
SUBSTITUTE HOUSE BILL 2622

State of Washington

66th Legislature

2020 Regular Session

By House Civil Rights & Judiciary (originally sponsored by Representatives Kilduff, Walen, Senn, Pollet, and Davis)

READ FIRST TIME 02/07/20.

1 AN ACT Relating to procedures for ensuring compliance with court
2 orders requiring surrender of firearms, weapons, and concealed pistol
3 licenses; and amending RCW 9.41.801 and 7.94.090.

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

5 **Sec. 1.** RCW 9.41.801 and 2019 c 245 s 2 are each amended to read
6 as follows:

7 (1) Because of the heightened risk of lethality to petitioners
8 when respondents to protection orders become aware of court
9 involvement and continue to have access to firearms, and the
10 frequency of noncompliance with court orders prohibiting possession
11 of firearms, law enforcement and judicial processes must emphasize
12 swift and certain compliance with court orders prohibiting access,
13 possession, and ownership of firearms.

14 (2) A law enforcement officer serving a protection order, no-
15 contact order, or restraining order that includes an order to
16 surrender all firearms, dangerous weapons, and a concealed pistol
17 license under RCW 9.41.800 shall inform the respondent that the order
18 is effective upon service and the respondent must immediately
19 surrender all firearms and dangerous weapons in his or her custody,
20 control, or possession and any concealed pistol license issued under
21 RCW 9.41.070, and conduct any search permitted by law for such

1 firearms, dangerous weapons, and concealed pistol license. The law
2 enforcement officer shall take possession of all firearms, dangerous
3 weapons, and any concealed pistol license belonging to the respondent
4 that are surrendered, in plain sight, or discovered pursuant to a
5 lawful search. Alternatively, if personal service is not required
6 because the respondent was present at the hearing at which the order
7 was entered, the respondent must immediately surrender all firearms,
8 dangerous weapons, and any concealed pistol license in a safe manner
9 to the control of the local law enforcement agency on the day of the
10 hearing at which the respondent was present.

11 (3) At the time of surrender, a law enforcement officer taking
12 possession of firearms, dangerous weapons, and any concealed pistol
13 license shall issue a receipt identifying all firearms, dangerous
14 weapons, and any concealed pistol license that have been surrendered
15 and provide a copy of the receipt to the respondent. The law
16 enforcement agency shall file the original receipt with the court
17 within twenty-four hours after service of the order and retain a copy
18 of the receipt, electronically whenever electronic filing is
19 available.

20 (4) Upon the sworn statement or testimony of the petitioner or of
21 any law enforcement officer alleging that the respondent has failed
22 to comply with the surrender of firearms or dangerous weapons as
23 required by an order issued under RCW 9.41.800, the court shall
24 determine whether probable cause exists to believe that the
25 respondent has failed to surrender all firearms and dangerous weapons
26 in their possession, custody, or control. If probable cause exists,
27 the court shall issue a warrant describing the firearms or dangerous
28 weapons and authorizing a search of the locations where the firearms
29 and dangerous weapons are reasonably believed to be and the seizure
30 of all firearms and dangerous weapons discovered pursuant to such
31 search.

32 (5) If a person other than the respondent claims title to any
33 firearms or dangerous weapons surrendered pursuant to this section,
34 and the person is determined by the law enforcement agency to be the
35 lawful owner of the firearm or dangerous weapon, the firearm or
36 dangerous weapon shall be returned to the lawful owner, provided
37 that:

38 (a) The firearm or dangerous weapon is removed from the
39 respondent's access, custody, control, or possession and the lawful
40 owner agrees by written document signed under penalty of perjury to

1 store the firearm or dangerous weapon in a manner such that the
2 respondent does not have access to or control of the firearm or
3 dangerous weapon;

4 (b) The firearm or dangerous weapon is not otherwise unlawfully
5 possessed by the owner; and

6 (c) The requirements of RCW 9.41.345 are met.

