H-1239.3

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**SUBSTITUTE HOUSE BILL 1562**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** House Civil Rights & Judiciary (originally sponsored by Representatives Thai, Lekanoff, Taylor, Berry, Ryu, Reed, Kloba, Entenman, Walen, Doglio, Davis, Wylie, Ramel, Ormsby, Pollet, and Duerr)

AN ACT Relating to reducing the risks of lethality and other harm associated with gun violence, gender-based violence, and other types of violence by clarifying and updating laws relating to the unlawful possession of firearms and restoration of firearm rights; amending RCW 9.41.040, 9.41.047, 9.41.042, 13.40.160, 13.40.193, 13.40.265, 70.02.230, and 70.02.240; reenacting and amending RCW 9.41.010 and 13.40.0357; adding a new section to chapter 9.41 RCW; and creating a new section.

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

NEW SECTION. **Sec.**  (1) The legislature finds that gun violence is a multifaceted public health problem that includes suicide, homicide, intimate partner violence, community violence, mass violence, nonfatal gunshot injuries and threats, with community violence and mass violence often committed by those with a history of domestic violence. National data indicates that in 2021, approximately 20,996 Americans died by firearm homicide and that 81 percent of all homicides are committed with a firearm. According to United States centers for disease control and prevention data, gun homicide disproportionately impacts people of color, especially Black males ages 15 to 34, who are 20 times more likely to die by gun violence than white males in the same age group. Black, Indigenous, and Latinx women are at higher risk for intimate partner violence-related homicide, and disparities in homicide rates are especially pronounced among women between 18 and 29 years of age. Nearly 60 percent of intimate partner violence-related homicides involve firearms.

(2) When perpetrators of intimate partner violence, including physical violence, sexual abuse, stalking, and psychological aggression of a current or former intimate partner, have access to firearms, women are especially at risk of serious or deadly harm. When an abusive partner or former partner owns or has access to a firearm, the likelihood of intimate partner homicide increases by a factor of five. Women in the United States are 21 times more likely to be killed with a gun than women in other high-income countries. There are about 4,500,000 women in America who have been threatened with a gun and nearly 1,000,000 women who have been shot or shot at by an intimate partner. Perpetrators of intimate partner violence who have access to firearms also use them to coerce, control, and intimidate their partners.

(3) Many who seek protection from harm through the civil legal system, and obtain a protection order and an order to surrender and prohibit weapons, may not wish to engage the criminal legal system or to have the threat or violence they have experienced be prosecuted. According to the national intimate partner and sexual violence survey, more than one in two non-Hispanic Black women, American Indian, or Alaskan Native women, and three in five multiracial non-Hispanic women, and two in five Hispanic women have been a victim of physical violence, rape, and/or stalking by a partner in their lifetime. But they are far less likely to report the crimes, due to distrust of the criminal legal system, intergenerational trauma, fear of police interaction, and concern about over incarceration. For many, the threat of violence continues over a long period of time, making it critical that access to firearms is appropriately limited when there are ongoing indicators of risk as reflected by a protection order, an order to surrender and prohibit weapons, or violations of these orders.

(4) An extensive body of research has identified specific risk factors that increase the likelihood of individuals engaging in future violence, including gun violence, and presenting further risk to public safety. The strongest predictor of future violence is prior violent behavior, including perpetration of domestic violence and violent misdemeanors. Other particularly strong risk factors for future violence include recent violation of a domestic violence protection order or other protection order; frequent risky alcohol use or certain types of controlled substance use; and cruelty to animals. Unlawful or reckless use, display, or brandishing of a firearm and recent acquisition of firearms, ammunition, or other deadly weapons are also risk factors for future violence, as is access to firearms in general. Multiple research studies have also shown that easy access to firearms by the general public increases risk of death by both homicide and suicide. Individuals returning from incarceration are a vulnerable population for whom these risks may be compounded. Furthermore, homicide and suicide (by any means) are leading causes of death for returning residents after they are released from prison, especially soon after release. Research provides important guidance regarding events that should result in temporary prohibition of firearm rights so that the laws regarding firearm possession and the restoration of firearm rights are grounded in risk assessment data to help protect public health and safety while upholding individual liberty. These changes are not intended to punish, but to provide a regulatory framework to help ensure the safety of those with a heightened risk of experiencing gun violence.

(5) The laws requiring certain individuals who are subject to protection orders, no-contact orders, or restraining orders to immediately relinquish dangerous weapons and concealed pistol licenses, and be prohibited from possessing or purchasing firearms, have been strengthened in recent years to help better address the risks that access to firearms by those individuals poses for survivors and their children. The legislature finds that similarly strengthening the laws regarding unlawful possession and restoration of firearm rights will protect these survivors, and their families and communities, from added risk of harm, and include their personal knowledge regarding possible violations of firearm prohibitions in the restoration petition process.

(6) The legislature also finds it would be helpful to refine statutory language that was at issue in the Washington state supreme court's decision in *State v. Dennis*, 191 Wn.2d 169 (2018). In that decision, the court held that absent more specific language in RCW 9.41.040 regarding the five-year waiting period before a person may petition to have their firearm rights restored, the requisite waiting period may include any conviction-free period of five or more consecutive years, even if a person had been convicted of a new crime within the five years immediately preceding the person's filing of a petition for restoration of firearm rights. The legislature intends to clarify that a person may not petition to have their firearm rights restored if the person has been convicted of a new prohibiting crime within the specified number of consecutive years immediately preceding the person's filing of a petition.

(7) The legislature also finds that it is important to recognize and remove barriers for individuals who have demonstrated that they have safely reintegrated into their communities.

**Sec.**  RCW 9.41.010 and 2022 c 105 s 2 and 2022 c 104 s 2 are each reenacted and amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Antique firearm" means a firearm or replica of a firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898, including any matchlock, flintlock, percussion cap, or similar type of ignition system and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(2) "Assemble" means to fit together component parts.

(3) "Barrel length" means` the distance from the bolt face of a closed action down the length of the axis of the bore to the crown of the muzzle, or in the case of a barrel with attachments to the end of any legal device permanently attached to the end of the muzzle.

(4) "Bump-fire stock" means a butt stock designed to be attached to a semiautomatic firearm with the effect of increasing the rate of fire achievable with the semiautomatic firearm to that of a fully automatic firearm by using the energy from the recoil of the firearm to generate reciprocating action that facilitates repeated activation of the trigger.

(5) "Crime of violence" means:

(a) Any of the following felonies, as now existing or hereafter amended: Any felony defined under any law as a class A felony or an attempt to commit a class A felony, criminal solicitation of or criminal conspiracy to commit a class A felony, manslaughter in the first degree, manslaughter in the second degree, indecent liberties if committed by forcible compulsion, kidnapping in the second degree, arson in the second degree, assault in the second degree, assault of a child in the second degree, extortion in the first degree, burglary in the second degree, residential burglary, and robbery in the second degree;

(b) Any conviction for a felony offense in effect at any time prior to June 6, 1996, which is comparable to a felony classified as a crime of violence in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense comparable to a felony classified as a crime of violence under (a) or (b) of this subsection.

(6) "Curio or relic" has the same meaning as provided in 27 C.F.R. Sec. 478.11.

(7) "Dealer" means a person engaged in the business of selling firearms at wholesale or retail who has, or is required to have, a federal firearms license under 18 U.S.C. Sec. 923(a). A person who does not have, and is not required to have, a federal firearms license under 18 U.S.C. Sec. 923(a), is not a dealer if that person makes only occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or sells all or part of his or her personal collection of firearms.

(8) "Distribute" means to give out, provide, make available, or deliver a firearm or large capacity magazine to any person in this state, with or without consideration, whether the distributor is in-state or out-of-state. "Distribute" includes, but is not limited to, filling orders placed in this state, online or otherwise. "Distribute" also includes causing a firearm or large capacity magazine to be delivered in this state.

(9) "Family or household member" has the same meaning as in RCW 7.105.010.

(10) "Federal firearms dealer" means a licensed dealer as defined in 18 U.S.C. Sec. 921(a)(11).

(11) "Federal firearms importer" means a licensed importer as defined in 18 U.S.C. Sec. 921(a)(9).

(12) "Federal firearms manufacturer" means a licensed manufacturer as defined in 18 U.S.C. Sec. 921(a)(10).

(13) "Felony" means any felony offense under the laws of this state or any federal or out-of-state offense comparable to a felony offense under the laws of this state.

(14) "Felony firearm offender" means a person who has previously been convicted or found not guilty by reason of insanity in this state of any felony firearm offense. A person is not a felony firearm offender under this chapter if any and all qualifying offenses have been the subject of an expungement, pardon, annulment, certificate, or rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted or a pardon, annulment, or other equivalent procedure based on a finding of innocence.

(15) "Felony firearm offense" means:

(a) Any felony offense that is a violation of this chapter;

(b) A violation of RCW 9A.36.045;

(c) A violation of RCW 9A.56.300;

(d) A violation of RCW 9A.56.310;

(e) Any felony offense if the offender was armed with a firearm in the commission of the offense.

