

SHB 1501 - S AMD 277  
By Senator Padden

ADOPTED 04/20/2017

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 9.41  
4 RCW to read as follows:

5 (1) A dealer shall report to the Washington association of  
6 sheriffs and police chiefs information on each instance where the  
7 dealer denies an application for the purchase or transfer of a  
8 firearm, whether under RCW 9.41.090 or 9.41.113, or the requirements  
9 of federal law, as the result of a background check or completed and  
10 submitted firearm purchase or transfer application that indicates the  
11 applicant is ineligible to possess a firearm under state or federal  
12 law. The dealer shall report the denied application information to  
13 the Washington association of sheriffs and police chiefs within five  
14 days of the denial in a format as prescribed by the Washington  
15 association of sheriffs and police chiefs. The reported information  
16 must include the identifying information of the applicant, the date  
17 of the application and denial of the application, and other  
18 information or documents as prescribed by the Washington association  
19 of sheriffs and police chiefs. In any case where the purchase or  
20 transfer of a firearm is initially denied by the dealer as the result  
21 of a background check that indicates the applicant is ineligible to  
22 possess a firearm, but the purchase or transfer is subsequently  
23 approved, the dealer shall report the subsequent approval to the  
24 Washington association of sheriffs and police chiefs within one day  
25 of the approval.

26 (2) Upon denying an application for the purchase or transfer of a  
27 firearm as a result of a background check or completed and submitted  
28 firearm purchase or transfer application that indicates the applicant  
29 is ineligible to possess a firearm under state or federal law, the  
30 dealer shall:

31 (a) Provide the applicant with a copy of a notice form generated  
32 and distributed by the Washington state patrol under section 3(5) of

1 this act, informing denied applicants of their right to appeal the  
2 denial; and

3 (b) Retain the original records of the attempted purchase or  
4 transfer of a firearm for a period not less than six years.

5 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.28A  
6 RCW to read as follows:

7 (1) Subject to the availability of amounts appropriated for this  
8 specific purpose, the Washington association of sheriffs and police  
9 chiefs must create and maintain an electronic portal for a dealer, as  
10 defined in RCW 9.41.010, to report the information as required  
11 pursuant to section 1 of this act pertaining to persons who have  
12 applied for the purchase or transfer of a firearm and were denied as  
13 the result of a background check or completed and submitted firearm  
14 purchase or transfer application that indicates the applicant is  
15 ineligible to possess a firearm under state or federal law.

16 (2) Upon receipt of information from a dealer pursuant to section  
17 1 of this act that a person originally denied the purchase or  
18 transfer of a firearm as the result of a background check that  
19 indicates the applicant is ineligible to possess a firearm has  
20 subsequently been approved for the purchase or transfer, the  
21 Washington association of sheriffs and police chiefs must purge any  
22 record of the person's denial in its possession and inform the  
23 Washington state patrol and any local law enforcement agency  
24 participating in the grant program created in section 6 of this act  
25 of the subsequent approval of the purchase or transfer.

26 (3) Information and records prepared, owned, used, or retained by  
27 the Washington state patrol or the Washington association of sheriffs  
28 and police chiefs pursuant to this act are exempt from public  
29 inspection and copying under chapter 42.56 RCW.

30 (4) The Washington association of sheriffs and police chiefs must  
31 destroy the information and data reported by a dealer pursuant to  
32 this act upon its satisfaction that the information and data is no  
33 longer necessary to carry out its duties pursuant to this act.

34 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.43  
35 RCW to read as follows:

36 (1) Upon receipt of the information from the Washington  
37 association of sheriffs and police chiefs pursuant to section 2 of  
38 this act, the Washington state patrol must incorporate the

1 information into its electronic database accessible to law  
2 enforcement agencies and officers, including federally recognized  
3 Indian tribes, that have a connection to the Washington state patrol  
4 electronic database.

5 (2) Upon receipt of documentation that a person has appealed a  
6 background check denial, the Washington state patrol shall  
7 immediately remove the record of the person initially reported  
8 pursuant to section 2 of this act from its electronic database  
9 accessible to law enforcement agencies and officers. The Washington  
10 state patrol must keep a separate record of the person's information  
11 for a period of one year or until such time as the appeal has been  
12 resolved. Every twelve months, the Washington state patrol shall  
13 notify the person that the person must provide documentation that his  
14 or her appeal is still pending or the record of the person's  
15 background check denial will be put back in its electronic database  
16 accessible to law enforcement agencies and officers. At any time,  
17 upon receipt of documentation that a person's appeal has been  
18 granted, the Washington state patrol shall remove any record of the  
19 person's denied firearms purchase or transfer application from its  
20 electronic database accessible to law enforcement agencies and  
21 officers.

