



Legislation Text

File #: CB 118998, Version: 1

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to the City’s criminal code; amending Sections 12A.06.010, 12A.06.180, 12A.06.195, 12A.10.040, 12A.14.010, 12A.14.195, and 12A.18.090 of the Seattle Municipal Code to conform the Seattle Municipal Code with changes in state law and make technical corrections.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 12A.06.010 of the Seattle Municipal Code, last amended by Ordinance 124684, is amended as follows:

12A.06.010 Assault

* * *

C. Every person convicted of assault where domestic violence as defined in Section 12A.06.120 was pleaded and proven shall have a biological sample collected for purposes of DNA identification analysis, as provided in RCW 43.43.754, and shall pay a fee of \$100, as provided in RCW 43.43.7541.

Section 2. Section 12A.06.180 of the Seattle Municipal Code, last amended by Ordinance 124949, is amended as follows:

12A.06.180 Violation - Penalty - Contempt

A. Whenever an order is granted under this Chapter 12A.06((5)) or chapters 7.90, 7.92, 9.94A, 9A.40, 9A.46, 9A.88, 10.99, 26.09, 26.10, 26.26, 26.50, or 74.34 RCW, any temporary order for protection is granted under chapter 7.40 RCW pursuant to chapter 74.34 RCW or there is a valid foreign protection order as defined in RCW 26.52.020 and the respondent or person to be restrained knows of the order, a violation of any of the following provisions of the order is a gross misdemeanor:

1. ~~((the))~~ The restraint provisions prohibiting acts or threats of violence against or stalking of a protected party, restraint provisions prohibiting contact with a protected party or restraint provisions prohibiting harassing, following, keeping under physical or electronic surveillance, cyberstalking or monitoring the actions, location, or communication of a protected party, a protected party's children, or members of a protected party's household;
2. ~~((a))~~ A provision excluding the person from a residence, workplace, school, or day care;
3. ~~((a))~~ A provision prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location;
4. ~~((a))~~ A provision prohibiting interfering with the protected party's efforts to remove a pet owned, possessed, leased, kept, or held by the petitioner, respondent, or a minor child residing with either the petitioner or respondent; or
5. ~~((a))~~ A provision of a foreign protection order specifically indicating that a violation will be a crime.

Upon conviction, and in addition to any other penalties provided by law, the court may require that the convicted person submit to electronic monitoring. The court shall specify who shall provide the electronic monitoring services and the terms under which the monitoring shall be performed. The court may require that the convicted person pay the costs of the monitoring. The court shall consider the ability of the convicted person to pay for electronic monitoring. The court shall impose a fine of \$15, in addition to any penalty or fine imposed, for violation of a domestic violence protection order issued under chapter 26.50 RCW. Revenue from this fine shall be collected by the clerk of the court and remitted monthly to the state treasury for deposit in the domestic violence prevention account.

B. A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order that restrains the person or excludes the person from a residence, workplace, school, or day care or prohibits the person from knowingly coming within, or knowingly

remaining within, a specified distance of a location, if the person restrained knows of the order. Presence of the order in the law enforcement computer-based criminal intelligence information system is not the only means of establishing knowledge of the order.

C. A violation of an order issued under this Chapter 12A.06((5)) or chapters 7.90, 7.92, 9.94A, 9A.40, 9A.46, 9.88, 10.99, 26.09, 26.10, 26.26, 26.50, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020 shall also constitute contempt of court and is subject to the penalties prescribed by law.

D. Upon the filing of an affidavit by the petitioner or any peace officer alleging that the respondent has violated an order issued under this Chapter 12A.06((5)) or chapters 7.90, 7.92, 9.94A, 9A.40, 9A.46, 9A.88, 10.99, 26.09, 26.10, 26.26, 26.50, or 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020, the court may issue an order to the respondent, requiring the respondent to appear and show cause within 14 days why the respondent should not be found in contempt of court and punished accordingly.