(16) "Firearm" means a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder. For the purposes of RCW 9.41.040, "firearm" also includes frames and receivers. "Firearm" does not include a flare gun or other pyrotechnic visual distress signaling device, or a powder-actuated tool or other device designed solely to be used for construction purposes.

(17)(a) "Frame or receiver" means a part of a firearm that, when the complete firearm is assembled, is visible from the exterior and provides housing or a structure designed to hold or integrate one or more fire control components, even if pins or other attachments are required to connect the fire control components. Any such part identified with a serial number shall be presumed, absent an official determination by the bureau of alcohol, tobacco, firearms, and explosives or other reliable evidence to the contrary, to be a frame or receiver.

(b) For purposes of this subsection, "fire control component" means a component necessary for the firearm to initiate, complete, or continue the firing sequence, including any of the following: Hammer, bolt, bolt carrier, breechblock, cylinder, trigger mechanism, firing pin, striker, or slide rails.

(18) "Gun" has the same meaning as firearm.

(19) "Import" means to move, transport, or receive an item from a place outside the territorial limits of the state of Washington to a place inside the territorial limits of the state of Washington. "Import" does not mean situations where an individual possesses a large capacity magazine when departing from, and returning to, Washington state, so long as the individual is returning to Washington in possession of the same large capacity magazine the individual transported out of state.

(20) "Intimate partner" has the same meaning as provided in RCW 7.105.010.

(21) "Large capacity magazine" means an ammunition feeding device with the capacity to accept more than 10 rounds of ammunition, or any conversion kit, part, or combination of parts, from which such a device can be assembled if those parts are in possession of or under the control of the same person, but shall not be construed to include any of the following:

(a) An ammunition feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds of ammunition;

(b) A 22 caliber tube ammunition feeding device; or

(c) A tubular magazine that is contained in a lever-action firearm.

(22) "Law enforcement officer" includes a general authority Washington peace officer as defined in RCW 10.93.020, or a specially commissioned Washington peace officer as defined in RCW 10.93.020. "Law enforcement officer" also includes a limited authority Washington peace officer as defined in RCW 10.93.020 if such officer is duly authorized by his or her employer to carry a concealed pistol.

(23) "Lawful permanent resident" has the same meaning afforded a person "lawfully admitted for permanent residence" in 8 U.S.C. Sec. 1101(a)(20).

(24) "Licensed collector" means a person who is federally licensed under 18 U.S.C. Sec. 923(b).

(25) "Licensed dealer" means a person who is federally licensed under 18 U.S.C. Sec. 923(a).

(26) "Loaded" means:

(a) There is a cartridge in the chamber of the firearm;

(b) Cartridges are in a clip that is locked in place in the firearm;

(c) There is a cartridge in the cylinder of the firearm, if the firearm is a revolver;

(d) There is a cartridge in the tube or magazine that is inserted in the action; or

(e) There is a ball in the barrel and the firearm is capped or primed if the firearm is a muzzle loader.

(27) "Machine gun" means any firearm known as a machine gun, mechanical rifle, submachine gun, or any other mechanism or instrument not requiring that the trigger be pressed for each shot and having a reservoir clip, disc, drum, belt, or other separable mechanical device for storing, carrying, or supplying ammunition which can be loaded into the firearm, mechanism, or instrument, and fired therefrom at the rate of five or more shots per second.

(28) "Manufacture" means, with respect to a firearm or large capacity magazine, the fabrication, making, formation, production, or construction of a firearm or large capacity magazine, by manual labor or by machinery.

(29) "Nonimmigrant alien" means a person defined as such in 8 U.S.C. Sec. 1101(a)(15).

(30) "Person" means any individual, corporation, company, association, firm, partnership, club, organization, society, joint stock company, or other legal entity.

(31) "Pistol" means any firearm with a barrel less than 16 inches in length, or is designed to be held and fired by the use of a single hand.

(32) "Rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned, made or remade, and intended to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(33) "Sale" and "sell" mean the actual approval of the delivery of a firearm in consideration of payment or promise of payment.

(34) "Secure gun storage" means:

(a) A locked box, gun safe, or other secure locked storage space that is designed to prevent unauthorized use or discharge of a firearm; and

(b) The act of keeping an unloaded firearm stored by such means.

(35)(a) "Semiautomatic assault rifle" means any rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.

(b) "Semiautomatic assault rifle" does not include antique firearms, any firearm that has been made permanently inoperable, or any firearm that is manually operated by bolt, pump, lever, or slide action.

(36) "Serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies, as now existing or hereafter amended:

(a) Any crime of violence;

(b) Any felony violation of the uniform controlled substances act, chapter 69.50 RCW, that is classified as a class B felony or that has a maximum term of imprisonment of at least 10 years;

(c) Child molestation in the second degree;

(d) Incest when committed against a child under age 14;

(e) Indecent liberties;

(f) Leading organized crime;

(g) Promoting prostitution in the first degree;

(h) Rape in the third degree;

(i) Drive-by shooting;

(j) Sexual exploitation;

(k) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

(l) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(m) Any other class B felony offense with a finding of sexual motivation, as "sexual motivation" is defined under RCW 9.94A.030;

(n) Any other felony with a deadly weapon verdict under RCW 9.94A.825;

(o) Any felony offense in effect at any time prior to June 6, 1996, that is comparable to a serious offense, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious offense; ((~~or~~))

(p) Any felony conviction under RCW 9.41.115; or

(q) Any felony charged under RCW 46.61.502(6) or 46.61.504(6).

(37) "Short-barreled rifle" means a rifle having one or more barrels less than 16 inches in length and any weapon made from a rifle by any means of modification if such modified weapon has an overall length of less than 26 inches.

(38) "Short-barreled shotgun" means a shotgun having one or more barrels less than 18 inches in length and any weapon made from a shotgun by any means of modification if such modified weapon has an overall length of less than 26 inches.

(39) "Shotgun" means a weapon with one or more barrels, designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned, made or remade, and intended to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(40) "Transfer" means the intended delivery of a firearm to another person without consideration of payment or promise of payment including, but not limited to, gifts and loans. "Transfer" does not include the delivery of a firearm owned or leased by an entity licensed or qualified to do business in the state of Washington to, or return of such a firearm by, any of that entity's employees or agents, defined to include volunteers participating in an honor guard, for lawful purposes in the ordinary course of business.

(41) "Undetectable firearm" means any firearm that is not as detectable as 3.7 ounces of 17-4 PH stainless steel by walk-through metal detectors or magnetometers commonly used at airports or any firearm where the barrel, the slide or cylinder, or the frame or receiver of the firearm would not generate an image that accurately depicts the shape of the part when examined by the types of X-ray machines commonly used at airports.

(42)(a) "Unfinished frame or receiver" means a frame or receiver that is partially complete, disassembled, or inoperable, that: (i) Has reached a stage in manufacture where it may readily be completed, assembled, converted, or restored to a functional state; or (ii) is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once finished or completed, including without limitation products marketed or sold to the public as an 80 percent frame or receiver or unfinished frame or receiver.

(b) For purposes of this subsection:

(i) "Readily" means a process that is fairly or reasonably efficient, quick, and easy, but not necessarily the most efficient, speedy, or easy process. Factors relevant in making this determination, with no single one controlling, include the following: (A) Time, i.e., how long it takes to finish the process; (B) ease, i.e., how difficult it is to do so; (C) expertise, i.e., what knowledge and skills are required; (D) equipment, i.e., what tools are required; (E) availability, i.e., whether additional parts are required, and how easily they can be obtained; (F) expense, i.e., how much it costs; (G) scope, i.e., the extent to which the subject of the process must be changed to finish it; and (H) feasibility, i.e., whether the process would damage or destroy the subject of the process, or cause it to malfunction.

(ii) "Partially complete," as it modifies frame or receiver, means a forging, casting, printing, extrusion, machined body, or similar article that has reached a stage in manufacture where it is clearly identifiable as an unfinished component part of a firearm.

(43) "Unlicensed person" means any person who is not a licensed dealer under this chapter.

(44) "Untraceable firearm" means any firearm manufactured after July 1, 2019, that is not an antique firearm and that cannot be traced by law enforcement by means of a serial number affixed to the firearm by a federal firearms manufacturer, federal firearms importer, or federal firearms dealer in compliance with all federal laws and regulations.

(45) "Conviction" or "convicted" means, whether in an adult court or adjudicated in a juvenile court, that a plea of guilty has been accepted or a verdict of guilty has been filed, or a finding of guilt has been entered, notwithstanding the pendency of any future proceedings including, but not limited to, sentencing or disposition, posttrial or post-fact-finding motions, and appeals. "Conviction" includes a dismissal entered after a period of probation, suspension, or deferral of sentence, and also includes equivalent dispositions by courts in jurisdictions other than Washington state.