22 (3) Upon receipt of satisfactory proof that a person who was  
23 reported to the Washington state patrol pursuant to section 2 of this  
24 act is no longer ineligible to possess a firearm under state or  
25 federal law, the Washington state patrol must remove any record of  
26 the person's denied firearms purchase or transfer application from  
27 its electronic database accessible to law enforcement agencies and  
28 officers.

29 (4) Upon receipt of notification from the Washington association  
30 of sheriffs and police chiefs that a person originally denied the  
31 purchase or transfer of a firearm as the result of a background check  
32 or completed and submitted firearm purchase or transfer application  
33 that indicates the applicant is ineligible to possess a firearm under  
34 state or federal law has subsequently been approved for the purchase  
35 or transfer, the Washington state patrol must remove any record of  
36 the person's denied firearms purchase or transfer application from  
37 its electronic database accessible to law enforcement agencies and  
38 officers within five business days.

39 (5) The Washington state patrol shall generate and distribute a  
40 notice form to all firearm dealers, to be provided by the dealers to

1 applicants denied the purchase or transfer of a firearm as a result  
2 of a background check that indicates the applicant is ineligible to  
3 possess a firearm. The notice form must contain the following  
4 statements:

5 State law requires that I transmit the following information  
6 to the Washington association of sheriffs and police chiefs  
7 as a result of your firearm purchase or transfer denial  
8 within two days of the denial:

9 (a) Identifying information of the applicant;

10 (b) The date of the application and denial of the  
11 application;

12 (c) Other information as prescribed by the Washington  
13 association of sheriffs and police chiefs.

14 If you believe this denial is in error, and you do not  
15 exercise your right to appeal, you may be subject to criminal  
16 investigation by the Washington state patrol and/or a local  
17 law enforcement agency.

18 The notice form shall also contain information directing the  
19 applicant to a web site describing the process of appealing a  
20 national instant criminal background check system denial through the  
21 federal bureau of investigation and refer the applicant to local law  
22 enforcement for information on a denial based on a state background  
23 check. The notice form shall also contain a phone number for a  
24 contact at the Washington state patrol to direct the person to  
25 resources regarding an individual's right to appeal a background  
26 check denial.

27 (6) The Washington state patrol may adopt rules as are necessary  
28 to carry out the purposes of this section.

29 NEW SECTION. **Sec. 4.** A new section is added to chapter 36.28A  
30 RCW to read as follows:

31 Subject to the availability of amounts appropriated for this  
32 specific purpose, the Washington association of sheriffs and police  
33 chiefs shall prepare an annual report on the number of denied  
34 firearms sales or transfers reported pursuant to this act. The report  
35 shall indicate the number of cases in which a person was denied a  
36 firearms sale or transfer, the number of cases where the denied sale  
37 or transfer was investigated for potential criminal prosecution, and  
38 the number of cases where an arrest was made, the case was referred

1 for prosecution, and a conviction was obtained. The Washington state  
2 patrol shall submit the report to the appropriate committees of the  
3 legislature on or before December 31st of each year.

4 NEW SECTION. **Sec. 5.** A new section is added to chapter 36.28A  
5 RCW to read as follows:

6 (1)(a) Subject to the availability of amounts appropriated for  
7 this specific purpose, the Washington association of sheriffs and  
8 police chiefs shall create and operate a statewide automated  
9 protected person notification system to automatically notify a  
10 registered person via the registered person's choice of telephone or  
11 email when a respondent subject to a court order specified in (b) of  
12 this subsection has attempted to purchase or acquire a firearm and  
13 been denied based on a background check or completed and submitted  
14 firearm purchase or transfer application that indicates the  
15 respondent is ineligible to possess a firearm under state or federal  
16 law. The system must permit a person to register for notification, or  
17 a registered person to update the person's registration information,  
18 for the statewide automated protected person notification system by  
19 calling a toll-free telephone number or by accessing a public web  
20 site.

21 (b) The notification requirements of this section apply to any  
22 court order issued under chapter 7.92 RCW and RCW 7.90.090,  
23 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060,  
24 26.10.040, 26.10.115, 26.26.130, 26.26.590, 26.50.060, or 26.50.070,  
25 and any foreign protection order filed with a Washington court  
26 pursuant to chapter 26.52 RCW, where the order prohibits the  
27 respondent from possessing firearms or where by operation of law the  
28 respondent is ineligible to possess firearms during the term of the  
29 order. The notification requirements of this section apply even if  
30 the respondent has notified the Washington state patrol that he or  
31 she has appealed a background check denial under section 3 of this  
32 act.

