

SENATE BILL REPORT

SHB 2600

As Reported By Senate Committee On:
Judiciary, February 20, 2004

Title: An act relating to firearms.

Brief Description: Revising provisions concerning possession of firearms by persons found not guilty by reason of insanity.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Carrell, Lantz, Moeller, Flannigan, McMahan, Kirby, Newhouse and Lovick).

Brief History:

Committee Activity: Judiciary: 2/19/04, 2/20/04 [DPA].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended.

Signed by Senators McCaslin, Chair; Esser, Vice Chair; Hargrove, Haugen, Johnson, Kline and Roach.

Staff: Aldo Melchiori (786-7439)

Background: Conviction of any felony and certain non-felonies results in the loss of a person's right to possess a firearm. Involuntary commitment for mental health treatment also results in the loss of the right to possess a firearm. The right to possess may only be restored by a court order after the person has met certain eligibility requirements.

For certain serious offenses, the right can never be restored. For other crimes, a period of crime-free time must pass after completion of the sentence before a person may apply for restoration of the right to possess.

A person who has been involuntarily committed for mental health treatment may apply for restoration of the right to possess a firearm upon discharge from the commitment. The person must show that he or she is no longer required to participate in inpatient treatment or to take medication, and must show by a preponderance of the evidence that the reasons for the commitment no longer exist and are not likely to recur.

A person who has been found not guilty by reason of insanity may or may not be involuntarily committed for mental health treatment, depending on whether the person is found to be a danger to others.

Summary of Amended Bill: A verdict of not guilty by reason of insanity must be considered the same as a verdict of guilty for purposes of a person's right to possess a firearm. Such a person must meet the eligibility requirements that would have applied had he or she been convicted of the crime.

An additional requirement is placed on a person who has been involuntarily committed for mental health treatment and is applying for restoration of his or her right to possess a firearm. If the record shows by a preponderance of the evidence that the person has been violent and is likely to be violent again, the person must show by clear, cogent and convincing evidence that he or she does not present a substantial danger to the safety of others.

Amended Bill Compared to Substitute Bill: It is clarified that a person found not guilty by reason of insanity is prohibited from firearm possession. The reference to conflicts with federal statutes is eliminated.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: This addresses a loophole in the current law that allows dangerous people to carry firearms. This is one of the rare occasions when Washington Ceasefire and the National Rifle Association can agree.

Testimony Against: None.

Testified: PRO: Representative Carrell, prime sponsor; Deanna Martin, Washington Ceasefire.