
SENATE BILL 5635

State of Washington

63rd Legislature

2013 Regular Session

By Senators Darneille, Kline, Harper, Keiser, Kohl-Welles, Murray, Chase, and Frockt

Read first time 02/06/13. Referred to Committee on Law & Justice.

1 AN ACT Relating to granting courts discretion to deny restoration
2 of firearm rights to a person who has been involuntarily committed for
3 mental health treatment when it appears the person is likely to engage
4 in violent or unsafe behaviors; and amending RCW 9.41.047.

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

6 **Sec. 1.** RCW 9.41.047 and 2011 c 193 s 2 are each amended to read
7 as follows:

8 (1)(a) At the time a person is convicted or found not guilty by
9 reason of insanity of an offense making the person ineligible to
10 possess a firearm, or at the time a person is committed by court order
11 under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, or chapter 10.77
12 RCW for mental health treatment, the convicting or committing court
13 shall notify the person, orally and in writing, that the person must
14 immediately surrender any concealed pistol license and that the person
15 may not possess a firearm unless his or her right to do so is restored
16 by a court of record. For purposes of this section a convicting court
17 includes a court in which a person has been found not guilty by reason
18 of insanity.

1 (b) The convicting or committing court shall forward within three
2 judicial days after conviction or entry of the commitment order a copy
3 of the person's driver's license or identicard, or comparable
4 information, along with the date of conviction or commitment, to the
5 department of licensing. When a person is committed by court order
6 under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, or chapter 10.77
7 RCW, for mental health treatment, the committing court also shall
8 forward, within three judicial days after entry of the commitment
9 order, a copy of the person's driver's license, or comparable
10 information, along with the date of commitment, to the national instant
11 criminal background check system index, denied persons file, created by
12 the federal Brady handgun violence prevention act (P.L. 103-159).

13 (2) Upon receipt of the information provided for by subsection (1)
14 of this section, the department of licensing shall determine if the
15 convicted or committed person has a concealed pistol license. If the
16 person does have a concealed pistol license, the department of
17 licensing shall immediately notify the license-issuing authority which,
18 upon receipt of such notification, shall immediately revoke the
19 license.

20 (3)(a) A person who is prohibited from possessing a firearm, by
21 reason of having been involuntarily committed for mental health
22 treatment under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, chapter
23 10.77 RCW, or equivalent statutes of another jurisdiction may, upon
24 discharge, petition the superior court to have his or her right to
25 possess a firearm restored.

26 (b) The petition must be brought in the superior court that ordered
27 the involuntary commitment or the superior court of the county in which
28 the petitioner resides.

29 (c) (~~Except as provided~~) Subject to the limitations in (d) of
30 this subsection, the court (~~shall~~) may restore the petitioner's right
31 to possess a firearm if the petitioner proves the following by a
32 preponderance of the evidence (~~that~~):

33 (i) The petitioner is no longer required to participate in court-
34 ordered inpatient or outpatient treatment;

35 (ii) The petitioner has successfully managed the condition related
36 to the commitment;

37 (iii) The petitioner no longer presents a substantial danger to
38 himself or herself, or the public; and

1 (iv) The symptoms related to the commitment are not reasonably
2 likely to recur.

3 (d) Notwithstanding the factors described in (c) of this
4 subsection, if a preponderance of the evidence in the record supports
5 a finding that the person petitioning the court has engaged in violence
6 or unsafe behavior and the court finds that it is ((more)) likely
7 ((~~than not that the person will engage in violence after his or her~~
8 ~~right to possess a firearm is restored,~~) that similar episodes of
9 violence or unsafe behavior may recur, the court may deny the petition
10 or require the person ((shall)) to bear the burden of proving by clear,
11 cogent, and convincing evidence that he or she does not present a
12 substantial danger to the safety of himself or herself or others.

13 (e) When a person's right to possess a firearm has been restored
14 under this subsection, the court shall forward, within three judicial
15 days after entry of the restoration order, notification that the
16 person's right to possess a firearm has been restored to the department
17 of licensing, the department of social and health services, and the
18 national instant criminal background check system index, denied persons
19 file.

20 (4) No person who has been found not guilty by reason of insanity
21 may petition a court for restoration of the right to possess a firearm
22 unless the person meets the requirements for the restoration of the
23 right to possess a firearm under RCW 9.41.040(4).

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