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## Judiciary Committee

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### HB 1628

**Title:** An act relating to clarifying the entities to be consulted when determining eligibility to possess a firearm.

**Brief Description:** Concerning firearm background check databases.

**Sponsors:** Representatives Kirby, Klippert, Blake and Warnick; by request of Department of Social and Health Services.

<p style="text-align: center;"><b>Brief Summary of Bill</b></p> <ul style="list-style-type: none"><li>• Revises the list of databases that local law enforcement must check when conducting background checks for firearms transfers, concealed pistol license applications, and alien firearms license applications.</li></ul>
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**Hearing Date:** 2/7/11

**Staff:** Edie Adams (786-7180).

**Background:**

A person may be prohibited from possessing firearms under state and federal law for a variety of reasons, including convictions for felony crimes and some non-felonies crimes committed against a family or household member. Involuntary commitment for mental health treatment also results in the loss of firearms rights. Various state statutes require local law enforcement agencies to conduct background checks for the purpose of determining a person's eligibility to possess a firearm. These background check requirements apply to firearms transfers, concealed pistol license applications, and alien firearm license applications.

Firearms Transfers.

Firearms dealers must be licensed under both federal and state law and must comply with state and federal law when making firearms transfers. Federal law requires licensed dealers to

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conduct a background check through the National Instant Criminal Background Check System (NICS) to determine whether the purchaser is prohibited by state or federal law from possessing a firearm. The NICS check includes a check of three major databases: the National Crime Information Center; the Interstate Identification Index, and the NICS index. If the purchaser is not a United States citizen, the NICS check will include a check of the Bureau of Immigration and Customs Enforcement records.

In Washington, local sheriffs and police departments serve as "partial points of contact" for licensed dealers in conducting the NICS check. This means that a licensed firearm dealer will contact the local sheriff or police department to conduct the NICS check for all handgun transfers where the purchaser does not have a valid concealed pistol license. However, for firearms transactions involving a long gun or a handgun where the purchaser has a valid concealed pistol license the dealer will conduct the NICS check.

State law requires the local law enforcement agency conducting the background check to check the National Crime Information Center (NCIC), the Washington State Patrol (WSP) database, the Department of Social and Health Services (DSHS) database, and other agencies or resources as appropriate, in order to determine whether the purchaser is eligible to possess a firearm under state law.

#### Firearms-related Licenses.

State law requires a person to obtain a concealed pistol license in order to carry a pistol concealed on his or her person. Local law enforcement agencies are responsible for issuing concealed pistol licenses and are required by statute to conduct a background check through the NCIC, the WSP database, the DSHS database, and other agencies or resources as appropriate. Law enforcement agencies are not required to conduct a check through the NICS for concealed pistol license applications.

State law generally prohibits a person who is a nonimmigrant alien from possessing a firearm unless the person obtains an alien firearms license. A person may apply for an alien firearm license with the county sheriff's department. State law requires the county sheriff to conduct a background check through the NCIC, the WSP electronic database, the DSHS databases, and other appropriate agencies, to determine whether the applicant is ineligible to possess a firearm under state law.

#### DSHS Database.

In 2009 legislation was enacted that required courts to submit involuntary mental health commitments into the NICS within three business days. Prior to this law there was no complete and timely system for submitting involuntary commitment records to the NICS. Law enforcement agencies when conducting background checks accessed the DSHS database in order to determine whether a person was ineligible based on an involuntary commitment.

#### **Summary of Bill:**

Provisions regarding the background checks that must be conducted when determining a person's eligibility to possess a firearm are revised. Local law enforcement agencies must conduct a

check through the NICS, the Washington Crime Information Center, the Department of Licensing, and other agencies or resources as appropriate when conducting background checks for firearm purchases, concealed pistol license applications, or alien firearm license applications.

A court is no longer required to notify the DSHS when the court restores a person's right to possess a firearm after loss of the right based on an involuntary commitment.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.