
HOUSE BILL 2893

State of Washington

64th Legislature

2016 Regular Session

By Representatives Kuderer, Robinson, Senn, Fitzgibbon, Gregerson, Frame, and Van De Wege

Read first time 01/25/16. Referred to Committee on Judiciary.

1 AN ACT Relating to procedures following certain initial detention
2 determinations under the involuntary treatment act; amending RCW
3 9.41.047; and adding a new section to chapter 71.05 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 71.05
6 RCW to read as follows:

7 (1) When a designated mental health professional conducts an
8 investigation and evaluation of a person under RCW 71.05.150 or
9 71.05.153 and the designated mental health professional finds (a)
10 that the person meets criteria for detention; and either (b) the
11 circumstances leading to detention involve the use or threatened use
12 of a firearm; or (c) during in the course of the investigation, the
13 person made statements or engaged in conduct indicating a substantial
14 risk that the person may seek to obtain and use or threaten use of a
15 firearm; the designated mental health professional must forward a
16 copy of the detention petition and supporting information to the
17 prosecuting attorney within two business days.

18 (2) If no petition for further commitment of the person is filed
19 under RCW 71.05.240, the prosecutor may file a motion in superior
20 court to determine that the person is ineligible to possess a
21 firearm. The prosecutor shall issue a summons to the person, who has

1 the right to counsel. If a petition for further commitment under RCW
2 71.05.240 is filed, the prosecutor may bring this motion in the event
3 that the court does not adjudicate the petition or does not commit
4 the person for further treatment.

5 (3) The court shall grant the motion following an evidentiary
6 hearing if it finds by a preponderance of the evidence that:

7 (a) The person suffers from a mental disorder; and

8 (b) The person was placed in initial detention under RCW
9 71.05.150 or 71.05.153 and a substantial nexus exists between the
10 circumstances of the detention and the use or threatened use of a
11 firearm.

12 **Sec. 2.** RCW 9.41.047 and 2011 c 193 s 2 are each amended to read
13 as follows:

14 (1)(a) At the time a person is convicted or found not guilty by
15 reason of insanity of an offense making the person ineligible to
16 possess a firearm, or at the time a person is committed by court
17 order under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, section 1
18 of this act, or chapter 10.77 RCW for mental health treatment, the
19 convicting or committing court shall notify the person, orally and in
20 writing, that the person must immediately surrender any concealed
21 pistol license and that the person may not possess a firearm unless
22 his or her right to do so is restored by a court of record. For
23 purposes of this section a convicting court includes a court in which
24 a person has been found not guilty by reason of insanity.

25 (b) The convicting or committing court shall forward within three
26 judicial days after conviction or entry of the commitment order a
27 copy of the person's driver's license or identicard, or comparable
28 information, along with the date of conviction or commitment, to the
29 department of licensing. When a person is committed by court order
30 under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, or chapter
31 10.77 RCW, for mental health treatment, the committing court also
32 shall forward, within three judicial days after entry of the
33 commitment order, a copy of the person's driver's license, or
34 comparable information, along with the date of commitment, to the
35 national instant criminal background check system index, denied
36 persons file, created by the federal Brady handgun violence
37 prevention act (P.L. 103-159).

38 (2) Upon receipt of the information provided for by subsection
39 (1) of this section, the department of licensing shall determine if

1 the convicted or committed person has a concealed pistol license. If
2 the person does have a concealed pistol license, the department of
3 licensing shall immediately notify the license-issuing authority
4 which, upon receipt of such notification, shall immediately revoke
5 the license.

6 (3)(a) A person who is prohibited from possessing a firearm, by
7 reason of having been involuntarily committed for mental health
8 treatment under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750,
9 chapter 10.77 RCW, or equivalent statutes of another jurisdiction
10 may, upon discharge, petition the superior court to have his or her
11 right to possess a firearm restored.

12 (b) The petition must be brought in the superior court that
13 ordered the involuntary commitment or the superior court of the
14 county in which the petitioner resides.

15 (c) Except as provided in (d) of this subsection, the court shall
16 restore the petitioner's right to possess a firearm if the petitioner
17 proves by a preponderance of the evidence that:

18 (i) The petitioner is no longer required to participate in court-
19 ordered inpatient or outpatient treatment;

20 (ii) The petitioner has successfully managed the condition
21 related to the commitment;

22 (iii) The petitioner no longer presents a substantial danger to
23 himself or herself, or the public; and

24 (iv) The symptoms related to the commitment are not reasonably
25 likely to recur.

26 (d) If a preponderance of the evidence in the record supports a
27 finding that the person petitioning the court has engaged in violence
28 and that it is more likely than not that the person will engage in
29 violence after his or her right to possess a firearm is restored, the
30 person shall bear the burden of proving by clear, cogent, and
31 convincing evidence that he or she does not present a substantial
32 danger to the safety of others.

33 (e) When a person's right to possess a firearm has been restored
34 under this subsection, the court shall forward, within three judicial
35 days after entry of the restoration order, notification that the
36 person's right to possess a firearm has been restored to the
37 department of licensing, the department of social and health
38 services, and the national instant criminal background check system
39 index, denied persons file.

1 (4) No person who has been found not guilty by reason of insanity
2 may petition a court for restoration of the right to possess a
3 firearm unless the person meets the requirements for the restoration
4 of the right to possess a firearm under RCW 9.41.040(4).

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