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Section 3. Subsection 12A.06.195.G of the Seattle Municipal Code, which section was last amended by Ordinance 124949, is amended as follows:

12A.06.195 Court order requiring surrender of firearm, dangerous weapon or concealed pistol license

* * *

G. A party who is ordered to surrender firearms, dangerous weapons, and the party's concealed pistol license under this Section 12A.06.195 or chapter 7.92 RCW, RCW 7.90.090, 7.90.150, 7.94.050, 7.94.090, 9A.46.050, 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.130, 26.26.590, 26.50.060, or 26.50.070 and who knowingly fails to ((must)) file with the clerk of the court that issued the order a proof of surrender and receipt form or a declaration of nonsurrender form within five judicial days of the entry of the order is guilty of ~~((. Violation of this subsection 12A.06.195.G is))~~ a misdemeanor.

Section 4. Section 12A.10.040 of the Seattle Municipal Code, last amended by Ordinance 124684, is amended as follows:

12A.10.040 Sexual ((Exploitation)) exploitation

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D. The crime of sexual exploitation may be committed in more than one location. The crime is deemed to have been committed in any location in which the defendant commits any act under subsection 12A.10.040.A that constitutes part of the crime. A person who sends a communication as part of any act under subsection 12A.10.040.A is considered to have committed the crime both at the place from which the contact was made pursuant to subsection 12A.10.040.A and where the communication is received, provided that this Section 12A.10.040 must be construed to prohibit anyone from being prosecuted twice for substantially the same crime.

Section 5. Section 12A.14.010 of the Seattle Municipal Code, last amended by Ordinance 124684, is amended as follows:

12A.14.010 Definitions

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"Chako stick" means a device designed primarily as a weapon, consisting of two or more lengths of wood, metal, plastic, or similar substance connected by wire, rope, chain, or other means so as to allow free movement of a portion of the device while held in the hand and capable of being rotated in such a manner as to inflict injury upon a person by striking.

"Curio or relic" has the same meaning as provided in 27 C.F.R. § 478.11.

"Dangerous knife" means any fixed-blade knife and any other knife having a blade more than 3 1/2 inches in length.

~~(("Fixed-blade knife" means any knife, regardless of blade length, with a blade which is permanently~~

~~open and does not fold, retract, or slide into the handle of the knife, and includes any dagger, sword, bayonet, bolo knife, hatchet, axe, straight-edged razor, or razor blade not in a package, dispenser, or shaving appliance.))~~

“Firearm” means a weapon or device from which a projectile may be fired by an explosive such as gunpowder. “Firearm” does not include a flare gun or other pyrotechnic visual distress signaling device, or a powder-actuated tool or other device designed solely to be used for construction purposes.

“Fixed-blade knife” means any knife, regardless of blade length, with a blade which is permanently open and does not fold, retract, or slide into the handle of the knife, and includes any dagger, sword, bayonet, bolo knife, hatchet, axe, straight-edged razor, or razor blade not in a package, dispenser, or shaving appliance.

“Licensed collector” means a person who is federally licensed under 18 U.S.C. § 923(b).

“Licensed dealer” means a person who is federally licensed under 18 U.S.C. ((See-)) § 923(a).

* * *

“Throwing star” means a multi-pointed metal object designed to embed upon impact from any aspect.

“Transfer” means the intended delivery of a firearm to another person without consideration of payment or promise of payment including, but not limited to, gifts and loans. “Transfer” does not include the delivery of a firearm owned or leased by an entity licensed or qualified to do business in the state of Washington to, or return of such a firearm by, any of that entity’s employees or agents, defined to include volunteers participating in an honor guard, for lawful purposes in the ordinary course of business.

