

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 1501**

Chapter 261, Laws of 2017

65th Legislature  
2017 Regular Session

DENIED FIREARM TRANSACTIONS

EFFECTIVE DATE: 7/23/2017

Passed by the House April 21, 2017  
Yeas 83 Nays 13

FRANK CHOPP

**Speaker of the House of Representatives**

Passed by the Senate April 20, 2017  
Yeas 49 Nays 0

CYRUS HABIB

**President of the Senate**

Approved May 10, 2017 10:52 AM

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1501** as passed by House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

**Chief Clerk**

FILED

May 10, 2017

**Secretary of State  
State of Washington**

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**SUBSTITUTE HOUSE BILL 1501**

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AS AMENDED BY THE SENATE

Passed Legislature - 2017 Regular Session

**State of Washington                      65th Legislature                      2017 Regular Session**

**By House Judiciary (originally sponsored by Representatives Hansen, Hayes, Kagi, Smith, Tharinger, Clibborn, and Muri)**

READ FIRST TIME 02/17/17.

1            AN ACT Relating to protecting law enforcement and the public from  
2 persons who illegally attempt to obtain firearms; reenacting and  
3 amending RCW 42.56.240; adding a new section to chapter 9.41 RCW;  
4 adding new sections to chapter 36.28A RCW; and adding a new section  
5 to chapter 43.43 RCW.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7            NEW SECTION.    **Sec. 1.**    A new section is added to chapter 9.41 RCW  
8 to read as follows:

9            (1) A dealer shall report to the Washington association of  
10 sheriffs and police chiefs information on each instance where the  
11 dealer denies an application for the purchase or transfer of a  
12 firearm, whether under RCW 9.41.090 or 9.41.113, or the requirements  
13 of federal law, as the result of a background check or completed and  
14 submitted firearm purchase or transfer application that indicates the  
15 applicant is ineligible to possess a firearm under state or federal  
16 law. The dealer shall report the denied application information to  
17 the Washington association of sheriffs and police chiefs within five  
18 days of the denial in a format as prescribed by the Washington  
19 association of sheriffs and police chiefs. The reported information  
20 must include the identifying information of the applicant, the date  
21 of the application and denial of the application, and other

1 information or documents as prescribed by the Washington association  
2 of sheriffs and police chiefs. In any case where the purchase or  
3 transfer of a firearm is initially denied by the dealer as the result  
4 of a background check that indicates the applicant is ineligible to  
5 possess a firearm, but the purchase or transfer is subsequently  
6 approved, the dealer shall report the subsequent approval to the  
7 Washington association of sheriffs and police chiefs within one day  
8 of the approval.

9 (2) Upon denying an application for the purchase or transfer of a  
10 firearm as a result of a background check or completed and submitted  
11 firearm purchase or transfer application that indicates the applicant  
12 is ineligible to possess a firearm under state or federal law, the  
13 dealer shall:

14 (a) Provide the applicant with a copy of a notice form generated  
15 and distributed by the Washington state patrol under section 3(5) of  
16 this act, informing denied applicants of their right to appeal the  
17 denial; and

18 (b) Retain the original records of the attempted purchase or  
19 transfer of a firearm for a period not less than six years.

20 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.28A  
21 RCW to read as follows:

22 (1) Subject to the availability of amounts appropriated for this  
23 specific purpose, the Washington association of sheriffs and police  
24 chiefs must create and maintain an electronic portal for a dealer, as  
25 defined in RCW 9.41.010, to report the information as required  
26 pursuant to section 1 of this act pertaining to persons who have  
27 applied for the purchase or transfer of a firearm and were denied as  
28 the result of a background check or completed and submitted firearm  
29 purchase or transfer application that indicates the applicant is  
30 ineligible to possess a firearm under state or federal law.

