

# HOUSE BILL REPORT

## ESHB 1041

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### As Amended by the Senate

**Title:** An act relating to including correctional employees who have completed government-sponsored law enforcement firearms training to the lists of law enforcement personnel that are exempt from certain firearm restrictions.

**Brief Description:** Including correctional employees who have completed government-sponsored law enforcement firearms training to the lists of law enforcement personnel that are exempt from certain firearm restrictions.

**Sponsors:** House Committee on Judiciary (originally sponsored by Representatives Green, Angel, Goodman, McCune, Kelley, Hope, Dammeier, Warnick, Blake, Hurst, Moeller and Upthegrove).

**Brief History:**

**Committee Activity:**

Judiciary: 1/12/11, 1/27/11 [DPS].

**Floor Activity:**

Passed House: 3/4/11, 84-13.

Senate Amended.

Passed Senate: 4/5/11, 48-0.

**Brief Summary of Engrossed Substitute Bill**

- Provides an exemption from some firearms restrictions for correctional personnel who have completed government-sponsored law enforcement firearms training.
- Provides that governmental entities, and their officers, employees, and agents, are not liable for damages caused by the use or misuse of a firearm by off-duty correctional personnel based on a claim of negligence in the provision of firearms training.

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### HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne,

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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.*

Ranking Minority Member; Shea, Assistant Ranking Minority Member; Chandler, Eddy, Frockt, Kirby, Klippert and Nealey.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Orwall, Rivers and Roberts.

**Staff:** Edie Adams (786-7180).

**Background:**

State law regulates the possession, use, and transfer of firearms and other weapons under the Firearms and Dangerous Weapons law. Among other things, this chapter imposes restrictions on the carrying of certain firearms and prohibits possession of weapons in certain places.

A person is prohibited from carrying a concealed pistol in Washington unless the person has a valid concealed pistol license. In addition, there are restrictions on the carrying of pistols in vehicles. A person may not carry a loaded pistol in a vehicle unless the person has a concealed pistol license and either the pistol is on the person, the person is within the vehicle at all times the pistol is present, or the pistol is locked within the vehicle and concealed from view. An unloaded pistol kept in a vehicle must be locked within the vehicle and concealed from view.

A number of exemptions are provided from the requirements relating to carrying concealed pistols and carrying pistols in a vehicle. Marshals, sheriffs, prison or jail wardens or their deputies, or other law enforcement officers of this state or another state are exempted, as are retired Washington law enforcement officers. Also exempted are federal officers and military members, persons engaged in various firearms manufacturing or dealing jobs, and persons engaged in various activities such as sport shooting, gun collecting, or outdoor recreation.

The Firearms and Dangerous Weapons law also prohibits possession of weapons in certain places. Weapons are prohibited in court facilities, taverns and bars, and restricted areas of jails and law enforcement facilities, public mental health facilities, and commercial airports. "Weapons" include firearms, explosives, spring-blade knives, daggers, dirks, sling shots, sand clubs, and metal knuckles. There is an exemption from these restrictions for law enforcement personnel and military and security personnel while engaged in official business.

**Summary of Engrossed Substitute Bill:**

Correctional personnel who have completed government-sponsored law enforcement firearms training are exempt from restrictions on: carrying a concealed pistol; carrying a pistol in a vehicle; and possession of weapons in court facilities and restricted areas of jails and law enforcement facilities, public mental health facilities, and commercial airports. Correctional personnel are not exempted from the restriction on possessing firearms in taverns and bars.

Retired correctional personnel who have completed government-sponsored law enforcement firearms training are exempt from restrictions on the carrying of a concealed pistol on the

person or in a vehicle. The exemption applies only if the person has: obtained documentation from the agency in the state from which the person retired stating that the person retired for service or physical disability; and not been convicted or found not guilty by reason of insanity of a crime making the person ineligible for a concealed pistol license.

The exemptions created by the act do not create a duty on the part of the state or a local government with respect to the off-duty use or misuse of a firearm by correctional personnel. The state, local governments, and their officers, employees and agents, are not liable for damages caused by the use or misuse of a firearm by off-duty correctional personnel based on a claim of negligence in the provision of government-sponsored firearms training.

#### **EFFECT OF SENATE AMENDMENT(S):**

The Senate amendment includes community corrections officers (in addition to correctional personnel) to the exemptions from certain firearms restrictions and provides that correctional personnel and community corrections officers must be employed as such in order for the exemptions to apply.

With respect to the exemption from restrictions on carrying concealed pistols or carrying pistols in vehicles, the Senate amendment:

- provides that the exemption applies only if the correctional employee or community corrections officer has been subject to a background check through the National Instant Criminal Background Check System or an equivalent background check within the past five years. Correctional personnel and community corrections officers seeking this waiver are required to pay for any background check that is needed in order to exercise the waiver; and
- removes the exemption for retired correctional personnel.

With respect to the exemption from restrictions on carrying weapons in certain places, the Senate amendment provides that the government-sponsored law enforcement firearms training must be training that is received as part of the job requirement and that reference to such training does not constitute a mandate that it be provided by the correctional facility.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**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) This bill will help protect our corrections officers when they are off-duty. Corrections officers are in close contact with prisoners on a daily basis and over a long period of time. In recent years the level of violence in correctional facilities has increased dramatically and there are a growing number of gang members in the community. Inadequate protections in the public disclosure law allows offenders to obtain personal

information about officers from public records requests. The officers receive many threats and have a high risk of retaliation from former inmates when off-duty. Corrections officers are trained professionals and they should have the same rights as law enforcement officers to carry firearms to protect themselves outside the prison gates.

(Opposed) None.

**Persons Testifying:** Representative Green, prime sponsor; Mark Gjurasic, King County Corrections Guild; and Anna Jancewicz and Glenn Gaither, Teamsters Local 117.

**Persons Signed In To Testify But Not Testifying:** None.