33 (2) An appointed or elected official, public employee, or public  
34 agency as defined in RCW 4.24.470, or combination of units of  
35 government and its employees, as provided in RCW 36.28A.010, are  
36 immune from civil liability for damages for any release of  
37 information or the failure to release information related to the  
38 statewide automated protected person notification system in this  
39 section, so long as the release or failure to release was without

1 gross negligence. The immunity provided under this subsection applies  
2 to the release of relevant and necessary information to other public  
3 officials, public employees, or public agencies, and to the general  
4 public.

5 (3) Information and records prepared, owned, used, or retained by  
6 the Washington association of sheriffs and police chiefs pursuant to  
7 this act, including information a person submits to register and  
8 participate in the statewide automated protected person notification  
9 system, are exempt from public inspection and copying under chapter  
10 42.56 RCW.

11 NEW SECTION. **Sec. 6.** A new section is added to chapter 36.28A  
12 RCW to read as follows:

13 (1) Subject to the availability of amounts appropriated for this  
14 specific purpose, the Washington association of sheriffs and police  
15 chiefs shall establish a grant program for local law enforcement  
16 agencies to conduct criminal investigations regarding persons who  
17 illegally attempted to purchase or transfer a firearm within their  
18 jurisdiction.

19 (2) Each grant applicant must be required to submit reports to  
20 the Washington association of sheriffs and police chiefs that  
21 indicate the number of cases in which a person was denied a firearms  
22 sale or transfer, the number of cases where the denied sale or  
23 transfer was investigated for potential criminal prosecution, and the  
24 number of cases where an arrest was made, the case was referred for  
25 prosecution, and a conviction was obtained.

26 (3) Information and records prepared, owned, used, or retained by  
27 the Washington association of sheriffs and police chiefs pursuant to  
28 this act are exempt from public inspection and copying under chapter  
29 42.56 RCW.

30 **Sec. 7.** RCW 42.56.240 and 2016 c 173 s 8 and 2016 c 163 s 2 are  
31 each reenacted and amended to read as follows:

32 The following investigative, law enforcement, and crime victim  
33 information is exempt from public inspection and copying under this  
34 chapter:

35 (1) Specific intelligence information and specific investigative  
36 records compiled by investigative, law enforcement, and penology  
37 agencies, and state agencies vested with the responsibility to  
38 discipline members of any profession, the nondisclosure of which is

1 essential to effective law enforcement or for the protection of any  
2 person's right to privacy;

3 (2) Information revealing the identity of persons who are  
4 witnesses to or victims of crime or who file complaints with  
5 investigative, law enforcement, or penology agencies, other than the  
6 commission, if disclosure would endanger any person's life, physical  
7 safety, or property. If at the time a complaint is filed the  
8 complainant, victim, or witness indicates a desire for disclosure or  
9 nondisclosure, such desire shall govern. However, all complaints  
10 filed with the commission about any elected official or candidate for  
11 public office must be made in writing and signed by the complainant  
12 under oath;

13 (3) Any records of investigative reports prepared by any state,  
14 county, municipal, or other law enforcement agency pertaining to sex  
15 offenses contained in chapter 9A.44 RCW or sexually violent offenses  
16 as defined in RCW 71.09.020, which have been transferred to the  
17 Washington association of sheriffs and police chiefs for permanent  
18 electronic retention and retrieval pursuant to RCW 40.14.070(2)(b);

19 (4) License applications under RCW 9.41.070; copies of license  
20 applications or information on the applications may be released to  
21 law enforcement or corrections agencies;

22 (5) Information revealing the identity of child victims of sexual  
23 assault who are under age eighteen. Identifying information means the  
24 child victim's name, address, location, photograph, and in cases in  
25 which the child victim is a relative or stepchild of the alleged  
26 perpetrator, identification of the relationship between the child and  
27 the alleged perpetrator;

28 (6) Information contained in a local or regionally maintained  
29 gang database as well as the statewide gang database referenced in  
30 RCW 43.43.762;

31 (7) Data from the electronic sales tracking system established in  
32 RCW 69.43.165;

33 (8) Information submitted to the statewide unified sex offender  
34 notification and registration program under RCW 36.28A.040(6) by a  
35 person for the purpose of receiving notification regarding a  
36 registered sex offender, including the person's name, residential  
37 address, and email address;

