

CERTIFICATION OF ENROLLMENT

**ENGROSSED SUBSTITUTE SENATE BILL 5231**

Chapter 320, Laws of 2023

68th Legislature  
2023 Regular Session

EMERGENCY DOMESTIC VIOLENCE NO-CONTACT ORDERS

EFFECTIVE DATE: July 23, 2023

Passed by the Senate April 14, 2023  
Yeas 32 Nays 13

DENNY HECK

**President of the Senate**

Passed by the House April 10, 2023  
Yeas 63 Nays 33

Laurie Jinkins

**Speaker of the House of  
Representatives**

Approved May 4, 2023 3:59 PM

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5231** as passed by the Senate and the House of Representatives on the dates hereon set forth.

SARAH BANNISTER

**Secretary**

FILED

May 5, 2023

**Secretary of State  
State of Washington**

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**ENGROSSED SUBSTITUTE SENATE BILL 5231**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2023 Regular Session

**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senate Law & Justice (originally sponsored by Senators Salomon, Dhingra, Hasegawa, Hunt, Nobles, Pedersen, Valdez, and C. Wilson)

READ FIRST TIME 01/27/23.

1 AN ACT Relating to the issuance of emergency domestic violence  
2 no-contact orders; and amending RCW 10.99.040.

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

4 **Sec. 1.** RCW 10.99.040 and 2021 c 215 s 122 are each amended to  
5 read as follows:

6 (1) Because of the serious nature of domestic violence, the court  
7 in domestic violence actions:

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

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

12 (c) Shall waive any requirement that the victim's location be  
13 disclosed to any person, other than the attorney of a criminal  
14 defendant, upon a showing that there is a possibility of further  
15 violence: PROVIDED, That the court may order a criminal defense  
16 attorney not to disclose to his or her client the victim's location;  
17 ((and))

18 (d) Shall identify by any reasonable means on docket sheets those  
19 criminal actions arising from acts of domestic violence;

1 (e) Shall not deny issuance of a no-contact order based on the  
2 existence of an applicable civil protection order preventing the  
3 defendant from contacting the victim; and

4 (f) When issuing a no-contact order, shall attempt to determine  
5 whether there are any other active no-contact orders, protection  
6 orders, or restraining orders involving the defendant to assist the  
7 court in ensuring that any no-contact order it may impose does not  
8 lessen protections imposed by other courts under other such orders.

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

21 (i) Prohibits the person charged or arrested from ((having))  
22 making any attempt to contact ((with the victim or)), including  
23 nonphysical contact, the victim or the victim's family or household  
24 members, either directly, indirectly, or through a third party;

25 (ii) Excludes the defendant from a residence shared with the  
26 victim, or from a workplace, school, or child care;

27 (iii) Prohibits the person from knowingly coming within, or  
28 knowingly remaining within, a specified distance of a location or  
29 vehicle; and

30 (iv) Includes other related prohibitions to reduce risk of harm.

31 ~~((In issuing the order, the court shall consider the~~  
32 ~~provisions of)) The court shall verify that the requirements of RCW  
33 10.99.030(3) have been satisfied, including that a sworn statement of  
34 a peace officer has been submitted to the court, documenting that the  
35 responding peace officers separated the parties and asked the victim  
36 or victims at the scene about firearms, other dangerous weapons, and  
37 ammunition that the defendant owns or has access to, and whether the  
38 defendant has a concealed pistol license. If the sworn statement of a  
39 peace officer or other information provided to the court indicates  
40 there may be a risk of harm if the defendant has access to firearms,~~

1 dangerous weapons, or an active concealed pistol license, the court  
2 shall verify that peace officers have temporarily removed and secured  
3 all the firearms, dangerous weapons, and any concealed pistol  
4 license. The court shall then determine whether an order to surrender  
5 and prohibit weapons or an extreme risk protection order should be  
6 issued pursuant to RCW 9.41.800 or chapter 7.105 RCW, ((and shall  
7 order the defendant to surrender, and prohibit)) prohibiting the  
8 ((person)) defendant from possessing, ((all)) purchasing, receiving,  
9 having in the defendant's control or custody, accessing, or  
10 attempting to purchase or receive, any firearms, dangerous weapons,  
11 and any concealed pistol license and shall order the defendant to  
12 surrender, and prohibit the defendant from possessing, any firearms,  
13 dangerous weapons, and any concealed pistol license as required in  
14 RCW 9.41.800, or shall issue an extreme risk protection order as  
15 required by chapter 7.105 RCW. The court may make these  
16 determinations on the record or off the record with a written  
17 explanation when declining to impose the restrictions authorized in  
18 this subsection.

