

SENATE BILL REPORT

SB 6369

AS REPORTED BY COMMITTEE ON LAW & JUSTICE, FEBRUARY 5, 1992

Brief Description: Regulating firearm possession of person committed for treatment of mental illness.

SPONSORS: Senators Nelson, Rasmussen, Thorsness, Vognild, von Reichbauer and Oke

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Nelson, Chairman; Thorsness, Vice Chairman; Erwin, M. Kreidler, Madsen, Rasmussen, and A. Smith.

Staff: Jon Carlson (786-7459)

Hearing Dates: February 3, 1992; February 5, 1992

BACKGROUND:

Washington's firearms law prohibits a person from possessing a pistol if he or she has been convicted of a violent felony or a felony violating the Controlled Substances Act. The prohibition also applies if a person has been subject to a period of confinement under the criminal insanity statute, or at least 90 days confinement under the state's Involuntary Treatment Act. As a consequence, a person who may not lawfully possess a pistol is also ineligible to obtain a concealed pistol license.

However, a person is not precluded from possession of a pistol if the conviction is the subject of a pardon, annulment, certificate of rehabilitation or other equivalent procedure.

The Washington State Supreme Court recently held that the state Firearms Act, as applied to persons who have been confined for treatment of a mental disorder pursuant to the Involuntary Treatment Act, is unconstitutional. The court found that the Firearms Act denies equal protection of the law to former mental patients by permanently banning them from obtaining concealed pistol licenses, while affording former felons an opportunity to demonstrate rehabilitation and thus requalify for a license.

Legislation is proposed to address the problem raised by the Supreme Court.

SUMMARY:

A person may not possess any firearm if he or she has been committed by court order for treatment of mental illness under

the state's criminal insanity statute, or at least 90 days confinement under the state's Involuntary Treatment Act.

At the time of commitment, the court must inform the person, orally and in writing, that he or she is prohibited from possessing firearms.

The Secretary of the Department of Social and Health Services must develop rules to create an approval process which allows a person committed for treatment of mental illness or insanity to regain his or her right to possess a firearm.

The rules must provide for the immediate restoration of the person's right to possess a firearm upon a court showing that the person no longer is required to: 1) participate in an inpatient or outpatient treatment program, and 2) take medication to treat any condition related to the commitment.

Unlawful possession of a firearm under these provisions is a class C felony.

Appropriation: none

Revenue: none

Fiscal Note: none requested

TESTIMONY FOR:

These changes to the firearm statute will address the unconstitutionality of the existing law as cited by the state Supreme Court.

TESTIMONY AGAINST: None

TESTIFIED: PRO: Kim Gerhardt, Attorney, City of Tacoma; John Hosford, Citizens Committee For the Right to Keep and Bear Arms