

SHB 1079 - S COMM AMD

By Committee on Law & Justice

ADOPTED 04/05/2017

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

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

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

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

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

1 Any general authority Washington peace officer as defined in RCW  
2 10.93.020 in this state may enforce this chapter as it relates to  
3 orders restricting the defendants' ability to have contact with the  
4 victim or others.

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

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

14 At the initial preliminary appearance, the court shall determine  
15 whether to extend any existing prohibition on the defendant's contact  
16 with the victim. If there is no outstanding restraining or protective  
17 order prohibiting that person from having contact with the victim,  
18 the court may issue, by telephone, a no-contact order prohibiting the  
19 person charged or arrested from having contact with the victim or  
20 from knowingly coming within, or knowingly remaining within, a  
21 specified distance of a location. The court may also consider the  
22 provisions of RCW 9.41.800 or other conditions of pretrial release  
23 according to the procedures established by court rule for preliminary  
24 appearance or an arraignment.

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

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

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

37 (4) Upon a motion with notice to all parties and after a hearing,  
38 the court may terminate or modify the terms of an existing no-contact

1 order, including terms entered pursuant to RCW 9.41.800 related to  
2 firearms or other dangerous weapons or to concealed pistol licenses.

3 (5)(a) A defendant's motion to terminate or modify a no-contact  
4 order must include a declaration setting forth facts supporting the  
5 requested order for termination or modification. The court shall deny  
6 the motion unless it finds that adequate cause for hearing the motion  
7 is established by the declarations. If the court finds that the  
8 defendant established adequate cause, the court shall set a date for  
9 hearing the defendant's motion.

10 (b) The court may terminate or modify the terms of a no-contact  
11 order, including terms entered pursuant to RCW 9.41.800 related to  
12 firearms or other dangerous weapons or to concealed pistol licenses,  
13 if the defendant proves by a preponderance of the evidence that there  
14 has been a material change in circumstances such that the defendant  
15 is not likely to engage in or attempt to engage in physical or  
16 nonphysical contact with the victim if the order is terminated or  
17 modified. The victim bears no burden of proving that he or she has a  
18 current reasonable fear of harm by the defendant.

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

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

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

1 (1) If a defendant is found guilty of the crime of trafficking  
2 under RCW 9A.40.100 and a condition of the sentence restricts the  
3 defendant's ability to have contact with the victim, the condition  
4 must be recorded and a written certified copy of that order must be  
5 provided to the victim by the clerk of the court. Willful violation  
6 of a court order issued under this section is punishable under RCW  
7 26.50.110. The written order must contain the court's directives and  
8 shall bear the legend: Violation of this order is a criminal offense  
9 under chapter 26.50 RCW and the violator is subject to arrest; any  
10 assault, drive-by shooting, or reckless endangerment that is a  
11 violation of this order is a felony.

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

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

28 (1) A defendant who is charged by citation, complaint, or  
29 information with an offense involving promoting prostitution in the  
30 first degree as described in RCW 9A.88.070 or promoting prostitution  
31 in the second degree as described in RCW 9A.88.080 and not arrested  
32 shall appear in court for arraignment or initial appearance in person  
33 as soon as practicable, but in no event later than fourteen days  
34 after the defendant is served with the citation, complaint, or  
35 information. At that appearance, the court shall determine the  
36 necessity of imposing or extending a no-contact order, and consider  
37 the provisions of RCW 9.41.800 or other conditions of pretrial  
38 release according to the procedures established by court rule for  
39 preliminary appearance or an arraignment.

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

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

17 Any general authority Washington peace officer as defined in RCW  
18 10.93.020 in this state may enforce this chapter as it relates to  
19 orders restricting the defendants' ability to have contact with the  
20 victim or others.

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

23 (1) Because of the likelihood of repeated harassment and  
24 intimidation directed at those who have been victims of promoting  
25 prostitution in the first degree under RCW 9A.88.070 or promoting  
26 prostitution in the second degree under RCW 9A.88.080, before any  
27 defendant charged with or arrested, for a crime involving promoting  
28 prostitution is released from custody, or at any time the case  
29 remains unresolved, the court may prohibit that person from having  
30 any contact with the victim whether directly or through third  
31 parties. If there is no outstanding restraining or protective order  
32 prohibiting that person from having contact with the victim, the  
33 court may issue, by telephone, a no-contact order prohibiting the  
34 person charged or arrested from having contact with the victim or  
35 from knowingly coming within, or knowingly remaining within, a  
36 specified distance of a location. The court may also consider the  
37 provisions of RCW 9.41.800 or other conditions of pretrial release

1 according to the procedures established by court rule for preliminary  
2 appearance or an arraignment.

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

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

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

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

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

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

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

39 (6) Whenever a no-contact order is issued, modified, or  
40 terminated under this section, the clerk of the court shall forward a

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

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

16 (1) If a defendant is found guilty of the crime of promoting  
17 prostitution in the first degree under RCW 9A.88.070 or promoting  
18 prostitution in the second degree under RCW 9A.88.080, and a  
19 condition of the sentence restricts the defendant's ability to have  
20 contact with the victim or witnesses, the condition must be recorded  
21 and a written certified copy of that order must be provided to the  
22 victim or witnesses by the clerk of the court. Willful violation of a  
23 court order issued under this section is punishable under RCW  
24 26.50.110. The written order must contain the court's directives and  
25 shall bear the legend: Violation of this order is a criminal offense  
26 under chapter 26.50 RCW and the violator is subject to arrest; any  
27 assault, drive-by shooting, or reckless endangerment that is a  
28 violation of this order is a felony.