31 (2) Upon receipt of information from a dealer pursuant to section  
32 1 of this act that a person originally denied the purchase or  
33 transfer of a firearm as the result of a background check that  
34 indicates the applicant is ineligible to possess a firearm has  
35 subsequently been approved for the purchase or transfer, the  
36 Washington association of sheriffs and police chiefs must purge any  
37 record of the person's denial in its possession and inform the  
38 Washington state patrol and any local law enforcement agency

1 participating in the grant program created in section 6 of this act  
2 of the subsequent approval of the purchase or transfer.

3 (3) Information and records prepared, owned, used, or retained by  
4 the Washington state patrol or the Washington association of sheriffs  
5 and police chiefs pursuant to this act are exempt from public  
6 inspection and copying under chapter 42.56 RCW.

7 (4) The Washington association of sheriffs and police chiefs must  
8 destroy the information and data reported by a dealer pursuant to  
9 this act upon its satisfaction that the information and data is no  
10 longer necessary to carry out its duties pursuant to this act.

11 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.43  
12 RCW to read as follows:

13 (1) Upon receipt of the information from the Washington  
14 association of sheriffs and police chiefs pursuant to section 2 of  
15 this act, the Washington state patrol must incorporate the  
16 information into its electronic database accessible to law  
17 enforcement agencies and officers, including federally recognized  
18 Indian tribes, that have a connection to the Washington state patrol  
19 electronic database.

20 (2) Upon receipt of documentation that a person has appealed a  
21 background check denial, the Washington state patrol shall  
22 immediately remove the record of the person initially reported  
23 pursuant to section 2 of this act from its electronic database  
24 accessible to law enforcement agencies and officers. The Washington  
25 state patrol must keep a separate record of the person's information  
26 for a period of one year or until such time as the appeal has been  
27 resolved. Every twelve months, the Washington state patrol shall  
28 notify the person that the person must provide documentation that his  
29 or her appeal is still pending or the record of the person's  
30 background check denial will be put back in its electronic database  
31 accessible to law enforcement agencies and officers. At any time,  
32 upon receipt of documentation that a person's appeal has been  
33 granted, the Washington state patrol shall remove any record of the  
34 person's denied firearms purchase or transfer application from its  
35 electronic database accessible to law enforcement agencies and  
36 officers.

37 (3) Upon receipt of satisfactory proof that a person who was  
38 reported to the Washington state patrol pursuant to section 2 of this  
39 act is no longer ineligible to possess a firearm under state or

1 federal law, the Washington state patrol must remove any record of  
2 the person's denied firearms purchase or transfer application from  
3 its electronic database accessible to law enforcement agencies and  
4 officers.

5 (4) Upon receipt of notification from the Washington association  
6 of sheriffs and police chiefs that a person originally denied the  
7 purchase or transfer of a firearm as the result of a background check  
8 or completed and submitted firearm purchase or transfer application  
9 that indicates the applicant is ineligible to possess a firearm under  
10 state or federal law has subsequently been approved for the purchase  
11 or transfer, the Washington state patrol must remove any record of  
12 the person's denied firearms purchase or transfer application from  
13 its electronic database accessible to law enforcement agencies and  
14 officers within five business days.

15 (5) The Washington state patrol shall generate and distribute a  
16 notice form to all firearm dealers, to be provided by the dealers to  
17 applicants denied the purchase or transfer of a firearm as a result  
18 of a background check that indicates the applicant is ineligible to  
19 possess a firearm. The notice form must contain the following  
20 statements:

21 State law requires that I transmit the following information  
22 to the Washington association of sheriffs and police chiefs  
23 as a result of your firearm purchase or transfer denial  
24 within two days of the denial:

25 (a) Identifying information of the applicant;

26 (b) The date of the application and denial of the  
27 application;

28 (c) Other information as prescribed by the Washington  
29 association of sheriffs and police chiefs.

30 If you believe this denial is in error, and you do not  
31 exercise your right to appeal, you may be subject to criminal  
32 investigation by the Washington state patrol and/or a local  
33 law enforcement agency.

