

SENATE BILL REPORT

EHB 2623

As of February 25, 2020

Title: An act relating to prohibiting the possession of firearms by persons convicted of certain criminal offenses.

Brief Description: Prohibiting the possession of firearms by persons convicted of certain criminal offenses.

Sponsors: Representatives Walen, Valdez, Macri, Chapman, Kilduff and Senn.

Brief History: Passed House: 2/18/20, 56-41.

Committee Activity: Law & Justice: 2/24/20.

Brief Summary of Bill

- Makes possessing a firearm unlawful if a person has a prior conviction for, or is found not guilty by reason of insanity of, unlawful aiming or discharge of a firearm or dangerous weapon, or animal cruelty in the second degree.
- Revises references to domestic violence to include "intimate partners" in addition to "family or household member" and makes technical amendments to a number of statutes to corrects cross-references needed because of renumbering subsections.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Melissa Burke-Cain (786-7755)

Background: Unlawful Possession of a Firearm. A person may not legally possess firearms based on a prior criminal offense if the person has been convicted or found not guilty by reason of insanity of a felony or of any of the following offenses involving domestic violence:

- assault in the fourth degree;
- coercion;
- stalking;
- reckless endangerment;
- criminal trespass in the first degree;

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- violation of the provisions of a protection or no-contact order restraining the person or excluding the person from a residence; or
- harassment—if committed on or after June 7, 2018.

A person commits first degree unlawful possession of a firearm and the person owns, possesses, or controls any firearm and their prior offense is a serious crime as defined in law; otherwise the crime is second degree unlawful possession of a firearm. First degree unlawful possession of a firearm is a class B felony; second degree possession of a firearm is a class C felony.

Unlawful Aiming or Discharge of a Firearm or Dangerous Weapon. A person commits the offense of unlawful aiming or discharge of a firearm or dangerous weapon by aiming any loaded or unloaded firearm at or towards any person; willfully discharging any firearm, air gun, or other weapon in a public place or in any place where a person might be endangered; or by setting a so-called trap, spring pistol, rifle, or other dangerous weapon. A violation is a gross misdemeanor.

Animal Cruelty in the Second Degree. A person commits the offense of second degree animal cruelty by:

- knowingly, recklessly, or with criminal negligence inflicting unnecessary suffering or pain upon an animal; or
- taking control, custody, or possession of an animal that was involved in animal fighting and knowingly, recklessly, or with criminal negligence abandoning the animal, causing the animal to suffer bodily harm or putting the animal at risk of bodily harm.

An animal's owner commits animal cruelty in the second degree by knowingly, recklessly, or with criminal negligence failing to provide necessary shelter, rest, sanitation, space, or medical attention resulting in unnecessary or unjustifiable pain to the animal, or by abandoning the animal. animal cruelty in the second degree is a gross misdemeanor.

Summary of Bill: A person commits the crime of unlawful possession of a firearm in the second degree if the person possesses a firearm after having been convicted, or found not guilty by reason of insanity, of the offense of unlawful aiming or discharge of a firearm or dangerous weapon or animal cruelty in the second degree, when these offenses are committed on or after the effective date of the bill.

References to "family or household member" in the crime of unlawful possession of a firearm are revised to also refer to "intimate partners." Technical amendments are made to a number of statutes to correct cross-references needed as the result of the renumbering of subsections.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: After my wife was shot in a drive by shooting by an automatic weapon our family will never be the same. Our young son did not witness the shooting, but he saw the immediate aftermath including his mother on the ground in a pool of blood. These crimes are known predictors of future violent crimes. The bill builds on safeguards in current laws. The link between animal cruelty and abuse and future violent acts are clear. Past behavior is the best predictor of future behavior. These crimes are included for community safety reasons. Animal cruelty does not happen in a vacuum. There are links between domestic violence and animal cruelty. In a review of past animal cruelty cases there was a 52 percent overlap in the city of Seattle between domestic violence and animal cruelty crimes. Addressing the potential violence at the misdemeanor level will improve community safety. Speaking to gun brandishing, I have had a gun pulled on me multiple times. There needs to be consequences for those who use guns inappropriately. In my experience of being present during a mass school shooting, the shooter had a history of troubling and threatening behavior. He had come to school before with a loaded gun. The night before he shot up the school cafeteria he killed both of his parents with a firearm.

CON: This bill does not recognize that aiming a firearm could be done in self defense. I am aware of this alleged crime of aiming or discharging a weapon being used by two persons against the victims of domestic violence. The crime does not distinguish between pointing by a victim or pointing by an aggressor. The restriction for unlawful possession of a firearm should be limited to past felony crimes. Misdemeanor charges are not enough to take away an individual's gun rights. If you compare statistics on causes of injuries, more injuries are caused by blunt objects, like baseball bats, used as weapons. There is a higher incidence of injury from knives than from rifles. We are currently not holding people accountable who have felony convictions when they possess weapons they are not supposed to have, so why would it make a difference to add misdemeanor convictions. It is just an attempt to roll up more people in the legal process and take away their gun rights. Certain violent crimes should prohibit gun possession, but this is an egregious bill because gun rights are taken away for non-violent crimes. Under this bill, gun rights would be taken away because an individual has a record of committing a childish crime 10 or 20 years ago. A conviction for graffiti could cause someone to lose their 2nd amendment rights. The crime of brandishing is a separate RCW, not the same crime as aiming or discharging a firearm. Brandishing is being improperly moved in to discussing this bill. Unlawful aiming or pointing should be part of brandishing. There should be an exemption here for someone who is afraid for their life or defending themselves. You could group a person who is firing a warning shot into this crime. In civilian law you are not allowed to fire a warning shot as you are in the military. This bill could also roll include a recreational shooter who was on land they did not know they were not allowed to be on because it was not posted. I think it is humorous that the animal cruelty crime for abandoning an animal is part of this bill. One year my mother got us bunnies for Easter. Eventually she freed the bunnies, but this means my mother could be charged with this crime.

Persons Testifying: PRO: Colin English, citizen; Catherine Riedo, citizen; David Hackney, citizen; Jordan Waits, citizen; Makenzie Zuern, citizen.

CON: Sharyn Hinchcliffe, Pink Pistols Seattle/Tacoma; Gary Smith, citizen; Luis Berbesi, citizen; Ira Moser, citizen; Phil Watson, Firearms Policy Coalition.

Persons Signed In To Testify But Not Testifying: No one.