(46) "Domestic violence" has the same meaning as provided in RCW 10.99.020.

(47) "Sex offense" has the same meaning as provided in RCW 9.94A.030.

**Sec.**  RCW 9.41.040 and 2022 c 268 s 28 are each amended to read as follows:

(1)(a) A person, whether an adult or juvenile, is guilty of the crime of unlawful possession of a firearm in the first degree, if the person owns, accesses, has in ((~~his or her~~)) their custody, control, or possession, ((~~or has in his or her control~~)) or receives any firearm after having previously been convicted or found not guilty by reason of insanity in this state or elsewhere of any serious offense ((~~as defined in this chapter~~)).

(b) Unlawful possession of a firearm in the first degree is a class B felony punishable according to chapter 9A.20 RCW.

(2)(a) A person, whether an adult or juvenile, is guilty of the crime of unlawful possession of a firearm in the second degree, if the person does not qualify under subsection (1) of this section for the crime of unlawful possession of a firearm in the first degree and the person owns, accesses, has in ((~~his or her~~)) their custody, control, or possession, ((~~or has in his or her control~~)) or receives any firearm:

(i) After having previously been convicted or found not guilty by reason of insanity in this state or elsewhere of ((~~any~~)):

(A) Any felony not specifically listed as prohibiting firearm possession under subsection (1) of this section((~~, or any~~));

(B) Any of the following crimes when committed by one family or household member against another or by one intimate partner against another, as those terms are defined by the statutes in effect at the time of the commission of the crime, committed on or after July 1, 1993: Assault in the fourth degree, coercion, stalking, reckless endangerment, criminal trespass in the first degree, or violation of the provisions of a protection order or no-contact order restraining the person or excluding the person from a residence (RCW 10.99.040 or any of the former RCW 26.50.060, 26.50.070, and 26.50.130);

((~~(ii) After having previously been convicted or found not guilty by reason of insanity in this state or elsewhere of~~)) (C) Harassment when committed by one family or household member against another or by one intimate partner against another, as those terms are defined by the statutes in effect at the time of the commission of the crime, committed on or after June 7, 2018;

((~~(iii) After having previously been convicted or found not guilty by reason of insanity in this state or elsewhere of a~~)) (D) Any of the following misdemeanor or gross misdemeanor crimes not included under (a)(i) (B) or (C) of this subsection, committed on or after the effective date of this section: Domestic violence (RCW 10.99.020); stalking; cyberstalking; cyber harassment, excluding cyber harassment committed solely pursuant to the element set forth in RCW 9A.90.120(1)(a)(i); harassment; aiming or discharging a firearm (RCW 9.41.230); unlawful carrying or handling of a firearm (RCW 9.41.270); animal cruelty in the second degree committed under RCW 16.52.207(1); or any prior offense as defined in RCW 46.61.5055(14) if committed within seven years of a conviction for any other prior offense under RCW 46.61.5055;

(E) A violation of the provisions of a protection order under chapter 7.105 RCW restraining the person or excluding the person from a residence, when committed by one family or household member against another or by one intimate partner against another, committed on or after July 1, 2022; or

((~~(iv)~~)) (F) A violation of the provisions of an order to surrender and prohibit weapons, an extreme risk protection order, or the provisions of any other protection order or no-contact order not included under (a)(i) (B) or (E) of this subsection restraining the person or excluding the person from a residence, committed on or after the effective date of this section;

(ii) During any period of time that the person is subject to a ((~~court order~~)) protection order, no-contact order, or restraining order by a court issued under chapter 7.105, 9A.40, 9A.44, 9A.46, 9A.88, 10.99, 26.09, 26.26A, or 26.26B RCW or any of the former chapters 7.90, 7.92, 10.14, and 26.50 RCW that:

(A) Was issued after a hearing for which the person received actual notice, and at which the person had an opportunity to participate, whether the court then issues a full order or reissues a temporary order. If the court enters an agreed order by the parties without a hearing, such an order meets the requirements of this subsection;

(B) Restrains the person from harassing, stalking, or threatening the person protected under the order or child of the person or protected person, or others identified in the order, or engaging in other conduct that would place the protected person in reasonable fear of bodily injury to the protected person or child or others identified in the order; and

(C)(I) Includes a finding that the person represents a credible threat to the physical safety of the protected person or child or others identified in the order, or by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against the protected person or child or other persons that would reasonably be expected to cause bodily injury; or

(II) Includes an order under RCW 9.41.800 requiring the person to surrender all firearms and prohibiting the person from accessing, having in his or her custody or control, possessing, purchasing, receiving, or attempting to purchase or receive, firearms;

((~~(v)~~)) (iii) After having previously been involuntarily committed based on a mental disorder under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, chapter 10.77 RCW, or equivalent statutes of another jurisdiction, unless his or her right to possess a firearm has been restored as provided in RCW 9.41.047;

((~~(vi)~~)) (iv) After dismissal of criminal charges based on incompetency to stand trial under RCW 10.77.088 when the court has made a finding indicating that the defendant has a history of one or more violent acts, unless his or her right to possess a firearm has been restored as provided in RCW 9.41.047;

((~~(vii)~~)) (v) If the person is under 18 years of age, except as provided in RCW 9.41.042; and/or

((~~(viii)~~)) (vi) If the person is free on bond or personal recognizance pending trial((~~, appeal, or sentencing~~)) for a serious offense as defined in RCW 9.41.010.

(b) Unlawful possession of a firearm in the second degree is a class C felony punishable according to chapter 9A.20 RCW.

(3) ((~~Notwithstanding RCW 9.41.047 or any other provisions of law, as used in this chapter, a person has been "convicted," whether in an adult court or adjudicated in a juvenile court, at such time as a plea of guilty has been accepted or a verdict of guilty has been filed, notwithstanding the pendency of any future proceedings including, but not limited to, sentencing or disposition, post-trial or post-fact-finding motions, and appeals. Conviction includes a dismissal entered after a period of probation, suspension, or deferral of sentence, and also includes equivalent dispositions by courts in jurisdictions other than Washington state.~~)) A person shall not be precluded from possession of a firearm if the conviction has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted or the conviction or disposition has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence. Where no record of the court's disposition of the charges can be found, there shall be a rebuttable presumption that the person was not convicted of the charge.

(4)((~~(a)~~)) Notwithstanding subsection (1) or (2) of this section, a person convicted or found not guilty by reason of insanity of an offense prohibiting the possession of a firearm under this section other than murder, manslaughter, robbery, rape, indecent liberties, arson, assault, kidnapping, extortion, burglary, or violations with respect to controlled substances under RCW 69.50.401 and 69.50.410, who received a probationary sentence under RCW 9.95.200, and who received a dismissal of the charge under RCW 9.95.240, shall not be precluded from possession of a firearm as a result of the conviction or finding of not guilty by reason of insanity. ((~~Notwithstanding any other provisions of this section, if a person is prohibited from possession of a firearm under subsection (1) or (2) of this section and has not previously been convicted or found not guilty by reason of insanity of a sex offense prohibiting firearm ownership under subsection (1) or (2) of this section and/or any felony defined under any law as a class A felony or with a maximum sentence of at least 20 years, or both, the individual may petition a court of record to have his or her right to possess a firearm restored:~~

~~(i) Under RCW 9.41.047; and/or~~

~~(ii)(A) If the conviction or finding of not guilty by reason of insanity was for a felony offense, after five or more consecutive years in the community without being convicted or found not guilty by reason of insanity or currently charged with any felony, gross misdemeanor, or misdemeanor crimes, if the individual has no prior felony convictions that prohibit the possession of a firearm counted as part of the offender score under RCW 9.94A.525; or~~

~~(B) If the conviction or finding of not guilty by reason of insanity was for a nonfelony offense, after three or more consecutive years in the community without being convicted or found not guilty by reason of insanity or currently charged with any felony, gross misdemeanor, or misdemeanor crimes, if the individual has no prior felony convictions that prohibit the possession of a firearm counted as part of the offender score under RCW 9.94A.525 and the individual has completed all conditions of the sentence.~~

~~(b) An individual may petition a court of record to have his or her right to possess a firearm restored under (a) of this subsection only at:~~

~~(i) The court of record that ordered the petitioner's prohibition on possession of a firearm; or~~

~~(ii) The superior court in the county in which the petitioner resides.~~))

(5) In addition to any other penalty provided for by law, if a person under the age of 18 years is found by a court to have possessed a firearm in a vehicle in violation of subsection (1) or (2) of this section or to have committed an offense while armed with a firearm during which offense a motor vehicle served an integral function, the court shall notify the department of licensing within 24 hours and the person's privilege to drive shall be revoked under RCW 46.20.265, unless the offense is the juvenile's first offense in violation of this section and has not committed an offense while armed with a firearm, an unlawful possession of a firearm offense, or an offense in violation of chapter 66.44, 69.52, 69.41, or 69.50 RCW.