34 The notice form shall also contain information directing the  
35 applicant to a web site describing the process of appealing a  
36 national instant criminal background check system denial through the  
37 federal bureau of investigation and refer the applicant to local law  
38 enforcement for information on a denial based on a state background  
39 check. The notice form shall also contain a phone number for a

1 contact at the Washington state patrol to direct the person to  
2 resources regarding an individual's right to appeal a background  
3 check denial.

4 (6) The Washington state patrol may adopt rules as are necessary  
5 to carry out the purposes of this section.

6 NEW SECTION. **Sec. 4.** A new section is added to chapter 36.28A  
7 RCW to read as follows:

8 Subject to the availability of amounts appropriated for this  
9 specific purpose, the Washington association of sheriffs and police  
10 chiefs shall prepare an annual report on the number of denied  
11 firearms sales or transfers reported pursuant to this act. The report  
12 shall indicate the number of cases in which a person was denied a  
13 firearms sale or transfer, the number of cases where the denied sale  
14 or transfer was investigated for potential criminal prosecution, and  
15 the number of cases where an arrest was made, the case was referred  
16 for prosecution, and a conviction was obtained. The Washington state  
17 patrol shall submit the report to the appropriate committees of the  
18 legislature on or before December 31st of each year.

19 NEW SECTION. **Sec. 5.** A new section is added to chapter 36.28A  
20 RCW to read as follows:

21 (1)(a) Subject to the availability of amounts appropriated for  
22 this specific purpose, the Washington association of sheriffs and  
23 police chiefs shall create and operate a statewide automated  
24 protected person notification system to automatically notify a  
25 registered person via the registered person's choice of telephone or  
26 email when a respondent subject to a court order specified in (b) of  
27 this subsection has attempted to purchase or acquire a firearm and  
28 been denied based on a background check or completed and submitted  
29 firearm purchase or transfer application that indicates the  
30 respondent is ineligible to possess a firearm under state or federal  
31 law. The system must permit a person to register for notification, or  
32 a registered person to update the person's registration information,  
33 for the statewide automated protected person notification system by  
34 calling a toll-free telephone number or by accessing a public web  
35 site.

36 (b) The notification requirements of this section apply to any  
37 court order issued under chapter 7.92 RCW and RCW 7.90.090,  
38 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060,

1 26.10.040, 26.10.115, 26.26.130, 26.26.590, 26.50.060, or 26.50.070,  
2 and any foreign protection order filed with a Washington court  
3 pursuant to chapter 26.52 RCW, where the order prohibits the  
4 respondent from possessing firearms or where by operation of law the  
5 respondent is ineligible to possess firearms during the term of the  
6 order. The notification requirements of this section apply even if  
7 the respondent has notified the Washington state patrol that he or  
8 she has appealed a background check denial under section 3 of this  
9 act.

10 (2) An appointed or elected official, public employee, or public  
11 agency as defined in RCW 4.24.470, or combination of units of  
12 government and its employees, as provided in RCW 36.28A.010, are  
13 immune from civil liability for damages for any release of  
14 information or the failure to release information related to the  
15 statewide automated protected person notification system in this  
16 section, so long as the release or failure to release was without  
17 gross negligence. The immunity provided under this subsection applies  
18 to the release of relevant and necessary information to other public  
19 officials, public employees, or public agencies, and to the general  
20 public.

21 (3) Information and records prepared, owned, used, or retained by  
22 the Washington association of sheriffs and police chiefs pursuant to  
23 this act, including information a person submits to register and  
24 participate in the statewide automated protected person notification  
25 system, are exempt from public inspection and copying under chapter  
26 42.56 RCW.

27 NEW SECTION. **Sec. 6.** A new section is added to chapter 36.28A  
28 RCW to read as follows:

29 (1) Subject to the availability of amounts appropriated for this  
30 specific purpose, the Washington association of sheriffs and police  
31 chiefs shall establish a grant program for local law enforcement  
32 agencies to conduct criminal investigations regarding persons who  
33 illegally attempted to purchase or transfer a firearm within their  
34 jurisdiction.

