

HOUSE BILL REPORT

SB 6298

As Reported by House Committee On: Judiciary

Title: An act relating to adding domestic violence harassment to the list of offenses for which a person is prohibited from possessing a firearm.

Brief Description: Adding domestic violence harassment to the list of offenses for which a person is prohibited from possessing a firearm.

Sponsors: Senators Dhingra, Palumbo, Saldaña, Frockt, Mullet, Takko, Kuderer, Darneille, Chase, Rolfes, Cleveland, Carlyle, Wellman, Hasegawa, Ranker, Keiser, Billig, Nelson, McCoy, Lias, Van De Wege, Pedersen, Hunt and Conway.

Brief History:

Committee Activity:

Judiciary: 2/21/18, 2/22/18 [DPA].

Brief Summary of Bill (As Amended by Committee)

- Makes it unlawful for a person to possess a firearm if the person has been convicted or found not guilty by reason of insanity of the crime of Harassment when committed against a family or household member on or after the effective date of the act.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 13 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Graves, Assistant Ranking Minority Member; Goodman, Haler, Hansen, Kirby, Klippert, Muri, Orwall, Shea and Valdez.

Staff: Edie Adams (786-7180).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Federal and state law prohibit certain persons from possessing firearms, including persons convicted of felonies and certain misdemeanor domestic violence offenses, minors, and persons who have been involuntarily committed for mental health treatment. A violation of this prohibition under state law constitutes the felony crime of Unlawful Possession of a Firearm. The crime is a class C felony; however, if the basis for the prohibition is conviction of a serious offense, the crime is a class B felony.

State Misdemeanor Domestic Violence Disqualifiers.

Misdemeanor domestic violence offenses that disqualify a person from possessing firearms under state law are the following offenses if committed by one family or household member against another on or after July 1, 1993:

- Assault in the fourth degree;
- Coercion;
- Stalking;
- Reckless Endangerment;
- Criminal Trespass in the first degree; or
- violation of the provisions of a protection or no-contact order restraining the person or excluding the person from a residence.

State Misdemeanor Domestic Violence Disqualifiers.

Under federal law, a person convicted of a misdemeanor crime of domestic violence is prohibited from possessing a firearm. Misdemeanor crime of domestic violence means a misdemeanor offense that has as an element of the use or threatened use of physical force, or the threatened use of a deadly weapon, committed by:

- a current or former spouse, parent, or guardian of the victim;
- a person with whom the victim shares a child in common;
- a person who is cohabitating with or has cohabitated with the victim as a spouse, parent, or guardian; or
- a person similarly situated to a spouse, parent, or guardian of the victim.

Crime of Harassment.

Under state law, a person is guilty of Harassment if the person knowingly threatens certain action and by words or conduct places the threatened person in reasonable fear that the threat will be carried out. The offense applies where the person threatens:

- to cause bodily injury immediately or in the near future to the person threatened or another;
- to cause physical damage to another's property;
- to subject any person to physical confinement or restraint; or
- maliciously to do any other act intended to substantially harm the physical or mental health or safety of the threatened person or another.

Harassment is a gross misdemeanor offense, except that under certain circumstances the offense becomes a class C felony.

Summary of Amended Bill:

It is unlawful for a person to possess a firearm if the person has been convicted or found not guilty by reason of insanity of the crime of Harassment when committed against a family or household member on or after the effective date of the act.

Amended Bill Compared to Original Bill:

The original bill made possession of a firearm unlawful for persons with a conviction for a domestic violence Harassment offense committed on or after July 1, 1993.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) The bill will help ensure that domestic violence survivors do not become domestic violence fatalities. Domestic violence calls are the most dangerous for law enforcement officers, and these crimes are extremely hard to prosecute. Half of all murders of women are committed by a former or current partner. Domestic violence homicide perpetrators use guns more often than all other weapons combined. Women are five times more likely to be killed if the abuser has a gun.

The law currently has a gap because it does not include domestic violence Harassment. Harassment can involve serious and disturbing threats, and under the current law a person convicted of this offense can still own a firearm. Patterns of harassment have been found to be correlated to homicide in domestic violence cases. More serious crimes are routinely pleaded down to Harassment. The bill closes this dangerous loophole that allows domestic violence harassers to own guns.

(Opposed) The bill applies retroactively to domestic violence offenses committed after July 1, 1993. This would turn people who currently lawfully own firearms into criminals overnight. This is unfair because they will have no notice that they are no longer allowed to possess firearms. The legislation should only apply to future domestic violence Harassment offenses.

Persons Testifying: (In support) Senator Dhingra, prime sponsor; Tamaso Johnson, Washington State Coalition Against Domestic Violence; Sundae Delgado; and Krystele Curley.

(Opposed) Vitaliy Kertchen, Washington Association of Criminal Defense Lawyers and Washington Defenders Association.

Persons Signed In To Testify But Not Testifying: None.