

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1225

66th Legislature
2019 Regular Session

Passed by the House April 23, 2019
Yeas 55 Nays 41

Speaker of the House of Representatives

Passed by the Senate April 11, 2019
Yeas 27 Nays 20

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 1225** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1225

AS AMENDED BY THE SENATE

Passed Legislature - 2019 Regular Session

State of Washington 66th Legislature 2019 Regular Session

By House Civil Rights & Judiciary (originally sponsored by Representatives Jenkins, Peterson, Thai, Morgan, Macri, Senn, Appleton, Frame, Kloba, Doglio, Pollet, Hudgins, Valdez, Lovick, Lekanoff, Walen, Bergquist, Stanford, Slatter, Tarleton, Wylie, Tharinger, Fey, Gregerson, and Goodman)

READ FIRST TIME 02/05/19.

1 AN ACT Relating to establishing policies and requirements
2 regarding law enforcement response to domestic violence incidents to
3 enhance the safety of domestic violence victims, families, and
4 officers; amending RCW 10.99.030, 10.99.040, and 9.41.345; and adding
5 new sections to chapter 10.99 RCW.

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

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

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

15 ~~(2) The criminal justice training commission shall implement by~~
16 ~~January 1, 1997, a course of instruction for the training of law~~
17 ~~enforcement officers in Washington in the handling of domestic~~
18 ~~violence complaints. The basic law enforcement curriculum of the~~
19 ~~criminal justice training commission shall include at least twenty~~
20 ~~hours of basic training instruction on the law enforcement response~~
21 ~~to domestic violence. The course of instruction, the learning and~~

1 performance objectives, and the standards for the training shall be
2 developed by the commission and focus on enforcing the criminal laws,
3 safety of the victim, and holding the perpetrator accountable for the
4 violence. The curriculum shall include training on the extent and
5 prevalence of domestic violence, the importance of criminal justice
6 intervention, techniques for responding to incidents that minimize
7 the likelihood of officer injury and that promote victim safety,
8 investigation and interviewing skills, evidence gathering and report
9 writing, assistance to and services for victims and children,
10 verification and enforcement of court orders, liability, and any
11 additional provisions that are necessary to carry out the intention
12 of this subsection.

13 ~~(3) The criminal justice training commission shall develop and~~
14 ~~update annually an in-service training program to familiarize law~~
15 ~~enforcement officers with the domestic violence laws. The program~~
16 ~~shall include techniques for handling incidents of domestic violence~~
17 ~~that minimize the likelihood of injury to the officer and that~~
18 ~~promote the safety of all parties. The commission shall make the~~
19 ~~training program available to all law enforcement agencies in the~~
20 ~~state.~~

21 ~~(4) Development of the training in subsections (2) and (3) of~~
22 ~~this section shall be conducted in conjunction with agencies having a~~
23 ~~primary responsibility for serving victims of domestic violence with~~
24 ~~emergency shelter and other services, and representatives to the~~
25 ~~statewide organization providing training and education to these~~
26 ~~organizations and to the general public.~~

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

30 ~~((6))~~ (2)(a) When a peace officer responds to a domestic
31 violence call and has probable cause to believe that a crime has been
32 committed, the peace officer shall exercise arrest powers with
33 reference to the criteria in RCW 10.31.100. The officer shall notify
34 the victim of the victim's right to initiate a criminal proceeding in
35 all cases where the officer has not exercised arrest powers or
36 decided to initiate criminal proceedings by citation or otherwise.
37 The parties in such cases shall also be advised of the importance of
38 preserving evidence.

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

4 ~~((7))~~ (3)(a) A peace officer who responds to a domestic
5 violence call and has probable cause to believe that a crime has been
6 committed shall:

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

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

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

15 (b) The peace officer shall separate the parties and then inquire
16 of the victim: (i) If there are any firearms or ammunition in the
17 home that are owned or possessed by either party; (ii) if the alleged
18 abuser has access to any other firearms located off-site; and (iii)
19 whether the alleged abuser has an active concealed pistol license, so
20 that there is a complete record for future court proceedings. The
21 inquiry should make clear to the victim that the peace officer is not
22 asking only about whether a firearm was used at the time of the
23 incident but also under other circumstances, such as whether the
24 alleged abuser has kept a firearm in plain sight in a manner that is
25 coercive, has threatened use of firearms in the past, or has
26 additional firearms in a vehicle or other location. Law enforcement
27 personnel may use a pictorial display of common firearms to assist
28 the victim in identifying firearms.

