41.800 and shall order the respondent to surrender, and
20 prohibit the respondent from possessing, all firearms, dangerous
21 weapons, and any concealed pistol license as required in RCW
22 9.41.800.

23 (3) Any relief granted by an order for protection, other than a
24 judgment for costs, shall be for a fixed period not to exceed five
25 years. The clerk of the court shall enter any order for protection
26 issued under this section into the judicial information system.

27 **Sec. 3.** RCW 9.41.040 and 2019 c 248 s 2, 2019 c 245 s 3, and
28 2019 c 46 s 5003 are each reenacted and amended to read as follows:

29 (1)(a) A person, whether an adult or juvenile, is guilty of the
30 crime of unlawful possession of a firearm in the first degree, if the
31 person owns, has in his or her possession, or has in his or her
32 control any firearm after having previously been convicted or found
33 not guilty by reason of insanity in this state or elsewhere of any
34 serious offense as defined in this chapter.

35 (b) Unlawful possession of a firearm in the first degree is a
36 class B felony punishable according to chapter 9A.20 RCW.

37 (2)(a) A person, whether an adult or juvenile, is guilty of the
38 crime of unlawful possession of a firearm in the second degree, if
39 the person does not qualify under subsection (1) of this section for

1 the crime of unlawful possession of a firearm in the first degree and
2 the person owns, has in his or her possession, or has in his or her
3 control any firearm:

4 (i) After having previously been convicted or found not guilty by
5 reason of insanity in this state or elsewhere of any felony not
6 specifically listed as prohibiting firearm possession under
7 subsection (1) of this section, or any of the following crimes when
8 committed by one family or household member against another,
9 committed on or after July 1, 1993: Assault in the fourth degree,
10 coercion, stalking, reckless endangerment, criminal trespass in the
11 first degree, or violation of the provisions of a protection order or
12 no-contact order restraining the person or excluding the person from
13 a residence (RCW 26.50.060, 26.50.070, 26.50.130, or 10.99.040);

14 (ii) After having previously been convicted or found not guilty
15 by reason of insanity in this state or elsewhere of harassment when
16 committed by one family or household member against another,
17 committed on or after June 7, 2018;

18 (iii) During any period of time that the person is subject to a
19 court order issued under chapter 7.90, 7.92, 9A.46, 10.14, 10.99,
20 26.09, 26.10, 26.26A, 26.26B, (~~or~~) 26.50, or 74.34 RCW that:

21 (A) Was issued after a hearing of which the person received
22 actual notice, and at which the person had an opportunity to
23 participate;

24 (B) Restrains the person from harassing, stalking, or threatening
25 the person protected under the order or child of the person or
26 protected person, or engaging in other conduct that would place the
27 protected person in reasonable fear of bodily injury to the protected
28 person or child; and

29 (C) (I) Includes a finding that the person represents a credible
30 threat to the physical safety of the protected person or child and by
31 its terms explicitly prohibits the use, attempted use, or threatened
32 use of physical force against the protected person or child that
33 would reasonably be expected to cause bodily injury; or

34 (II) Includes an order under RCW 9.41.800 requiring the person to
35 surrender all firearms and prohibiting the person from accessing,
36 obtaining, or possessing firearms;

37 (iv) After having previously been involuntarily committed for
38 mental health treatment under RCW 71.05.240, 71.05.320, 71.34.740,
39 71.34.750, chapter 10.77 RCW, or equivalent statutes of another

1 jurisdiction, unless his or her right to possess a firearm has been
2 restored as provided in RCW 9.41.047;

3 (v) After dismissal of criminal charges based on incompetency to
4 stand trial under RCW 10.77.088 when the court has made a finding
5 indicating that the defendant has a history of one or more violent
6 acts, unless his or her right to possess a firearm has been restored
7 as provided in RCW 9.41.047;

8 (vi) If the person is under eighteen years of age, except as
9 provided in RCW 9.41.042; and/or

10 (vii) If the person is free on bond or personal recognizance
11 pending trial, appeal, or sentencing for a serious offense as defined
12 in RCW 9.41.010.

13 (b) (a)(iii) of this subsection does not apply to a sexual
14 assault protection order under chapter 7.90 RCW if the order has been
15 modified pursuant to RCW 7.90.170 to remove any restrictions on
16 firearm purchase, transfer, or possession.

17 (c) Unlawful possession of a firearm in the second degree is a
18 class C felony punishable according to chapter 9A.20 RCW.