(6) Nothing in chapter 129, Laws of 1995 shall ever be construed or interpreted as preventing an offender from being charged and subsequently convicted for the separate felony crimes of theft of a firearm or possession of a stolen firearm, or both, in addition to being charged and subsequently convicted under this section for unlawful possession of a firearm in the first or second degree. Notwithstanding any other law, if the offender is convicted under this section for unlawful possession of a firearm in the first or second degree and for the felony crimes of theft of a firearm or possession of a stolen firearm, or both, then the offender shall serve consecutive sentences for each of the felony crimes of conviction listed in this subsection.

(7) Each firearm unlawfully possessed under this section shall be a separate offense.

(8) A person may petition to restore the right to possess a firearm as provided in section 4 of this act.

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

(1) A person who is prohibited from possession of a firearm under RCW 9.41.040 may not petition a court to have their right to possess a firearm restored if the person has been convicted or found not guilty by reason of insanity of: A felony sex offense; a class A felony; or a felony offense with a maximum sentence of at least 20 years.

(2) A person who is prohibited from possession of a firearm under RCW 9.41.040, and is not disqualified from petitioning for restoration of firearm rights under subsection (1) of this section or required to petition as provided for in RCW 9.41.047, may petition a superior court to have their right to possess a firearm restored.

(a) The person must have, for the period of consecutive years as specified below immediately preceding the filing of the petition, been in the community without being convicted or found not guilty by reason of insanity of any crime that prohibits the possession of a firearm, as follows:

(i) Five years for a conviction or finding of not guilty by reason of insanity for any felony offense, or any of the following gross misdemeanor or misdemeanor offenses:

(A) Domestic violence (RCW 10.99.020);

(B) Stalking;

(C) Cyberstalking;

(D) Cyber harassment, excluding cyber harassment committed solely pursuant to the element set forth in RCW 9A.90.120(1)(a)(i);

(E) Harassment;

(F) Aiming or discharging a firearm (RCW 9.41.230);

(G) Unlawful carrying or handling of a firearm (RCW 9.41.270);

(H) Animal cruelty in the second degree committed under RCW 16.52.207(1);

(I) Prior offense as defined by RCW 46.61.5055; or

(J) Violation of the provisions of an order to surrender and prohibit weapons, an extreme risk protection order, or the provisions of a protection order or no-contact order restraining the person or excluding the person from a residence; and

(ii) Three years for a conviction or finding of not guilty by reason of insanity for one or more nonfelony crimes not covered in (a)(i) of this subsection.

(b) The person petitioning for firearm rights to be restored must also meet the following requirements:

(i) Has no pending charges for any felony, gross misdemeanor, or misdemeanor crime at the time the petition is filed or during the petition process;

(ii) Has completed all sentencing conditions, other than nonrestitution fines and fees, for each felony, gross misdemeanor, or misdemeanor conviction on which the prohibition was based, including all court-ordered treatment. The court shall waive the requirement of this subsection (2)(b)(ii) if the petitioner provides verification from the sentencing court that relevant court records are no longer available, or attests to the unavailability of relevant records from other entities;

(iii) Has no prior felony convictions that count as part of the offender score under RCW 9.94A.525; and

(iv) Has been determined by law enforcement based on available records and information as not subject to any other prohibition on possessing a firearm at the time the petition for the restoration of firearm rights is filed or during the petition process, and would be able to pass a background check to purchase a firearm if the petition to restore firearm rights is granted.

(3) The process for petitioning for restoration of firearm rights is as follows:

(a) The person must file a petition in a superior court in a county that entered any prohibition.

(b) At the time of filing the petition, the person must serve the prosecuting attorney in the county where the petition is filed with the petition.

(c) Upon receipt of service of the petition, the prosecuting attorney must take reasonable steps to notify the listed victim of a prohibiting crime and any person who previously obtained a full protection order or no-contact order against the person petitioning for restoration of firearm rights, if those persons have requested notification, of the procedure to provide a sworn written statement regarding the existence of any additional facts or information that they may have relevant to whether the person petitioning for restoration of firearm rights meets the requirements for restoration set forth in this section.

(d) The prosecuting attorney must verify in writing to the court that the prosecuting attorney has reviewed the relevant records, and based on that information, whether there is sufficient evidence to determine that the person petitioning for restoration of firearm rights meets all the requirements set forth in this section to petition for and to be granted restoration of firearm rights.

(e) The court may set a hearing on the petition if the court determines additional information is necessary to determine whether the person meets the requirements for restoration of firearm rights.

(f) The court shall grant the petition if the court finds that the person petitioning for restoration of firearm rights meets the requirements set forth in this section.

(g) The prosecuting attorney shall notify any victim who requests notification of the court's decision.

(4) When a person's right to possess a firearm has been restored under this section, the court shall forward, within three judicial days after entry of the restoration order, notification that the person's right to possess a firearm has been restored to the Washington state patrol with a copy of the person's driver's license or identicard, or comparable identification such as the person's name, address, and date of birth, and to the national instant criminal background check system index, denied persons file.

(5) By December 30, 2023, the administrative office of the courts shall develop and distribute standard forms for petitions and orders issued under this section and RCW 9.41.047, and update protection order and no-contact order forms to allow victims to opt out of the notification provided for in this section if they do not wish to be notified at the time of a petition for firearm rights restoration. Beginning January 1, 2024, courts shall use the standard forms for petitions and orders under this section and RCW 9.41.047, and the updated protection order and no-contact order forms.

(6) An appointed or elected public 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 good faith conduct in the performance of their duties under this section.

**Sec.**  RCW 9.41.047 and 2020 c 302 s 60 are each amended to read as follows:

(1)(a) At the time a person is convicted or found not guilty by reason of insanity of an offense making the person ineligible to possess a firearm, or at the time a person is committed by court order under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, or chapter 10.77 RCW for ((~~mental health~~)) treatment for a mental disorder, or at the time that charges are dismissed based on incompetency to stand trial under RCW 10.77.088 and the court makes a finding that the person has a history of one or more violent acts, the ((~~convicting or committing court, or~~)) court ((~~that dismisses charges,~~)) shall notify the person, orally and in writing, that the person must immediately surrender all firearms and any concealed pistol license and that the person may not possess a firearm unless ((~~his or her~~)) the person's right to do so is restored by ((~~a~~)) the superior court ((~~of record. For purposes of this section a convicting court includes a court in which a person has been found not guilty by reason of insanity~~)) that issued the order.

(b) The court shall forward within three judicial days after conviction, finding of not guilty by reason of insanity, entry of the commitment order, or dismissal of charges, a copy of the person's driver's license or identicard, or comparable information such as ((~~their~~)) the person's name, address, and date of birth, along with the date of conviction or commitment, or date charges are dismissed, to the department of licensing. When a person is committed by court order under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, or chapter 10.77 RCW, for ((~~mental health~~)) treatment for a mental disorder, or when a person's charges are dismissed based on incompetency to stand trial under RCW 10.77.088 and the court makes a finding that the person has a history of one or more violent acts, the court also shall forward, within three judicial days after entry of the commitment order, or dismissal of charges, a copy of the person's driver's license, or comparable information, along with the date of commitment or date charges are dismissed, to the national instant criminal background check system index, denied persons file, created by the federal Brady handgun violence prevention act (P.L. 103-159) and to the Washington state patrol. The petitioning party shall provide the court with the information required. If more than one commitment order is entered under one cause number, only one notification to the department of licensing and the national instant criminal background check system is required.

(2) Upon receipt of the information provided for by subsection (1) of this section, the department of licensing shall determine if the ((~~convicted or committed~~)) person((~~, or the person whose charges are dismissed based on incompetency to stand trial,~~)) has a concealed pistol license. If the person ((~~does have~~)) has a concealed pistol license, the department of licensing shall immediately notify the license-issuing authority which, upon receipt of such notification, shall immediately revoke the license.

(3)(a) A person who is prohibited from possessing a firearm, by reason of having been involuntarily committed for ((~~mental health~~)) treatment for a mental disorder under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, chapter 10.77 RCW, or equivalent statutes of another jurisdiction, or by reason of having been detained under RCW 71.05.150 or 71.05.153, or because the person's charges were dismissed based on incompetency to stand trial under RCW 10.77.088 and the court made a finding that the person has a history of one or more violent acts, may, upon discharge, petition the superior court to have his or her right to possess a firearm restored, except that a person found not guilty by reason of insanity may not petition for restoration of the right to possess a firearm until one year after discharge.

(b) The petition must be brought in the superior court that ordered the involuntary commitment or dismissed the charges based on incompetency to stand trial or the superior court of the county in which the petitioner resides.

(c) Except as provided in (d) and (e) of this subsection, ((~~the court shall restore the petitioner's right to possess a firearm~~)) firearm rights shall be restored if the ((~~petitioner~~)) person petitioning for restoration of firearm rights proves by a preponderance of the evidence that:

(i) The ((~~petitioner~~)) person petitioning for restoration of firearm rights is no longer required to participate in court-ordered inpatient or outpatient treatment;

(ii) The ((~~petitioner~~)) person petitioning for restoration of firearm rights has successfully managed the condition related to the commitment or detention or incompetency;

(iii) The ((~~petitioner~~)) person petitioning for restoration of firearm rights no longer presents a substantial danger to ((~~himself or herself,~~)) self or to the public; and

(iv) The symptoms related to the commitment or detention or incompetency are not reasonably likely to recur.