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

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

39 (4) When a peace officer responds to a domestic violence call,
40 the officer shall advise victims of all reasonable means to prevent

1 further abuse, including advising each person of the availability of
2 a shelter or other services in the community, and giving each person
3 immediate notice of the legal rights and remedies available. The
4 notice shall include handing each person a copy of the following
5 statement:

6 "IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you can ask the
7 city or county prosecuting attorney to file a criminal
8 complaint. You also have the right to file a petition in
9 superior, district, or municipal court requesting an order
10 for protection from domestic abuse which could include any of
11 the following: (a) An order restraining your abuser from
12 further acts of abuse; (b) an order directing your abuser to
13 leave your household; (c) an order preventing your abuser
14 from entering your residence, school, business, or place of
15 employment; (d) an order awarding you or the other parent
16 custody of or visitation with your minor child or children;
17 ~~((and))~~ (e) an order restraining your abuser from molesting
18 or interfering with minor children in your custody; and (f)
19 an order requiring your abuser to turn in any firearms and
20 concealed pistol license in the abuser's possession or
21 control to law enforcement and prohibiting the abuser from
22 possessing or accessing firearms or a concealed pistol
23 license for the duration of the civil order. The forms you
24 need to obtain a protection order are available in any
25 municipal, district, or superior court.

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

31 ~~((+8))~~ (5) The peace officer may offer, arrange, or facilitate
32 transportation for the victim to a hospital for treatment of injuries
33 or to a place of safety or shelter.

34 ~~((+9) The law enforcement agency shall forward the offense report~~
35 ~~to the appropriate prosecutor within ten days of making such report~~
36 ~~if there is probable cause to believe that an offense has been~~
37 ~~committed, unless the case is under active investigation. Upon~~
38 ~~receiving the offense report, the prosecuting agency may, in its~~
39 ~~discretion, choose not to file the information as a domestic violence~~

1 offense, if the offense was committed against a sibling, parent,
2 stepparent, or grandparent.

3 (10) Each law enforcement agency shall make as soon as
4 practicable a written record and shall maintain records of all
5 incidents of domestic violence reported to it.

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

9 (12) Commencing January 1, 1994, records of incidents of domestic
10 violence shall be submitted, in accordance with procedures described
11 in this subsection, to the Washington association of sheriffs and
12 police chiefs by all law enforcement agencies. The Washington
13 criminal justice training commission shall amend its contract for
14 collection of statewide crime data with the Washington association of
15 sheriffs and police chiefs:

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

38 (b) To require that the table shall continue to be prepared and
39 contained in the annual report of crime in Washington until that time
40 as comparable or more detailed information about domestic violence

1 incidents is available through the Washington state incident based
2 reporting system and the information is prepared and contained in the
3 annual report of crime in Washington; and

4 ~~(c) To require that, in consultation with interested persons, the
5 Washington association of sheriffs and police chiefs prepare and
6 disseminate procedures to all law enforcement agencies in the state
7 as to how the agencies shall code and report domestic violence
8 incidents to the Washington association of sheriffs and police
9 chiefs.)~~

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

16 NEW SECTION. Sec. 2. A new section is added to chapter 10.99
17 RCW to read as follows:

18 (1) All training relating to the handling of domestic violence
19 complaints by law enforcement officers must stress enforcement of
20 criminal laws in domestic situations, availability of community
21 resources, and protection of the victim. Law enforcement agencies and
22 community organizations with expertise in the issue of domestic
23 violence shall cooperate in all aspects of such training.

24 (2) The criminal justice training commission shall implement by
25 the effective date of this section, a course of instruction for the
26 training of law enforcement officers in Washington in the handling of
27 domestic violence complaints. The basic law enforcement curriculum of
28 the criminal justice training commission must include at least twenty
29 hours of basic training instruction on the law enforcement response
30 to domestic violence. The course of instruction, the learning and
31 performance objectives, and the standards for the training must be
32 developed by the commission and focus on enforcing the criminal laws,
33 safety of the victim, and holding the perpetrator accountable for the
34 violence. The curriculum must include training on the extent and
35 prevalence of domestic violence, the importance of criminal justice
36 intervention, techniques for responding to incidents that minimize
37 the likelihood of officer injury and that promote victim safety,
38 investigation and interviewing skills, evidence gathering and report
39 writing, assistance to and services for victims and children,

1 verification and enforcement of court orders, liability, and any
2 additional provisions that are necessary to carry out the intention
3 of this subsection.

4 (3) The criminal justice training commission shall develop and
5 update annually an in-service training program to familiarize law
6 enforcement officers with domestic violence laws. The program must
7 include techniques for handling incidents of domestic violence that
8 minimize the likelihood of injury to the officer and that promote the
9 safety of all parties. The commission shall make the training program
10 available to all law enforcement agencies in the state.

