

SENATE BILL REPORT

SSB 5553

As Amended by House, February 23, 2018

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 History:

Committee Activity: Law & Justice: 1/31/17, 1/11/18 [DPS, w/oRec].

Floor Activity:

Passed Senate: 1/24/18, 49-0.

Passed House: 2/23/18, 77-20.

Brief Summary of First Substitute Bill

- Provides a procedure for the voluntary waiver of firearm rights and the revocation of the voluntary waiver.
- Requires entry of a voluntary waiver into the Washington State Patrol electronic database within 24 hours.
- Permits revocation of the voluntary waiver after at least seven days.
- Prohibits transfer of a firearm to a person who has a voluntary waiver in effect.
- Prohibits use of the waiver in any legal proceedings.
- Prohibits requiring a waiver as a condition for employment, services, or benefits.
- Exempts waivers from disclosure under the Public Records Act.
- Requires destruction of any record of the waiver after an individual has their firearm rights restored.

SENATE COMMITTEE ON LAW & JUSTICE

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.

Majority Report: That Substitute Senate Bill No. 5553 be substituted therefor, and the substitute bill do pass.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Padden, Ranking Member; Darneille and Frockt.

Minority Report: That it be referred without recommendation.

Signed by Senators Angel, Assistant Ranking Member; Wilson.

Staff: Tim Ford (786-7423)

Background: The Second Amendment to the United States Constitution and Article 1 Section 24 of the Washington State Constitution provide for the right to bear arms. Under either provision, there is an individual right to bear arms.

A waiver is an intentional relinquishment or abandonment of a known right or privilege. The validity of a waiver depends on the particular facts and circumstances surrounding that case, including the background, experience, and conduct of the rights-holder. Waivers of constitutional rights must be voluntary and must be knowing, intelligent acts done with sufficient awareness of the relevant circumstances and likely consequences.

Summary of First Substitute Bill: Any person may file a voluntary waiver of firearm rights with the clerk of the court in any county in Washington State. The clerk of the court must request photo identification to verify the person's identity. The person may provide an alternate person to be contacted if a voluntary waiver of firearm rights is revoked. By the end of the business day, the clerk of the court must transmit the accepted form for entry into the WSP electronic database. The Washington State Patrol (WSP) must enter the voluntary waiver of firearm rights into the WSP electronic database within 24 hours.

After no fewer than seven calendar days after filing a voluntary waiver of firearm rights, the person may revoke of the voluntary waiver of firearm rights in the same county where the voluntary waiver was filed. The clerk of the court must again request photo identification. By the end of that business day, the clerk of the court must transmit the revocation form to the WSP and to any contact person listed on the voluntary waiver of firearm rights. After receiving a revocation of a voluntary waiver of firearm rights, the WSP must remove the person from the electronic database within seven days of the receipt unless the person is otherwise ineligible to possess a firearm.

A person who knowingly makes a false statement regarding their identity on the voluntary waiver of firearm rights form or revocation of waiver of firearm rights form is guilty of false swearing. False swearing is a gross misdemeanor—up to 365 days in jail and/or a \$5,000 fine.

The Administrator for the Courts, under the direction of the chief justice, must develop a voluntary waiver of firearm rights form and a revocation of voluntary waiver of firearm rights form by January 1, 2018. 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 all county clerk offices, and must also be made widely available at firearm and ammunition dealers and health care provider locations.

A person who transfers a firearm to a person who has a valid waiver of firearm rights in place in guilty of an unranked Class C felony—up to 360 days in jail and/or a \$10,000 fine.

A person is prohibited from using a waiver in any legal proceedings. Waivers may not be required as a condition for employment, services, or benefits. Waivers are exempt from the disclosure under the Public Records Act and any record of a waiver must be destroyed after an individual has their firearm rights restored.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *Testimony from 2017 Regular Session. The committee recommended a different version of the bill than what was heard.*

PRO: This is an important bill that will save lives. Suicides are the largest source of firearm deaths in Washington. This will help people in crisis maintain their autonomy while saving their lives. Half of the suicide deaths in Washington are done with the use of a firearm. Washington residents want to keep people safe.

CON: Individuals might be coerced into signing the waiver. Health care providers may automatically respond by recommending the waivers. The time frames provided for revocation are too long. It takes two weeks to revoke a waiver.

Persons Testifying: **PRO:** Jennifer Stuber, Associate Professor, Forefront UW; Rebecca Johnson, Alliance for Gun Responsibility.

CON: Keely Hopkins, State Liaison, National Rifle Association.

Persons Signed In To Testify But Not Testifying: No one.

EFFECT OF HOUSE AMENDMENT(S):

- Removes the requirement that a person's voluntary waiver of firearm rights be entered into the Washington State Patrol (WSP) electronic database and provides instead that the WSP must enter the person's waiver of firearm rights into the National Instant Criminal Background System (NICS) and any other federal or state computer based systems used by law enforcement agencies or others to identify prohibited purchasers of firearms.

- Requires the WSP to remove the person from the NICS and any other criminal justice database into which the person was entered within seven days of receipt of a revocation of the person's voluntary waiver of firearm rights.
- Removes a provision stating that records of a waiver of firearms rights may not be disclosed except as provided in a Public Records Act provision that allows disclosure of concealed pistol license applications to law enforcement and corrections agencies.
- Provides that records of a waiver of firearms rights may not be disclosed except to law enforcement agencies.
- Provides that section 3 of the act takes effect January 1, 2019, to be consistent with the effective date of other sections of the act.