(d) If a preponderance of the evidence in the record supports a finding that the person petitioning ((~~the court~~)) for restoration of firearm rights has engaged in violence and that it is more likely than not that the person will engage in violence after ((~~his or her~~)) the person's right to possess a firearm is restored, the person petitioning for restoration of firearm rights shall bear the burden of proving by clear, cogent, and convincing evidence that ((~~he or she~~)) the person does not present a substantial danger to the safety of others.

(e) If the ((~~petitioner~~)) person seeking restoration of firearm rights seeks restoration after having been detained under RCW 71.05.150 or 71.05.153, the state shall bear the burden of proof to show, by a preponderance of the evidence, that the ((~~petitioner~~)) person does not meet the restoration criteria in (c) of this subsection.

(f) When a person's right to possess a firearm has been restored under this subsection, the court shall forward, within three judicial days after entry of the restoration order, notification that the person's right to possess a firearm has been restored to the department of licensing with a copy of the person's driver's license or identicard, or comparable identification such as ((~~their~~)) the person's name, address, and date of birth, the health care authority, and the national instant criminal background check system index, denied persons file. In the case of a person whose right to possess a firearm has been suspended for six months as provided in RCW 71.05.182, the department of licensing shall forward notification of the restoration order to the licensing authority, which, upon receipt of such notification, shall immediately lift the suspension, restoring the license.

(4) No person who has been found not guilty by reason of insanity may petition a court for restoration of the right to possess a firearm unless the person meets the requirements for the restoration of the right to possess a firearm under ((~~RCW 9.41.040(4)~~)) section 4 of this act.

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

**CONFORMING AMENDMENTS TO CORRECT CITATIONS**

**Sec.**  RCW 9.41.042 and 2022 c 268 s 33 are each amended to read as follows:

RCW 9.41.040(2)(a)((~~(vii)~~)) (v) shall not apply to any person under the age of eighteen years who is:

(1) In attendance at a hunter's safety course or a firearms safety course;

(2) Engaging in practice in the use of a firearm or target shooting at an established range authorized by the governing body of the jurisdiction in which such range is located or any other area where the discharge of a firearm is not prohibited;

(3) Engaging in an organized competition involving the use of a firearm, or participating in or practicing for a performance by an organized group that uses firearms as a part of the performance;

(4) Hunting or trapping under a valid license issued to the person under Title 77 RCW;

(5) In an area where the discharge of a firearm is permitted, is not trespassing, and the person either: (a) Is at least fourteen years of age, has been issued a hunter safety certificate, and is using a lawful firearm other than a pistol; or (b) is under the supervision of a parent, guardian, or other adult approved for the purpose by the parent or guardian;

(6) Traveling with any unloaded firearm in the person's possession to or from any activity described in subsection (1), (2), (3), (4), or (5) of this section;

(7) On real property under the control of his or her parent, other relative, or legal guardian and who has the permission of the parent or legal guardian to possess a firearm;

(8) At his or her residence and who, with the permission of his or her parent or legal guardian, possesses a firearm for the purpose of exercising the rights specified in RCW 9A.16.020(3); or

(9) Is a member of the armed forces of the United States, national guard, or organized reserves, when on duty.

