

SENATE BILL REPORT

SHB 1687

As Reported By Senate Committee On:
Judiciary, March 30, 2005

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 Moeller, Talcott, O'Brien, Ericks, Lovick, Tom, Roberts, Appleton, Kagi, Hunter and Chase).

Brief History: Passed House: 3/09/05, 96-0.

Committee Activity: Judiciary: 3/24/05, 3/30/05 [DPA].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended.

Signed by Senators Kline, Chair; Weinstein, Vice Chair; Johnson, Ranking Minority Member; Carrell, Esser, Hargrove, McCaslin and Rasmussen.

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 or a concealed pistol license. Information and records regarding involuntary commitment for mental health services are available to law enforcement and prosecuting attorneys only as

necessary to enforce the firearms possession statutes. 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 Original Bill: People found guilty by reason of insanity will also lose their concealed pistol license. Law enforcement can get access to limited mental health records to enforce these provisions.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Testimony For: Keeping firearms out of the hands of those who pose a threat to others is a difficult task. People who have identified mental health issues and whose conduct has brought them to the attention of the criminal court should not be able to possess firearms.

Testimony Against: None.

Who Testified: PRO: Representative Moeller, prime sponsor; Lt. Landy Black, Seattle Police Department.