

SENATE BILL REPORT

HB 1599

As of March 23, 2023

Title: An act relating to court files and records exemptions for firearm background checks.

Brief Description: Concerning court files and records exemptions for firearm background checks.

Sponsors: Representatives Goodman, Berry, Ramel and Pollet; by request of Washington State Patrol.

Brief History: Passed House: 3/4/23, 95-0.

Committee Activity: Law & Justice: 3/23/23.

Brief Summary of Bill

- Allows the Washington State Patrol Firearms Background Check Division to access files and records of Involuntary Treatment Act court proceedings for conducting background checks for firearms transfers, firearms-related licenses, and release of firearms from evidence.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Ryan Giannini (786-7285)

Background: Involuntary Treatment Act. The Involuntary Treatment Act (ITA) for adults sets forth the procedures, rights, and requirements for involuntary treatment of behavioral health disorders. Under the ITA, a person may be committed by a court for involuntary treatment if the person, due to a mental health or substance use disorder, poses a likelihood of serious harm, is gravely disabled, or needs assisted outpatient treatment. The provisions governing involuntary treatment of minors over the age of 13 (minor ITA) are parallel with the adult ITA in many respects.

The adult ITA provides that files and records of court proceedings regarding involuntary

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treatment under both the adult and minor ITA statutes are closed and only accessible to persons and entities listed in statute.

Under the minor ITA, records and files maintained in any court proceedings are confidential and available only to the minor, the minor's parent, and the minor's attorney.

Loss of Firearm Rights Based on an Involuntary Treatment Act Detention or Commitment. Both state and federal law generally prohibit a person from possessing firearms if the person has been involuntarily committed for mental health treatment. Federal law prohibits firearms possession by a person who has been adjudicated as a mental defective or been committed to any mental institution.

When a person loses the right to possess firearms under these circumstances, the court must forward the person's identification information to the National Instant Criminal Background Check System (NICS). Any subsequent restoration of the person's right to possess firearms must also be forwarded to the NICS.

Firearm Background Check Requirements. Under federal law, a dealer must conduct a background check on all firearms transfers to determine whether the purchaser is prohibited by state or federal law from possessing a firearm. This background check is conducted through the NICS. Under state law, a state background check in addition to the federal NICS check is required for the purchase or transfer of a pistol or semiautomatic assault rifle.

Legislation enacted in 2020 requires the Washington State Patrol (WSP) to establish a state firearms background check program to serve as a single point of contact for firearms dealers to conduct background checks for firearms transfers required under state and federal law. The WSP Firearms Background Check Division is in the process of establishing the state firearm background check system, which is expected to be operational statewide beginning January 1, 2024.

Bipartisan Safer Communities Act. The federal Bipartisan Safer Communities Act (BSCA), enacted in 2022, specifically provides that federal firearms prohibitions apply if the person's juvenile record includes a prohibiting criminal conviction or involuntary commitment or mental health adjudication.

Summary of Bill: The WSP Firearms Background Check Division is authorized to access files and records of court proceedings under the ITA for conducting background checks for processing and purchasing firearms, concealed pistol licenses, alien firearms licenses, and release of firearms from evidence, including appeals of denials.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This legislation is an essential missing piece of the WSP's state firearm background check system that will be implemented by the end of the year. There are mental health entries in the NICS Indices that do not have information outside of what is in court documentation. This information could potentially qualify as federal prohibitors to possess a firearm. WSP currently does not have access to this information. Access to ITA documentation is needed to confirm whether particular purchasers have any disqualifiers. Without this documentation, someone might either be wrongfully denied a firearm transfer or concealed pistol license (CPL), or a firearm transfer or CPL is issued to someone who is prohibited.

CON: If this bill passes it will create more victims. The people do not trust the Legislature to make any decisions related to gun control and background checks. The purpose of the Second Amendment is to prevent tyranny. The government is supposed to be for the people, by the people, and afraid of the people. There is no doubt that laws need to evolve. As technology develops, so too should new ways to track information to prevent unfortunate acts done by a constitutionally protected item. However, with the direction that Washington is going, this kind of lawmaking needs to be paused. The current makeup of the Legislature does not have the ability to do this. The oath to uphold the Constitution needs to be revisited before moving forward with this legislation.

Persons Testifying: PRO: Representative Roger Goodman, Prime Sponsor; Neil Weaver, Washington State Patrol; Kateri Candee, Washington State Patrol.

CON: Eric pratt, I, America; Gabriel Jacobs; Alex Leung, none.

Persons Signed In To Testify But Not Testifying: No one.