

# SENATE BILL REPORT

## SB 5282

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As of February 7, 2013

**Title:** An act relating to creating a statewide database of mental health commitment information.

**Brief Description:** Creating a statewide database of mental health commitment information.

**Sponsors:** Senators Carrell, Pearson, Keiser, Sheldon, Becker, Tom, Parlette, Rivers, Braun, Bailey, Padden, Roach, Litzow, Honeyford and Shin.

**Brief History:**

**Committee Activity:** Human Services & Corrections: 2/05/13.

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Staff:** Kevin Black (786-7747)

**Background:** Records of persons involuntarily committed for mental health treatment are maintained by the Department of Social and Health Services (DSHS) and by various community mental health agencies which initiate civil commitments in each of Washington State's 11 regional support networks (RSNs). Since 2009, state law has required a court which orders the involuntary commitment of a person for mental health treatment to forward identifying information about the person, along with the date of commitment, to the Department of Licensing (DOL) and the National Instant Criminal Background Check System (NICS), operated by the federal government, within three judicial days after entry of the commitment order.

A person who is involuntarily committed for mental health treatment as an adult or child under civil commitment laws or forensic commitment laws related to criminal insanity and competency to stand trial is prohibited from possession of a firearm under state and federal law. Under state law, possession of a firearm by such a person is a felony. A person who has been involuntarily committed, but not acquitted by reason of insanity for a sex offense or class A felony punishable by a maximum sentence of at least 20 years, may petition a court to have firearm possession rights restored.

A law enforcement agency which issues a concealed pistol license, alien firearm license, or is contacted by a dealer to verify firearm eligibility on behalf of a purchaser of a firearm must conduct a background check through NICS, the Washington State Patrol's (WSP) electronic

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database, and DSHS. The law enforcement agency may contact other agencies or resources as appropriate, including RSNs and community mental health agencies.

**Summary of Bill:** Within three months of the effective date of this legislation, all RSNs and DSHS must forward complete historical mental health commitment information retained by the agencies to DOL and the WSP Criminal History Division. Commitment information does not need to be resent if it is already in the possession of DOL and WSP. RSNs and DSHS are immune from liability related to the sharing of commitment information under this act.

Starting January 1, 2014, a law enforcement agency issuing a concealed pistol license, alien firearm license, or which is contacted by a dealer to verify firearm eligibility on behalf of a purchaser of a firearm must conduct a check with NICS, the WSP electronic database, and DOL. Authority to contact other agencies or resources is removed.

An intent section states that the purpose of the act is to consolidate statewide mental health involuntary commitment information at DOL and the WSP Criminal History Division.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill contains several effective dates. Please refer to the bill.

**Staff Summary of Public Testimony:** PRO: This bill comes from concerns raised about the clarity and usefulness of the current system. Law enforcement should have the opportunity to know before approaching someone as to whether they have been previously civilly committed. The sheriffs and police chiefs have studied what to do about gun violence, and are concerned that there isn't a good mechanism now to get information about who is prohibited from possessing a firearm. When someone applies for a concealed pistol license, we need to have a database that tells us who is prohibited, we don't necessarily need to know why. It's difficult to get a concealed pistol license back once it has been erroneously issued. We aren't interested in stopping people who are entitled to concealed pistol licenses from receiving them. We believe this bill will enhance public safety and support a comprehensive database. The bill should be amended to allow designated mental health professionals (DMHPs) to access to this database. Please keep the amendments in section three of the bill. The timelines of when data is moved between databases present a significant challenge.

OTHER: The current DSHS database intermingles voluntary and involuntary commitments for cases prior to 2009. There is an involved technical process needed to get the data into a usable form. We can take an interim step of centralizing RSN data at DSHS. It will take a year however, to figure out how to centralize all of the information in a form accessible to law enforcement. The majority of the records are already in the NICS denied persons file, but there is further need for housekeeping and validation. DSHS did at least 30,000 background checks in the month of January, with each name requiring a manual check. We are committed to making this process work better. Sometimes committed persons do not give their legal names. The bill needs to define the term commitment information and limit

the information to identification and date of commitment. It should not contain grounds for commitment, voluntary treatment, or underlying facts. Including voluntary treatment information would make people reluctant to seek treatment. Access to the database must be restricted from public access or it will be used to deny employment and housing. The database should not be kept in a law enforcement agency because it will contain information about people who have never been accused of a crime.

**Persons Testifying:** PRO: Senator Carrell, prime sponsor; Don Pierce, WA Assn. of Sheriffs and Police Chiefs; Robby Pellett, WA Assn. of DMHPs; Tom McBride, WA Assn. of Prosecuting Attorneys; JoEllen Watson, King County RSN.

OTHER: Victoria Roberts, DSHS Division of Behavioral Health and Recovery; Rob Huss, WSP; Ralph Osgood, DOL; Mike De Felice, WA Defender Assn., WA Assn. of Criminal Defense Lawyers; Set Dawson, National Alliance on Mental Illness (NAMI), NAMI Washington.