35 (2) Each grant applicant must be required to submit reports to  
36 the Washington association of sheriffs and police chiefs that  
37 indicate the number of cases in which a person was denied a firearms  
38 sale or transfer, the number of cases where the denied sale or  
39 transfer was investigated for potential criminal prosecution, and the

1 number of cases where an arrest was made, the case was referred for  
2 prosecution, and a conviction was obtained.

3 (3) Information and records prepared, owned, used, or retained by  
4 the Washington association of sheriffs and police chiefs pursuant to  
5 this act are exempt from public inspection and copying under chapter  
6 42.56 RCW.

7 **Sec. 7.** RCW 42.56.240 and 2016 c 173 s 8 and 2016 c 163 s 2 are  
8 each reenacted and amended to read as follows:

9 The following investigative, law enforcement, and crime victim  
10 information is exempt from public inspection and copying under this  
11 chapter:

12 (1) Specific intelligence information and specific investigative  
13 records compiled by investigative, law enforcement, and penology  
14 agencies, and state agencies vested with the responsibility to  
15 discipline members of any profession, the nondisclosure of which is  
16 essential to effective law enforcement or for the protection of any  
17 person's right to privacy;

18 (2) Information revealing the identity of persons who are  
19 witnesses to or victims of crime or who file complaints with  
20 investigative, law enforcement, or penology agencies, other than the  
21 commission, if disclosure would endanger any person's life, physical  
22 safety, or property. If at the time a complaint is filed the  
23 complainant, victim, or witness indicates a desire for disclosure or  
24 nondisclosure, such desire shall govern. However, all complaints  
25 filed with the commission about any elected official or candidate for  
26 public office must be made in writing and signed by the complainant  
27 under oath;

28 (3) Any records of investigative reports prepared by any state,  
29 county, municipal, or other law enforcement agency pertaining to sex  
30 offenses contained in chapter 9A.44 RCW or sexually violent offenses  
31 as defined in RCW 71.09.020, which have been transferred to the  
32 Washington association of sheriffs and police chiefs for permanent  
33 electronic retention and retrieval pursuant to RCW 40.14.070(2)(b);

34 (4) License applications under RCW 9.41.070; copies of license  
35 applications or information on the applications may be released to  
36 law enforcement or corrections agencies;

37 (5) Information revealing the identity of child victims of sexual  
38 assault who are under age eighteen. Identifying information means the  
39 child victim's name, address, location, photograph, and in cases in



1 which the child victim is a relative or stepchild of the alleged  
2 perpetrator, identification of the relationship between the child and  
3 the alleged perpetrator;

4 (6) Information contained in a local or regionally maintained  
5 gang database as well as the statewide gang database referenced in  
6 RCW 43.43.762;

7 (7) Data from the electronic sales tracking system established in  
8 RCW 69.43.165;

9 (8) Information submitted to the statewide unified sex offender  
10 notification and registration program under RCW 36.28A.040(6) by a  
11 person for the purpose of receiving notification regarding a  
12 registered sex offender, including the person's name, residential  
13 address, and email address;

14 (9) Personally identifying information collected by law  
15 enforcement agencies pursuant to local security alarm system programs  
16 and vacation crime watch programs. Nothing in this subsection shall  
17 be interpreted so as to prohibit the legal owner of a residence or  
18 business from accessing information regarding his or her residence or  
19 business;

20 (10) The felony firearm offense conviction database of felony  
21 firearm offenders established in RCW 43.43.822;

22 (11) The identity of a state employee or officer who has in good  
23 faith filed a complaint with an ethics board, as provided in RCW  
24 42.52.410, or who has in good faith reported improper governmental  
25 action, as defined in RCW 42.40.020, to the auditor or other public  
26 official, as defined in RCW 42.40.020;