19 ~~((c) The no-contact order shall also be issued in writing as~~  
20 ~~soon as possible, and shall state that it may be extended as provided~~  
21 ~~in subsection (3) of this section. By January 1, 2011, the~~  
22 ~~administrative office of the courts shall develop a pattern form for~~  
23 ~~all no-contact orders issued under this chapter. A no-contact order~~  
24 ~~issued under this chapter must substantially comply with the pattern~~  
25 ~~form developed by the administrative office of the courts.))~~

26 (3) (a) At the time of arraignment, the court shall review the  
27 defendant's firearms purchase history provided by the prosecutor  
28 pursuant to RCW 10.99.045, and any other firearms information  
29 provided by law enforcement or court or jail staff, and shall  
30 determine whether a no-contact order, an order to surrender and  
31 prohibit weapons, or an extreme risk protection order shall be issued  
32 or, if previously issued, extended.

33 (b) So long as the court finds probable cause, the court may  
34 issue or extend a no-contact order, an order to surrender and  
35 prohibit weapons, or an extreme risk protection order, even if the  
36 defendant fails to appear at arraignment. The no-contact order shall  
37 terminate if the defendant is acquitted or the charges are dismissed.  
38 To the extent the court is aware, the court shall advise the  
39 defendant of the ongoing requirements of any other no-contact,  
40 restraining, or protection order that remains in effect.

1       (~~(b) In issuing the order, the court shall consider all~~  
2 ~~information documented in the incident report concerning the person's~~  
3 ~~possession of and access to firearms and whether law enforcement took~~  
4 ~~temporary custody of firearms at the time of the arrest. The court~~  
5 ~~may as a condition of release prohibit the defendant from possessing~~  
6 ~~or accessing firearms and order the defendant to immediately~~  
7 ~~surrender all firearms and any concealed pistol license to a law~~  
8 ~~enforcement agency upon release.))~~

9       (c) If a no-contact order is issued or extended, the court may  
10 also include in the conditions of release a requirement that the  
11 defendant submit to electronic monitoring as defined in RCW  
12 9.94A.030. If electronic monitoring is ordered, the court shall  
13 specify who shall provide the monitoring services, and the terms  
14 under which the monitoring shall be performed. Upon conviction, the  
15 court may require as a condition of the sentence that the defendant  
16 reimburse the providing agency for the costs of the electronic  
17 monitoring.

18       (4) (a) Willful violation of a court order issued under  
19 (~~subsection (2), (3), or (7) of~~) this section is punishable as  
20 provided under RCW 7.105.450 or 7.105.460, or chapter 9.41 RCW.

21       (b) The written order releasing the person charged or arrested  
22 shall contain the court's directives and shall bear the legend:  
23 "Violation of this order is a criminal offense under chapter 7.105  
24 RCW and will subject a violator to arrest; any assault, drive-by  
25 shooting, or reckless endangerment that is a violation of this order  
26 is a felony. You can be arrested even if any person protected by the  
27 order invites or allows you to violate the order's prohibitions. You  
28 have the sole responsibility to avoid or refrain from violating the  
29 order's provisions. Only the court can change the order."

30       (c) A certified copy of the order shall be provided to the  
31 victim.

32       (5) (a) A peace officer may request, on an ex parte basis and  
33 before criminal charges or a petition for a protection order or an  
34 extreme risk protection order have been filed, an emergency no-  
35 contact order, order to surrender and prohibit weapons, or extreme  
36 risk protection order from a judicial officer on behalf of and with  
37 the consent of the victim of an alleged act involving domestic  
38 violence if the victim is able to provide such consent. If the victim  
39 is incapacitated as a result of the alleged act of domestic violence,  
40 a peace officer may request an emergency no-contact order, order to

1 surrender and prohibit weapons, or extreme risk protection order on  
2 his or her behalf. The request shall be made based upon the sworn  
3 statement of a peace officer and may be made in person, by telephone,  
4 or by electronic means. If the court finds probable cause to believe  
5 that the victim is in imminent danger of domestic violence based on  
6 an allegation of the recent commission of an act involving domestic  
7 violence, the court shall issue an emergency no-contact order and an  
8 order to surrender and prohibit weapons or an extreme risk protection  
9 order as required by RCW 9.41.800 or chapter 7.105 RCW. An emergency  
10 no-contact order issued by a court will remain in effect until either  
11 the court terminates the emergency no-contact order, the court finds  
12 probable cause for a referred crime, or an ex parte hearing is held  
13 on a petition for a protection order or extreme risk protection  
14 order.

