
HOUSE BILL 2569

State of Washington

66th Legislature

2020 Regular Session

By Representatives Wylie, Cody, Gregerson, Pollet, Tarleton, Senn, Irwin, and Davis

Read first time 01/15/20. Referred to Committee on Public Safety.

1 AN ACT Relating to authorizing pretrial detention for certain
2 offenses involving firearms; amending RCW 10.21.010, 10.21.020,
3 10.21.040, 10.21.060, and 10.19.055; and providing a contingent
4 effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 10.21.010 and 2010 c 254 s 3 are each amended to
7 read as follows:

8 It is the intent of the legislature to enact a law for the
9 purpose of reasonably assuring public safety in bail determination
10 hearings and hearings pursuant to (~~the proposed amendment to~~)
11 Article I, section 20 of the state Constitution (~~set forth in House~~
12 ~~Joint Resolution No. 4220~~). Other provisions of law address matters
13 relating to assuring the appearance of the defendant at trial and
14 preventing interference with the administration of justice.

15 **Sec. 2.** RCW 10.21.020 and 2010 c 254 s 4 are each amended to
16 read as follows:

17 Upon the appearance before a judicial officer of a person charged
18 with an offense, the judicial officer must issue an order that,
19 pending trial, the person be:

20 (1) Released on personal recognizance;

1 (2) Released on a condition or combination of conditions ordered
2 under RCW 10.21.030 or other provision of law;

3 (3) Temporarily detained as allowed by law; or

4 (4) Detained as provided under this chapter (~~(254, Laws of~~
5 ~~2010)~~).

6 **Sec. 3.** RCW 10.21.040 and 2010 c 254 s 6 are each amended to
7 read as follows:

8 ~~((~~f~~))~~ (1) A judicial officer must order the detention of a
9 person before trial if, after a hearing on offenses prescribed in
10 Article I, section 20 of the state Constitution, the judicial officer
11 (~~finds~~);

12 (a) Finds, by clear and convincing evidence, that ((a)) either:

13 (i) The person shows a propensity for violence that creates a
14 substantial likelihood of danger to the community or any persons~~((~~7~~~~
15 ~~and finds))~~; or

16 (ii) The offense involves the possession or attempted possession
17 of a firearm in violation of a protection order, no-contact order,
18 restraining order, or other court order, that includes an order
19 prohibiting the person from accessing, obtaining, or possessing
20 firearms; and

21 (b) Finds that no condition or combination of conditions will
22 reasonably assure the safety of any other person and the community~~((~~7~~~~
23 ~~such judicial officer must order the detention of the person before~~
24 ~~trial))~~).

25 (2) The detainee is entitled to expedited review of the detention
26 order by the court of appeals under the writ provided in RCW
27 7.36.160.

28 **Sec. 4.** RCW 10.21.060 and 2010 c 254 s 8 are each amended to
29 read as follows:

30 (1) The judicial officer must hold a hearing in cases involving
31 offenses prescribed in Article I, section 20, to determine whether
32 any condition or combination of conditions will reasonably assure the
33 safety of any other person and the community upon motion of the
34 attorney for the government.

35 (2) The hearing must be held immediately upon the defendant's
36 first appearance before the judicial officer unless the defendant, or
37 the attorney for the government, seeks a continuance. Except for good
38 cause, a continuance on motion of such person may not exceed five

1 days (not including any intermediate Saturday, Sunday, or legal
2 holiday), and a continuance on motion of the attorney for the
3 government may not exceed three days (not including any intermediate
4 Saturday, Sunday, or legal holiday). During a continuance, such
5 person must be detained.

6 (3) At the hearing, such defendant has the right to be
7 represented by counsel, and, if financially unable to obtain
8 representation, to have counsel appointed. The defendant must be
9 afforded an opportunity to testify, to present witnesses, to cross-
10 examine witnesses who appear at the hearing, and to present
11 information by proffer or otherwise. The rules concerning
12 admissibility of evidence in criminal trials do not apply to the
13 presentation and consideration of information at the hearing. The
14 burden of proof at the hearing shall be clear and convincing
15 evidence. If the hearing is based on an offense described in RCW
16 10.21.040(1)(a)(i), the facts the judicial officer uses to support a
17 finding that no condition or combination of conditions will
18 reasonably assure the safety of any other person and the community
19 must be supported by clear and convincing evidence of a propensity
20 for violence that creates a substantial likelihood of danger to the
21 community or any persons.

22 (4) The defendant may be detained pending completion of the
23 hearing. The hearing may be reopened, before or after a determination
24 by the judicial officer, at any time before trial if the judicial
25 officer finds that information exists that was not known to the
26 movant at the time of the hearing and that has a material bearing on
27 the issue whether there are conditions of release that will
28 reasonably assure the safety of any other person and the community.

29 **Sec. 5.** RCW 10.19.055 and 2012 c 6 s 1 are each amended to read
30 as follows:

31 Bail for the release of a person arrested and detained for ((a))
32 the following offenses must be determined on an individualized basis
33 by a judicial officer:

34 (1) Any class A or B felony offense ((must be determined on an
35 individualized basis by a judicial officer)); or

36 (2) Any offense involving the possession or attempted possession
37 of a firearm in violation of a protection order, no-contact order,
38 restraining order, or other court order, that includes an order

1 prohibiting the person from accessing, obtaining, or possessing
2 firearms.

3 NEW SECTION. **Sec. 6.** This act takes effect January 1, 2021, if
4 the proposed amendment to Article I, section 20 of the state
5 Constitution concerning denial of bail proposed in House Joint
6 Resolution No. (H-3805/20) is validly submitted to and is
7 approved and ratified by the voters at the next general election. If
8 the proposed amendment is not approved and ratified, this act is null
9 and void in its entirety.

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