
SUBSTITUTE SENATE BILL 5143

State of Washington

66th Legislature

2019 Regular Session

By Senate Law & Justice (originally sponsored by Senators Dhingra, Wellman, Das, Keiser, Palumbo, Darneille, Kuderer, and Saldaña)

READ FIRST TIME 01/25/19.

1 AN ACT Relating to the authorized removal, safekeeping, and
2 return of firearms and ammunition by law enforcement during and after
3 domestic violence incidents; amending RCW 10.99.030 and 9.41.345; and
4 adding new sections to chapter 10.99 RCW.

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

6 **Sec. 1.** RCW 10.99.030 and 2016 c 136 s 5 are each amended to
7 read as follows:

8 ~~(1) ((All training relating to the handling of domestic violence~~
9 ~~complaints by law enforcement officers shall stress enforcement of~~
10 ~~criminal laws in domestic situations, availability of community~~
11 ~~resources, and protection of the victim. Law enforcement agencies and~~
12 ~~community organizations with expertise in the issue of domestic~~
13 ~~violence shall cooperate in all aspects of such training.~~

14 ~~(2) The criminal justice training commission shall implement by~~
15 ~~January 1, 1997, a course of instruction for the training of law~~
16 ~~enforcement officers in Washington in the handling of domestic~~
17 ~~violence complaints. The basic law enforcement curriculum of the~~
18 ~~criminal justice training commission shall include at least twenty~~
19 ~~hours of basic training instruction on the law enforcement response~~
20 ~~to domestic violence. The course of instruction, the learning and~~
21 ~~performance objectives, and the standards for the training shall be~~

1 developed by the commission and focus on enforcing the criminal laws,
2 safety of the victim, and holding the perpetrator accountable for the
3 violence. The curriculum shall include training on the extent and
4 prevalence of domestic violence, the importance of criminal justice
5 intervention, techniques for responding to incidents that minimize
6 the likelihood of officer injury and that promote victim safety,
7 investigation and interviewing skills, evidence gathering and report
8 writing, assistance to and services for victims and children,
9 verification and enforcement of court orders, liability, and any
10 additional provisions that are necessary to carry out the intention
11 of this subsection.

12 ~~(3) The criminal justice training commission shall develop and~~
13 ~~update annually an in-service training program to familiarize law~~
14 ~~enforcement officers with the domestic violence laws. The program~~
15 ~~shall include techniques for handling incidents of domestic violence~~
16 ~~that minimize the likelihood of injury to the officer and that~~
17 ~~promote the safety of all parties. The commission shall make the~~
18 ~~training program available to all law enforcement agencies in the~~
19 ~~state.~~

20 ~~(4) Development of the training in subsections (2) and (3) of~~
21 ~~this section shall be conducted in conjunction with agencies having a~~
22 ~~primary responsibility for serving victims of domestic violence with~~
23 ~~emergency shelter and other services, and representatives to the~~
24 ~~statewide organization providing training and education to these~~
25 ~~organizations and to the general public.~~

26 ~~(5))~~ The primary duty of peace officers, when responding to a
27 domestic violence situation, is to enforce the laws allegedly
28 violated and to protect the complaining party.

29 ~~((+6))~~ (2)(a) When a peace officer responds to a domestic
30 violence call and has probable cause to believe that a crime has been
31 committed, the peace officer shall exercise arrest powers with
32 reference to the criteria in RCW 10.31.100. The officer shall notify
33 the victim of the victim's right to initiate a criminal proceeding in
34 all cases where the officer has not exercised arrest powers or
35 decided to initiate criminal proceedings by citation or otherwise.
36 The parties in such cases shall also be advised of the importance of
37 preserving evidence.

38 (b) A peace officer responding to a domestic violence call shall
39 take a complete offense report including the officer's disposition of
40 the case.

1 ~~((7))~~ (3)(a) A peace officer who responds to a domestic
2 violence call and has probable cause to believe that a crime has been
3 committed shall, to the extent feasible and otherwise allowed by law,
4 seize all firearms and ammunition the peace officer has reasonable
5 grounds to believe were used or threatened to be used in the
6 commission of the offense and may seize all firearms and ammunition
7 in plain sight or discovered pursuant to a consensual or other lawful
8 search.

9 (b) A law enforcement agency shall comply with the provisions of
10 RCW 9.41.340 and 9.41.345 before the return of any firearm or
11 ammunition seized under this subsection to the owner or individual
12 from who the firearm or ammunition was obtained.

