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**SUBSTITUTE SENATE BILL 5029**

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**State of Washington**

**65th Legislature**

**2017 Regular Session**

**By** Senate Law & Justice (originally sponsored by Senators Padden, Darneille, Hasegawa, Pearson, Pedersen, Miloscia, Frockt, Rolfes, Carlyle, Chase, Sheldon, Saldaña, Mullet, Conway, Keiser, and Kuderer; by request of Attorney General)

READ FIRST TIME 02/17/17.

1 AN ACT Relating to no-contact orders for human trafficking and  
2 promoting prostitution-related offenses; reenacting and amending RCW  
3 26.50.110; adding new sections to chapter 9A.40 RCW; adding new  
4 sections to chapter 9A.88 RCW; and prescribing penalties.

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

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

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

18 NEW SECTION. **Sec. 2.** A new section is added to chapter 9A.40  
19 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, a  
18 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 If a defendant is found guilty of the crime of trafficking under  
2 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 this chapter and the violator is subject to arrest.

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

12 A defendant who is charged by citation, complaint, or information  
13 with an offense involving promoting prostitution in the first degree  
14 as described in RCW 9A.88.070 or promoting prostitution in the second  
15 degree as described in RCW 9A.88.080 and not arrested shall appear in  
16 court for arraignment or initial appearance in person as soon as  
17 practicable, but in no event later than fourteen days after the  
18 defendant is served with the citation, complaint, or information. At  
19 that appearance, the court shall determine the necessity of imposing  
20 or extending a no-contact order, and consider the provisions of RCW  
21 9.41.800 or other conditions of pretrial release according to the  
22 procedures established by court rule for preliminary appearance or an  
23 arraignment.

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

26 Any general authority Washington peace officer as defined in RCW  
27 10.93.020 in this state may enforce this chapter as it relates to  
28 orders restricting the defendants' ability to have contact with the  
29 victim or others.

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

32 (1) Because of the likelihood of repeated harassment and  
33 intimidation directed at those who have been victims of promoting  
34 prostitution in the first degree under RCW 9A.88.070 or promoting  
35 prostitution in the second degree under RCW 9A.88.080, before any  
36 defendant charged with or arrested, for a crime involving promoting  
37 prostitution is released from custody, or at any time the case

1 remains unresolved, the court may prohibit that person from having  
2 any contact with the victim whether directly or through third  
3 parties. If there is no outstanding restraining or protective order  
4 prohibiting that person from having contact with the victim, the  
5 court may issue, by telephone, a no-contact order prohibiting the  
6 person charged or arrested from having contact with the victim or  
7 from knowingly coming within, or knowingly remaining within, a  
8 specified distance of a location.

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

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

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

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

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

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

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

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

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

22 If a defendant is found guilty of the crime of promoting  
23 prostitution in the first degree under RCW 9A.88.070 or promoting  
24 prostitution in the second degree under RCW 9A.88.080, and a  
25 condition of the sentence restricts the defendant's ability to have  
26 contact with the victim or witnesses, the condition must be recorded  
27 and a written certified copy of that order must be provided to the  
28 victim or witnesses by the clerk of the court. Willful violation of a  
29 court order issued under this section is punishable under RCW  
30 26.50.110. The written order must contain the court's directives and  
31 shall bear the legend: Violation of this order is a criminal offense  
32 under chapter 9A.88 RCW and will subject a violator to arrest.

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

35 (1)(a) Whenever an order is granted under this chapter, chapter  
36 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10, 26.26,  
37 or 74.34 RCW, any temporary order for protection granted under  
38 chapter 7.40 RCW pursuant to chapter 74.34 RCW, or there is a valid

1 foreign protection order as defined in RCW 26.52.020, and the  
2 respondent or person to be restrained knows of the order, a violation  
3 of any of the following provisions of the order is a gross  
4 misdemeanor, except as provided in subsections (4) and (5) of this  
5 section:

6 (i) The restraint provisions prohibiting acts or threats of  
7 violence against, or stalking of, a protected party, or restraint  
8 provisions prohibiting contact with a protected party;

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

11 (iii) A provision prohibiting a person from knowingly coming  
12 within, or knowingly remaining within, a specified distance of a  
13 location;

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

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

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

22 (i) May require that the respondent submit to electronic  
23 monitoring. The court shall specify who shall provide the electronic  
24 monitoring services, and the terms under which the monitoring shall  
25 be performed. The order also may include a requirement that the  
26 respondent pay the costs of the monitoring. The court shall consider  
27 the ability of the convicted person to pay for electronic monitoring.

28 (ii) Shall impose a fine of fifteen dollars, in addition to any  
29 penalty or fine imposed, for a violation of a domestic violence  
30 protection order issued under this chapter. Revenue from the fifteen  
31 dollar fine must be remitted monthly to the state treasury for  
32 deposit in the domestic violence prevention account.

33 (2) A peace officer shall arrest without a warrant and take into  
34 custody a person whom the peace officer has probable cause to believe  
35 has violated an order issued under this chapter, chapter 7.92, 7.90,  
36 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW,  
37 any temporary order for protection granted under chapter 7.40 RCW  
38 pursuant to chapter 74.34 RCW, or a valid foreign protection order as  
39 defined in RCW 26.52.020, that restrains the person or excludes the  
40 person from a residence, workplace, school, or day care, or prohibits

1 the person from knowingly coming within, or knowingly remaining  
2 within, a specified distance of a location, if the person restrained  
3 knows of the order. Presence of the order in the law enforcement  
4 computer-based criminal intelligence information system is not the  
5 only means of establishing knowledge of the order.

6 (3) A violation of an order issued 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, or of a valid foreign protection order as defined in  
9 RCW 26.52.020, shall also constitute contempt of court, and is  
10 subject to the penalties prescribed by law.

11 (4) Any assault that is a violation of an order issued under this  
12 chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99,  
13 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection  
14 order as defined in RCW 26.52.020, and that does not amount to  
15 assault in the first or second degree under RCW 9A.36.011 or  
16 9A.36.021 is a class C felony, and any conduct in violation of such  
17 an order that is reckless and creates a substantial risk of death or  
18 serious physical injury to another person is a class C felony.

19 (5) A violation of a court order issued under this chapter,  
20 chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10,  
21 26.26, or 74.34 RCW, or of a valid foreign protection order as  
22 defined in RCW 26.52.020, is a class C felony if the offender has at  
23 least two previous convictions for violating the provisions of an  
24 order issued under this chapter, chapter 7.90, 9A.40, 9A.46, 9A.88,  
25 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign  
26 protection order as defined in RCW 26.52.020. The previous  
27 convictions may involve the same victim or other victims specifically  
28 protected by the orders the offender violated.

29 (6) Upon the filing of an affidavit by the petitioner or any  
30 peace officer alleging that the respondent has violated an order  
31 granted under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88,  
32 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign  
33 protection order as defined in RCW 26.52.020, the court may issue an  
34 order to the respondent, requiring the respondent to appear and show  
35 cause within fourteen days why the respondent should not be found in  
36 contempt of court and punished accordingly. The hearing may be held  
37 in the court of any county or municipality in which the petitioner or



1 respondent temporarily or permanently resides at the time of the  
2 alleged violation.

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