27 (12) The following security threat group information collected  
28 and maintained by the department of corrections pursuant to RCW  
29 72.09.745: (a) Information that could lead to the identification of a  
30 person's security threat group status, affiliation, or activities;  
31 (b) information that reveals specific security threats associated  
32 with the operation and activities of security threat groups; and (c)  
33 information that identifies the number of security threat group  
34 members, affiliates, or associates;

35 (13) The global positioning system data that would indicate the  
36 location of the residence of an employee or worker of a criminal  
37 justice agency as defined in RCW 10.97.030; (~~and~~)

38 (14) Body worn camera recordings to the extent nondisclosure is  
39 essential for the protection of any person's right to privacy as  
40 described in RCW 42.56.050, including, but not limited to, the

1 circumstances enumerated in (a) of this subsection. A law enforcement  
2 or corrections agency shall not disclose a body worn camera recording  
3 to the extent the recording is exempt under this subsection.

4 (a) Disclosure of a body worn camera recording is presumed to be  
5 highly offensive to a reasonable person under RCW 42.56.050 to the  
6 extent it depicts:

7 (i)(A) Any areas of a medical facility, counseling, or  
8 therapeutic program office where:

9 (I) A patient is registered to receive treatment, receiving  
10 treatment, waiting for treatment, or being transported in the course  
11 of treatment; or

12 (II) Health care information is shared with patients, their  
13 families, or among the care team; or

14 (B) Information that meets the definition of protected health  
15 information for purposes of the health insurance portability and  
16 accountability act of 1996 or health care information for purposes of  
17 chapter 70.02 RCW;

18 (ii) The interior of a place of residence where a person has a  
19 reasonable expectation of privacy;

20 (iii) An intimate image as defined in RCW 9A.86.010;

21 (iv) A minor;

22 (v) The body of a deceased person;

23 (vi) The identity of or communications from a victim or witness  
24 of an incident involving domestic violence as defined in RCW  
25 10.99.020 or sexual assault as defined in RCW 70.125.030, or  
26 disclosure of intimate images as defined in RCW 9A.86.010. If at the  
27 time of recording the victim or witness indicates a desire for  
28 disclosure or nondisclosure of the recorded identity or  
29 communications, such desire shall govern; or

30 (vii) The identifiable location information of a community-based  
31 domestic violence program as defined in RCW 70.123.020, or emergency  
32 shelter as defined in RCW 70.123.020.

33 (b) The presumptions set out in (a) of this subsection may be  
34 rebutted by specific evidence in individual cases.

35 (c) In a court action seeking the right to inspect or copy a body  
36 worn camera recording, a person who prevails against a law  
37 enforcement or corrections agency that withholds or discloses all or  
38 part of a body worn camera recording pursuant to (a) of this  
39 subsection is not entitled to fees, costs, or awards pursuant to RCW

1 42.56.550 unless it is shown that the law enforcement or corrections  
2 agency acted in bad faith or with gross negligence.

3 (d) A request for body worn camera recordings must:

4 (i) Specifically identify a name of a person or persons involved  
5 in the incident;

6 (ii) Provide the incident or case number;

7 (iii) Provide the date, time, and location of the incident or  
8 incidents; or

9 (iv) Identify a law enforcement or corrections officer involved  
10 in the incident or incidents.

11 (e)(i) A person directly involved in an incident recorded by the  
12 requested body worn camera recording, an attorney representing a  
13 person directly involved in an incident recorded by the requested  
14 body worn camera recording, a person or his or her attorney who  
15 requests a body worn camera recording relevant to a criminal case  
16 involving that person, or the executive director from either the  
17 Washington state commission on African-American affairs, Asian  
18 Pacific American affairs, or Hispanic affairs, has the right to  
19 obtain the body worn camera recording, subject to any exemption under  
20 this chapter or any applicable law. In addition, an attorney who  
21 represents a person regarding a potential or existing civil cause of  
22 action involving the denial of civil rights under the federal or  
23 state Constitution, or a violation of a United States department of  
24 justice settlement agreement, has the right to obtain the body worn  
25 camera recording if relevant to the cause of action, subject to any  
26 exemption under this chapter or any applicable law. The attorney must  
27 explain the relevancy of the requested body worn camera recording to  
28 the cause of action and specify that he or she is seeking relief from  
29 redaction costs under this subsection (14)(e).

