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HOUSE BILL 2600

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State of Washington                      58th Legislature                      2004 Regular Session

By Representatives Carrell, Lantz, Moeller, Flannigan, McMahan,  
Kirby, Newhouse and Lovick

Read first time 01/16/2004. Referred to Committee on Judiciary.

1            AN ACT Relating to firearms; amending RCW 9.41.047; creating a new  
2 section; and declaring an emergency.

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

4            **Sec. 1.** RCW 9.41.047 and 1996 c 295 s 3 are each amended to read  
5 as follows:

6            (1) At the time a person is convicted or found not guilty by reason  
7 of insanity of an offense making the person ineligible to possess a  
8 firearm, or at the time a person is committed by court order under RCW  
9 71.05.320, 71.34.090, or chapter 10.77 RCW for mental health treatment,  
10 the convicting or committing court shall notify the person, orally and  
11 in writing, that the person must immediately surrender any concealed  
12 pistol license and that the person may not possess a firearm unless his  
13 or her right to do so is restored by a court of record. For purposes  
14 of this section a convicting court includes a court in which a person  
15 has been found not guilty by reason of insanity.

16            The convicting or committing court also shall forward a copy of the  
17 person's driver's license or identicard, or comparable information, to  
18 the department of licensing, along with the date of conviction or  
19 commitment.

1 (2) Upon receipt of the information provided for by subsection (1)  
2 of this section, the department of licensing shall determine if the  
3 convicted or committed person has a concealed pistol license. If the  
4 person does have a concealed pistol license, the department of  
5 licensing shall immediately notify the license-issuing authority which,  
6 upon receipt of such notification, shall immediately revoke the  
7 license.

8 (3)(a) A person who is prohibited from possessing a firearm, by  
9 reason of having been involuntarily committed for mental health  
10 treatment under RCW 71.05.320, 71.34.090, chapter 10.77 RCW, or  
11 equivalent statutes of another jurisdiction may, upon discharge,  
12 petition a court of record to have his or her right to possess a  
13 firearm restored. At the time of commitment, the court shall  
14 specifically state to the person that he or she is barred from  
15 possession of firearms.

16 (b) The secretary of social and health services shall develop  
17 appropriate rules to create an approval process under this subsection.  
18 The rules must provide for the restoration of the right to possess a  
19 firearm upon a showing in a court of competent jurisdiction that the  
20 person is no longer required to participate in an inpatient or  
21 outpatient treatment program, is no longer required to take medication  
22 to treat any condition related to the commitment, and does not present  
23 a substantial danger to himself or herself, others, or the public.  
24 Unlawful possession of a firearm under this subsection shall be  
25 punished as a class C felony under chapter 9A.20 RCW.

26 (c) A person petitioning the court under this subsection (3) shall  
27 bear the burden of proving by a preponderance of the evidence that the  
28 circumstances resulting in the commitment no longer exist and are not  
29 reasonably likely to recur and by clear, cogent, and convincing  
30 evidence that he or she does not present a substantial danger to the  
31 safety of others.

32 (4) No person who has been found not guilty by reason of insanity  
33 may petition a court for restoration of the right to possess a firearm  
34 unless the person meets the requirements for the restoration of the  
35 right to possess a firearm that would have applied under RCW  
36 9.41.040(4) if the person had been found guilty of the crime.

1        NEW SECTION.    **Sec. 2.**    If any part of this act is found to be in  
2    conflict with federal requirements, the conflicting part of this act is  
3    hereby declared to be inoperative solely to the extent of the conflict,  
4    and such finding or determination does not affect the operation of the  
5    remainder of this act.    Rules adopted under this act must meet federal  
6    requirements.

7        NEW SECTION.    **Sec. 3.**    If any provision of this act or its  
8    application to any person or circumstance is held invalid, the  
9    remainder of the act or the application of the provision to other  
10   persons or circumstances is not affected.

11       NEW SECTION.    **Sec. 4.**    This act is necessary for the immediate  
12   preservation of the public peace, health, or safety, or support of the  
13   state government and its existing public institutions, and takes effect  
14   immediately.

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