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

17 NEW SECTION. **Sec. 3.** A new section is added to chapter 10.99
18 RCW to read as follows:

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

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

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

33 (4) Commencing on the effective date of this section, records of
34 incidents of domestic violence must be submitted, in accordance with
35 procedures described in this subsection, to the Washington
36 association of sheriffs and police chiefs by all law enforcement
37 agencies. The criminal justice training commission shall amend its
38 contract for collection of statewide crime data with the Washington
39 association of 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 **Sec. 4.** RCW 10.99.040 and 2015 c 287 s 9 are each amended to
36 read as follows:

37 (1) Because of the serious nature of domestic violence, the court
38 in domestic violence actions:

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

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

5 (c) Shall waive any requirement that the victim's location be
6 disclosed to any person, other than the attorney of a criminal
7 defendant, upon a showing that there is a possibility of further
8 violence: PROVIDED, That the court may order a criminal defense
9 attorney not to disclose to his or her client the victim's location;
10 and

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

13 (2)(a) Because of the likelihood of repeated violence directed at
14 those who have been victims of domestic violence in the past, when
15 any person charged with or arrested for a crime involving domestic
16 violence is released from custody before arraignment or trial on bail
17 or personal recognizance, the court authorizing the release may
18 prohibit that person from having any contact with the victim. The
19 jurisdiction authorizing the release shall determine whether that
20 person should be prohibited from having any contact with the victim.
21 If there is no outstanding restraining or protective order
22 prohibiting that person from having contact with the victim, the
23 court authorizing release may issue, by telephone, a no-contact order
24 prohibiting the person charged or arrested from having contact with
25 the victim or from knowingly coming within, or knowingly remaining
26 within, a specified distance of a location.

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

31 (c) The no-contact order shall also be issued in writing as soon
32 as possible, and shall state that it may be extended as provided in
33 subsection (3) of this section. By January 1, 2011, the
34 administrative office of the courts shall develop a pattern form for
35 all no-contact orders issued under this chapter. A no-contact order
36 issued under this chapter must substantially comply with the pattern
37 form developed by the administrative office of the courts.

38 (3)(a) At the time of arraignment the court shall determine
39 whether a no-contact order shall be issued or extended. So long as
40 the court finds probable cause, the court may issue or extend a no-

1 contact order even if the defendant fails to appear at arraignment.
2 The no-contact order shall terminate if the defendant is acquitted or
3 the charges are dismissed.

4 (b) In issuing the order, the court shall consider all
5 information documented in the incident report concerning the person's
6 possession of and access to firearms and whether law enforcement took
7 temporary custody of firearms at the time of the arrest. The court
8 may as a condition of release prohibit the defendant from possessing
9 or accessing firearms and order the defendant to immediately
10 surrender all firearms and any concealed pistol license to a law
11 enforcement agency upon release.

12 (c) If a no-contact order is issued or extended, the court may
13 also include in the conditions of release a requirement that the
14 defendant submit to electronic monitoring as defined in RCW
15 9.94A.030. If electronic monitoring is ordered, the court shall
16 specify who shall provide the monitoring services, and the terms
17 under which the monitoring shall be performed. Upon conviction, the
18 court may require as a condition of the sentence that the defendant
19 reimburse the providing agency for the costs of the electronic
20 monitoring.

21 (4) (a) Willful violation of a court order issued under subsection
22 (2), (3), or (7) of this section is punishable under RCW 26.50.110.

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

32 (c) A certified copy of the order shall be provided to the
33 victim.

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

37 (6) Whenever a no-contact order is issued, modified, or
38 terminated under subsection (2) or (3) of this section, the clerk of
39 the court shall forward a copy of the order on or before the next
40 judicial day to the appropriate law enforcement agency specified in

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

13 (7) All courts shall develop policies and procedures by January
14 1, 2011, to grant victims a process to modify or rescind a no-contact
15 order issued under this chapter. The administrative office of the
16 courts shall develop a model policy to assist the courts in
17 implementing the requirements of this subsection.

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

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

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

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

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

29 (d) Ensure that twenty-four hours have elapsed from the time the
30 firearm was obtained by law enforcement, unless the firearm was
31 seized in connection with a domestic violence call pursuant to RCW
32 10.99.030, in which case the law enforcement agency must ensure that
33 five business days have elapsed from the time the firearm was
34 obtained.

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

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

7 (ii) Notification may be made via email, text message, mail
8 service, or personal service. For methods other than personal
9 service, service shall be considered complete once the notification
10 is sent.

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

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

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

18 (4) (a) A law enforcement agency may not return a concealed pistol
19 license that has been surrendered to or impounded by the law
20 enforcement agency for any reason to the licensee until the law
21 enforcement agency determines the licensee is eligible to possess a
22 firearm under state and federal law and meets the other eligibility
23 requirements for a concealed pistol license under RCW 9.41.070.

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

28 (5) The provisions of chapter 130, Laws of 2015 and subsection
29 (4) of this section shall not apply to circumstances where a law
30 enforcement officer has momentarily obtained a firearm or concealed
31 pistol license from an individual and would otherwise immediately
32 return the firearm or concealed pistol license to the individual
33 during the same interaction.

34 NEW SECTION. **Sec. 6.** If any provision of this act or its
35 application to any person or circumstance is held invalid, the
36 remainder of the act or the application of the provision to other
37 persons or circumstances is not affected.

--- END ---