

2 SHB 2373 - S COMM AMD  
3 By Committee on Law & Justice

4 ADOPTED 3/3/92

5 On page 6, after line 20, insert the following:

6 "Sec. 2. RCW 9.41.040 and 1983 c 232 s 2 are each amended to read  
7 as follows:

8 (1) A person is guilty of the crime of unlawful possession of a  
9 short firearm or pistol, if, having previously been convicted in this  
10 state or elsewhere of a crime of violence or of a felony in which a  
11 firearm was used or displayed, the person owns or has in his possession  
12 any short firearm or pistol.

13 (2) Unlawful possession of a short firearm or pistol shall be  
14 punished as a class C felony under chapter 9A.20 RCW.

15 (3) As used in this section, a person has been "convicted" at such  
16 time as a plea of guilty has been accepted or a verdict of guilty has  
17 been filed, notwithstanding the pendency of any future proceedings  
18 including but not limited to sentencing, post-trial motions, and  
19 appeals. A person shall not be precluded from possession if the  
20 conviction has been the subject of a pardon, annulment, certificate of  
21 rehabilitation, or other equivalent procedure based on a finding of the  
22 rehabilitation of the person convicted or the conviction has been the  
23 subject of a pardon, annulment, or other equivalent procedure based on  
24 a finding of innocence.

25 (4) Except as provided in subsection (5) of this section, a person  
26 is guilty of the crime of unlawful possession of a short firearm or  
27 pistol if, after having been convicted of any felony violation of the  
28 uniform controlled substances act, chapter 69.50 RCW, or equivalent

1 statutes of another jurisdiction, (~~or after any period of confinement~~  
2 ~~under RCW 71.05.320 or an equivalent statute of another jurisdiction,~~  
3 ~~or following a record of commitment pursuant to chapter 10.77 RCW or~~  
4 ~~equivalent statutes of another jurisdiction, he)) the person owns or  
5 has in his or her possession or under his or her control any short  
6 firearm or pistol.~~

7 (5) Notwithstanding subsection (1) of this section, a person  
8 convicted of an offense other than murder, manslaughter, robbery, rape,  
9 indecent liberties, arson, assault, kidnapping, extortion, burglary, or  
10 violations with respect to controlled substances under RCW 69.50.401(a)  
11 and 69.50.410, who received a probationary sentence under RCW 9.95.200,  
12 and who received a dismissal of the charge under RCW 9.95.240, shall  
13 not be precluded from ownership, possession, or control of a firearm as  
14 a result of the conviction.

15 (6)(a) A person who has been committed by court order for treatment  
16 of mental illness under RCW 71.05.320 or chapter 10.77 RCW, or  
17 equivalent statutes of another jurisdiction, may not possess, in any  
18 manner, a firearm as defined in RCW 9.41.010.

19 (b) At the time of commitment, the court shall specifically state  
20 to the person under (a) of this subsection and give the person notice  
21 in writing that the person is barred from possession of firearms.

22 (c) The secretary of social and health services shall develop  
23 appropriate rules to create an approval process under this subsection.  
24 The rules must provide for the immediate restoration of the right to  
25 possess a firearm upon a showing in a court of competent jurisdiction  
26 that a person no longer is required to participate in an inpatient or  
27 outpatient treatment program, and is no longer required to take  
28 medication to treat any condition related to the commitment. Unlawful  
29 possession of a firearm under this subsection shall be punished as a  
30 class C felony under chapter 9A.20 RCW."

1       **"Sec. 3.** RCW 71.05.240 and 1987 c 439 s 5 are each amended to read  
2 as follows:

3       If a petition is filed for fourteen day involuntary treatment or  
4 ninety days of less restrictive alternative treatment, the court shall  
5 hold a probable cause hearing within seventy-two hours of the initial  
6 detention of such person as determined in RCW 71.05.180, as now or  
7 hereafter amended. If requested by the detained person or his or her  
8 attorney, the hearing may be postponed for a period not to exceed  
9 forty-eight hours. The hearing may also be continued subject to the  
10 conditions set forth in RCW 71.05.210 or subject to the petitioner's  
11 showing of good cause for a period not to exceed twenty-four hours.

12       At the conclusion of the probable cause hearing, if the court finds  
13 by a preponderance of the evidence that such person, as the result of  
14 mental disorder, presents a likelihood of serious harm to others or  
15 himself or herself, or is gravely disabled, and, after considering less  
16 restrictive alternatives to involuntary detention and treatment, finds  
17 that no such alternatives are in the best interests of such person or  
18 others, the court shall order that such person be detained for  
19 involuntary treatment not to exceed fourteen days in a facility  
20 certified to provide treatment by the department of social and health  
21 services. If the court finds that such person, as the result of a  
22 mental disorder, presents a likelihood of serious harm to others or  
23 himself or herself, or is gravely disabled, but that treatment in a  
24 less restrictive setting than detention is in the best interest of such  
25 person or others, the court shall order an appropriate less restrictive  
26 course of treatment for not to exceed ninety days.

27       The court shall specifically state to such person and give such  
28 person notice in writing that if involuntary treatment beyond the  
29 fourteen day period or beyond the ninety days of less restrictive  
30 treatment is to be sought, such person will have the right to a full

1 hearing or jury trial as required by RCW 71.05.310. The court shall  
2 also provide written notice that the person is barred from the  
3 possession of firearms."

4 "NEW SECTION. Sec. 4. If any provision of this act or its  
5 application to any person or circumstance is held invalid, the  
6 remainder of the act or the application of the provision to other  
7 persons or circumstances is not affected."

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11 On page 1, line 1 of the title, after "permit;" strike the  
12 remainder of the title and insert "amending RCW 9.41.070, 9.41.040, and  
13 71.05.240; and prescribing penalties."