CERTIFICATION OF ENROLLMENT

**SUBSTITUTE SENATE BILL 5381**

64th Legislature

2015 Regular Session

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| Passed by the Senate April 16, 2015  Yeas 47 Nays 0  **President of the Senate**  Passed by the House April 8, 2015  Yeas 97 Nays 0  **Speaker of the House of Representatives** | CERTIFICATE  I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5381** as passed by Senate and the House of Representatives on the dates hereon set forth.  **Chief Clerk** |
| Approved |  |
| **Governor of the State of Washington** | **Secretary of State**  **State of Washington** |

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**SUBSTITUTE SENATE BILL 5381**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2015 Regular Session

**State of Washington 64th Legislature 2015 Regular Session**

**By** Senate Law & Justice (originally sponsored by Senators Billig, Frockt, Pedersen, Kohl-Welles, Rolfes, Liias, Nelson, Fraser, Cleveland, McCoy, and McAuliffe)

AN ACT Relating to creating a protocol for the return of firearms in the possession of law enforcement agencies; adding new sections to chapter 9.41 RCW; and creating a new section.

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

NEW SECTION. **Sec.**  A new section is added to chapter 9.41 RCW to read as follows:

(1) Each law enforcement agency shall develop a notification protocol that allows a family or household member to use an incident or case number to request to be notified when a law enforcement agency returns a privately owned firearm to the individual from whom it was obtained or to an authorized representative of that person.

(a) Notification may be made via telephone, email, text message, or another method that allows notification to be provided without unnecessary delay.

(b) If a law enforcement agency is in possession of more than one privately owned firearm from a single person, notification relating to the return of one firearm shall be considered notification for all privately owned firearms for that person.

(c) "Family or household member" has the same meaning as in RCW 26.50.010.

(2) A law enforcement agency shall not provide notification to any party other than a family or household member who has an incident or case number and who has requested to be notified pursuant to this section or another criminal justice agency.

(3) The information provided by a family or household member pursuant to this act, including the existence of the request for notification, is not subject to public disclosure pursuant to chapter 42.56 RCW.

(4) An appointed or elected official, public employee, or public agency as defined in RCW 4.24.470, or combination of units of local government and its employees, as provided in RCW 36.28A.010, are immune from civil liability for damages for any release of information or the failure to release information related to this section, so long as the release or failure was without gross negligence.

(5) An individual who knowingly makes a request for notification under this section based on false information may be held liable under RCW 9A.76.175.

NEW SECTION. **Sec.**  A new section is added to chapter 9.41 RCW to read as follows:

(1) Before a law enforcement agency returns a privately owned firearm, the law enforcement agency must:

(a) Confirm that the individual to whom the firearm will be returned is the individual from whom the firearm was obtained or an authorized representative of that person;

(b) Confirm that the individual to whom the firearm will be returned is eligible to possess a firearm pursuant to RCW 9.41.040;

(c) Ensure that the firearm is not otherwise required to be held in custody or otherwise prohibited from being released; and

(d) Ensure that twenty-four hours have elapsed from the time the firearm was obtained by law enforcement.

(2)(a) Once the requirements in subsections (1) and (3) of this section have been met, a law enforcement agency must release a firearm to the individual from whom it was obtained or an authorized representative of that person upon request without unnecessary delay.

(b)(i) If a firearm cannot be returned because it is required to be held in custody or is otherwise prohibited from being released, a law enforcement agency must provide written notice to the individual from whom it was obtained within five business days of the individual requesting return of his or her firearm and specify the reason the firearm must be held in custody.

(ii) Notification may be made via email, text message, mail service, or personal service. For methods other than personal service, service shall be considered complete once the notification is sent.

(3) If a family or household member has requested to be notified pursuant to section 1 of this act, a law enforcement agency must:

(a) Provide notice to the family or household member within one business day of verifying that the requirements in subsection (1) of this section have been met; and

(b) Hold the firearm in custody for seventy-two hours from the time notification has been provided.

(4) The provisions of this act shall not apply to circumstances where a law enforcement officer has momentarily obtained a firearm from an individual and would otherwise immediately return the firearm to the individual during the same interaction.

NEW SECTION. **Sec.**  This act may be known and cited as the Sheena Henderson act.

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