38 (9) Personally identifying information collected by law  
39 enforcement agencies pursuant to local security alarm system programs  
40 and vacation crime watch programs. Nothing in this subsection shall

1 be interpreted so as to prohibit the legal owner of a residence or  
2 business from accessing information regarding his or her residence or  
3 business;

4 (10) The felony firearm offense conviction database of felony  
5 firearm offenders established in RCW 43.43.822;

6 (11) The identity of a state employee or officer who has in good  
7 faith filed a complaint with an ethics board, as provided in RCW  
8 42.52.410, or who has in good faith reported improper governmental  
9 action, as defined in RCW 42.40.020, to the auditor or other public  
10 official, as defined in RCW 42.40.020;

11 (12) The following security threat group information collected  
12 and maintained by the department of corrections pursuant to RCW  
13 72.09.745: (a) Information that could lead to the identification of a  
14 person's security threat group status, affiliation, or activities;  
15 (b) information that reveals specific security threats associated  
16 with the operation and activities of security threat groups; and (c)  
17 information that identifies the number of security threat group  
18 members, affiliates, or associates;

19 (13) The global positioning system data that would indicate the  
20 location of the residence of an employee or worker of a criminal  
21 justice agency as defined in RCW 10.97.030; ((and))

22 (14) Body worn camera recordings to the extent nondisclosure is  
23 essential for the protection of any person's right to privacy as  
24 described in RCW 42.56.050, including, but not limited to, the  
25 circumstances enumerated in (a) of this subsection. A law enforcement  
26 or corrections agency shall not disclose a body worn camera recording  
27 to the extent the recording is exempt under this subsection.

28 (a) Disclosure of a body worn camera recording is presumed to be  
29 highly offensive to a reasonable person under RCW 42.56.050 to the  
30 extent it depicts:

31 (i)(A) Any areas of a medical facility, counseling, or  
32 therapeutic program office where:

33 (I) A patient is registered to receive treatment, receiving  
34 treatment, waiting for treatment, or being transported in the course  
35 of treatment; or

36 (II) Health care information is shared with patients, their  
37 families, or among the care team; or

38 (B) Information that meets the definition of protected health  
39 information for purposes of the health insurance portability and



1 accountability act of 1996 or health care information for purposes of  
2 chapter 70.02 RCW;

3 (ii) The interior of a place of residence where a person has a  
4 reasonable expectation of privacy;

5 (iii) An intimate image as defined in RCW 9A.86.010;

6 (iv) A minor;

7 (v) The body of a deceased person;

8 (vi) The identity of or communications from a victim or witness  
9 of an incident involving domestic violence as defined in RCW  
10 10.99.020 or sexual assault as defined in RCW 70.125.030, or  
11 disclosure of intimate images as defined in RCW 9A.86.010. If at the  
12 time of recording the victim or witness indicates a desire for  
13 disclosure or nondisclosure of the recorded identity or  
14 communications, such desire shall govern; or

15 (vii) The identifiable location information of a community-based  
16 domestic violence program as defined in RCW 70.123.020, or emergency  
17 shelter as defined in RCW 70.123.020.

18 (b) The presumptions set out in (a) of this subsection may be  
19 rebutted by specific evidence in individual cases.

20 (c) In a court action seeking the right to inspect or copy a body  
21 worn camera recording, a person who prevails against a law  
22 enforcement or corrections agency that withholds or discloses all or  
23 part of a body worn camera recording pursuant to (a) of this  
24 subsection is not entitled to fees, costs, or awards pursuant to RCW  
25 42.56.550 unless it is shown that the law enforcement or corrections  
26 agency acted in bad faith or with gross negligence.

27 (d) A request for body worn camera recordings must:

28 (i) Specifically identify a name of a person or persons involved  
29 in the incident;

30 (ii) Provide the incident or case number;

31 (iii) Provide the date, time, and location of the incident or  
32 incidents; or

33 (iv) Identify a law enforcement or corrections officer involved  
34 in the incident or incidents.

35 (e)(i) A person directly involved in an incident recorded by the  
36 requested body worn camera recording, an attorney representing a  
37 person directly involved in an incident recorded by the requested  
38 body worn camera recording, a person or his or her attorney who  
39 requests a body worn camera recording relevant to a criminal case  
40 involving that person, or the executive director from either the

1 Washington state commission on African-American affairs, Asian  
2 Pacific American affairs, or Hispanic affairs, has the right to  
3 obtain the body worn camera recording, subject to any exemption under  
4 this chapter or any applicable law. In addition, an attorney who  
5 represents a person regarding a potential or existing civil cause of  
6 action involving the denial of civil rights under the federal or  
7 state Constitution, or a violation of a United States department of  
8 justice settlement agreement, has the right to obtain the body worn  
9 camera recording if relevant to the cause of action, subject to any  
10 exemption under this chapter or any applicable law. The attorney must  
11 explain the relevancy of the requested body worn camera recording to  
12 the cause of action and specify that he or she is seeking relief from  
13 redaction costs under this subsection (14)(e).