**Sec.**  RCW 13.40.0357 and 2022 c 268 s 37 and 2022 c 16 s 9 are each reenacted and amended to read as follows:

|  |
| --- |
| **DESCRIPTION AND OFFENSE CATEGORY** |
| juveniledispositionoffensecategory | description (rcw citation) | juvenile dispositioncategory forattempt, bailjump,conspiracy, orsolicitation |
|  | **Arson and Malicious Mischief** |
|  | A | Arson 1 (9A.48.020) | B+ |
|  | B | Arson 2 (9A.48.030) | C |
|  | C | Reckless Burning 1 (9A.48.040) | D |
|  | D | Reckless Burning 2 (9A.48.050) | E |
|  | B | Malicious Mischief 1 (9A.48.070) | C |
|  | C | Malicious Mischief 2 (9A.48.080) | D |
|  | D | Malicious Mischief 3 (9A.48.090) | E |
|  | E | Tampering with Fire Alarm Apparatus (9.40.100) | E |
|  | E | Tampering with Fire Alarm Apparatus with Intent to Commit Arson (9.40.105) | E |
|  | A | Possession of Incendiary Device (9.40.120) | B+ |
|  |  | **Assault and Other Crimes Involving Physical Harm** |  |
|  | A | Assault 1 (9A.36.011) | B+ |
|  | B+ | Assault 2 (9A.36.021) | C+ |
|  | C+ | Assault 3 (9A.36.031) | D+ |
|  | D+ | Assault 4 (9A.36.041) | E |
|  | B+ | Drive-By Shooting (9A.36.045) committed at age 15 or under | C+ |
|  | A++ | Drive-By Shooting (9A.36.045) committed at age 16 or 17 | A |
|  | D+ | Reckless Endangerment (9A.36.050) | E |
|  | C+ | Promoting Suicide Attempt (9A.36.060) | D+ |
|  | D+ | Coercion (9A.36.070) | E |
|  | C+ | Custodial Assault (9A.36.100) | D+ |
|  |  | **Burglary and Trespass** |  |
|  | B+ | Burglary 1 (9A.52.020) committed atage 15 or under | C+ |
|  | A- | Burglary 1 (9A.52.020) committed atage 16 or 17 | B+ |
|  | B | Residential Burglary (9A.52.025) | C |
|  | B | Burglary 2 (9A.52.030) | C |
|  | D | Burglary Tools (Possession of) (9A.52.060) | E |
|  | D | Criminal Trespass 1 (9A.52.070) | E |
|  | E | Criminal Trespass 2 (9A.52.080) | E |
|  | C | Mineral Trespass (78.44.330) | C |
|  | C | Vehicle Prowling 1 (9A.52.095) | D |
|  | D | Vehicle Prowling 2 (9A.52.100) | E |
|  |  | **Drugs** |  |
|  | E | Possession/Consumption of Alcohol (66.44.270) | E |
|  | C | Illegally Obtaining Legend Drug (69.41.020) | D |
|  | C+ | Sale, Delivery, Possession of Legend Drug with Intent to Sell (69.41.030(2)(a)) | D+ |
|  | E | Possession of LegendDrug (69.41.030(2)(b)) | E |
|  | B+ | Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Sale (69.50.401(2) (a) or (b)) | B+ |
|  | C | Violation of Uniform Controlled Substances Act - Nonnarcotic Sale (69.50.401(2)(c)) | C |
|  | E | Possession of Cannabis <40 grams (69.50.4014) | E |
|  | C | Fraudulently Obtaining Controlled Substance (69.50.403) | C |
|  | C+ | Sale of Controlled Substance for Profit (69.50.410) | C+ |
|  | E | Unlawful Inhalation (9.47A.020) | E |
|  | B | Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Counterfeit Substances (69.50.4011(2) (a) or (b)) | B |
|  | C | Violation of Uniform Controlled Substances Act - Nonnarcotic Counterfeit Substances (69.50.4011(2) (c), (d), or (e)) | C |
|  | C | Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4013) | C |
|  | C | Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4012) | C |
|  |  | **Firearms and Weapons** |  |
|  | B | Theft of Firearm (9A.56.300) | C |
|  | B | Possession of Stolen Firearm(9A.56.310) | C |
|  | E | Carrying Loaded Pistol Without Permit (9.41.050) | E |
|  | C | Possession of Firearms by Minor (<18) (9.41.040(2)(a)((~~(vii)~~)) (v)) | C |
|  | D+ | Possession of Dangerous Weapon (9.41.250) | E |
|  | D | Intimidating Another Person by use of Weapon (9.41.270) | E |
|  |  | **Homicide** |  |
|  | A+ | Murder 1 (9A.32.030) | A |
|  | A+ | Murder 2 (9A.32.050) | B+ |
|  | B+ | Manslaughter 1 (9A.32.060) | C+ |
|  | C+ | Manslaughter 2 (9A.32.070) | D+ |
|  | B+ | Vehicular Homicide (46.61.520) | C+ |
|  |  | **Kidnapping** |  |
|  | A | Kidnap 1 (9A.40.020) | B+ |
|  | B+ | Kidnap 2 (9A.40.030) | C+ |
|  | C+ | Unlawful Imprisonment (9A.40.040) | D+ |
|  |  | **Obstructing Governmental Operation** |  |
|  | D | Obstructing a Law Enforcement Officer (9A.76.020) | E |
|  | E | Resisting Arrest (9A.76.040) | E |
|  | B | Introducing Contraband 1 (9A.76.140) | C |
|  | C | Introducing Contraband 2 (9A.76.150) | D |
|  | E | Introducing Contraband 3 (9A.76.160) | E |
|  | B+ | Intimidating a Public Servant (9A.76.180) | C+ |
|  | B+ | Intimidating a Witness (9A.72.110) | C+ |
|  |  | **Public Disturbance** |  |
|  | C+ | Criminal Mischief with Weapon (9A.84.010(2)(b)) | D+ |
|  | D+ | Criminal Mischief Without Weapon (9A.84.010(2)(a)) | E |
|  | E | Failure to Disperse (9A.84.020) | E |
|  | E | Disorderly Conduct (9A.84.030) | E |
|  |  | **Sex Crimes** |  |
|  | A | Rape 1 (9A.44.040) | B+ |
|  | B++ | Rape 2 (9A.44.050) committed at age 14 or under | B+ |
|  | A- | Rape 2 (9A.44.050) committed at age 15 through age 17 | B+ |
|  | C+ | Rape 3 (9A.44.060) | D+ |
|  | B++ | Rape of a Child 1 (9A.44.073)committed at age 14 or under | B+ |
|  | A- | Rape of a Child 1 (9A.44.073)committed at age 15 | B+ |
|  | B+ | Rape of a Child 2 (9A.44.076) | C+ |
|  | B | Incest 1 (9A.64.020(1)) | C |
|  | C | Incest 2 (9A.64.020(2)) | D |
|  | D+ | Indecent Exposure (Victim <14) (9A.88.010) | E |
|  | E | Indecent Exposure (Victim 14 or over) (9A.88.010) | E |
|  | B+ | Promoting Prostitution 1 (9A.88.070) | C+ |
|  | C+ | Promoting Prostitution 2 (9A.88.080) | D+ |
|  | E | O & A (Prostitution) (9A.88.030) | E |
|  | B+ | Indecent Liberties (9A.44.100) | C+ |
|  | B++ | Child Molestation 1 (9A.44.083) committed at age 14 or under | B+ |
|  | A- | Child Molestation 1 (9A.44.083) committed at age 15 through age 17 | B+ |
|  | B | Child Molestation 2 (9A.44.086) | C+ |
|  | C | Failure to Register as a Sex Offender (9A.44.132) | D |
|  |  | **Theft, Robbery, Extortion, and Forgery** |  |
|  | B | Theft 1 (9A.56.030) | C |
|  | C | Theft 2 (9A.56.040) | D |
|  | D | Theft 3 (9A.56.050) | E |
|  | B | Theft of Livestock 1 and 2 (9A.56.080 and 9A.56.083) | C |
|  | C | Forgery (9A.60.020) | D |
|  | A | Robbery 1 (9A.56.200) committed atage 15 or under | B+ |
|  | A++ | Robbery 1 (9A.56.200) committed atage 16 or 17 | A |
|  | B+ | Robbery 2 (9A.56.210) | C+ |
|  | B+ | Extortion 1 (9A.56.120) | C+ |
|  | C+ | Extortion 2 (9A.56.130) | D+ |
|  | C | Identity Theft 1 (9.35.020(2)) | D |
|  | D | Identity Theft 2 (9.35.020(3)) | E |
|  | D | Improperly Obtaining Financial Information (9.35.010) | E |
|  | B | Possession of a Stolen Vehicle (9A.56.068) | C |
|  | B | Possession of Stolen Property 1 (9A.56.150) | C |
|  | C | Possession of Stolen Property 2 (9A.56.160) | D |
|  | D | Possession of Stolen Property 3 (9A.56.170) | E |
|  | B | Taking Motor Vehicle Without Permission 1 (9A.56.070) | C |
|  | C | Taking Motor Vehicle Without Permission 2 (9A.56.075) | D |
|  | B | Theft of a Motor Vehicle (9A.56.065) | C |
|  |  | **Motor Vehicle Related Crimes** |  |
|  | E | Driving Without a License (46.20.005) | E |
|  | B+ | Hit and Run - Death (46.52.020(4)(a)) | C+ |
|  | C | Hit and Run - Injury (46.52.020(4)(b)) | D |
|  | D | Hit and Run-Attended (46.52.020(5)) | E |
|  | E | Hit and Run-Unattended (46.52.010) | E |
|  | C | Vehicular Assault (46.61.522) | D |
|  | C | Attempting to Elude Pursuing Police Vehicle (46.61.024) | D |
|  | E | Reckless Driving (46.61.500) | E |
|  | D | Driving While Under the Influence (46.61.502 and 46.61.504) | E |
|  | B+ | Felony Driving While Under the Influence (46.61.502(6)) | B |
|  | B+ | Felony Physical Control of a Vehicle While Under the Influence (46.61.504(6)) | B |
|  |  | **Other** |  |
|  | B | Animal Cruelty 1 (16.52.205) | C |
|  | B | Bomb Threat (9.61.160) | C |
|  | C | Escape 11 (9A.76.110) | C |
|  | C | Escape 21 (9A.76.120) | C |
|  | D | Escape 3 (9A.76.130) | E |
|  | E | Obscene, Harassing, Etc., Phone Calls (9.61.230) | E |
|  | A | Other Offense Equivalent to an Adult Class A Felony | B+ |
|  | B | Other Offense Equivalent to an Adult Class B Felony | C |
|  | C | Other Offense Equivalent to an Adult Class C Felony | D |
|  | D | Other Offense Equivalent to an Adult Gross Misdemeanor | E |
|  | E | Other Offense Equivalent to an Adult Misdemeanor | E |
|  | V | Violation of Order of Restitution, Community Supervision, or Confinement (13.40.200)2  | V |

1Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses and the standard range is established as follows:

1st escape or attempted escape during 12-month period - 28 days confinement

2nd escape or attempted escape during 12-month period - 8 weeks confinement

3rd and subsequent escape or attempted escape during 12-month period - 12 weeks confinement

2If the court finds that a respondent has violated terms of an order, it may impose a penalty of up to 30 days of confinement.

**JUVENILE SENTENCING STANDARDS**

This schedule must be used for juvenile offenders. The court may select sentencing option A, B, C, or D.

|  |  |  |
| --- | --- | --- |
|  |  | OPTION AJUVENILE OFFENDER SENTENCING GRIDSTANDARD RANGE |
|  | A++ | 129 to 260 weeks for all category A++ offenses |
|  | A+ | 180 weeks to age 21 for all category A+ offenses |
|  | A | 103-129 weeks for all category A offenses |
|  | A- | 30-40 weeks | 52-65 weeks | 80-100 weeks | 103-129 weeks | 103-129 weeks |
|  | B++ | 15-36 weeks | 52-65 weeks | 80-100 weeks | 103-129 weeks | 103-129 weeks |
| CURRENT | B+ | 15-36 weeks | 15-36 weeks | 52-65 weeks | 80-100 weeks | 103-129 weeks |
| OFFENSE | B | LS | LS | 15-36 weeks | 15-36 weeks | 52-65 weeks |
| CATEGORY | C+ | LS | LS | LS | 15-36 weeks | 15-36 weeks |
|  | C | LS | LS | LS | LS | 15-36 weeks |
|  | D+ | LS | LS | LS | LS | LS |
|  | D | LS | LS | LS | LS | LS |
|  | E | LS | LS | LS | LS | LS |
| PRIOR | 0 | 1 | 2 | 3 | 4 or more |
| ADJUDICATIONS |  |  |  |

NOTE: References in the grid to days or weeks mean periods of confinement. "LS" means "local sanctions" as defined in RCW 13.40.020.

(1) The vertical axis of the grid is the current offense category. The current offense category is determined by the offense of adjudication.

(2) The horizontal axis of the grid is the number of prior adjudications included in the juvenile's criminal history. Each prior felony adjudication shall count as one point. Each prior violation, misdemeanor, and gross misdemeanor adjudication shall count as 1/4 point. Fractional points shall be rounded down.

(3) The standard range disposition for each offense is determined by the intersection of the column defined by the prior adjudications and the row defined by the current offense category.

(4) RCW 13.40.180 applies if the offender is being sentenced for more than one offense.

(5) A current offense that is a violation is equivalent to an offense category of E. However, a disposition for a violation shall not include confinement.

**OR**

**OPTION B**

**SUSPENDED DISPOSITION ALTERNATIVE**

(1) If the offender is subject to a standard range disposition involving confinement by the department, the court may impose the standard range and suspend the disposition on condition that the offender comply with one or more local sanctions and any educational or treatment requirement. The treatment programs provided to the offender must be either research-based best practice programs as identified by the Washington state institute for public policy or the joint legislative audit and review committee, or for chemical dependency treatment programs or services, they must be evidence-based or research-based best practice programs. For the purposes of this subsection:

(a) "Evidence-based" means a program or practice that has had multiple site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective for the population; and

(b) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(2) If the offender fails to comply with the suspended disposition, the court may impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended disposition and order the disposition's execution.