30 (ii) A law enforcement or corrections agency responding to  
31 requests under this subsection (14)(e) may not require the requesting  
32 individual to pay costs of any redacting, altering, distorting,  
33 pixelating, suppressing, or otherwise obscuring any portion of a body  
34 worn camera recording.

35 (iii) A law enforcement or corrections agency may require any  
36 person requesting a body worn camera recording pursuant to this  
37 subsection (14)(e) to identify himself or herself to ensure he or she  
38 is a person entitled to obtain the body worn camera recording under  
39 this subsection (14)(e).

1 (f)(i) A law enforcement or corrections agency responding to a  
2 request to disclose body worn camera recordings may require any  
3 requester not listed in (e) of this subsection to pay the reasonable  
4 costs of redacting, altering, distorting, pixelating, suppressing, or  
5 otherwise obscuring any portion of the body worn camera recording  
6 prior to disclosure only to the extent necessary to comply with the  
7 exemptions in this chapter or any applicable law.

8 (ii) An agency that charges redaction costs under this subsection  
9 (14)(f) must use redaction technology that provides the least costly  
10 commercially available method of redacting body worn camera  
11 recordings, to the extent possible and reasonable.

12 (iii) In any case where an agency charges a requestor for the  
13 costs of redacting a body worn camera recording under this subsection  
14 (14)(f), the time spent on redaction of the recording shall not count  
15 towards the agency's allocation of, or limitation on, time or costs  
16 spent responding to public records requests under this chapter, as  
17 established pursuant to local ordinance, policy, procedure, or state  
18 law.

19 (g) For purposes of this subsection (14):

20 (i) "Body worn camera recording" means a video and/or sound  
21 recording that is made by a body worn camera attached to the uniform  
22 or eyewear of a law enforcement or corrections officer from a covered  
23 jurisdiction while in the course of his or her official duties and  
24 that is made on or after June 9, 2016, and prior to July 1, 2019; and

25 (ii) "Covered jurisdiction" means any jurisdiction that has  
26 deployed body worn cameras as of June 9, 2016, regardless of whether  
27 or not body worn cameras are being deployed in the jurisdiction on  
28 June 9, 2016, including, but not limited to, jurisdictions that have  
29 deployed body worn cameras on a pilot basis.

30 (h) Nothing in this subsection shall be construed to restrict  
31 access to body worn camera recordings as otherwise permitted by law  
32 for official or recognized civilian and accountability bodies or  
33 pursuant to any court order.

34 (i) Nothing in this section is intended to modify the obligations  
35 of prosecuting attorneys and law enforcement under *Brady v. Maryland*,  
36 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963), *Kyles v.*  
37 *Whitley*, 541 U.S. 419, 115 S. Ct. 1555, 131 L. Ed.2d 490 (1995), and  
38 the relevant Washington court criminal rules and statutes.

1 (j) A law enforcement or corrections agency must retain body worn  
2 camera recordings for at least sixty days and thereafter may destroy  
3 the records; (~~and~~)

4 (15) Any records and information contained within the statewide  
5 sexual assault kit tracking system established in RCW 43.43.545; and

6 (16) Information and records prepared, owned, used, or retained  
7 by the Washington association of sheriffs and police chiefs and  
8 information and records prepared, owned, used, or retained by the  
9 Washington state patrol pursuant to this act.

10 NEW SECTION. **Sec. 8.** If any provision of this act or its  
11 application to any person or circumstance is held invalid, the  
12 remainder of the act or the application of the provision to other  
13 persons or circumstances is not affected.

Passed by the House April 21, 2017.  
Passed by the Senate April 20, 2017.  
Approved by the Governor May 10, 2017.  
Filed in Office of Secretary of State May 10, 2017.

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