15 (b) If the court issues an order to surrender and prohibit  
16 weapons or an extreme risk protection order, and has not verified  
17 that peace officers have temporarily removed and secured all firearms  
18 and dangerous weapons, and any concealed pistol license, all orders  
19 issued by the court must be personally served by a peace officer and  
20 the peace officer shall take possession of all firearms, dangerous  
21 weapons, and any concealed pistol license belonging to the respondent  
22 that are surrendered, in plain sight, or discovered pursuant to a  
23 lawful search, as required by RCW 9.41.801.

24 (c) If the court does not issue an order to surrender and  
25 prohibit weapons or an extreme risk protection order, or has verified  
26 that all firearms, dangerous weapons, and any concealed pistol  
27 license have been temporarily removed by law enforcement, service of  
28 the court's orders may be effected electronically. Electronic service  
29 must be effected by a law enforcement agency transmitting copies of  
30 the petition and any supporting materials filed with the petition,  
31 any notice of hearing, and any orders, or relevant materials for  
32 motions, to the defendant at the defendant's electronic address or  
33 the defendant's electronic account associated with email, text  
34 messaging, social media applications, or other technologies.  
35 Verification of notice is required and may be accomplished through  
36 read-receipt mechanisms, a response, a sworn statement from the  
37 person who effected service verifying transmission and any follow-up  
38 communications such as email or telephone contact used to further  
39 verify, or an appearance by the defendant at a hearing. Sworn proof

1 of service must be filed with the court by the person who effected  
2 service.

3 (d) A no-contact order, order to surrender and prohibit weapons,  
4 or extreme risk protection order authorized by telephonic or  
5 electronic means shall also be issued in writing as soon as possible  
6 and shall state that it may be extended as provided in subsection (3)  
7 of this section.

8 (6) If a no-contact order has been issued prior to charging, that  
9 order shall expire at arraignment or within seventy-two hours if  
10 charges are not filed.

11 ~~((6))~~ (7) Whenever ((a no-contact)) an order is issued,  
12 modified, or terminated under ((subsection (2) or (3) of)) this  
13 section, the clerk of the court shall forward a copy of the order on  
14 or before the next judicial day to the appropriate law enforcement  
15 agency specified in the order. Upon receipt of the copy of the order  
16 the law enforcement agency shall enter the order for one year or  
17 until the expiration date specified on the order into any computer-  
18 based criminal intelligence information system available in this  
19 state used by law enforcement agencies to list outstanding warrants.  
20 Entry into the computer-based criminal intelligence information  
21 system constitutes notice to all law enforcement agencies of the  
22 existence of the order. The order is fully enforceable in any  
23 jurisdiction in the state. Upon receipt of notice that an order has  
24 been terminated under subsection (3) of this section, the law  
25 enforcement agency shall remove the order from the computer-based  
26 criminal intelligence information system.

27 ~~((7) All courts shall develop policies and procedures by January~~  
28 ~~1, 2011, to grant victims a process to modify or rescind a no-contact~~  
29 ~~order issued under this chapter. The administrative office of the~~  
30 ~~courts shall develop a model policy to assist the courts in~~  
31 ~~implementing the requirements of this subsection.))~~

32 (8) For the purposes of this section, and unless context clearly  
33 requires otherwise, "emergency no-contact order" means a no-contact  
34 order issued by a court of competent jurisdiction before criminal  
35 charges have been filed or before a petition for a protection order  
36 or extreme risk protection order has been filed.

37 NEW SECTION. Sec. 2. If any provision of this act or its  
38 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other  
2 persons or circumstances is not affected.

Passed by the Senate April 14, 2023.

Passed by the House April 10, 2023.

Approved by the Governor May 4, 2023.

Filed in Office of Secretary of State May 5, 2023.

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