

SSB 5181 - H COMM AMD
By Committee on Appropriations

ADOPTED 04/10/2019

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 71.05
4 RCW to read as follows:

5 (1) A person who under RCW 71.05.150 or 71.05.153 has been
6 detained at a facility for seventy-two-hour evaluation and treatment
7 on the grounds that the person presents a likelihood of serious harm,
8 but who has not been subsequently committed for involuntary treatment
9 under RCW 71.05.240, may not have in his or her possession or control
10 any firearm for a period of six months after the date that the person
11 is detained.

12 (2) Before the discharge of a person who has been initially
13 detained under RCW 71.05.150 or 71.05.153 on the grounds that the
14 person presents a likelihood of serious harm, but has not been
15 subsequently committed for involuntary treatment under RCW 71.05.240,
16 the designated crisis responder shall inform the person orally and in
17 writing that:

18 (a) He or she is prohibited from possessing or controlling any
19 firearm for a period of six months;

20 (b) He or she must immediately surrender, for the six-month
21 period, any concealed pistol license and any firearms that the person
22 possesses or controls to the sheriff of the county or the chief of
23 police of the municipality in which the person is domiciled;

24 (c) After the six-month suspension, the person's right to control
25 or possess any firearm or concealed pistol license shall be
26 automatically restored, absent further restrictions imposed by other
27 law; and

28 (d) Upon discharge, the person may petition the superior court to
29 have his or her right to possess a firearm restored before the six-
30 month suspension period has elapsed by following the procedures
31 provided in RCW 9.41.047(3).

1 (3) (a) A law enforcement agency holding any firearm that has been
2 surrendered pursuant to this section shall, upon the request of the
3 person from whom it was obtained, return the firearm at the
4 expiration of the six-month suspension period, or prior to the
5 expiration of the six-month period if the person's right to possess
6 firearms has been restored by the court under RCW 9.41.047. The law
7 enforcement agency must comply with the provisions of RCW 9.41.345
8 when returning a firearm pursuant to this section.

9 (b) Any firearm surrendered pursuant to this section that remains
10 unclaimed by the lawful owner shall be disposed of in accordance with
11 the law enforcement agency's policies and procedures for the disposal
12 of firearms in police custody.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.41 RCW
14 to read as follows:

15 (1) When a designated crisis responder files a petition for
16 initial detention under RCW 71.05.150 or 71.05.153 on the grounds
17 that the person presents a likelihood of serious harm, the petition
18 shall include a copy of the person's driver's license or identicard
19 or comparable information. If the person is not subsequently
20 committed for involuntary treatment under RCW 71.05.240, the court
21 shall forward within three business days of the probable cause
22 hearing a copy of the person's driver's license or identicard, or
23 comparable information, along with the date of release from the
24 facility, to the department of licensing and to the state patrol, who
25 shall forward the information to the national instant criminal
26 background check system index, denied persons file, created by the
27 federal Brady handgun violence prevention act (P.L. 103-159). Upon
28 expiration of the six-month period during which the person's right to
29 possess a firearm is suspended as provided in section 1 of this act,
30 the Washington state patrol shall forward to the national instant
31 criminal background check system index, denied persons file, notice
32 that the person's right to possess a firearm has been restored.

33 (2) Upon receipt of the information provided for by subsection
34 (1) of this section, the department of licensing shall determine if
35 the detained person has a concealed pistol license. If the person
36 does have a concealed pistol license, the department of licensing
37 shall immediately notify the license-issuing authority, which, upon
38 receipt of such notification, shall immediately suspend the license

1 for a period of six months from the date of the person's release from
2 the facility.

3 (3) A person who is prohibited from possessing a firearm by
4 reason of having been detained under RCW 71.05.150 or 71.05.153 may,
5 upon discharge, petition the superior court to have his or her right
6 to possess a firearm restored before the six-month suspension period
7 has elapsed by following the procedures provided in RCW 9.41.047(3).

8 **Sec. 3.** RCW 9.41.047 and 2018 c 201 s 6001 are each amended to
9 read as follows:

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

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

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, or
10 by reason of having been detained under RCW 71.05.150 or 71.05.153,
11 may, upon discharge, petition the superior court to have his or her
12 right to possess a firearm restored.

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

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

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

21 (ii) The petitioner has successfully managed the condition
22 related to the commitment or detention;

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

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

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

34 (e) If the petitioner seeks restoration after having been
35 detained under RCW 71.05.150 or 71.05.153, the state shall bear the
36 burden of proof to show, by a preponderance of the evidence, that the
37 petitioner does not meet the restoration criteria in (c) of this
38 subsection.

39 (f) When a person's right to possess a firearm has been restored
40 under this subsection, the court shall forward, within three judicial

1 days after entry of the restoration order, notification that the
2 person's right to possess a firearm has been restored to the
3 department of licensing, the health care authority, and the national
4 instant criminal background check system index, denied persons file.
5 In the case of a person whose right to possess a firearm has been
6 suspended for six months as provided in section 1 of this act, the
7 department of licensing shall forward notification of the restoration
8 order to the licensing authority, which, upon receipt of such
9 notification, shall immediately lift the suspension, restoring the
10 license.

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

15 NEW SECTION. Sec. 4. If specific funding for the purposes of
16 this act, referencing this act by bill or chapter number, is not
17 provided by June 30, 2019, in the omnibus appropriations act, this
18 act is null and void."

19 Correct the title.

EFFECT: Adds a null and void clause. The bill is null and void
unless funded in the budget.

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