14 (ii) A law enforcement or corrections agency responding to  
15 requests under this subsection (14)(e) may not require the requesting  
16 individual to pay costs of any redacting, altering, distorting,  
17 pixelating, suppressing, or otherwise obscuring any portion of a body  
18 worn camera recording.

19 (iii) A law enforcement or corrections agency may require any  
20 person requesting a body worn camera recording pursuant to this  
21 subsection (14)(e) to identify himself or herself to ensure he or she  
22 is a person entitled to obtain the body worn camera recording under  
23 this subsection (14)(e).

24 (f)(i) A law enforcement or corrections agency responding to a  
25 request to disclose body worn camera recordings may require any  
26 requester not listed in (e) of this subsection to pay the reasonable  
27 costs of redacting, altering, distorting, pixelating, suppressing, or  
28 otherwise obscuring any portion of the body worn camera recording  
29 prior to disclosure only to the extent necessary to comply with the  
30 exemptions in this chapter or any applicable law.

31 (ii) An agency that charges redaction costs under this subsection  
32 (14)(f) must use redaction technology that provides the least costly  
33 commercially available method of redacting body worn camera  
34 recordings, to the extent possible and reasonable.

35 (iii) In any case where an agency charges a requestor for the  
36 costs of redacting a body worn camera recording under this subsection  
37 (14)(f), the time spent on redaction of the recording shall not count  
38 towards the agency's allocation of, or limitation on, time or costs  
39 spent responding to public records requests under this chapter, as

1 established pursuant to local ordinance, policy, procedure, or state  
2 law.

3 (g) For purposes of this subsection (14):

4 (i) "Body worn camera recording" means a video and/or sound  
5 recording that is made by a body worn camera attached to the uniform  
6 or eyewear of a law enforcement or corrections officer from a covered  
7 jurisdiction while in the course of his or her official duties and  
8 that is made on or after June 9, 2016, and prior to July 1, 2019; and

9 (ii) "Covered jurisdiction" means any jurisdiction that has  
10 deployed body worn cameras as of June 9, 2016, regardless of whether  
11 or not body worn cameras are being deployed in the jurisdiction on  
12 June 9, 2016, including, but not limited to, jurisdictions that have  
13 deployed body worn cameras on a pilot basis.

14 (h) Nothing in this subsection shall be construed to restrict  
15 access to body worn camera recordings as otherwise permitted by law  
16 for official or recognized civilian and accountability bodies or  
17 pursuant to any court order.

18 (i) Nothing in this section is intended to modify the obligations  
19 of prosecuting attorneys and law enforcement under *Brady v. Maryland*,  
20 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963), *Kyles v.*  
21 *Whitley*, 541 U.S. 419, 115 S. Ct. 1555, 131 L. Ed.2d 490 (1995), and  
22 the relevant Washington court criminal rules and statutes.

23 (j) A law enforcement or corrections agency must retain body worn  
24 camera recordings for at least sixty days and thereafter may destroy  
25 the records; (~~and~~)

26 (15) Any records and information contained within the statewide  
27 sexual assault kit tracking system established in RCW 43.43.545; and

28 (16) Information and records prepared, owned, used, or retained  
29 by the Washington association of sheriffs and police chiefs and  
30 information and records prepared, owned, used, or retained by the  
31 Washington state patrol pursuant to this act.

32 NEW SECTION. **Sec. 8.** If any provision of this act or its  
33 application to any person or circumstance is held invalid, the  
34 remainder of the act or the application of the provision to other  
35 persons or circumstances is not affected."

**ADOPTED 04/20/2017**

1        On page 1, line 2 of the title, after "firearms;" strike the  
2 remainder of the title and insert "reenacting and amending RCW  
3 42.56.240; adding a new section to chapter 9.41 RCW; adding new  
4 sections to chapter 36.28A RCW; and adding a new section to chapter  
5 43.43 RCW."

EFFECT: Makes technical changes to correct internal references. Clarifies that notice to victims is provided even if the appeal is pending. Provides that the dealer must report when the application indicates that the person is prohibited from possessing a firearm. Dealers must report within five days. The Washington state patrol must remove information within five business days. Adds a severability clause.

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