

# SENATE BILL REPORT

## SB 5491

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As of January 24, 2022

**Title:** An act relating to clarifying waiver of firearm rights.

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

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

**Brief History:**

**Committee Activity:** Law & Justice: 1/24/22.

**Brief Summary of Bill**

- Creates a new civil infraction for persons who have in their possession or have under their control a firearm after filing a voluntary waiver of firearm rights.
- Requires the clerk of the court to immediately notify a filer when their voluntary waiver of firearm rights has been accepted.
- Permits voluntary waiver of firearm rights to be submitted either in writing or electronically.
- Encourages mental health professionals and substance use disorder professionals to discuss with their patients the voluntary waiver of firearm rights.

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**SENATE COMMITTEE ON LAW & JUSTICE**

**Staff:** Ryan Giannini (786-7285)

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*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.*

**Background:** In 2018, the Legislature passed SB 5553, allowing any person to file a voluntary waiver of firearm rights with the clerk of the court in any Washington State county. The clerk of the court must verify the person's identity using photo identification. The Washington State Patrol must enter the voluntary waiver of firearm rights into the National Instant Criminal Background System (NICS), and all other databases used to identify persons prohibited from buying firearms, within 24 hours.

For a waiver to be entered into the NICS database, it must be considered prohibiting. A waiver is prohibiting if a state statute deems that a filer of a voluntary waiver of firearm rights is not authorized to either own, possess, or receive firearms, or that they cannot receive a state firearms permit.

The federal Gun Control Act provides examples of prohibitors for both firearm dealers and individual purchasers. Among other restrictions, the Gun Control Act prohibits firearm dealers from selling to an individual based on a violation of any state law or any published ordinance. For individual purchasers, the Gun Control Act provides a list of criminal and non-criminal disqualifiers.

**Summary of Bill:** Any person may file a voluntary waiver of firearm rights with the clerk of the court in any county in Washington State 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. The clerk of the court must notify any of the people listed on the form if the filer revokes the voluntary waiver of firearm rights.

A new class 4 civil infraction is created for persons who have in their possession or have in their control a firearm after filing a voluntary waiver of firearm rights and the form has been accepted by the clerk of the court. Each firearm possessed is a separate infraction. The clerk of the court must immediately notify the filer when their waiver has been accepted and the clerk of the court must give notice that possession or control of a firearm is unlawful.

Once a firearm has been voluntarily surrendered after submitting a voluntary waiver of firearm rights, the Washington State Patrol may not dispose of the firearm while the valid voluntary waiver of firearm rights is in effect.

Mental health professionals and substance use disorder professionals are encouraged to talk to their patients about the voluntary waiver of firearm rights if they reasonably believe that such a discussion will avoid or minimize an imminent danger to the health or safety of the individual or other individuals, but there is no obligation to do so.

**Appropriation:** None.

**Fiscal Note:** Available.

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

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

**Staff Summary of Public Testimony:** PRO: The changes in the bill allows voluntary waiver of firearm rights to be entered into the NICS system. The voluntary waiver provides people who are experiencing mental health challenges some protection by preventing themselves from purchasing a firearm. Washington's voluntary waiver program is a life-saving suicide prevention tool that needs to be strengthened. Allowing electronic filing eliminates barriers for some of the most vulnerable people. It is important for a family member, a mental health or substance use disorder professional, or anyone in the filer's mental health sphere to be notified whenever a filer attempts to purchase a firearm or revoke the waiver because such notification provides opportunities for intervention and aid. Encouraging mental health professionals and substance use disorder professionals to talk to their patients about the voluntary waiver can help spread awareness of this suicide prevention tool.

**Persons Testifying:** PRO: Senator Jamie Pedersen, Prime Sponsor; Diane Studley; Leanne Kennedy; Jane Weiss.

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