7 (6) Courts shall develop procedures to verify timely and complete
8 compliance with orders to surrender weapons under RCW 9.41.800,
9 including compliance review hearings to be held as soon as possible
10 upon receipt from law enforcement of proof of service. A compliance
11 review hearing is not required if the court can otherwise enter
12 findings on the record or enter written findings that the proof of
13 surrender or declaration of nonsurrender attested to by the person
14 subject to the order, along with verification from law enforcement
15 and any other relevant evidence, makes a sufficient showing that the
16 person has timely and completely surrendered all firearms and
17 dangerous weapons in their custody, control, or possession, and any
18 concealed pistol license issued under RCW 9.41.070, to a law
19 enforcement agency. If the court does not have a sufficient record
20 before it on which to make such a finding, the court must set a
21 review hearing to occur as soon as possible at which the respondent
22 must be present and provide (~~testimony to the court under oath~~
23 ~~verifying~~) proof of compliance with the court's order.

24 (7)(a) If a court finds at the compliance review hearing, or any
25 other hearing where compliance with the order to surrender weapons is
26 addressed, that there is probable cause to believe the respondent was
27 aware of and failed to fully comply with the order, failed to appear
28 at the compliance review hearing, or violated the order after the
29 court entered findings of compliance, pursuant to its authority under
30 chapter 7.21 RCW, the court may initiate a contempt proceeding to
31 impose remedial sanctions on its own motion, or upon the motion of
32 the prosecutor, city attorney, or the petitioner's counsel, and issue
33 an order requiring the respondent to appear, provide proof of
34 compliance with the order, and show cause why the respondent should
35 not be held in contempt of court.

36 (b) If the respondent is not present in court at the compliance
37 review hearing or if the court issues an order to appear and show
38 cause after a compliance review hearing, the clerk of the court shall
39 electronically transmit a copy of the order to show cause to the law
40 enforcement agency where the respondent resides for personal service

1 or service in the manner provided in the civil rules of superior
2 court or applicable statute.

3 (c) The order to show cause served upon the respondent shall
4 state the date, time, and location of the hearing and shall include a
5 warning that the respondent may be held in contempt of court if the
6 respondent fails to promptly comply with the terms of the order to
7 surrender weapons and a warning that an arrest warrant could be
8 issued if the respondent fails to appear on the date and time
9 provided in the order.

10 (d) (i) At the show cause hearing, the respondent must be present
11 and provide proof of compliance with the underlying court order to
12 surrender weapons and demonstrate why the relief requested should not
13 be granted.

14 (ii) The court shall take judicial notice of the receipt filed
15 with the court by the law enforcement agency pursuant to subsection
16 (3) of this section. The court shall also provide sufficient notice
17 to the law enforcement agency of the hearing. Upon receiving notice
18 pursuant to this subsection, a law enforcement agency must:

19 (A) Provide the court with a complete list of firearms and other
20 dangerous weapons surrendered by the respondent or otherwise
21 belonging to the respondent that are in the possession of the law
22 enforcement agency; and

23 (B) Provide the court with verification that any concealed pistol
24 license issued to the respondent has been surrendered and the agency
25 with authority to revoke the license has been notified.

26 (iii) If the law enforcement agency has a reasonable suspicion
27 that the respondent is not in full compliance with the terms of the
28 order, the law enforcement agency must submit the basis for its
29 belief to the court, and may do so through the filing of an
30 affidavit.

31 (e) If the court finds the respondent in contempt, the court may
32 impose remedial sanctions designed to ensure swift compliance with
33 the order to surrender weapons.

34 (f) The court may order a respondent found in contempt of the
35 order to surrender weapons to pay for any losses incurred by a party
36 in connection with the contempt proceeding, including reasonable
37 attorneys' fees, service fees, and other costs. The costs of the
38 proceeding shall not be borne by the petitioner.