13 (4) When a peace officer responds to a domestic violence call,
14 the officer shall advise victims of all reasonable means to prevent
15 further abuse, including advising each person of the availability of
16 a shelter or other services in the community, and giving each person
17 immediate notice of the legal rights and remedies available. The
18 notice shall include handing each person a copy of the following
19 statement:

20 "IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you can ask the
21 city or county prosecuting attorney to file a criminal
22 complaint. You also have the right to file a petition in
23 superior, district, or municipal court requesting an order
24 for protection from domestic abuse which could include any of
25 the following: (a) An order restraining your abuser from
26 further acts of abuse; (b) an order directing your abuser to
27 leave your household; (c) an order preventing your abuser
28 from entering your residence, school, business, or place of
29 employment; (d) an order awarding you or the other parent
30 custody of or visitation with your minor child or children;
31 and (e) an order restraining your abuser from molesting or
32 interfering with minor children in your custody. The forms
33 you need to obtain a protection order are available in any
34 municipal, district, or superior court.

35 Information about shelters and alternatives to domestic
36 violence is available from a statewide twenty-four-hour toll-
37 free hotline at (include appropriate phone number). The
38 battered women's shelter and other resources in your area
39 are (include local information)"

1 ~~((8))~~ (5) The peace officer may offer, arrange, or facilitate
2 transportation for the victim to a hospital for treatment of injuries
3 or to a place of safety or shelter.

4 ~~((9) The law enforcement agency shall forward the offense report~~
5 ~~to the appropriate prosecutor within ten days of making such report~~
6 ~~if there is probable cause to believe that an offense has been~~
7 ~~committed, unless the case is under active investigation. Upon~~
8 ~~receiving the offense report, the prosecuting agency may, in its~~
9 ~~discretion, choose not to file the information as a domestic violence~~
10 ~~offense, if the offense was committed against a sibling, parent,~~
11 ~~stepparent, or grandparent.~~

12 ~~(10) Each law enforcement agency shall make as soon as~~
13 ~~practicable a written record and shall maintain records of all~~
14 ~~incidents of domestic violence reported to it.~~

15 ~~(11) Records kept pursuant to subsections (6) and (10) of this~~
16 ~~section shall be made identifiable by means of a departmental code~~
17 ~~for domestic violence.~~

18 ~~(12) Commencing January 1, 1994, records of incidents of domestic~~
19 ~~violence shall be submitted, in accordance with procedures described~~
20 ~~in this subsection, to the Washington association of sheriffs and~~
21 ~~police chiefs by all law enforcement agencies. The Washington~~
22 ~~criminal justice training commission shall amend its contract for~~
23 ~~collection of statewide crime data with the Washington association of~~
24 ~~sheriffs and police chiefs:~~

25 ~~(a) To include a table, in the annual report of crime in~~
26 ~~Washington produced by the Washington association of sheriffs and~~
27 ~~police chiefs pursuant to the contract, showing the total number of~~
28 ~~actual offenses and the number and percent of the offenses that are~~
29 ~~domestic violence incidents for the following crimes: (i) Criminal~~
30 ~~homicide, with subtotals for murder and nonnegligent homicide and~~
31 ~~manslaughter by negligence; (ii) forcible rape, with subtotals for~~
32 ~~rape by force and attempted forcible rape; (iii) robbery, with~~
33 ~~subtotals for firearm, knife or cutting instrument, or other~~
34 ~~dangerous weapon, and strongarm robbery; (iv) assault, with subtotals~~
35 ~~for firearm, knife or cutting instrument, other dangerous weapon,~~
36 ~~hands, feet, aggravated, and other nonaggravated assaults; (v)~~
37 ~~burglary, with subtotals for forcible entry, nonforcible unlawful~~
38 ~~entry, and attempted forcible entry; (vi) larceny theft, except motor~~
39 ~~vehicle theft; (vii) motor vehicle theft, with subtotals for autos,~~

1 ~~trucks and buses, and other vehicles; (viii) arson; and (ix)~~
2 ~~violations of the provisions of a protection order or no-contact~~
3 ~~order restraining the person from going onto the grounds of or~~
4 ~~entering a residence, workplace, school, or day care, provided that~~
5 ~~specific appropriations are subsequently made for the collection and~~
6 ~~compilation of data regarding violations of protection orders or no-~~
7 ~~contact orders;~~

