

HOUSE BILL REPORT

EHB 2623

As Passed House:
February 18, 2020

Title: An act relating to prohibiting the possession of firearms by persons convicted of certain criminal offenses.

Brief Description: Prohibiting the possession of firearms by persons convicted of certain criminal offenses.

Sponsors: Representatives Walen, Valdez, Macri, Chapman, Kilduff and Senn.

Brief History:

Committee Activity:

Civil Rights & Judiciary: 1/29/20, 2/5/20 [DP].

Floor Activity:

Passed House: 2/18/20, 56-41.

Brief Summary of Engrossed Bill

- Makes it unlawful for a person to possess a firearm if the person has previously been convicted or found not guilty by reason of insanity of Unlawful Aiming or Discharge of a Firearm or Dangerous Weapon or Animal Cruelty in the second degree.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: Do pass. Signed by 9 members: Representatives Kilduff, Chair; Thai, Vice Chair; Goodman, Hansen, Kirby, Orwall, Peterson, Valdez and Walen.

Minority Report: Do not pass. Signed by 4 members: Representatives Dufault, Assistant Ranking Minority Member; Graham, Klippert and Ybarra.

Minority Report: Without recommendation. Signed by 1 member: Representative Rude.

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.

Unlawful Possession of a Firearm.

State law prohibits 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 constitutes the felony crime of Unlawful Possession of a Firearm. First-degree Unlawful Possession of a Firearm, a class B felony, applies if the basis for the prohibition is a conviction of a serious offense. Otherwise, a violation constitutes Unlawful Possession of a Firearm in the second degree, a class C felony.

A person is prohibited from possessing firearms based on a prior criminal offense if the person has been convicted or found not guilty by reason of insanity, in this state or elsewhere, of any felony or of any of the following offenses when 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; or
- Harassment (only if committed on or after June 7, 2018).

Unlawful Aiming or Discharge of a Firearm or Dangerous Weapon.

Under the crime of Unlawful Aiming or Discharge of a Firearm or Dangerous Weapon, it is unlawful for a person to: aim any loaded or unloaded firearm at or towards any person; willfully discharge any firearm, air gun, or other weapon in a public place or in any place where a person might be endangered; or set a so-called trap, spring pistol, rifle, or other dangerous weapon. A violation is a gross misdemeanor offense.

Animal Cruelty in the Second Degree.

A person is guilty of Animal Cruelty in the second degree when the person:

- knowingly, recklessly, or with criminal negligence inflicts unnecessary suffering or pain upon an animal; or
- takes control, custody, or possession of an animal that was involved in animal fighting and knowingly, recklessly, or with criminal negligence abandons the animal, causing the animal to suffer bodily harm or putting the animal at risk of bodily harm.

In addition, an owner of an animal is guilty of Animal Cruelty in the second degree when the person knowingly, recklessly, or with criminal negligence fails to provide necessary shelter, rest, sanitation, space, or medical attention resulting in unnecessary or unjustifiable pain to the animal, or by abandoning the animal.

Animal Cruelty in the second degree is a gross misdemeanor offense.

Family or Household Members and Intimate Partners.

Legislation enacted in 2019, Engrossed Second Substitute House Bill 1517 (E2SHB 1517) modified the definition of "domestic violence" in the chapters of law governing domestic violence by splitting it into two categories: those crimes or specified acts committed by a

"family or household member" against another, and those committed by an "intimate partner" against another. Together, the two terms include the same types of qualifying relationships that were covered under the term "family or household member" prior to 2019.

Several other statutes contain references to "family or household member," but E2SHB 1517 did not amend all of those other references, leaving ambiguity as to the application of those statutes to intimate partner relationships. This includes the statute governing the crime of Unlawful Possession of a Firearm, which includes as predicate offenses certain misdemeanor offenses committed by one family or household member against another.

Summary of Engrossed Bill:

A person commits the crime of Unlawful Possession of a Firearm in the second degree if the person possesses a firearm after having been convicted of Unlawful Aiming or Discharge of a Firearm or Dangerous Weapon or Animal Cruelty in the second degree, when committed on or after the effective date of the bill.

References to "family or household member" in the crime of Unlawful Possession of a Firearm are revised to also refer to "intimate partners." Technical amendments are made to a number of statutes to correct cross-references needed as the result of the renumbering of subsections.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill is intended to keep guns out of dangerous hands, not the hands of responsible gun owners. A person who has committed violence against animals is five times more likely to commit violence against people. Domestic violence convictions strip a person of the right to possess firearms because domestic violence is a red flag for future violence. Acts of animal cruelty are the same red flag for future violence.

Brandishing a firearm is a serious offense. Gun responsibility should be taken seriously, and gun owners should have a standard that they are held to. It is unacceptable to point a firearm at someone without the express intention of pulling the trigger. Anyone who does that should not be able to possess a firearm.

Adding these two offenses to unlawful possession of firearms is important for community safety. Animal cruelty does not happen in a vacuum; it is linked to other violent behavior, including domestic violence, child abuse, elder abuse, and homicide. A review of animal cruelty cases in Seattle shows a significant link between domestic violence, animal cruelty, and the possession of firearms. Both of the crimes added by the bill are high risk offenses, and the people convicted of these crimes pose a risk to the community.

Gun violence is a reality that school children have to face in and out of school. The Columbine mass shooter had a history of troubling and threatening behavior, and law enforcement did not have the tools to make sure he did not have access to weapons. There was a tragic case where a child was shot and killed in a home invasion by gunmen who all had prior misdemeanor convictions, but they were still able to possess guns. This bill may help prevent other people from experiencing the loss that many families have endured.

(Opposed) The crime governing Unlawful Aiming or Discharge of a Firearm or Dangerous Weapon is incredibly broad, and many activities shooters might safely engage in on their own property could be illegal under that law. In addition, it includes other devices such as air guns and spring pistols that do not present a danger. If the bill were limited to true brandishing of a firearm, then it could be a decent bill. However, the crime of Brandishing is not even included in this bill. That offense is covered in another statute.

The bill will have unintended consequences. Firing a warning shot would be covered under this bill. Even though people might think that should be within a person's rights, technically it is a crime. Prohibiting someone with a misdemeanor from possessing firearms is not going to prevent the person from purchasing a gun in another state unless it is a domestic violence crime.

Removal of constitutional rights should be taken very seriously and should apply only to serious offenses. The crime governing Unlawful Aiming or Discharge of a Firearm or Dangerous Weapon includes other things for which it would not be appropriate to take away firearms rights. The supposed nexus between animal cruelty and future violence is too slim to give any credence to, and certainly not a basis for taking away someone's constitutional right.

Persons Testifying: (In support) Representative Walen, prime sponsor; Kim Gatbunton; Catherine Riedo; Jordan Waits; Makenzie Zuern; and David Hackney.

(Opposed) Matthew Aimonetti, Pink Pistols of Seattle; Phil Watson, Firearms Policy Coalition; and Tom Kwieciak, National Rifle Association.

Persons Signed In To Testify But Not Testifying: None.