

SENATE BILL REPORT

SB 5202

As Reported by Senate Committee On:
Law & Justice, January 23, 2025

Title: An act relating to ensuring the efficacy of judicial orders as harm reduction tools that increase the safety of survivors of abuse and support law enforcement in their efforts to enforce the law.

Brief Description: Ensuring the efficacy of judicial orders as harm reduction tools that increase the safety of survivors of abuse and support law enforcement in their efforts to enforce the law.

Sponsors: Senators Salomon, Cortes, Dhingra and Hasegawa.

Brief History:

Committee Activity: Law & Justice: 1/20/25, 1/23/25 [DPS, DNP, w/oRec].

Brief Summary of First Substitute Bill

- Makes changes to civil protection orders.
- Expands the crime of unlawful possession of a firearm.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5202 be substituted therefor, and the substitute bill do pass.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Lovick, Salomon, Torres and Valdez.

Minority Report: Do not pass.

Signed by Senators Fortunato and Wagoner.

Minority Report: That it be referred without recommendation.

Signed by Senator Holy, Ranking Member.

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.

Staff: Ryan Giannini (786-7285)

Background: Civil Protection Orders. *Types.* There are different types of protection orders a court may issue to protect a person from the behavior of another. Separate types of protection orders exist for domestic violence (DVPO), sexual assault (SAPO), stalking (SPO), anti-harassment (AHPO), vulnerable adult (VAPO), and extreme risk (ERPO).

Filing. There are certain requirements that apply to all petitions for protection orders. For example, petitions must be accompanied by a confidential document to be used by the courts and law enforcement to fully identify parties and serve the respondent.

Temporary Orders. For most types of protection orders, where it appears the respondent has engaged in conduct against the petitioner that serves as a basis for a protection order and the petitioner alleges that serious immediate harm or irreparable injury could result if an order is not issued immediately, the court may grant an ex parte temporary protection order, pending a full hearing. A full hearing must be scheduled no later than 14 days from the date the petition is filed. After a hearing, the court may issue a full protection order.

Relief. A court has broad discretion to grant such relief as the court deems proper in issuing any type of protection order, other than an ex parte temporary AHPO and an ERPO.

Renewal. For most types of protection orders, the petitioner may file a motion to renew the order at any time within 90 days before the order expires. The motion for renewal must state the reasons the petitioner seeks to renew the protection order. A court shall grant a motion for renewal of a full protection order unless the respondent proves there has been a substantial change in circumstances and certain conditions relevant to each type of protection order are met. The plaintiff bears no burden of proving a current reasonable fear of harm by the respondent.

The renewed protection order may be for a fixed period not less than one year or may be permanent. If the protection order includes the parties' children, a renewed protection order may be issued for more than one year, subject to subsequent orders in a family law proceeding.

Modification and Termination. A court may modify the terms of existing DVPOs, SAPOs, SPO, and AHPOs upon a motion with notice to all parties and after a hearing. The respondent must prove, by a preponderance of the evidence, there has been a substantial change in circumstances such that the respondent will not engage in certain acts associated with the protection orders. The plaintiff bears no burden of proving a current reasonable fear of harm by the respondent.

Unlawful Possession of a Firearm. State law prohibits certain people from possessing a firearm, including individuals convicted of any felony offense and certain misdemeanor

domestic violence offenses, and individuals subject to certain qualifying judicial orders. A violation of this prohibition constitutes the crime of unlawful possession of a firearm.

Unlawful possession of a firearm in the first degree, a class B felony, applies if the basis for the prohibition is a conviction or finding of not guilty by reason of insanity (NGRI) of a serious offense.

Unlawful possession of a firearm in the second degree, a class C felony, is committed when a person owns, accesses, or has in the person's custody, control, or possession, or receives any firearm under several circumstances, including during any period of time that the person is subject to a protection order, no-contact order, or restraining order meeting specified requirements.

Summary of Bill (First Substitute): Civil Protection Order. Filing. Submitted confidential documents accompanying protection order petitions are to be used by courts, law enforcement, and prosecutors' offices to identify parties; serve the respondent; notify victims or protected persons; and to fulfill other identification, service, enforcement, and notification requirements. The court must order sealing, if necessary, and issue a protective order, if a confidential information form is wrongfully disclosed.

Relief. The issuance of any mutual full protection orders by courts is disfavored.

Renewal. A minor who reaches the age of 18 while a protection order is in effect may petition for renewal of the order as the petitioner.

A minor who was previously protected by a protection order who turns 18 may petition for renewal of the protection order up to one year from the date the order expired. The petitioner may allege new facts and circumstances for which relief is sought that occurred after the protection order expired.

The clerk shall issue a new cause number for renewals of protection orders by minors-turned-petitioners and shall include the previously ordered protection order and petition for renewal in the new case file.

Modification and Termination. A protected party may file a motion to terminate or modify an ex parte protection order without notice to the respondent if the respondent has not yet been served. For all other modifications or terminations of ex parte protection orders, notice of the motion must be given to all parties. A restrained person cannot modify or terminate an ex parte protection order without notice to the protected party.

Judicial officers presiding over certain full hearings who are reissuing temporary orders may modify the terms of an ex parte temporary protection order to remedy errors or based on the facts of the case.

Typewritten. Any full or temporary protection order issued after December 31, 2025, and any modifications to such orders, must be typewritten, if available in the local jurisdiction, except for the signature of the issuing judge or court commissioner.

Unlawful Possession of a Firearm. The crime of unlawful possession of a firearm in the first degree is expanded to include instances when a person owns, accesses, has in the person's custody, control, or possession, or receives any untraceable or undetectable firearm during any period of time that the person is subject to a protection order, no-contact order, or restraining order issued by a court meeting specified requirements.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (First Substitute):

- Allows a confidential document accompanying a civil protection order petition to be used to fulfill identification, service, enforcement, and notification requirements of the Association of Washington State Sheriffs and Police Chiefs.
- Clarifies that a court issuing a sealing order in response to a wrongfully disclosed confidential information form must seal if necessary and must follow applicable law related to sealing.
- Requires that a previously order protection order and petition for renewal should be included in a newly created case file when new cause numbers are issued.
- Requires any full or temporary protection order issued after December 31, 2025, and any modifications to such orders, to be typewritten, if available in the local jurisdiction, except for the signature of the issuing judge or court commissioner.

Appropriation: None.

Fiscal Note: Requested on January 13, 2025.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This is a common sense public safety bill. Civil protection orders make a meaningful difference in the lives of survivors in their real and perceived sense of safety. More than ever, survivors of domestic violence, gender-based violence, harassment, and other types of violence are accessing protection orders as a means to protect them from perpetrators. This bill makes several technical improvements that enhances the protections the Legislature intended to make available to survivors. It will ensure that prosecutors have the information they need to fully identify, serve, enforce, and notify protection order requirements, including safety actions to notify survivors when perpetrators petition to restore firearm rights. This bill would allow minors protected by a protection order to renew such protection orders once they turn 18 without

putting their safety in jeopardy or retraumatizing them. The bill will streamline processes for modifying and terminating ex parte protection orders. This legislation will strengthen existing penalties for individuals who possess ghost guns when such individuals are subject to protection orders, no-contact orders, or restraining orders.

Persons Testifying: PRO: Senator Jesse Salomon, Prime Sponsor; Sandra Shanahan, KCPAO RDVFEU; Kimberly Wyatt , King County Prosecuting Attorney's Office; Alexander Bejaran Estevez, Sexual Violence Law Center; James McMahan, WA Assoc Sheriffs & Police Chiefs.

Persons Signed In To Testify But Not Testifying: No one.