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HOUSE BILL 2820

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State of Washington

66th Legislature

2020 Regular Session

By Representatives Klippert, Kilduff, Davis, Goodman, and Pollet

Read first time 01/23/20. Referred to Committee on Civil Rights & Judiciary.

1 AN ACT Relating to court orders involving weapons or domestic  
2 violence; amending RCW 10.99.040; and reenacting and amending RCW  
3 9.41.800.

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

5 **Sec. 1.** RCW 9.41.800 and 2019 c 245 s 1 and 2019 c 46 s 5006 are  
6 each reenacted and amended to read as follows:

7 (1) Any court when entering an order authorized under chapter  
8 7.92 RCW, RCW 7.90.090, 9A.46.080, 10.14.080, 10.99.040, 10.99.045,  
9 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26B.020, 26.50.060,  
10 26.50.070, or 26.26A.470 shall, upon a showing by clear and  
11 convincing evidence, that a party has: Used, displayed, or threatened  
12 to use a firearm or other dangerous weapon in a felony, or is  
13 ineligible to possess a firearm under the provisions of RCW 9.41.040:

14 (a) Require that the party immediately surrender all firearms and  
15 other dangerous weapons;

16 (b) Require that the party immediately surrender any concealed  
17 pistol license issued under RCW 9.41.070;

18 (c) Prohibit the party from accessing, obtaining, or possessing  
19 any firearms or other dangerous weapons;

20 (d) Prohibit the party from obtaining or possessing a concealed  
21 pistol license.

1 (2) Any court when entering an order authorized under chapter  
2 7.92 RCW, RCW 7.90.090, 9A.46.080, 10.14.080, 10.99.040, 10.99.045,  
3 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26B.020, 26.50.060,  
4 26.50.070, or 26.26A.470 may, upon a showing by a preponderance of  
5 the evidence but not by clear and convincing evidence, that a party  
6 has: Used, displayed, or threatened to use a firearm or other  
7 dangerous weapon in a felony, or is ineligible to possess a firearm  
8 under the provisions of RCW 9.41.040:

9 (a) Require that the party immediately surrender all firearms and  
10 other dangerous weapons;

11 (b) Require that the party immediately surrender a concealed  
12 pistol license issued under RCW 9.41.070;

13 (c) Prohibit the party from accessing, obtaining, or possessing  
14 any firearms or other dangerous weapons;

15 (d) Prohibit the party from obtaining or possessing a concealed  
16 pistol license.

17 (3) During any period of time that the person is subject to a  
18 court order issued under chapter 7.90, 7.92, 9A.46, 10.14, 10.99,  
19 26.09, 26.10, 26.26A, 26.26B, or 26.50 RCW that:

20 (a) Was issued after a hearing of which the person received  
21 actual notice, and at which the person had an opportunity to  
22 participate;

23 (b) Restrains the person from harassing, stalking, or threatening  
24 an intimate partner of the person or child of the intimate partner or  
25 person, or engaging in other conduct that would place an intimate  
26 partner in reasonable fear of bodily injury to the partner or child;  
27 and

28 (c)(i) Includes a finding that the person represents a credible  
29 threat to the physical safety of the intimate partner or child; and

30 (ii) By its terms, explicitly prohibits the use, attempted use,  
31 or threatened use of physical force against the intimate partner or  
32 child that would reasonably be expected to cause bodily injury, the  
33 court shall:

34 (A) Require that the party immediately surrender all firearms and  
35 other dangerous weapons;

36 (B) Require that the party immediately surrender a concealed  
37 pistol license issued under RCW 9.41.070;

38 (C) Prohibit the party from accessing, obtaining, or possessing  
39 any firearms or other dangerous weapons; and

1 (D) Prohibit the party from obtaining or possessing a concealed  
2 pistol license.

3 (4) The court may order temporary surrender of all firearms and  
4 other dangerous weapons, and any concealed pistol license, without  
5 notice to the other party if it finds, on the basis of the moving  
6 affidavit or other evidence, that irreparable injury could result if  
7 an order is not issued until the time for response has elapsed.

8 (5) In addition to the provisions of subsections (1), (2), and  
9 (4) of this section, the court may enter an order requiring a party  
10 to comply with the provisions in subsection (1) of this section if it  
11 finds that the possession of a firearm or other dangerous weapon by  
12 any party presents a serious and imminent threat to public health or  
13 safety, or to the health or safety of any individual.

14 (6) The requirements of subsections (1), (2), and (5) of this  
15 section may be for a period of time less than the duration of the  
16 order.

17 (7) The court may require the party to surrender all firearms and  
18 other dangerous weapons in his or her immediate possession or control  
19 or subject to his or her immediate possession or control, and any  
20 concealed pistol license issued under RCW 9.41.070, to the local law  
21 enforcement agency. Law enforcement officers shall use law  
22 enforcement databases to assist in locating the respondent in  
23 situations where the protected person does not know where the  
24 respondent lives or where there is evidence that the respondent is  
25 trying to evade service.

26 (8) If the court enters a protection order, restraining order, or  
27 no-contact order that includes an order to surrender firearms,  
28 dangerous weapons, and any concealed pistol license under this  
29 section, the order must be served by a law enforcement officer.  
30 However, if the order is entered in open court with the respondent or  
31 defendant present, it may be served by a deputy prosecuting attorney,  
32 assistant city attorney, or other person then present, and the record  
33 of service is to be made upon the record.

34 **Sec. 2.** RCW 10.99.040 and 2019 c 367 s 4 are each amended to  
35 read as follows:

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

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

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

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

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

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

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

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

36 (3)(a) At the time of arraignment the court shall determine  
37 whether a no-contact order shall be issued or extended. So long as  
38 the court finds probable cause, the court may issue or extend a no-  
39 contact order even if the defendant fails to appear at arraignment.

1 The no-contact order shall terminate if the defendant is acquitted or  
2 the charges are dismissed.

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

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