
ENGROSSED SUBSTITUTE SENATE BILL 6299

State of Washington

54th Legislature

1996 Regular Session

By Senate Committee on Law & Justice (originally sponsored by Senators Rasmussen, Long, Fairley, McCaslin, Haugen, Winsley, Oke and Spanel)

Read first time 02/02/96.

1 AN ACT Relating to no contact and protection orders; amending RCW
2 10.99.040, 10.99.050, and 26.50.110; and prescribing penalties.

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

4 **Sec. 1.** RCW 10.99.040 and 1995 c 246 s 23 are each amended to read
5 as follows:

6 (1) Because of the serious nature of domestic violence, the court
7 in domestic violence actions:

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

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

12 (c) Shall waive any requirement that the victim's location be
13 disclosed to any person, other than the attorney of a criminal
14 defendant, upon a showing that there is a possibility of further
15 violence: PROVIDED, That the court may order a criminal defense
16 attorney not to disclose to his or her client the victim's location;
17 ((and))

18 (d) Shall identify by any reasonable means on docket sheets those
19 criminal actions arising from acts of domestic violence; and

1 (e) May require a person subject to a protective order to wear an
2 electronic monitoring device that initiates an alarm when the person
3 wearing it approaches a location in violation of the order.

4 (2) Because of the likelihood of repeated violence directed at
5 those who have been victims of domestic violence in the past, when any
6 person charged with or arrested for a crime involving domestic violence
7 is released from custody before arraignment or trial on bail or
8 personal recognizance, the court authorizing the release may prohibit
9 that person from having any contact with the victim. The jurisdiction
10 authorizing the release shall determine whether that person should be
11 prohibited from having any contact with the victim. If there is no
12 outstanding restraining or protective order prohibiting that person
13 from having contact with the victim, the court authorizing release may
14 issue, by telephone, a no-contact order prohibiting the person charged
15 or arrested from having contact with the victim. In issuing the order,
16 the court shall consider the provisions of RCW 9.41.800. The no-
17 contact order shall also be issued in writing as soon as possible.

18 (3) At the time of arraignment the court shall determine whether a
19 no-contact order shall be issued or extended. If a no-contact order is
20 issued or extended, the court may also include in the conditions of
21 release a requirement that the defendant submit to electronic
22 monitoring. If electronic monitoring is ordered, the court shall
23 specify who shall provide the monitoring services, and the terms under
24 which the monitoring shall be performed. Upon conviction, the court
25 may require as a condition of the sentence that the defendant reimburse
26 the providing agency for the costs of the electronic monitoring.

27 (4)(a) Except as otherwise provided in this subsection, willful
28 violation of a court order issued under subsection (2) or (3) of this
29 section is a gross misdemeanor. A third or subsequent conviction for
30 willful violation of a court order issued under subsection (2) or (3)
31 of this section is a class C felony punishable under chapter 9A.20 RCW.
32 Upon conviction and in addition to other penalties provided by law, the
33 court may require that the defendant submit to electronic monitoring.
34 The court shall specify who shall provide the electronic monitoring
35 services and the terms under which the monitoring must be performed.
36 The court also may include a requirement that the defendant pay the
37 costs of the monitoring. The court shall consider the ability of the
38 convicted person to pay for electronic monitoring.

1 (b) Any assault that is a violation of an order issued under this
2 section and that does not amount to assault in the first or second
3 degree under RCW 9A.36.011 or 9A.36.021 is a class C felony punishable
4 under chapter 9A.20 RCW, and any conduct in violation of a protective
5 order issued under this section that is reckless and creates a
6 substantial risk of death or serious physical injury to another person
7 is a class C felony punishable under chapter 9A.20 RCW.

8 (c) The written order releasing the person charged or arrested
9 shall contain the court's directives and shall bear the legend:
10 "Violation of this order is a criminal offense under chapter 10.99 RCW
11 and will subject a violator to arrest; any assault or reckless
12 endangerment that is a violation of this order is a felony. You can be
13 arrested even if any person protected by the order invites or allows
14 you to violate the order's prohibitions. You have the sole
15 responsibility to avoid or refrain from violating the order's
16 provisions. Only the court can change the order." A certified copy of
17 the order shall be provided to the victim. If a no-contact order has
18 been issued prior to charging, that order shall expire at arraignment
19 or within seventy-two hours if charges are not filed. Such orders need
20 not be entered into the computer-based criminal intelligence
21 information system in this state which is used by law enforcement
22 agencies to list outstanding warrants.