Section 6. Subsection 12A.14.195.C of the Seattle Municipal Code, which section was enacted by Ordinance 124684, is amended as follows:

12A.14.195 Unlawful sale or transfer of firearm

* * *

C. It is an affirmative defense to a charge of violating subsection 12A.14.195.A, which the defendant

must prove by a preponderance of the evidence, that the sale or transfer is:

1. A transfer that is a bona fide gift or loan between immediate family members, which for this subsection 12A.14.195.C.1 shall be limited to spouses, domestic partners, parents, parents-in-law, children, siblings, siblings-in-law, grandparents, grandchildren, nieces, nephews, first cousins, aunts, and uncles;

2. The sale or transfer of an antique firearm;

3. A temporary transfer of possession of a firearm if such transfer is necessary to prevent imminent death or great bodily harm to the person to whom the firearm is transferred if:

a. The temporary transfer only lasts as long as immediately necessary to prevent such imminent death or great bodily harm; and

b. The person to whom the firearm is transferred is not prohibited from possessing firearms under state or federal law;

4. A temporary transfer of possession of a firearm if:

a. The transfer is intended to prevent suicide or self-inflicted great bodily harm;

b. The transfer lasts only as long as reasonably necessary to prevent death or great bodily harm; and

c. The firearm is not utilized by the transferee for any purpose for the duration of the temporary transfer;

5. Any law enforcement or corrections agency and, to the extent the person is acting within the course and scope of his or her employment or official duties, any law enforcement or corrections officer, United States marshal, member of the armed forces of the United States or the national guard, or federal official;

6. ((5-)) A federally licensed gunsmith who receives a firearm solely for the purposes of service

or repair, or the return of the firearm to its owner by the federally licensed gunsmith;

7. ~~((6-))~~ The temporary transfer of a firearm:

a. ~~((between))~~ Between spouses or domestic partners;

b. ~~((if))~~ If the temporary transfer occurs, and the firearm is kept at all times, at an established shooting range authorized by the governing body of the jurisdiction in which such range is located;

c. ~~((if))~~ If the temporary transfer occurs and the transferee's possession of the firearm is exclusively at a lawful organized competition involving the use of a firearm, or while participating in or practicing for a performance by an organized group that uses firearms as a part of the performance;

d. ~~((to))~~ To a person who is under 18 years of age for lawful hunting, sporting, or educational purposes while under the direct supervision and control of a responsible adult who is not prohibited from possessing firearms; ~~((or))~~

e. Under circumstances in which the transferee and the firearm remain in the presence of the transferor; or

~~((e-))~~ f. ~~((while))~~ While hunting if the hunting is legal in all places where the person to whom the firearm is transferred possesses the firearm and the person to whom the firearm is transferred has completed all training and holds all licenses or permits required for such hunting;

A temporary transfer allowed by this subsection 12A.14.195.C.7 ~~((12A.14.195.C.6))~~ is permitted only if the person to whom the firearm is transferred is not prohibited from possessing firearms under state or federal law; ~~((or))~~

8. ~~((7-))~~ A person who either acquired a firearm other than a pistol by operation of law upon the death of the former owner of the firearm or acquired a pistol by operation of law upon the death of the former owner of the pistol within the preceding 60 days. At the end of the 60-day period, the person must either have

lawfully transferred the pistol or must have contacted the Washington State Department of Licensing to notify the Department that he or she has possession of the pistol and intends to retain possession of the pistol, in compliance with all federal and state laws; or

9. A sale or transfer when the purchaser or transferee is a licensed collector and the firearm being sold or transferred is a curio or relic.

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Section 7. Section 12A.18.090 of the Seattle Municipal Code, last amended by Ordinance 122789, is amended as follows:

12A.18.090 Criminal mistreatment ((:))

A. A person is guilty of criminal mistreatment in the first degree if he or she is the parent of a child, a person entrusted with the physical custody of a child or other dependent person, a person who has assumed the responsibility to provide to a dependent person the basic necessities of life or a person employed to provide to a child or dependent person the basic necessities of life and, with criminal negligence, (~~either causes substantial bodily harm or~~) creates an imminent and substantial risk of substantial bodily harm to a child or dependent person by withholding any of the basic necessities of life.

* * *

Section 8. This ordinance shall take effect and be in force on whichever is the later of: July 23, 2017; or 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 2017, and signed by me in open session in authentication of its passage this _____ day of _____, 2017.

President _____ of the City Council

Approved by me this _____ day of _____, 2017.

Edward B. Murray, Mayor

Filed by me this _____ day of _____, 2017.

Monica Martinez Simmons, City Clerk

(Seal)