

---

## Civil Rights & Judiciary Committee

---

### SB 5491

**Brief Description:** Clarifying waiver of firearm rights.

**Sponsors:** Senators Pedersen, Rivers and Mullet.

#### Brief Summary of Bill

- Authorizes electronic filing of voluntary waivers of firearm rights.
- Exempts firearms voluntarily forfeited to the Washington State Patrol from mandatory disposal requirements.
- Creates a new civil infraction for possession or control of a firearm after a person files a voluntary waiver of firearm rights that has not been revoked.
- Encourages mental health and substance use disorder professionals to discuss voluntary waiver of firearm rights with their patients.

**Hearing Date:** 2/16/22

**Staff:** John Burzynski (786-7133).

#### **Background:**

##### Voluntary Waiver of Firearm Rights.

Washington law allows individuals to file a voluntary waiver of their firearm rights with the clerk of the court in any county in the state. The clerk must request photo identification to verify the person's identity before accepting the waiver form. The person filing the waiver may identify an individual to be notified if the waiver is revoked.

The voluntary waiver form must include the following language: "Because you have filed this

---

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

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."

Once a waiver is filed, by the end of the business day the clerk of the court must transmit the waiver form to the Washington State Patrol. Within 24 hours of receiving the waiver form, the Washington State Patrol must enter the waiver into the National Instant Criminal Background Check System and any other federal and state databases used to identify persons prohibited from purchasing firearms.

#### Revoking Waiver of Firearm Rights.

No sooner than seven calendar days after filing a voluntary waiver of firearm rights, a person may file a revocation of the waiver. The clerk must request photo identification to verify the person's identity prior to accepting the revocation. By the end of the business day, the clerk must transmit the revocation to the Washington State Patrol and any revocation contact listed on the waiver form. Within seven days of receiving a revocation, the Washington State Patrol must destroy all records of the voluntary waiver and remove the person from the National Instant Criminal Background Check System and any other federal and state databases used to identify persons prohibited from purchasing firearms, unless the person is otherwise ineligible to possess a firearm.

#### Disposal of Forfeited Firearms.

Washington law provides that firearms in the possession of the Washington State Patrol that were judicially forfeited or unclaimed must be disposed of by being: (1) retained for agency use; (2) destroyed; or (3) auctioned or traded to licensed dealers.

### **Summary of Bill:**

#### Voluntary Waiver of Firearm Rights.

Any person may file a voluntary waiver of firearm rights with the clerk of the court in any county in Washington either in writing or electronically. The clerk of the court must verify a person's identity using either a physical or scanned copy of photo identification. When a person files a voluntary waiver of firearm rights, the person may name a family member, mental health professional, substance use disorder professional, or alternate person to be contacted if the person attempts to purchase a firearm while the voluntary waiver is in effect or revokes the waiver.

The voluntary waiver form must include the following updated language: "Because you have filed this voluntary waiver of firearm rights, effective immediately you may not purchase, receive, control, or possess 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."

Additionally, the clerk of the court must immediately provide notice to the person filing the waiver if the waiver is accepted, and the notice must state the person's possession or control of a

firearm is unlawful and that any firearm in their possession or control should be surrendered immediately.

Revoking Waiver of Firearm Rights.

If a person files a revocation of their waiver, by the end of the business day the clerk of court must transmit the form to the Washington State Patrol and any family member, mental health professional, substance use disorder professional, or alternate person listed as a revocation contact on the voluntary waiver.

Disposal of Forfeited Firearms.

Firearms that have been voluntarily forfeited following a voluntary waiver of firearm rights are exempted from the mandatory disposal requirement for firearms in the possession of the Washington State Patrol.

Unlawful Possession of a Firearm.

A person commits a class 4 civil infraction if the person: (1) possesses or controls a firearm; (2) has filed a voluntary waiver of firearm rights that has been accepted by the clerk of the court; and (3) has not lawfully revoked the waiver of firearm rights. A class 4 civil infraction is punishable by a penalty of \$25. Each firearm unlawfully possessed is a separate infraction.

Discussion of Voluntary Waiver of Firearm Rights.

Mental health professionals and substance use disorder professionals are encouraged, but not required, to discuss voluntary waiver of firearm rights with their patients if the professional reasonably believes the discussion will avoid or minimize imminent danger to the patient or any other individual.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect on July 1, 2022.