23 (5) Whenever an order prohibiting contact is issued, modified, or
24 terminated under subsection (2) or (3) of this section, the clerk of
25 the court shall forward a copy of the order on or before the next
26 judicial day to the appropriate law enforcement agency specified in the
27 order. Upon receipt of the copy of the order the law enforcement
28 agency shall forthwith enter the order for one year or until the
29 expiration date specified on the order into any computer-based criminal
30 intelligence information system available in this state used by law
31 enforcement agencies to list outstanding warrants. Entry into the law
32 enforcement information system constitutes notice to all law
33 enforcement agencies of the existence of the order. The order is fully
34 enforceable in any jurisdiction in the state.

35 **Sec. 2.** RCW 10.99.050 and 1991 c 301 s 5 are each amended to read
36 as follows:

37 (1) When a defendant is found guilty of a crime and a condition of
38 the sentence restricts the defendant's ability to have contact with the

1 victim, such condition shall be recorded and a written certified copy
2 of that order shall be provided to the victim.

3 (2) Except as otherwise provided in this subsection, willful
4 violation of a court order issued under this section is a gross
5 misdemeanor. A third or subsequent conviction for willful violation of
6 a court order issued under this section is a class C felony punishable
7 under chapter 9A.20 RCW. Any assault that is a violation of an order
8 issued under this section and that does not amount to assault in the
9 first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C
10 felony, and any conduct in violation of a protective order issued under
11 this section that is reckless and creates a substantial risk of death
12 or serious physical injury to another person is a class C felony. The
13 written order shall contain the court's directives and shall bear the
14 legend: Violation of this order is a criminal offense under chapter
15 10.99 RCW and will subject a violator to arrest; any assault or
16 reckless endangerment that is a violation of this order is a felony.

17 (3) Whenever an order prohibiting contact is issued pursuant to
18 this section, the clerk of the court shall forward a copy of the order
19 on or before the next judicial day to the appropriate law enforcement
20 agency specified in the order. Upon receipt of the copy of the order
21 the law enforcement agency shall forthwith enter the order for one year
22 into any computer-based criminal intelligence information system
23 available in this state used by law enforcement agencies to list
24 outstanding warrants. Entry into the law enforcement information
25 system constitutes notice to all law enforcement agencies of the
26 existence of the order. The order is fully enforceable in any
27 jurisdiction in the state.

28 (4) The court may require a person subject to a protective order to
29 wear an electronic monitoring device that initiates an alarm when the
30 person wearing it approaches a location in violation of the order.

31 **Sec. 3.** RCW 26.50.110 and 1995 c 246 s 14 are each amended to read
32 as follows:

33 (1) Whenever an order for protection is granted under this chapter
34 and the respondent or person to be restrained knows of the order, a
35 violation of the restraint provisions or of a provision excluding the
36 person from a residence, workplace, school, or day care is a gross
37 misdemeanor. A third or subsequent conviction for violating an order
38 for protection granted under this chapter is a class C felony

1 punishable under chapter 9A.20 RCW. Upon conviction, and in addition
2 to any other penalties provided by law, the court may require that the
3 respondent submit to electronic monitoring. The court shall specify
4 who shall provide the electronic monitoring services, and the terms
5 under which the monitoring shall be performed. The order also may
6 include a requirement that the respondent pay the costs of the
7 monitoring. The court shall consider the ability of the convicted
8 person to pay for electronic monitoring.

9 (2) A peace officer shall arrest without a warrant and take into
10 custody a person whom the peace officer has probable cause to believe
11 has violated an order issued under this chapter that restrains the
12 person or excludes the person from a residence, workplace, school, or
13 day care, if the person restrained knows of the order. Presence of the
14 order in the law enforcement computer-based criminal intelligence
15 information system is not the only means of establishing knowledge of
16 the order.

17 (3) A violation of an order for protection shall also constitute
18 contempt of court, and is subject to the penalties prescribed by law.

19 (4) Any assault that is a violation of an order issued under this
20 chapter and that does not amount to assault in the first or second
21 degree under RCW 9A.36.011 or 9A.36.021 is a class C felony, and any
22 conduct in violation of a protective order issued under this chapter
23 that is reckless and creates a substantial risk of death or serious
24 physical injury to another person is a class C felony.

25 (5) Upon the filing of an affidavit by the petitioner or any peace
26 officer alleging that the respondent has violated an order for
27 protection granted under this chapter, the court may issue an order to
28 the respondent, requiring the respondent to appear and show cause
29 within fourteen days why the respondent should not be found in contempt
30 of court and punished accordingly. The hearing may be held in the
31 court of any county or municipality in which the petitioner or
32 respondent temporarily or permanently resides at the time of the
33 alleged violation.

34 (6) The court may require a person subject to a protective order to
35 wear an electronic monitoring device that initiates an alarm when the
36 person wearing it approaches a location in violation of the order.

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