8 ~~(b) To require that the table shall continue to be prepared and~~
9 ~~contained in the annual report of crime in Washington until that time~~
10 ~~as comparable or more detailed information about domestic violence~~
11 ~~incidents is available through the Washington state incident based~~
12 ~~reporting system and the information is prepared and contained in the~~
13 ~~annual report of crime in Washington; and~~

14 ~~(c) To require that, in consultation with interested persons, the~~
15 ~~Washington association of sheriffs and police chiefs prepare and~~
16 ~~disseminate procedures to all law enforcement agencies in the state~~
17 ~~as to how the agencies shall code and report domestic violence~~
18 ~~incidents to the Washington association of sheriffs and police~~
19 ~~chiefs.)~~

20 (6) An appointed or elected public official, public employee, or
21 public agency as defined in RCW 4.24.470, or units of local
22 government and its employees, as provided in RCW 36.28A.010, are
23 immune from civil liability for damages arising out of the seizure or
24 failure to seize a firearm, unless it is shown that the official,
25 employee, or agency acted with gross negligence or in bad faith.

26 NEW SECTION. Sec. 2. A new section is added to chapter 10.99
27 RCW to read as follows:

28 (1) All training relating to the handling of domestic violence
29 complaints by law enforcement officers must stress enforcement of
30 criminal laws in domestic situations, availability of community
31 resources, and protection of the victim. Law enforcement agencies and
32 community organizations with expertise in the issue of domestic
33 violence shall cooperate in all aspects of such training.

34 (2) The criminal justice training commission shall implement by
35 the effective date of this section, a course of instruction for the
36 training of law enforcement officers in Washington in the handling of
37 domestic violence complaints. The basic law enforcement curriculum of
38 the criminal justice training commission must include at least twenty
39 hours of basic training instruction on the law enforcement response

1 to domestic violence. The course of instruction, the learning and
2 performance objectives, and the standards for the training must be
3 developed by the commission and focus on enforcing the criminal laws,
4 safety of the victim, and holding the perpetrator accountable for the
5 violence. The curriculum must include training on the extent and
6 prevalence of domestic violence, the importance of criminal justice
7 intervention, techniques for responding to incidents that minimize
8 the likelihood of officer injury and that promote victim safety,
9 investigation and interviewing skills, evidence gathering and report
10 writing, assistance to and services for victims and children,
11 verification and enforcement of court orders, liability, and any
12 additional provisions that are necessary to carry out the intention
13 of this subsection.

14 (3) The criminal justice training commission shall develop and
15 update annually an in-service training program to familiarize law
16 enforcement officers with domestic violence laws. The program must
17 include techniques for handling incidents of domestic violence that
18 minimize the likelihood of injury to the officer and that promote the
19 safety of all parties. The commission shall make the training program
20 available to all law enforcement agencies in the state.

21 (4) Development of the training in subsections (2) and (3) of
22 this section must be conducted in conjunction with agencies having a
23 primary responsibility for serving victims of domestic violence with
24 emergency shelter and other services, and representatives to the
25 statewide organization providing training and education to these
26 organizations and to the general public.

27 NEW SECTION. **Sec. 3.** A new section is added to chapter 10.99
28 RCW to read as follows:

29 (1) A law enforcement agency shall forward the offense report
30 regarding any incident of domestic violence to the appropriate
31 prosecutor within ten days of making such report if there is probable
32 cause to believe that an offense has been committed, unless the case
33 is under active investigation. Upon receiving the offense report, the
34 prosecuting agency may, in its discretion, choose not to file the
35 information as a domestic violence offense, if the offense was
36 committed against a sibling, parent, stepparent, or grandparent.

37 (2) Each law enforcement agency shall make as soon as practicable
38 a written record and shall maintain records of all incidents of
39 domestic violence reported to it.

1 (3) Records kept pursuant to RCW 10.99.030 and this section must
2 be made identifiable by means of a departmental code for domestic
3 violence.

