

FINAL BILL REPORT

ESSB 5231

C 320 L 23
Synopsis as Enacted

Brief Description: Concerning the issuance of emergency domestic violence no-contact orders.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Salomon, Dhingra, Hasegawa, Hunt, Nobles, Pedersen, Valdez and Wilson, C.).

Senate Committee on Law & Justice
House Committee on Civil Rights & Judiciary

Background: Several civil protection orders allow a person to petition a court seeking protection from harmful or threatening behavior. Protection orders are available for individuals subjected to domestic violence, sexual assault, stalking, harassment, and vulnerable adult abuse. A court may grant broad relief to protect the petitioner, including entering relief to restrain a person from having contact with or coming within a specified distance of certain locations. Courts may also issue no-contact orders in relation to criminal domestic violence charges.

A person who is subject to a domestic violence, sexual assault, stalking, vulnerable adult, or anti-harassment protection order may be required to surrender their firearms, dangerous weapons, and concealed pistol license (CPL) if the person has used or threatened to use a firearm in the commission of a felony, or is otherwise disqualified from possessing a firearm.

Courts are required to order the surrender of firearms, dangerous weapons, and any CPL when entering certain qualifying orders involving intimate partners. An order to surrender weapons is effective immediately upon service by a law enforcement officer, and the officer must take possession of all firearms, weapons, and any concealed pistol license belonging to the restrained person that are surrendered, in plain sight, or discovered pursuant to a lawful search.

Courts may also issue extreme risk protection orders (ERPO) which allow a court to prohibit a person from possessing, purchasing, accessing, or receiving a firearm if the

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person poses a significant risk of harm to themselves or others by having access to firearms.

Summary: Pretrial No-Contact Orders. The court's authority to prohibit a person charged with or arrested for a crime involving domestic violence from having any contact with the victim includes prohibiting the person charged or arrested from the following:

- making any attempt to contact the victim or the victim's family or household members, either directly, indirectly, or through a third party;
- excluding the defendant from a residence shared with the victim, a workplace, school, or childcare facility;
- prohibiting the defendant from knowingly coming within, or knowingly remaining within, a specified distance of a location or vehicle; and
- other related prohibitions to reduce risks of harm.

When issuing the order, the court must verify that the statutory duties of peace officers when responding to domestic violence calls have been satisfied. If the information provided to the court indicates there may be a risk of harm if the defendant has access to firearms or dangerous weapons, the court must verify that peace officers have temporarily removed and secured all firearms, dangerous weapons, and any CPL. The court must then determine whether an order to surrender and prohibit weapons, or an ERPO should be issued.

At arraignment, the court may not deny issuance of a no-contact order based on the existence of an applicable civil protection order preventing the defendant from contacting the victim and must attempt to determine whether there are any other active orders restraining the defendant, and, to the extent the court is aware, advise the defendant of the ongoing requirements of those orders.

Emergency No-contact Orders. Emergency no-contact order is defined as a no-contact order issued by a court before criminal charges have been filed, or a petition for a protection order or an ERPO has been filed. A peace officer may request an emergency no-contact order, and an order to surrender and prohibit weapons or ERPO on behalf of and with the consent of the victim of an alleged act involving domestic violence. If the victim is incapacitated because of the alleged act of domestic violence, the officer may request the emergency order on their behalf. The request may be made in person, by telephone, or by electronic means.

If the court finds probable cause to believe the victim is in imminent danger of domestic violence based on the allegations, the court must grant the emergency no-contact order and may issue an order to surrender and prohibit weapons or an ERPO as required by law.

When issuing an emergency no-contact order, if the court issues an order to surrender and prohibit weapons or an ERPO, and has not verified that peace officers have temporarily removed and secured all firearms, dangerous weapons, and any CPL, all orders issued by the court must be personally served by a peace officer, and the peace officer must take possession of all firearms, dangerous weapons, and any CPL belonging to the respondent

that are surrendered, in plain sight, or discovered pursuant to a lawful search.

If the court does not issue an order to surrender and prohibit weapons or an ERPO, or has verified all firearms, dangerous weapons, and any CPL have been temporarily removed by law enforcement, service of the court's orders may be effected electronically. Any order issued electronically must also be issued in writing as soon as possible.

An emergency no-contact order will remain in effect until either the court terminates the emergency no-contact order, the court finds probable cause for a referred crime, or an ex parte hearing is held on a petition for a protection order or ERPO.

Votes on Final Passage:

Senate	36	12	
House	63	33	(House amended)
Senate	32	13	(Senate concurred)

Effective: July 23, 2023