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

1 the state. Upon receipt of notice that an order has been terminated,  
2 the law enforcement agency shall remove the order from the computer-  
3 based criminal intelligence information system.

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

6 (1)(a) Whenever an order is granted under this chapter, chapter  
7 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10, 26.26,  
8 or 74.34 RCW, any temporary order for protection granted under  
9 chapter 7.40 RCW pursuant to chapter 74.34 RCW, or there is a valid  
10 foreign protection order as defined in RCW 26.52.020, and the  
11 respondent or person to be restrained knows of the order, a violation  
12 of any of the following provisions of the order is a gross  
13 misdemeanor, except as provided in subsections (4) and (5) of this  
14 section:

15 (i) The restraint provisions prohibiting acts or threats of  
16 violence against, or stalking of, a protected party, or restraint  
17 provisions prohibiting contact with a protected party;

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

20 (iii) A provision prohibiting a person from knowingly coming  
21 within, or knowingly remaining within, a specified distance of a  
22 location;

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

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

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

31 (i) May require that the respondent submit to electronic  
32 monitoring. The court shall specify who shall provide the electronic  
33 monitoring services, and the terms under which the monitoring shall  
34 be performed. The order also may include a requirement that the  
35 respondent pay the costs of the monitoring. The court shall consider  
36 the ability of the convicted person to pay for electronic monitoring.

37 (ii) Shall impose a fine of fifteen dollars, in addition to any  
38 penalty or fine imposed, for a violation of a domestic violence  
39 protection order issued under this chapter. Revenue from the fifteen



1 dollar fine must be remitted monthly to the state treasury for  
2 deposit in the domestic violence prevention account.

3 (2) A peace officer shall arrest without a warrant and take into  
4 custody a person whom the peace officer has probable cause to believe  
5 has violated an order issued under this chapter, chapter 7.92, 7.90,  
6 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW,  
7 any temporary order for protection granted under chapter 7.40 RCW  
8 pursuant to chapter 74.34 RCW, or a valid foreign protection order as  
9 defined in RCW 26.52.020, that restrains the person or excludes the  
10 person from a residence, workplace, school, or day care, or prohibits  
11 the person from knowingly coming within, or knowingly remaining  
12 within, a specified distance of a location, if the person restrained  
13 knows of the order. Presence of the order in the law enforcement  
14 computer-based criminal intelligence information system is not the  
15 only means of establishing knowledge of the order.

16 (3) A violation of an order issued under this chapter, chapter  
17 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10, 26.26,  
18 or 74.34 RCW, or of a valid foreign protection order as defined in  
19 RCW 26.52.020, shall also constitute contempt of court, and is  
20 subject to the penalties prescribed by law.

21 (4) Any assault that is a violation of an order issued under this  
22 chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99,  
23 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection  
24 order as defined in RCW 26.52.020, and that does not amount to  
25 assault in the first or second degree under RCW 9A.36.011 or  
26 9A.36.021 is a class C felony, and any conduct in violation of such  
27 an order that is reckless and creates a substantial risk of death or  
28 serious physical injury to another person is a class C felony.

29 (5) A violation of a court order issued under this chapter,  
30 chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10,  
31 26.26, or 74.34 RCW, or of a valid foreign protection order as  
32 defined in RCW 26.52.020, is a class C felony if the offender has at  
33 least two previous convictions for violating the provisions of an  
34 order issued under this chapter, chapter 7.90, 9A.40, 9A.46, 9A.88,  
35 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign  
36 protection order as defined in RCW 26.52.020. The previous  
37 convictions may involve the same victim or other victims specifically  
38 protected by the orders the offender violated.

39 (6) Upon the filing of an affidavit by the petitioner or any  
40 peace officer alleging that the respondent has violated an order

1 granted under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88,  
2 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign  
3 protection order as defined in RCW 26.52.020, the court may issue an  
4 order to the respondent, requiring the respondent to appear and show  
5 cause within fourteen days why the respondent should not be found in  
6 contempt of court and punished accordingly. The hearing may be held  
7 in the court of any county or municipality in which the petitioner or  
8 respondent temporarily or permanently resides at the time of the  
9 alleged violation."

**SHB 1079** - S COMM AMD  
By Committee on Law & Justice

**ADOPTED 04/05/2017**

10 On page 1, line 2 of the title, after "offenses;" strike the  
11 remainder of the title and insert "reenacting and amending RCW  
12 26.50.110; adding new sections to chapter 9A.40 RCW; adding new  
13 sections to chapter 9A.88 RCW; and prescribing penalties."

- EFFECT: (1) Clarifies that general authority Washington peace officers enforce the no-contact order.  
(2) Permits a defendant to seek modification or termination of the no-contact order, including weapons restrictions.  
(3) Authorizes the court to impose a no-contact order beginning with arrest or citation and continuing until the case resolves.  
(4) Requires notice of the no-contact order to be provided to law enforcement.  
(5) Conforms language to match other current language in statute.  
(6) Authorizes the court to consider the provisions of RCW 9.41.800 when issuing a no-contact order prior to releasing someone before arraignment.

--- END ---