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## Civil Rights & Judiciary Committee

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### ESB 5561

**Brief Description:** Concerning the restoration of the right to possess a firearm.

**Sponsors:** Senators Dhingra, Kuderer, Lovelett, Pedersen, Saldaña, Stanford, Van De Wege and Wellman.

<p><b>Brief Summary of Engrossed Bill</b></p> <ul style="list-style-type: none"><li>• Revises requirements for restoration of firearm rights lost based on a criminal conviction or finding of not guilty by reason of insanity.</li></ul>
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**Hearing Date:** 2/16/22

**Staff:** Edie Adams (786-7180).

**Background:**

A person loses the right to possess a firearm if the person is convicted or found not guilty by reason of insanity (NGRI) of any felony offense and certain nonfelony domestic violence offenses. A person also loses the right to possess a firearm based on an involuntary commitment or detention for mental health treatment or after dismissal of nonfelony charges based on incompetency to stand trial if the person has a history of violent acts. The right to possess firearms may be restored only by a court order after the person has met certain eligibility requirements.

Restoration Following a Criminal Conviction.

Generally, firearm possession rights lost because of a criminal conviction or NGRI finding may be restored if certain conditions are met and certain time periods have passed. However, firearm rights may never be restored for a conviction or NGRI finding for a felony sex offense, or a class A felony or felony with a maximum sentence of at least 20 years.

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

For other disqualifying offenses, a person may petition a court for restoration if the person:

- is not currently charged with any crime;
- has no prior felony convictions that continue to count as criminal history under the Sentencing Reform Act; and
- for a felony offense, the person has spent five or more years in the community without being convicted or found NGRI of any offense; or
- for a nonfelony offense, the person has spent three or more years in the community without being convicted or found NGRI of any offense, and the person has completed all conditions of the sentence.

The petition for restoration must be brought in the court of record that ordered the petitioner's prohibition on possession or the superior court in the county in which the petitioner resides.

#### Restoration Following an Involuntary Commitment.

A person who has been involuntarily committed or detained for mental health treatment or had criminal charges dismissed based on incompetency to stand trial may apply for restoration of the right to possess a firearm. The person must show by a preponderance of the evidence that he or she: is no longer required to participate in court-ordered treatment; has successfully managed the condition related to the commitment, detention, or incompetency; does not present a substantial danger to self or the public; and is not reasonably likely to suffer a recurrence of the symptoms related to the commitment, detention, or incompetency. If the person has engaged in violence and it is more likely than not that the person will engage in violence after restoration, the person must show by clear, cogent, and convincing evidence that he or she does not present a substantial danger to the safety of others.

A person found NGRI who is involuntarily committed may not petition for restoration unless the person meets the requirements for restoration of firearm rights following a criminal conviction.

#### **Summary of Bill:**

Eligibility requirements for restoration of firearm rights lost based on a criminal conviction or NGRI finding are revised and moved into a new section in the firearms chapter.

The requirement that the petitioner has no prior felony convictions that continue to count as criminal history is removed, and the following additional requirements are established:

- a requirement that the petitioner has completed all sentencing conditions applies to felony offenses, as well as nonfelony offenses, except that this requirement does not include payment of fees or fines;
- the five- or three-year consecutive time periods that a petitioner has to remain crime-free must immediately precede the filing of the petition; and
- the petitioner must not have had an extreme risk, domestic violence, stalking, or sexual assault protection order issued against the petitioner in the five years immediately preceding the petition.

A person who was convicted or found NGRI of a felony offense in which a firearm was used, displayed, or threatened to be used must meet the following additional requirements:

- the petitioner must have spent 10 or more consecutive years immediately preceding the petition in the community without a conviction or NGRI finding for any offense; and
- the petitioner must show by a preponderance of the evidence that the petitioner is sufficiently rehabilitated to warrant restoration.

If a person has multiple convictions in different counties, the person must provide notice to the prosecutor in every county where the convictions occurred.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect on July 1, 2022.