

HOUSE BILL REPORT

ESHB 2021

As Passed Legislature

Title: An act relating to the disposition of privately owned firearms in the custody of state or local government entities or law enforcement agencies.

Brief Description: Concerning the disposition of privately owned firearms in the custody of state or local government entities or law enforcement agencies.

Sponsors: House Committee on Civil Rights & Judiciary (originally sponsored by Representatives Senn, Walen, Berry, Fitzgibbon, Ryu, Duerr, Ramel, Reed, Ormsby, Peterson, Callan, Macri, Gregerson, Farivar, Alvarado, Lekanoff, Doglio, Riccelli, Reeves, Wylie, Santos, Hackney and Pollet).

Brief History:

Committee Activity:

Civil Rights & Judiciary: 1/16/24, 1/19/24 [DPS].

Floor Activity:

Passed House: 2/9/24, 68-29.

Passed Senate: 2/29/24, 31-18.

Passed Legislature.

Brief Summary of Engrossed Substitute Bill

- Authorizes local governments and law enforcement agencies to dispose of forfeited firearms through a transfer to a museum or historical society.
- Authorizes the Washington State Patrol to dispose of forfeited firearms through a transfer to a museum or historical society, or destruction.
- Provides requirements for the disposition of any firearm obtained through a firearm buyback program.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

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.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Taylor, Chair; Farivar, Vice Chair; Entenman, Goodman, Peterson, Thai and Walen.

Minority Report: Do not pass. Signed by 2 members: Representatives Walsh, Ranking Minority Member; Graham, Assistant Ranking Minority Member.

Minority Report: Without recommendation. Signed by 2 members: Representatives Abbarno and Cheney.

Staff: Matt Sterling (786-7289).

Background:

The firearm forfeiture statute allows courts to order forfeiture of a firearm under a number of circumstances, including if the firearm is proven to be:

- concealed on a person without a concealed pistol license or found in the possession of a person prohibited from possessing firearms;
- in the possession of a person at the time of commission of, or arrest for, a felony, or while criminal charges are pending;
- in the possession of a person in public who is under the influence of alcohol or drugs;
- in the possession of a person who was mentally incompetent when apprehended; or
- used in the commission of certain crimes.

Firearms seized under this forfeiture statute must be returned if the court finds there is no probable cause to believe a violation occurred or if the criminal proceedings are dismissed.

Under the unclaimed property statutes, firearms may also be forfeited when the owner fails to claim the firearm within a certain period after being notified by the local agency. In this case, any unsafe or illegal firearms must be destroyed, and other firearms may be retained and used by the law enforcement agency for a period of one year. After one year, such firearms must be disposed of in the manner provided under the firearm forfeiture statute.

Firearms in the possession of local law enforcement agencies that have been ordered forfeited by a court under the firearm forfeiture statute or that have been forfeited under the unclaimed property statutes may be disposed of in any manner chosen by the local legislative authority. The local legislative authority may keep the proceeds of any auction or trade of forfeited firearms.

Antique firearms, curios, relics, and firearms of particular historical significance must be auctioned or traded to licensed dealers.

Forfeited firearms in the possession of the Washington State Patrol (WSP) on or after May 7, 1993, that are not needed for evidence must be disposed of as follows:

- illegal firearms must be destroyed;

- 10 percent of legal firearms may be retained by the WSP for agency use; and
- all other legal firearms must be auctioned or traded to licensed dealers.

The WSP may keep any proceeds of an auction or trade.

Summary of Engrossed Substitute Bill:

Forfeited firearms in the possession of the Washington State Patrol that are not retained for agency use may be auctioned, traded to licensed dealers, or destroyed. Antique firearms, curios, relics, and firearms of particular historical significance may also be provided to museums or historical societies.

Any firearm in the possession of a state or local government entity or law enforcement agency that is obtained through a firearm buyback program conducted by the entity or agency must be destroyed unless the firearm is:

- returned to the rightful owners if the firearm is determined to be stolen;
- retained and stored for law enforcement investigation or evidence purposes if the firearm was used in the commission of a crime; or
- provided to a museum or historical society if the firearm is recognized as a curio, relic, or has particular historical significance.

Any state or local government entity or law enforcement agency that is conducting a firearm buy-back program must establish procedures for:

- returning a stolen firearm to the rightful owner; and
- determining if a firearm has been used in the commission of a crime.

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) Did you know that Washington State is an arms dealer? Without the authority for the Washington State Patrol (WSP) to destroy guns like every other law enforcement agency in the state, the WSP can only sell or trade crime guns that come into their possession. Firearms that have previously been in law enforcement custody have been used in crimes and suicides. The WSP wants to be able to destroy guns so we should let them. Saving and selling more firearms than are required is making the state an arms dealer and makes us complicit in the deaths caused by these firearms. There was a similar bill from several years ago and we support this bill again to let the patrol destroy firearms. There is concern about the definition of destroy because there are businesses that destroy firearms by

disassembling them and then resell parts that are recirculated. This defeats the purposes of getting these guns off the streets. Police departments should not be in the business of selling guns. Some police departments might want to use proceeds from the sale of firearms to purchase ammunition and firearms for agency use, but is that why someone gave them a gun in a buyback program? If a gun sold by law enforcement is subsequently used in a crime, the cost will be much greater than any benefit from the sale. The City of Kirkland has conducted guns for gift cards events. The program involves the voluntary surrender of a firearm. The firearm is examined to determine if it is stolen or used in a crime. If it is not, then it is destroyed. We honor law enforcement and their families when we take unwanted guns off the streets. Any gun that is destroyed will not be used to kill another child.

(Opposed) This bill incorrectly focuses the blame on firearms. More guns in the hands of law-abiding citizens does not increase crime. The bill language is permissible to find the correct owner and incentivizes the destruction of the firearm. Government entities are not required to establish procedures to return firearms to individuals that have had them stolen. The bill should require local governments and law enforcement to develop policies to return stolen firearms to victims of crimes. This punishes victims of crimes who have had a firearm stolen. Law abiding citizens should be able to purchase these firearms and destruction of them is wasteful. Firearms are being blamed for criminal activity. There shouldn't be anything stopping law enforcement from auctioning off firearms. It is a source of revenue for law enforcement and there is no harm in them being resold legally. Destroying firearms is expensive and a tedious process, but selling them would raise funds that could be used to keep us safer.

Persons Testifying: (In support) Representative Tana Senn, prime sponsor; Neal Black; Jennifer Dolan-Waldman, Grandmothers Against Gun Violence; and Craig Reynolds.

(Opposed) Aoibheann Cline, National Rifle Association; and Bea Christopherson.

Persons Signed In To Testify But Not Testifying: Mat Jackmond; Dan Templeman, City of Everett; Jane Weiss; Diane Studley; Deion Glover, Washington State Patrol; Thomas Hogue; Michael Easton; Zachary Bigger; Anthony Alexander; Justin Michaud, GunNation Limited Liability Company; Jason Dupea; Eric Pratt; and Mike St. Jean, Kirkland Police Department.