19 (3) Notwithstanding RCW 9.41.047 or any other provisions of law,
20 as used in this chapter, a person has been "convicted," whether in an
21 adult court or adjudicated in a juvenile court, at such time as a
22 plea of guilty has been accepted, or a verdict of guilty has been
23 filed, notwithstanding the pendency of any future proceedings
24 including but not limited to sentencing or disposition, post-trial or
25 post-fact-finding motions, and appeals. Conviction includes a
26 dismissal entered after a period of probation, suspension or deferral
27 of sentence, and also includes equivalent dispositions by courts in
28 jurisdictions other than Washington state. A person shall not be
29 precluded from possession of a firearm if the conviction has been the
30 subject of a pardon, annulment, certificate of rehabilitation, or
31 other equivalent procedure based on a finding of the rehabilitation
32 of the person convicted or the conviction or disposition has been the
33 subject of a pardon, annulment, or other equivalent procedure based
34 on a finding of innocence. Where no record of the court's disposition
35 of the charges can be found, there shall be a rebuttable presumption
36 that the person was not convicted of the charge.

37 (4)(a) Notwithstanding subsection (1) or (2) of this section, a
38 person convicted or found not guilty by reason of insanity of an
39 offense prohibiting the possession of a firearm under this section
40 other than murder, manslaughter, robbery, rape, indecent liberties,

1 arson, assault, kidnapping, extortion, burglary, or violations with
2 respect to controlled substances under RCW 69.50.401 and 69.50.410,
3 who received a probationary sentence under RCW 9.95.200, and who
4 received a dismissal of the charge under RCW 9.95.240, shall not be
5 precluded from possession of a firearm as a result of the conviction
6 or finding of not guilty by reason of insanity. Notwithstanding any
7 other provisions of this section, if a person is prohibited from
8 possession of a firearm under subsection (1) or (2) of this section
9 and has not previously been convicted or found not guilty by reason
10 of insanity of a sex offense prohibiting firearm ownership under
11 subsection (1) or (2) of this section and/or any felony defined under
12 any law as a class A felony or with a maximum sentence of at least
13 twenty years, or both, the individual may petition a court of record
14 to have his or her right to possess a firearm restored:

15 (i) Under RCW 9.41.047; and/or

16 (ii)(A) If the conviction or finding of not guilty by reason of
17 insanity was for a felony offense, after five or more consecutive
18 years in the community without being convicted or found not guilty by
19 reason of insanity or currently charged with any felony, gross
20 misdemeanor, or misdemeanor crimes, if the individual has no prior
21 felony convictions that prohibit the possession of a firearm counted
22 as part of the offender score under RCW 9.94A.525; or

23 (B) If the conviction or finding of not guilty by reason of
24 insanity was for a nonfelony offense, after three or more consecutive
25 years in the community without being convicted or found not guilty by
26 reason of insanity or currently charged with any felony, gross
27 misdemeanor, or misdemeanor crimes, if the individual has no prior
28 felony convictions that prohibit the possession of a firearm counted
29 as part of the offender score under RCW 9.94A.525 and the individual
30 has completed all conditions of the sentence.

31 (b) An individual may petition a court of record to have his or
32 her right to possess a firearm restored under (a) of this subsection
33 (~~((4))~~) only at:

34 (i) The court of record that ordered the petitioner's prohibition
35 on possession of a firearm; or

36 (ii) The superior court in the county in which the petitioner
37 resides.

38 (5) In addition to any other penalty provided for by law, if a
39 person under the age of eighteen years is found by a court to have
40 possessed a firearm in a vehicle in violation of subsection (1) or

1 (2) of this section or to have committed an offense while armed with
2 a firearm during which offense a motor vehicle served an integral
3 function, the court shall notify the department of licensing within
4 twenty-four hours and the person's privilege to drive shall be
5 revoked under RCW 46.20.265, unless the offense is the juvenile's
6 first offense in violation of this section and has not committed an
7 offense while armed with a firearm, an unlawful possession of a
8 firearm offense, or an offense in violation of chapter 66.44, 69.52,
9 69.41, or 69.50 RCW.

10 (6) Nothing in chapter 129, Laws of 1995 shall ever be construed
11 or interpreted as preventing an offender from being charged and
12 subsequently convicted for the separate felony crimes of theft of a
13 firearm or possession of a stolen firearm, or both, in addition to
14 being charged and subsequently convicted under this section for
15 unlawful possession of a firearm in the first or second degree.
16 Notwithstanding any other law, if the offender is convicted under
17 this section for unlawful possession of a firearm in the first or
18 second degree and for the felony crimes of theft of a firearm or
19 possession of a stolen firearm, or both, then the offender shall
20 serve consecutive sentences for each of the felony crimes of
21 conviction listed in this subsection.

22 (7) Each firearm unlawfully possessed under this section shall be
23 a separate offense.

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