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## Judiciary Committee

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### SSB 5553

**Title:** An act relating to preventing suicide by permitting the voluntary waiver of firearm rights.

**Brief Description:** Preventing suicide by permitting the voluntary waiver of firearm rights.

**Sponsors:** Senate Committee on Law & Justice (originally sponsored by Senators Pedersen, Fain, Frockt, Takko, Hobbs, Zeiger, Kuderer and Darneille).

#### Brief Summary of Substitute Bill

- Creates a process for a person to voluntarily waive the person's firearm rights and to revoke a voluntary waiver of firearm rights, and establishes requirements and restrictions relating to this process.
- Establishes a criminal penalty for any person who knowingly makes a false statement regarding the person's identity on a form for the voluntary waiver of firearm rights or the revocation of the voluntary waiver of firearm rights.
- Requires the Administrator for the Courts to create and make available forms for the voluntary waiver of firearm rights the revocation of voluntary waiver of firearm rights.
- Prohibits a person from delivering a firearm to any person whom he or she has reasonable cause to believe has signed a valid voluntary waiver of firearm rights that has not been revoked.

**Hearing Date:** 2/9/18

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

#### Background:

Article I, section 24 of the Washington Constitution and the Second Amendment of the United States Constitution protect an individual's right to bear arms. However, some persons lose the right to possess firearms under certain circumstances, including if the person has been convicted

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of a felony offense or certain misdemeanor domestic violence offenses, the person has been involuntarily committed for mental health treatment, or the person is subject to a court injunction regarding firearms.

Under state and federal law, background checks are required for firearms transfers in order to determine whether a person is ineligible to possess firearms. Washington law does not require a state background check for the transfer of long guns. Firearms dealers, when transferring long guns, run a background check through the federal National Instant Background Check System.

With respect to pistol transfers, state law does require a state background check to be conducted by a local law enforcement agency. When conducting background checks for pistol transfers, law enforcement agencies are required to determine whether the person is ineligible to possess a firearm under state laws regarding unlawful possession of a firearm. The state background check includes a check of the Washington State Patrol electronic database, the Department of Licensing firearms database, and state and local mental health agencies.

A dealer generally may not transfer a firearm to a purchaser until the earlier of: (1) all background check results are known and the person is not ineligible to possess a firearm; or (2) ten business days have elapsed from the date the dealer requested the background check. However, under a statute governing pistol transfers, a dealer may transfer a pistol to a person who has a valid concealed pistol license before receiving the results of the state background check from local law enforcement.

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

A process is created for a person to voluntarily waive the person's right to purchase or receive firearms by filing a voluntary waiver of firearm rights with the clerk of the court in any county in Washington. The clerk must verify the person's identity through photo identification before accepting the form. By the end of the business day, the clerk must transmit the accepted form to the Washington State Patrol (WSP), and the WSP must enter the voluntary waiver of firearm rights into its electronic database within 24 hours of receipt.

A person may revoke a voluntary waiver of firearm rights form if at least 7 days have elapsed since the form was filed. The revocation must be filed in the same county where the voluntary waiver of firearm rights form was filed, and the clerk must verify the person's identity before accepting the form. By the end of the business day, the clerk must transmit the revocation form to the WSP and to any contact person listed on the voluntary waiver of firearm rights form. The WSP must remove the person's voluntary waiver of firearm rights from the WSP's electronic database within 7 days of receipt of the revocation form and destroy all records of the voluntary waiver of firearm rights unless the person is otherwise ineligible to possess a firearm under state law.

A voluntary waiver of firearm rights may not be required of an individual as a condition for receiving employment, benefits, or services. Neither a voluntary waiver of firearm rights nor a revocation of a voluntary waiver of firearm rights may be considered by a court in any legal proceeding.

Copies and records of the voluntary waiver of firearm rights are not subject to disclosure under the Public Records Act except as provided under a section that allows concealed pistol license applications to be disclosed to law enforcement and corrections agencies. All records obtained and all reports produced under the act are not subject to disclosure through the Public Records Act.

A person who knowingly makes a false statement regarding the person's identity on a voluntary waiver of firearm rights form or revocation of voluntary waiver of firearm rights form is guilty of false swearing.

It is unlawful for a person to deliver a firearm to any person whom he or she has reasonable cause to believe has signed a valid voluntary waiver of firearm rights that has not been revoked.

A licensed dealer may not deliver a firearm to a purchaser or transferee until the earlier of: all results of a background check are known and the purchaser or transferee is not ineligible to possess firearms and does not have a voluntary waiver of firearm rights currently in effect; or 10 business days have passed since the request for a background check.

By January 1, 2019, the Administrator for the Courts must develop forms for the voluntary waiver of firearm rights and the revocation of voluntary waiver of firearm rights. The forms must include all necessary information for identification and entry of persons into the Washington State Patrol electronic database. The voluntary waiver of firearm rights form must include the following language:

Because you have filed this voluntary waiver of firearm rights, effective immediately you may not purchase or receive any firearm. You may revoke this voluntary waiver of firearm rights any time after at least seven calendar days have elapsed since the time of filing.

The forms must be made available on the Administrator for the Courts' website, at county clerk offices, and at firearm and ammunition dealer and health care provider locations.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed, except section 1 relating to the voluntary waiver of firearms rights, and section 4 relating to the delivery of a firearm by a licensed dealer, which take effect January 1, 2019.