

HOUSE BILL REPORT

HB 2600

As Reported by House Committee On:
Judiciary

Title: An act relating to firearms.

Brief Description: Revising provisions concerning possession of firearms by persons found not guilty by reason of insanity.

Sponsors: Representatives Carrell, Lantz, Moeller, Flannigan, McMahan, Kirby, Newhouse and Lovick.

Brief History:

Committee Activity:

Judiciary: 2/3/04, 2/5/04 [DPS].

Brief Summary of Substitute Bill

- Makes a verdict of not guilty by reason of insanity the equivalent of a guilty verdict for purposes of making a person ineligible to possess a firearm;
- Provides that a person found not guilty by reason of insanity who is seeking restoration of possession rights must meet the same eligibility requirements as would have applied had the person been found guilty of the crime; and
- Requires anyone who has been involuntarily committed to a mental hospital to show by clear, cogent and convincing evidence that he or she is not a danger to others if the record shows the person has been violent in the past and is likely to be violent in the future.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Lantz, Chair; Moeller, Vice Chair; Carrell, Ranking Minority Member; McMahan, Assistant Ranking Minority Member; Campbell, Flannigan, Kirby, Lovick and Newhouse.

Staff: Bill Perry (786-7123).

Background:

Conviction of any felony and certain non-felonies results in the loss of a person's right to possess a firearm. Involuntary commitment for mental health treatment also results in the loss

of the right to possess a firearm. The right to possess may only be restored by a court order after the person has met certain eligibility requirements.

For certain serious offenses, the right can never be restored. For other crimes, a period of crime-free time must pass after completion of the sentence before a person may apply for restoration of the right to possess.

A person who has been involuntarily committed for mental health treatment may apply for restoration of the right to possess a firearm upon discharge from the commitment. The person must show that he or she is no longer required to participate in inpatient treatment or to take medication, and must show by a preponderance of the evidence that the reasons for the commitment no longer exist and are not likely to recur.

A person who has been found not guilty by reason of insanity may or may not be involuntarily committed for mental health treatment, depending on whether the person is found to be a danger to others.

Summary of Substitute Bill:

A verdict of not guilty by reason of insanity is to be considered the same as a verdict of guilty for purposes of a person's right to possess a firearm. Such a person must meet the eligibility requirements that would have applied had he or she been convicted of the crime.

An additional requirement is placed on a person who has been involuntarily committed for mental health treatment and is applying for restoration of his or her right to possess a firearm. If the record shows by a preponderance of the evidence that the person has been violent and is likely to be violent again, the person must show by clear, cogent and convincing evidence that he or she does not present a substantial danger to the safety of others.

Substitute Bill Compared to Original Bill:

The substitute limits the circumstances in which a person has to show by clear, cogent, and convincing evidence that he or she is not dangerous. Such a showing is necessary only in those circumstances in which the record shows the person has been violent and is likely to be violent in the future.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Testimony For: The current law requires a sane person to wait longer for restoration of firearms rights than an insane person who has committed the very same criminal offense. The

current law has a loophole that needs to be closed. The mentally ill can be dangerous and should not be able to get firearms easily upon release from a mental health facility.

Testimony Against: The bill places another unfair stigma on the mentally ill. Very few mentally ill persons are violent, and their violence is often the result of misunderstanding. The bill will require tracking and will cost a great deal.

Persons Testifying: (In support) Representative Carrell, prime sponsor; Brian Judy, National Rifle Association; Joe Waldron, Washington Arms Collectors and Washington State Rifle and Pistol Association; Rick Jensen, Washington Ceasefire and Washington State Patrol Troopers Association; Larry Erickson, Washington Association of Sheriffs and Police Chiefs; and Tom Brandt.

(Opposed) Jim Adams, National Alliance for the Mentally Ill.

Persons Signed In To Testify But Not Testifying: None.