(3) An offender is ineligible for the suspended disposition option under this section if the offender:

(a) Is adjudicated of an A+ or A++ offense;

(b) Is fourteen years of age or older and is adjudicated of one or more of the following offenses:

(i) A class A offense, or an attempt, conspiracy, or solicitation to commit a class A offense;

(ii) Manslaughter in the first degree (RCW 9A.32.060);

(iii) Assault in the second degree (RCW 9A.36.021), extortion in the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW 9A.40.030), drive-by shooting (RCW 9A.36.045), vehicular homicide (RCW 46.61.520), hit and run death (RCW 46.52.020(4)(a)), or manslaughter 2 (RCW 9A.32.070); or

(iv) Violation of the uniform controlled substances act (RCW 69.50.401(2) (a) and (b)), when the offense includes infliction of bodily harm upon another or when during the commission or immediate withdrawal from the offense the respondent was armed with a deadly weapon;

(c) Is ordered to serve a disposition for a firearm violation under RCW 13.40.193;

(d) Is adjudicated of a sex offense as defined in RCW 9.94A.030; or

(e) Has a prior option B disposition.

**OR**

**OPTION C**

**CHEMICAL DEPENDENCY/MENTAL HEALTH DISPOSITION ALTERNATIVE**

If the juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed a B++ or B+ offense, the court may impose a disposition under RCW 13.40.160(4) and 13.40.165.

**OR**

**OPTION D**

**MANIFEST INJUSTICE**

If the court determines that a disposition under option A, B, or C would effectuate a manifest injustice, the court shall impose a disposition outside the standard range under RCW 13.40.160(2).

**Sec.**  RCW 13.40.160 and 2022 c 268 s 38 are each amended to read as follows:

(1) The standard range disposition for a juvenile adjudicated of an offense is determined according to RCW 13.40.0357.

(a) When the court sentences an offender to a local sanction as provided in RCW 13.40.0357 option A, the court shall impose a determinate disposition within the standard ranges, except as provided in subsection (2), (3), (4), (5), or (6) of this section. The disposition may be comprised of one or more local sanctions.

(b) When the court sentences an offender to a standard range as provided in RCW 13.40.0357 option A that includes a term of confinement exceeding thirty days, commitment shall be to the department for the standard range of confinement, except as provided in subsection (2), (3), (4), (5), or (6) of this section.

(2) If the court concludes, and enters reasons for its conclusion, that disposition within the standard range would effectuate a manifest injustice the court shall impose a disposition outside the standard range, as indicated in option D of RCW 13.40.0357. The court's finding of manifest injustice shall be supported by clear and convincing evidence.

A disposition outside the standard range shall be determinate and shall be comprised of confinement or community supervision, or a combination thereof. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding thirty days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(2) shall be used to determine the range. A disposition outside the standard range is appealable under RCW 13.40.230 by the state or the respondent. A disposition within the standard range is not appealable under RCW 13.40.230.

(3) If a juvenile offender is found to have committed a sex offense, other than a sex offense that is also a serious violent offense as defined by RCW 9.94A.030, and has no history of a prior sex offense, the court may impose the special sex offender disposition alternative under RCW 13.40.162.

(4) If the juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed an A- or B+ offense, the court may impose the disposition alternative under RCW 13.40.165.

(5) If a juvenile is subject to a commitment of 15 to 65 weeks of confinement, the court may impose the disposition alternative under RCW 13.40.167.

(6) When the offender is subject to a standard range commitment of 15 to 36 weeks and is ineligible for a suspended disposition alternative, a manifest injustice disposition below the standard range, special sex offender disposition alternative, chemical dependency disposition alternative, or mental health disposition alternative, the court in a county with a pilot program under RCW 13.40.169 may impose the disposition alternative under RCW 13.40.169.

(7) RCW 13.40.193 shall govern the disposition of any juvenile adjudicated of possessing a firearm in violation of RCW 9.41.040(2)(a)((~~(vii)~~)) (v) or any crime in which a special finding is entered that the juvenile was armed with a firearm.

(8) RCW 13.40.308 shall govern the disposition of any juvenile adjudicated of theft of a motor vehicle as defined under RCW 9A.56.065, possession of a stolen motor vehicle as defined under RCW 9A.56.068, taking a motor vehicle without permission in the first degree under RCW 9A.56.070, and taking a motor vehicle without permission in the second degree under RCW 9A.56.075.

(9) Whenever a juvenile offender is entitled to credit for time spent in detention prior to a dispositional order, the dispositional order shall specifically state the number of days of credit for time served.

(10) Except as provided under subsection (3), (4), (5), or (6) of this section, or option B of RCW 13.40.0357, or RCW 13.40.127, the court shall not suspend or defer the imposition or the execution of the disposition.

(11) In no case shall the term of confinement imposed by the court at disposition exceed that to which an adult could be subjected for the same offense.

**Sec.**  RCW 13.40.193 and 2022 c 268 s 39 are each amended to read as follows:

(1) If a respondent is found to have been in possession of a firearm in violation of RCW 9.41.040(2)(a)((~~(vii)~~)) (v), the court shall impose a minimum disposition of ten days of confinement. If the offender's standard range of disposition for the offense as indicated in RCW 13.40.0357 is more than thirty days of confinement, the court shall commit the offender to the department for the standard range disposition. The offender shall not be released until the offender has served a minimum of ten days in confinement.

(2)(a) If a respondent is found to have been in possession of a firearm in violation of RCW 9.41.040, the disposition must include a requirement that the respondent participate in a qualifying program as described in (b) of this subsection, when available, unless the court makes a written finding based on the outcome of the juvenile court risk assessment that participation in a qualifying program would not be appropriate.

(b) For purposes of this section, "qualifying program" means an aggression replacement training program, a functional family therapy program, or another program applicable to the juvenile firearm offender population that has been identified as evidence-based or research-based and cost-beneficial in the current list prepared at the direction of the legislature by the Washington state institute for public policy.

(3) If the court finds that the respondent or an accomplice was armed with a firearm, the court shall determine the standard range disposition for the offense pursuant to RCW 13.40.160. If the offender or an accomplice was armed with a firearm when the offender committed any felony other than possession of a machine gun or bump-fire stock, possession of a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, or use of a machine gun or bump-fire stock in a felony, the following periods of total confinement must be added to the sentence: (a) Except for (b) of this subsection, for a class A felony, six months; for a class B felony, four months; and for a class C felony, two months; (b) for any violent offense as defined in RCW 9.94A.030, committed by a respondent who is sixteen or seventeen years old at the time of the offense, a period of twelve months. The additional time shall be imposed regardless of the offense's juvenile disposition offense category as designated in RCW 13.40.0357.

(4)(a) If the court finds that the respondent who is sixteen or seventeen years old and committed the offense of robbery in the first degree, drive-by shooting, rape of a child in the first degree, burglary in the first degree, or any violent offense as defined in RCW 9.94A.030 and was armed with a firearm, and the court finds that the respondent's participation was related to membership in a criminal street gang or advancing the benefit, aggrandizement, gain, profit, or other advantage for a criminal street gang, a period of three months total confinement must be added to the sentence. The additional time must be imposed regardless of the offense's juvenile disposition offense category as designated in RCW 13.40.0357 and must be served consecutively with any other sentencing enhancement.

(b) For the purposes of this section, "criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having a common name or common identifying sign or symbol, having as one of its primary activities the commission of criminal acts, and whose members or associates individually or collectively engage in or have engaged in a pattern of criminal street gang activity. This definition does not apply to employees engaged in concerted activities for their mutual aid and protection, or to the activities of labor and bona fide nonprofit organizations or their members or agents.

(5) When a disposition under this section would effectuate a manifest injustice, the court may impose another disposition. When a judge finds a manifest injustice and imposes a disposition of confinement exceeding thirty days, the court shall commit the juvenile to a maximum term, and the provisions of RCW 13.40.030(2) shall be used to determine the range. When a judge finds a manifest injustice and imposes a disposition of confinement less than thirty days, the disposition shall be comprised of confinement or community supervision or both.

(6) Any term of confinement ordered pursuant to this section shall run consecutively to any term of confinement imposed in the same disposition for other offenses.

**Sec.**  RCW 13.40.265 and 2022 c 268 s 40 are each amended to read as follows:

(1) If a juvenile thirteen years of age or older is found by juvenile court to have committed an offense while armed with a firearm or an offense that is a violation of RCW 9.41.040(2)(a)((~~(vii)~~)) (v) or chapter 66.44, 69.41, 69.50, or 69.52 RCW, the court shall notify the department of licensing within twenty-four hours after entry of the judgment, unless the offense is the juvenile's first offense while armed with a firearm, first unlawful possession of a firearm offense, or first offense in violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW.

(2) Except as otherwise provided in subsection (3) of this section, upon petition of a juvenile who has been found by the court to have committed an offense that is a violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the court may at any time the court deems appropriate notify the department of licensing that the juvenile's driving privileges should be reinstated.