4 (4) Commencing on the effective date of this section, records of
5 incidents of domestic violence must be submitted, in accordance with
6 procedures described in this subsection, to the Washington
7 association of sheriffs and police chiefs by all law enforcement
8 agencies. The criminal justice training commission shall amend its
9 contract for collection of statewide crime data with the Washington
10 association of sheriffs and police chiefs:

11 (a) To include a table, in the annual report of crime in
12 Washington produced by the Washington association of sheriffs and
13 police chiefs pursuant to the contract, showing the total number of
14 actual offenses and the number and percent of the offenses that are
15 domestic violence incidents for the following crimes: (i) Criminal
16 homicide, with subtotals for murder and nonnegligent homicide and
17 manslaughter by negligence; (ii) forcible rape, with subtotals for
18 rape by force and attempted forcible rape; (iii) robbery, with
19 subtotals for firearm, knife or cutting instrument, or other
20 dangerous weapon, and strongarm robbery; (iv) assault, with subtotals
21 for firearm, knife or cutting instrument, other dangerous weapon,
22 hands, feet, aggravated, and other nonaggravated assaults; (v)
23 burglary, with subtotals for forcible entry, nonforcible unlawful
24 entry, and attempted forcible entry; (vi) larceny theft, except motor
25 vehicle theft; (vii) motor vehicle theft, with subtotals for autos,
26 trucks and buses, and other vehicles; (viii) arson; and (ix)
27 violations of the provisions of a protection order or no-contact
28 order restraining the person from going onto the grounds of or
29 entering a residence, workplace, school, or day care, provided that
30 specific appropriations are subsequently made for the collection and
31 compilation of data regarding violations of protection orders or no-
32 contact orders;

33 (b) To require that the table shall continue to be prepared and
34 contained in the annual report of crime in Washington until that time
35 as comparable or more detailed information about domestic violence
36 incidents is available through the Washington state incident-based
37 reporting system and the information is prepared and contained in the
38 annual report of crime in Washington; and

39 (c) To require that, in consultation with interested persons, the
40 Washington association of sheriffs and police chiefs prepare and

1 disseminate procedures to all law enforcement agencies in the state
2 as to how the agencies shall code and report domestic violence
3 incidents to the Washington association of sheriffs and police
4 chiefs.

5 **Sec. 4.** RCW 9.41.345 and 2018 c 226 s 1 are each amended to read
6 as follows:

7 (1) Before a law enforcement agency returns a privately owned
8 firearm, the law enforcement agency must:

9 (a) Confirm that the individual to whom the firearm will be
10 returned is the individual from whom the firearm was obtained or an
11 authorized representative of that person;

12 (b) Confirm that the individual to whom the firearm will be
13 returned is eligible to possess a firearm pursuant to RCW 9.41.040;

14 (c) Ensure that the firearm is not otherwise required to be held
15 in custody or otherwise prohibited from being released; and

16 (d) Ensure that twenty-four hours have elapsed from the time the
17 firearm was obtained by law enforcement, unless the firearm was
18 seized in connection with a domestic violence call pursuant to RCW
19 10.99.030, in which case the law enforcement agency must ensure that
20 five business days have elapsed from the time the firearm was
21 obtained.

22 (2)(a) Once the requirements in subsections (1) and (3) of this
23 section have been met, a law enforcement agency must release a
24 firearm to the individual from whom it was obtained or an authorized
25 representative of that person upon request without unnecessary delay.

26 (b)(i) If a firearm cannot be returned because it is required to
27 be held in custody or is otherwise prohibited from being released, a
28 law enforcement agency must provide written notice to the individual
29 from whom it was obtained within five business days of the individual
30 requesting return of his or her firearm and specify the reason the
31 firearm must be held in custody.

32 (ii) Notification may be made via email, text message, mail
33 service, or personal service. For methods other than personal
34 service, service shall be considered complete once the notification
35 is sent.

36 (3) If a family or household member has requested to be notified
37 pursuant to RCW 9.41.340, a law enforcement agency must:

1 (a) Provide notice to the family or household member within one
2 business day of verifying that the requirements in subsection (1) of
3 this section have been met; and

4 (b) Hold the firearm in custody for seventy-two hours from the
5 time notification has been provided.

6 (4) (a) A law enforcement agency may not return a concealed pistol
7 license that has been surrendered to or impounded by the law
8 enforcement agency for any reason to the licensee until the law
9 enforcement agency determines the licensee is eligible to possess a
10 firearm under state and federal law and meets the other eligibility
11 requirements for a concealed pistol license under RCW 9.41.070.

12 (b) A law enforcement agency must release a concealed pistol
13 license to the licensee without unnecessary delay, and in no case
14 longer than five business days, after the law enforcement agency
15 determines the requirements of (a) of this subsection have been met.

16 (5) The provisions of chapter 130, Laws of 2015 and subsection
17 (4) of this section shall not apply to circumstances where a law
18 enforcement officer has momentarily obtained a firearm or concealed
19 pistol license from an individual and would otherwise immediately
20 return the firearm or concealed pistol license to the individual
21 during the same interaction.

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