

CERTIFICATION OF ENROLLMENT

**SENATE BILL 6298**

Chapter 234, Laws of 2018

65th Legislature  
2018 Regular Session

DOMESTIC VIOLENCE HARASSMENT--FIREARM POSSESSION

EFFECTIVE DATE: June 7, 2018

Passed by the Senate March 5, 2018  
Yeas 39 Nays 10

KAREN KEISER

**President of the Senate**

Passed by the House February 27, 2018  
Yeas 94 Nays 4

FRANK CHOPP

**Speaker of the House of Representatives**

Approved March 22, 2018 4:31 PM

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 6298** as passed by Senate and the House of Representatives on the dates hereon set forth.

BRAD HENDRICKSON

**Secretary**

FILED

March 26, 2018

**Secretary of State  
State of Washington**

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SENATE BILL 6298

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AS AMENDED BY THE HOUSE

Passed Legislature - 2018 Regular Session

**State of Washington                      65th Legislature                      2018 Regular Session**

**By** Senators Dhingra, Palumbo, Saldaña, Frockt, Mullet, Takko, Kuderer, Darneille, Chase, Rolfes, Cleveland, Carlyle, Wellman, Hasegawa, Ranker, Keiser, Billig, Nelson, McCoy, Lias, Van De Wege, Pedersen, Hunt, and Conway

Read first time 01/11/18. Referred to Committee on Law & Justice.

1            AN ACT Relating to adding domestic violence harassment to the  
2 list of offenses for which a person is prohibited from possessing a  
3 firearm; and amending RCW 9.41.040.

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

5            **Sec. 1.** RCW 9.41.040 and 2017 c 233 s 4 are each amended to read  
6 as follows:

7            (1)(a) A person, whether an adult or juvenile, is guilty of the  
8 crime of unlawful possession of a firearm in the first degree, if the  
9 person owns, has in his or her possession, or has in his or her  
10 control any firearm after having previously been convicted or found  
11 not guilty by reason of insanity in this state or elsewhere of any  
12 serious offense as defined in this chapter.

13            (b) Unlawful possession of a firearm in the first degree is a  
14 class B felony punishable according to chapter 9A.20 RCW.

15            (2)(a) A person, whether an adult or juvenile, is guilty of the  
16 crime of unlawful possession of a firearm in the second degree, if  
17 the person does not qualify under subsection (1) of this section for  
18 the crime of unlawful possession of a firearm in the first degree and  
19 the person owns, has in his or her possession, or has in his or her  
20 control any firearm:

1 (i) After having previously been convicted or found not guilty by  
2 reason of insanity in this state or elsewhere of any felony not  
3 specifically listed as prohibiting firearm possession under  
4 subsection (1) of this section, or any of the following crimes when  
5 committed by one family or household member against another,  
6 committed on or after July 1, 1993: Assault in the fourth degree,  
7 coercion, stalking, reckless endangerment, criminal trespass in the  
8 first degree, or violation of the provisions of a protection order or  
9 no-contact order restraining the person or excluding the person from  
10 a residence (RCW 26.50.060, 26.50.070, 26.50.130, or 10.99.040);

11 (ii) After having previously been convicted or found not guilty  
12 by reason of insanity in this state or elsewhere of harassment when  
13 committed by one family or household member against another,  
14 committed on or after the effective date of this section;

15 (iii) During any period of time that the person is subject to a  
16 court order issued under chapter 7.90, 7.92, 9A.46, 10.14, 10.99,  
17 26.09, 26.10, 26.26, or 26.50 RCW that:

18 (A) Was issued after a hearing of which the person received  
19 actual notice, and at which the person had an opportunity to  
20 participate;

21 (B) Restrains the person from harassing, stalking, or threatening  
22 an intimate partner of the person or child of the intimate partner or  
23 person, or engaging in other conduct that would place an intimate  
24 partner in reasonable fear of bodily injury to the partner or child;  
25 and

26 (C)(I) Includes a finding that the person represents a credible  
27 threat to the physical safety of the intimate partner or child; and

28 (II) By its terms, explicitly prohibits the use, attempted use,  
29 or threatened use of physical force against the intimate partner or  
30 child that would reasonably be expected to cause bodily injury;

31 ~~((iii))~~ (iv) After having previously been involuntarily  
32 committed for mental health treatment under RCW 71.05.240, 71.05.320,  
33 71.34.740, 71.34.750, chapter 10.77 RCW, or equivalent statutes of  
34 another jurisdiction, unless his or her right to possess a firearm  
35 has been restored as provided in RCW 9.41.047;

36 ~~((iv))~~ (v) If the person is under eighteen years of age, except  
37 as provided in RCW 9.41.042; and/or

38 ~~((v))~~ (vi) If the person is free on bond or personal  
39 recognizance pending trial, appeal, or sentencing for a serious  
40 offense as defined in RCW 9.41.010.

1 (b) (a)(~~(ii)~~) (iii) of this subsection does not apply to a  
2 sexual assault protection order under chapter 7.90 RCW if the order  
3 has been modified pursuant to RCW 7.90.170 to remove any restrictions  
4 on firearm purchase, transfer, or possession.

5 (c) Unlawful possession of a firearm in the second degree is a  
6 class C felony punishable according to chapter 9A.20 RCW.

