

HOUSE BILL REPORT

SHB 1687

As Amended by the Senate

Title: An act relating to firearms.

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

Sponsors: By House Committee on Judiciary (originally sponsored by Representatives Moeller, Talcott, O'Brien, Ericks, Lovick, Tom, Roberts, Appleton, Kagi, Hunter and Chase).

Brief History:

Committee Activity:

Judiciary: 2/25/05, 3/1/05 [DPS].

Floor Activity:

Passed House: 3/9/05, 96-0.

Senate Amended.

Passed Senate: 4/15/05, 47-0.

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; Williams, Vice Chair; Priest, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Campbell, Kirby, Serben, Springer and Wood.

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. For restoration of the 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.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment makes the following changes:

Expressly provides that a person found not guilty by reason of insanity loses his or her eligibility for a concealed pistol license, in addition to losing the right to possess a firearm.
Explicitly allows law enforcement to have limited access to mental health records in order to enforce the act.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: It only makes sense to prevent persons from possessing firearms after they have been found not guilty by reason of insanity. The bill closes an obvious loophole in the law. It will help make communities safer.

Testimony Against: None.

Persons Testifying: Representative Moeller, prime sponsor; Gordon Walgren, Ceasefire of Washington; Lieutenant Landy Black, Seattle Police Department; and Larry Erickson, Washington Association of Sheriffs and Police Chiefs.

Persons Signed In To Testify But Not Testifying: None.