

# FINAL BILL REPORT

## HB 1498

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Synopsis as Enacted

**Brief Description:** Concerning provisions governing firearms possession by persons who have been involuntarily committed.

**Sponsors:** Representatives Hunter, Blake, Kretz, Pedersen, Goodman, Williams, Carlyle, Roberts, McCune, Ericks, White, Hasegawa, Kagi, Nelson and Warnick.

**House Committee on Judiciary**  
**Senate Committee on Human Services & Corrections**

### **Background:**

Both state and federal law regulate the possession and transfer of firearms, including prohibiting certain persons from legally possessing firearms. Generally, a person may not possess a firearm if the person has been convicted of a felony or has been involuntarily committed to a mental health treatment facility for a specific period of time.

### Involuntary Commitment.

Under Washington's involuntary treatment laws, a person who is gravely disabled or presents a likelihood of serious harm because of a mental disorder may be held in a mental health treatment facility for evaluation for up to 72 hours.

Within that initial 72-hour evaluation period, a professional in charge of the treatment facility may petition the court for a 14-day involuntary treatment commitment of the person. After a hearing and finding by a preponderance of the evidence that the person is gravely disabled or presents a likelihood of serious harm, the court may order the person to be involuntarily committed to a mental health facility for up to 14 days.

At any time during the treatment period, the professional in charge of the treatment facility may petition the court for an additional 90-day commitment, and subsequently for an additional 180-day commitment. There are similar 14-day and 180-day commitment procedures for mental health treatment for minors.

### Firearm Laws.

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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 a part of the legislation nor does it constitute a statement of legislative intent.*

In Washington, it is a class C felony offense for a person to possess a firearm if the person has previously been involuntarily committed for mental health treatment under the 90-day or 180-day procedures or under the statutes governing criminal competency and insanity pleas.

Washington does not prohibit the possession of firearms by persons who have been involuntarily committed under the 14-day commitment process. Federal law, however, prohibits the possession of firearms by a person who has been adjudicated as a mental defective or who has been committed to a mental institution. The terms "adjudicated as a mental defective" and "committed to a mental institution" are defined by federal rule and would include a person involuntarily committed under Washington's 14-day commitment procedure.

When a person is disqualified from possessing a firearm due to a conviction or commitment, the court must forward a copy of the person's driver's license or other identification information to the Department of Licensing (DOL). The statutes do not specify when the court must forward this information.

#### Restoration of Firearm Possession Rights.

A person who is prohibited from possessing a firearm because of an involuntary commitment may petition the court to restore his or her right of possession once the person is discharged. The person must show that the circumstances resulting in the commitment no longer exist and are not reasonably likely to recur and that he or she does not present a danger to self or others. In addition, the person must show that he or she is no longer required to participate in a treatment program or take medication for a condition related to the commitment.

#### National Instant Criminal Background Check System.

The National Instant Criminal Background Check System (NICS) is a criminal history database maintained by the Federal Bureau of Investigation. The NICS is used by firearms dealers and law enforcement to conduct background checks to determine a person's eligibility to purchase a firearm.

There is no requirement that the state forward involuntary commitment data to the federal NICS database. However, the Department of Social and Health Services (DSHS) submits certain mental health records to the NICS. The DSHS records come from a variety of sources, such as state hospital admission data and county-based mental health authorities. The data is submitted only on a monthly basis and does not capture all persons who have had involuntary commitments that disqualify them from possessing firearms.

#### **Summary:**

The crime of unlawful possession of a firearm in the second degree is amended to include persons who have been involuntarily committed for mental health treatment, either as an adult or juvenile, under the 14-day commitment procedures.

When a person is involuntarily committed for mental health treatment, the court must forward a copy of the person's driver's license or other identification information to the NICS

within three judicial days. When a person who was prohibited from possessing a firearm due to involuntary commitment has his or her right to possess a firearm restored, the court must forward notice of the restoration to the DOL, the DSHS, and the NICS within three judicial days.

The standards and processes that apply to the restoration of firearm rights when a person was involuntarily committed are revised. A petition for restoration of firearm rights may be filed in the superior court that ordered the commitment or in the county in which the petitioner resides. The petitioner must show by a preponderance of the evidence that: the petitioner is no longer required to participate in court-ordered treatment; the petitioner has successfully managed the condition related to the commitment; the petitioner does not present a danger to self or the public; and the symptoms related to the commitment are not reasonably likely to recur.

The involuntary commitment statutes are amended to require notice regarding the loss of firearm rights when a person is involuntarily committed. In a 14-day commitment proceeding for an adult or a minor, the court must inform the person both orally and in writing that failure to make a good faith effort to seek voluntary treatment will result in the loss of his or her firearm rights if the person is subsequently involuntarily committed. Notice also must be provided in the petition and during the proceeding of the loss of firearm rights if the person is involuntarily committed.

**Votes on Final Passage:**

House	97	0
Senate	39	1

**Effective:** July 26, 2009