

HOUSE BILL REPORT

HB 1671

As Reported by House Committee On:
Civil Rights & Judiciary

Title: An act relating to court orders governing holding and disposition of confiscated firearms by law enforcement agencies.

Brief Description: Disposing of confiscated firearms.

Sponsors: Representatives Dolan, Klippert, Irwin, Lovick, Appleton, Ortiz-Self, Sells, Chapman, Cody, Doglio and Macri.

Brief History:

Committee Activity:

Civil Rights & Judiciary: 1/17/20, 1/24/20 [DP].

Brief Summary of Bill

- Prohibits a court from ordering a law enforcement agency to hold a confiscated firearm longer than needed for evidentiary purposes.
- Provides that, once a confiscated firearm is no longer needed for evidentiary purposes, a law enforcement agency must dispose of the firearm in accordance with statutory standards for return of privately owned firearms or disposition of forfeited firearms.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: Do pass. Signed by 11 members: Representatives Kilduff, Chair; Thai, Vice Chair; Irwin, Ranking Minority Member; Goodman, Hansen, Kirby, Klippert, Orwall, Rude, Valdez and Walen.

Minority Report: Do not pass. Signed by 2 members: Representatives Graham and Ybarra.

Minority Report: Without recommendation. Signed by 1 member: Representative Dufault, Assistant Ranking Minority Member.

Staff: Edie Adams (786-7180).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

Law enforcement officers are authorized by statute to confiscate firearms under a number of circumstances, including if the firearm is proven to be: used in the commission of certain crimes; concealed on a person without a concealed pistol license or found in the possession of a person prohibited from possessing firearms; in the possession of a person at the time of commission of, or arrest for, a felony, or while criminal charges are pending; or in the possession of a person who was mentally incompetent when apprehended.

Firearms confiscated for these reasons may be ordered forfeited by a court. The court may retain forfeited firearms needed for evidence and may order destruction of any forfeited firearm. Confiscated firearms must be returned if the court finds there is no probable cause to believe a violation occurred, or the firearm was stolen or the owner had no knowledge of the act involving the firearm, or if the criminal proceedings are dismissed.

Law enforcement may surrender confiscated firearms only to the prosecutor for use as evidence in legal proceedings, for disposition if the court orders forfeiture of the firearm, or to the owner if the proceedings are dismissed or the court orders return of the firearm.

Legislation enacted in 2015 established a process relating to the return of private firearms in the custody of a law enforcement agency. A law enforcement agency may not return a private firearm until the agency determines the person is eligible to possess a firearm and at least 24 hours have elapsed from the time the firearm was obtained. If a family or household member has requested notification of the return, the agency must hold the firearm in custody for 72 hours from the time the notification is provided.

Forfeited firearms in the possession of local law enforcement agencies may be disposed of in any manner chosen by the local legislative authority. Forfeited firearms in the possession of the Washington State Patrol (WSP) must be disposed of as follows: (1) illegal firearms must be destroyed; (2) 10 percent of legal firearms may be retained by the WSP for agency use; and (3) all other legal firearms must be auctioned or traded to licensed dealers. Antique firearms, curios, relics, and firearms of particular historical significance may not be destroyed and must be auctioned or traded to licensed dealers.

Summary of Bill:

A court may not order a confiscated firearm to be held by a law enforcement agency beyond the conclusion of proceedings in which the firearm is needed for evidentiary purposes. Once related proceedings are concluded and the firearm is no longer need for evidentiary purposes, a law enforcement agency must dispose of the firearm in accordance with statutory standards for the return of a privately owned firearm or disposition of forfeited firearms.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The issue addressed in this legislation is one that is faced by law enforcement agencies across the state. During court proceedings a law enforcement agency may be required by the court to hold weapons for a period of time. Sometimes the ordered hold is for a couple of months or a couple of years, but there are also cases where an agency has been ordered to hold a confiscated firearm for very long periods of time, such as 25 years, 50 years, 180 years, or even indefinitely. This creates a huge fiscal and logistical issue for law enforcement agencies to have to build out their storage units and manage these firearms for long periods.

The bill provides that once the firearm is no longer necessary for the court proceeding, the law enforcement agency may dispose of the firearm as allowed under the current law. This may mean returning it to the owner if appropriate, or for forfeited firearms it could mean retaining them for agency use, or auctioning them, or destroying them.

(Opposed) There is concern with the terminology used in the bill and whether it is talking about disposing of firearms or destroying firearms. The bill could be a win-win because, if these firearms are sold, it could provide state revenue and be consistent with the tenets of the Second Amendment and also free up law enforcement evidence rooms.

There is support, but with reservations, for this bill. The concern is that the bill should include language making clear that these guns may be sold so that they can be available for purposes of self-defense. These funds could also be used to fund programs for victims of crime, or to fund the new background check system the Legislature is considering so that the burden does not fall on gun owners.

There is no reason to allow agencies to destroy firearms. When a dealer buys one of these firearms, any purchaser of the firearm would have to undergo a background check. People on limited income are unable to afford to buy new guns. They have to rely on the used gun market. The law should be changed so that law enforcement has to sell these firearms.

Persons Testifying: (In support) Representative Dolan, prime sponsor; James McMahan, Washington Association of Sheriffs and Police Chiefs; and Timothy Braniff and Ray Brady, Thurston County Sheriff's Office.

(Opposed) Steve Baima; Sharyn Hinchcliffe, Pink Pistols Seattle and Tacoma; James Barrick; and Mike Silvers.

Persons Signed In To Testify But Not Testifying: None.