39 (8) All law enforcement agencies must have policies and
40 procedures to provide for the acceptance, storage, and return of

1 firearms, dangerous weapons, and concealed pistol licenses that a
2 court requires must be surrendered under RCW 9.41.800. A law
3 enforcement agency holding any firearm or concealed pistol license
4 that has been surrendered under RCW 9.41.800 shall comply with the
5 provisions of RCW 9.41.340 and 9.41.345 before the return of the
6 firearm or concealed pistol license to the owner or individual from
7 whom it was obtained.

8 ~~((+8))~~ (9) The administrative office of the courts shall create
9 a statewide pattern form to assist the courts in ensuring timely and
10 complete compliance in a consistent manner with orders issued under
11 this chapter. The administrative office of the courts shall report
12 annually on the number of orders issued under this chapter by each
13 court, the degree of compliance, and the number of firearms obtained,
14 and may make recommendations regarding additional procedures to
15 enhance compliance and victim safety.

16 **Sec. 2.** RCW 7.94.090 and 2017 c 3 s 10 (Initiative Measure No.
17 1491) are each amended to read as follows:

18 (1) Upon issuance of any extreme risk protection order under this
19 chapter, including an ex parte extreme risk protection order, the
20 court shall order the respondent to surrender to the local law
21 enforcement agency all firearms in the respondent's custody, control,
22 or possession and any concealed pistol license issued under RCW
23 9.41.070.

24 (2) The law enforcement officer serving any extreme risk
25 protection order under this chapter, including an ex parte extreme
26 risk protection order, shall request that the respondent immediately
27 surrender all firearms in his or her custody, control, or possession
28 and any concealed pistol license issued under RCW 9.41.070, and
29 conduct any search permitted by law for such firearms. The law
30 enforcement officer shall take possession of all firearms belonging
31 to the respondent that are surrendered, in plain sight, or discovered
32 pursuant to a lawful search. Alternatively, if personal service by a
33 law enforcement officer is not possible, or not required because the
34 respondent was present at the extreme risk protection order hearing,
35 the respondent shall surrender the firearms in a safe manner to the
36 control of the local law enforcement agency within forty-eight hours
37 of being served with the order by alternate service or within forty-
38 eight hours of the hearing at which the respondent was present.

1 (3) At the time of surrender, a law enforcement officer taking
2 possession of a firearm or concealed pistol license shall issue a
3 receipt identifying all firearms that have been surrendered and
4 provide a copy of the receipt to the respondent. Within seventy-two
5 hours after service of the order, the officer serving the order shall
6 file the original receipt with the court and shall ensure that his or
7 her law enforcement agency retains a copy of the receipt.

8 (4) Upon the sworn statement or testimony of the petitioner or of
9 any law enforcement officer alleging that the respondent has failed
10 to comply with the surrender of firearms as required by an order
11 issued under this chapter, the court shall determine whether probable
12 cause exists to believe that the respondent has failed to surrender
13 all firearms in his or her possession, custody, or control. If
14 probable cause exists, the court shall issue a warrant describing the
15 firearms and authorizing a search of the locations where the firearms
16 are reasonably believed to be and the seizure of any firearms
17 discovered pursuant to such search.

18 (5) If a person other than the respondent claims title to any
19 firearms surrendered pursuant to this section, and he or she is
20 determined by the law enforcement agency to be the lawful owner of
21 the firearm, the firearm shall be returned to him or her, provided
22 that:

23 (a) The firearm is removed from the respondent's custody,
24 control, or possession and the lawful owner agrees to store the
25 firearm in a manner such that the respondent does not have access to
26 or control of the firearm; and

27 (b) The firearm is not otherwise unlawfully possessed by the
28 owner.

