

HOUSE BILL REPORT

SSB 6227

As Passed House:
February 27, 2024

Title: An act relating to allowing entry of a civil protection order to protect victims when a person is found not guilty by reason of insanity.

Brief Description: Allowing entry of a civil protection order to protect victims when a person is found not guilty by reason of insanity.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Dhingra, Cleveland, Hasegawa, Keiser, Nobles, Randall, Torres and Wilson, C.).

Brief History:

Committee Activity:

Civil Rights & Judiciary: 2/14/24, 2/20/24 [DP].

Floor Activity:

Passed House: 2/27/24, 92-3.

Brief Summary of Substitute Bill

- Authorizes a court to issue a separate no-contact order to protect a victim when a person who is found not guilty by reason of insanity is committed for a period of inpatient treatment or placed on conditional release.
- Establishes criminal penalties for violation of a no-contact order, and requires clerks to forward no-contact orders to law enforcement for entry in the state database used for listing outstanding warrants.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: Do pass. Signed by 7 members: Representatives Taylor, Chair; Farivar, Vice Chair; Entenman, Goodman, Peterson, Thai and Walen.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Without recommendation. Signed by 4 members: Representatives Walsh, Ranking Minority Member; Graham, Assistant Ranking Minority Member; Abbarno and Cheney.

Staff: Edie Adams (786-7180).

Background:

Not Guilty by Reason of Insanity.

A criminal defendant is not guilty by reason of insanity (NGRI) if a judge or jury finds that, at the time of the commission of the offense, and as a result of a mental disease or defect, the defendant either was unable to perceive the nature or the quality of the act charged or was unable to tell right from wrong with reference to the particular act charged.

Civil Commitment Following Acquittal by Reason of Insanity.

A defendant who is found NGRI may be committed to a state hospital if a judge or jury finds that the defendant presents a substantial danger to other persons or a substantial danger of committing criminal acts jeopardizing public safety or security, and there is no less restrictive treatment than detention in a state hospital. The term of commitment may not exceed the maximum sentence for the offense for which the defendant was acquitted by reason of insanity.

If the court finds the person is not a substantial danger to other persons and does not pose a substantial likelihood of committing criminal acts jeopardizing public safety, but that the person is in need of control by the court or other persons or institutions, the court must direct the person's conditional release, and the person remains under the jurisdiction of the court.

No-Contact Orders.

A court may issue a no-contact order to protect a victim during the pendency of criminal proceedings or upon conviction. No-contact orders generally prohibit contact with the victim and forbid the defendant from knowingly coming within or remaining within a specified distance of certain locations. A violation of a no-contact order is generally a gross misdemeanor, but is punishable as a class C felony in certain circumstances.

Summary of Bill:

If a person is found NGRI and is committed by the court for a period of inpatient treatment or placed on conditional release, the court may enter a separate no-contact order to protect any victim of the person's conduct. The prosecuting attorney may also apply for entry of a no-contact order at any subsequent time during which the court retains supervision of the person.

The maximum term of the no-contact order is the person's maximum term of commitment,

or until the court orders the person's final release from supervision, whichever comes sooner. The no-contact order must contain the court's directives and state that a violation of the order is a criminal offense and will subject the person who violates the order to arrest, and that any assault, drive-by shooting, or reckless endangerment that is a violation of the order is a felony.

A violation of the restraint or exclusion provisions of a no-contact order is a gross misdemeanor offense and also subjects the person to contempt of court sanctions. A violation of a no-contact order is a class C felony if the violation involved an assault or reckless endangerment, or if the person violating the order has two prior convictions for violations of a protection order, no-contact order, or restraining order.

When a no-contact order is issued, modified, or terminated, the clerk of the court must forward a copy of the order to the law enforcement agency specified in the order on or before the next judicial day. The law enforcement agency must enter the order into the computer-based criminal intelligence information system used to list outstanding warrants. Entry of the order constitutes notice to law enforcement of the order's existence, and the order is enforceable in any jurisdiction in the state. The law enforcement agency must remove the order from the computer-based criminal intelligence information system upon receiving notification that the order has terminated.

Language requiring the evaluation of persons found NGRI and subject to commitment to determine whether the person may have a developmental disability is moved to a new section of law without substantive change.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill closes a significant loophole. Cases involving a plea of insanity are some of the most serious and challenging cases that prosecutors deal with, and when the case is dismissed, important protections are taken away from victims. In a regular criminal case, the court may issue a no-contact order to protect a victim when the case is filed, and the order can remain effective until the court loses jurisdiction over the person. In an NGRI case, any no-contact order that had been issued by the court simply goes away. However, the court still has jurisdiction over the person, but any provision restricting contact with a victim is entered as a condition of the commitment order, so it does not have any teeth. Allowing the court to issue a standalone no-contact order provides a process to obtain an enforceable order that can be seen online by law enforcement throughout the state.

A victim should not have to seek a civil protection order. That is an arduous process that requires a victim to disclose personal information, which can put the victim in further danger. That is not what is required of any other victim of a charged crime. There is no reason to add that extra burden for the victim to protect themselves when there is ongoing jurisdiction of the court. The bill closes that loophole so that victims in NGRI cases are protected as long as the court has jurisdiction over the person.

(Opposed) None.

Persons Testifying: Senator Manka Dhingra, prime sponsor; Colleen McIngalls, King County Prosecuting Attorney's Office; and David Talley, King County Prosecuting Attorney.

Persons Signed In To Testify But Not Testifying: None.