7 (3) Notwithstanding RCW 9.41.047 or any other provisions of law,  
8 as used in this chapter, a person has been "convicted", whether in an  
9 adult court or adjudicated in a juvenile court, at such time as a  
10 plea of guilty has been accepted, or a verdict of guilty has been  
11 filed, notwithstanding the pendency of any future proceedings  
12 including but not limited to sentencing or disposition, post-trial or  
13 post-fact-finding motions, and appeals. Conviction includes a  
14 dismissal entered after a period of probation, suspension or deferral  
15 of sentence, and also includes equivalent dispositions by courts in  
16 jurisdictions other than Washington state. A person shall not be  
17 precluded from possession of a firearm if the conviction has been the  
18 subject of a pardon, annulment, certificate of rehabilitation, or  
19 other equivalent procedure based on a finding of the rehabilitation  
20 of the person convicted or the conviction or disposition has been the  
21 subject of a pardon, annulment, or other equivalent procedure based  
22 on a finding of innocence. Where no record of the court's disposition  
23 of the charges can be found, there shall be a rebuttable presumption  
24 that the person was not convicted of the charge.

25 (4)(a) Notwithstanding subsection (1) or (2) of this section, a  
26 person convicted or found not guilty by reason of insanity of an  
27 offense prohibiting the possession of a firearm under this section  
28 other than murder, manslaughter, robbery, rape, indecent liberties,  
29 arson, assault, kidnapping, extortion, burglary, or violations with  
30 respect to controlled substances under RCW 69.50.401 and 69.50.410,  
31 who received a probationary sentence under RCW 9.95.200, and who  
32 received a dismissal of the charge under RCW 9.95.240, shall not be  
33 precluded from possession of a firearm as a result of the conviction  
34 or finding of not guilty by reason of insanity. Notwithstanding any  
35 other provisions of this section, if a person is prohibited from  
36 possession of a firearm under subsection (1) or (2) of this section  
37 and has not previously been convicted or found not guilty by reason  
38 of insanity of a sex offense prohibiting firearm ownership under  
39 subsection (1) or (2) of this section and/or any felony defined under  
40 any law as a class A felony or with a maximum sentence of at least

1 twenty years, or both, the individual may petition a court of record  
2 to have his or her right to possess a firearm restored:

3 (i) Under RCW 9.41.047; and/or

4 (ii)(A) If the conviction or finding of not guilty by reason of  
5 insanity was for a felony offense, after five or more consecutive  
6 years in the community without being convicted or found not guilty by  
7 reason of insanity or currently charged with any felony, gross  
8 misdemeanor, or misdemeanor crimes, if the individual has no prior  
9 felony convictions that prohibit the possession of a firearm counted  
10 as part of the offender score under RCW 9.94A.525; or

11 (B) If the conviction or finding of not guilty by reason of  
12 insanity was for a nonfelony offense, after three or more consecutive  
13 years in the community without being convicted or found not guilty by  
14 reason of insanity or currently charged with any felony, gross  
15 misdemeanor, or misdemeanor crimes, if the individual has no prior  
16 felony convictions that prohibit the possession of a firearm counted  
17 as part of the offender score under RCW 9.94A.525 and the individual  
18 has completed all conditions of the sentence.

19 (b) An individual may petition a court of record to have his or  
20 her right to possess a firearm restored under (a) of this subsection  
21 (4) only at:

22 (i) The court of record that ordered the petitioner's prohibition  
23 on possession of a firearm; or

24 (ii) The superior court in the county in which the petitioner  
25 resides.

26 (5) In addition to any other penalty provided for by law, if a  
27 person under the age of eighteen years is found by a court to have  
28 possessed a firearm in a vehicle in violation of subsection (1) or  
29 (2) of this section or to have committed an offense while armed with  
30 a firearm during which offense a motor vehicle served an integral  
31 function, the court shall notify the department of licensing within  
32 twenty-four hours and the person's privilege to drive shall be  
33 revoked under RCW 46.20.265, unless the offense is the juvenile's  
34 first offense in violation of this section and has not committed an  
35 offense while armed with a firearm, an unlawful possession of a  
36 firearm offense, or an offense in violation of chapter 66.44, 69.52,  
37 69.41, or 69.50 RCW.

38 (6) Nothing in chapter 129, Laws of 1995 shall ever be construed  
39 or interpreted as preventing an offender from being charged and  
40 subsequently convicted for the separate felony crimes of theft of a

1 firearm or possession of a stolen firearm, or both, in addition to  
2 being charged and subsequently convicted under this section for  
3 unlawful possession of a firearm in the first or second degree.  
4 Notwithstanding any other law, if the offender is convicted under  
5 this section for unlawful possession of a firearm in the first or  
6 second degree and for the felony crimes of theft of a firearm or  
7 possession of a stolen firearm, or both, then the offender shall  
8 serve consecutive sentences for each of the felony crimes of  
9 conviction listed in this subsection.

10 (7) Each firearm unlawfully possessed under this section shall be  
11 a separate offense.

12 (8) For purposes of this section, "intimate partner" includes: A  
13 spouse, a domestic partner, a former spouse, a former domestic  
14 partner, a person with whom the restrained person has a child in  
15 common, or a person with whom the restrained person has cohabitated  
16 or is cohabitating as part of a dating relationship.

Passed by the Senate March 5, 2018.

Passed by the House February 27, 2018.

Approved by the Governor March 22, 2018.

Filed in Office of Secretary of State March 26, 2018.

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