29 (6) Upon the issuance of a one-year extreme risk protection
30 order, the court shall order a new compliance review hearing date and
31 require the respondent to appear not later than three judicial days
32 from the issuance of the order. The court shall require a showing
33 that the (~~person subject to the order~~) respondent has surrendered
34 any firearms in (~~his or her~~) the respondent's custody, control, or
35 possession, and any concealed pistol license issued under RCW
36 9.41.070 to a law enforcement agency. The court may dismiss the
37 hearing upon a satisfactory showing that the respondent has timely
38 and completely surrendered all firearms in the respondent's custody,
39 control, or possession and any concealed pistol license issued under
40 RCW 9.41.070 to a law enforcement agency, and is in compliance with

1 the order. If the court does not have a sufficient record before it
2 on which to make such a finding, the court must set a review hearing
3 to occur as soon as possible, at which the respondent must be present
4 and provide proof of compliance with the court's order.

5 (7)(a) If a court finds at the compliance review hearing, or any
6 other hearing where compliance with the order is addressed, that
7 there is probable cause to believe the respondent was aware of and
8 failed to fully comply with the order, failed to appear at the
9 compliance review hearing, or violated the order after the court
10 entered findings of compliance, pursuant to its authority under
11 chapter 7.21 RCW, the court may initiate a contempt proceeding on its
12 own motion, or upon the motion of the prosecutor, city attorney, or
13 the petitioner's counsel, to impose remedial sanctions, and issue an
14 order requiring the respondent to appear, provide proof of compliance
15 with the order, and show cause why the respondent should not be held
16 in contempt of court.

17 (b) If the respondent is not present in court at the compliance
18 review hearing or if the court issues an order to appear and show
19 cause after a compliance review hearing, the clerk of the court shall
20 electronically transmit a copy of the order to show cause to the law
21 enforcement agency where the respondent resides for personal service
22 or service in the manner provided in the civil rules of superior
23 court or applicable statute.

24 (c) The order to show cause served upon the respondent shall
25 state the date, time, and location of the hearing and shall include a
26 warning that the respondent may be held in contempt of court if the
27 respondent fails to promptly comply with the terms of the extreme
28 risk protection order and a warning that an arrest warrant could be
29 issued if the respondent fails to appear on the date and time
30 provided in the order to show cause.

31 (d)(i) At the show cause hearing, the respondent must be present
32 and provide proof of compliance with the extreme risk protection
33 order and demonstrate why the relief requested should not be granted.

34 (ii) The court shall take judicial notice of the receipt filed
35 with the court by the law enforcement agency pursuant to subsection
36 (3) of this section. The court shall also provide sufficient notice
37 to the law enforcement agency of the hearing. Upon receiving notice
38 pursuant to this subsection, a law enforcement agency must:

39 (A) Provide the court with a complete list of firearms
40 surrendered by the respondent or otherwise belonging to the

1 respondent that are in the possession of the law enforcement agency;
2 and

3 (B) Provide the court with verification that any concealed pistol
4 license issued to the respondent has been surrendered and the agency
5 with authority to revoke the license has been notified.

6 (iii) If the law enforcement agency has a reasonable suspicion
7 that the respondent is not in full compliance with the terms of the
8 order, the law enforcement agency must submit the basis for its
9 belief to the court, and may do so through the filing of an
10 affidavit.

11 (e) If the court finds the respondent in contempt, the court may
12 impose remedial sanctions designed to ensure swift compliance with
13 the order to surrender weapons.

14 (f) The court may order a respondent found in contempt of the
15 order to pay for any losses incurred by a party in connection with
16 the contempt proceeding, including reasonable attorneys' fees,
17 service fees, and other costs. The costs of the proceeding shall not
18 be borne by the petitioner.

19 (8) All law enforcement agencies must develop policies and
20 procedures by June 1, 2017, regarding the acceptance, storage, and
21 return of firearms required to be surrendered under this chapter. A
22 law enforcement agency holding any surrendered firearm or concealed
23 pistol license shall comply with the provisions of RCW 9.41.340 and
24 9.41.345 before the return of the firearm or concealed pistol license
25 to the owner or individual from whom it was obtained.

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