(3) If the offense is the juvenile's second or subsequent violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the date the juvenile turns seventeen or one year after the date judgment was entered, whichever is later.

**Sec.**  RCW 70.02.230 and 2022 c 268 s 43 are each amended to read as follows:

(1) The fact of admission to a provider for mental health services and all information and records compiled, obtained, or maintained in the course of providing mental health services to either voluntary or involuntary recipients of services at public or private agencies may not be disclosed except as provided in this section, RCW 70.02.050, 71.05.445, 74.09.295, 70.02.210, 70.02.240, 70.02.250, 70.02.260, and 70.02.265, or pursuant to a valid authorization under RCW 70.02.030.

(2) Information and records related to mental health services, other than those obtained through treatment under chapter 71.34 RCW, may be disclosed:

(a) In communications between qualified professional persons to meet the requirements of chapter 71.05 RCW, including Indian health care providers, in the provision of services or appropriate referrals, or in the course of guardianship proceedings if provided to a professional person:

(i) Employed by the facility;

(ii) Who has medical responsibility for the patient's care;

(iii) Who is a designated crisis responder;

(iv) Who is providing services under chapter 71.24 RCW;

(v) Who is employed by a state or local correctional facility where the person is confined or supervised; or

(vi) Who is providing evaluation, treatment, or follow-up services under chapter 10.77 RCW;

(b) When the communications regard the special needs of a patient and the necessary circumstances giving rise to such needs and the disclosure is made by a facility providing services to the operator of a facility in which the patient resides or will reside;

(c)(i) When the person receiving services, or his or her guardian, designates persons to whom information or records may be released, or if the person is a minor, when his or her parents make such a designation;

(ii) A public or private agency shall release to a person's next of kin, attorney, personal representative, guardian, or conservator, if any:

(A) The information that the person is presently a patient in the facility or that the person is seriously physically ill;

(B) A statement evaluating the mental and physical condition of the patient, and a statement of the probable duration of the patient's confinement, if such information is requested by the next of kin, attorney, personal representative, guardian, or conservator; and

(iii) Other information requested by the next of kin or attorney as may be necessary to decide whether or not proceedings should be instituted to appoint a guardian or conservator;

(d)(i) To the courts, including tribal courts, as necessary to the administration of chapter 71.05 RCW or to a court ordering an evaluation or treatment under chapter 10.77 RCW solely for the purpose of preventing the entry of any evaluation or treatment order that is inconsistent with any order entered under chapter 71.05 RCW.

(ii) To a court or its designee in which a motion under chapter 10.77 RCW has been made for involuntary medication of a defendant for the purpose of competency restoration.

(iii) Disclosure under this subsection is mandatory for the purpose of the federal health insurance portability and accountability act;

(e)(i) When a mental health professional or designated crisis responder is requested by a representative of a law enforcement or corrections agency, including a police officer, sheriff, community corrections officer, a municipal attorney, or prosecuting attorney to undertake an investigation or provide treatment under RCW 71.05.150, 10.31.110, or 71.05.153, the mental health professional or designated crisis responder shall, if requested to do so, advise the representative in writing of the results of the investigation including a statement of reasons for the decision to detain or release the person investigated. The written report must be submitted within seventy-two hours of the completion of the investigation or the request from the law enforcement or corrections representative, whichever occurs later.

(ii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(f) To the attorney of the detained person;

(g) To the prosecuting attorney as necessary to carry out the responsibilities of the office under RCW 71.05.330(2), 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided access to records regarding the committed person's treatment and prognosis, medication, behavior problems, and other records relevant to the issue of whether treatment less restrictive than inpatient treatment is in the best interest of the committed person or others. Information must be disclosed only after giving notice to the committed person and the person's counsel;

(h)(i) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure must be made by the professional person in charge of the public or private agency or his or her designee and must include the dates of commitment, admission, discharge, or release, authorized or unauthorized absence from the agency's facility, and only any other information that is pertinent to the threat or harassment. The agency or its employees are not civilly liable for the decision to disclose or not, so long as the decision was reached in good faith and without gross negligence.

(ii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(i)(i) To appropriate corrections and law enforcement agencies all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The mental health service agency or its employees are not civilly liable for the decision to disclose or not so long as the decision was reached in good faith and without gross negligence.

(ii) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act;

(j) To the persons designated in RCW 71.05.425 for the purposes described in those sections;

(k) By a care coordinator under RCW 71.05.585 or 10.77.175 assigned to a person ordered to receive less restrictive alternative treatment for the purpose of sharing information to parties necessary for the implementation of proceedings under chapter 71.05 or 10.77 RCW;

(l) Upon the death of a person. The person's next of kin, personal representative, guardian, or conservator, if any, must be notified. Next of kin who are of legal age and competent must be notified under this section in the following order: Spouse, parents, children, brothers and sisters, and other relatives according to the degree of relation. Access to all records and information compiled, obtained, or maintained in the course of providing services to a deceased patient are governed by RCW 70.02.140;

(m) To mark headstones or otherwise memorialize patients interred at state hospital cemeteries. The department of social and health services shall make available the name, date of birth, and date of death of patients buried in state hospital cemeteries fifty years after the death of a patient;

(n) To law enforcement officers and to prosecuting attorneys as are necessary to enforce RCW 9.41.040(2)(a)((~~(v)~~)) (iii). The extent of information that may be released is limited as follows:

(i) Only the fact, place, and date of involuntary commitment, an official copy of any order or orders of commitment, and an official copy of any written or oral notice of ineligibility to possess a firearm that was provided to the person pursuant to RCW 9.41.047(1), must be disclosed upon request;

(ii) The law enforcement and prosecuting attorneys may only release the information obtained to the person's attorney as required by court rule and to a jury or judge, if a jury is waived, that presides over any trial at which the person is charged with violating RCW 9.41.040(2)(a)((~~(v)~~)) (iii);

(iii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(o) When a patient would otherwise be subject to the provisions of this section and disclosure is necessary for the protection of the patient or others due to his or her unauthorized disappearance from the facility, and his or her whereabouts is unknown, notice of the disappearance, along with relevant information, may be made to relatives, the department of corrections when the person is under the supervision of the department, and governmental law enforcement agencies designated by the physician or psychiatric advanced registered nurse practitioner in charge of the patient or the professional person in charge of the facility, or his or her professional designee;

(p) Pursuant to lawful order of a court, including a tribal court;

(q) To qualified staff members of the department, to the authority, to behavioral health administrative services organizations, to managed care organizations, to resource management services responsible for serving a patient, or to service providers designated by resource management services as necessary to determine the progress and adequacy of treatment and to determine whether the person should be transferred to a less restrictive or more appropriate treatment modality or facility;

(r) Within the mental health service agency or Indian health care provider facility where the patient is receiving treatment, confidential information may be disclosed to persons employed, serving in bona fide training programs, or participating in supervised volunteer programs, at the facility when it is necessary to perform their duties;

(s) Within the department and the authority as necessary to coordinate treatment for mental illness, developmental disabilities, or substance use disorder of persons who are under the supervision of the department;

(t) Between the department of social and health services, the department of children, youth, and families, and the health care authority as necessary to coordinate treatment for mental illness, developmental disabilities, or substance use disorder of persons who are under the supervision of the department of social and health services or the department of children, youth, and families;

(u) To a licensed physician or psychiatric advanced registered nurse practitioner who has determined that the life or health of the person is in danger and that treatment without the information and records related to mental health services could be injurious to the patient's health. Disclosure must be limited to the portions of the records necessary to meet the medical emergency;

(v)(i) Consistent with the requirements of the federal health insurance portability and accountability act, to:

(A) A health care provider, including an Indian health care provider, who is providing care to a patient, or to whom a patient has been referred for evaluation or treatment; or

(B) Any other person who is working in a care coordinator role for a health care facility, health care provider, or Indian health care provider, or is under an agreement pursuant to the federal health insurance portability and accountability act with a health care facility or a health care provider and requires the information and records to assure coordinated care and treatment of that patient.

(ii) A person authorized to use or disclose information and records related to mental health services under this subsection (2)(v) must take appropriate steps to protect the information and records relating to mental health services.

(iii) Psychotherapy notes may not be released without authorization of the patient who is the subject of the request for release of information;

(w) To administrative and office support staff designated to obtain medical records for those licensed professionals listed in (v) of this subsection;

(x) To a facility that is to receive a person who is involuntarily committed under chapter 71.05 RCW, or upon transfer of the person from one evaluation and treatment facility to another. The release of records under this subsection is limited to the information and records related to mental health services required by law, a record or summary of all somatic treatments, and a discharge summary. The discharge summary may include a statement of the patient's problem, the treatment goals, the type of treatment which has been provided, and recommendation for future treatment, but may not include the patient's complete treatment record;

(y) To the person's counsel or guardian ad litem, without modification, at any time in order to prepare for involuntary commitment or recommitment proceedings, reexaminations, appeals, or other actions relating to detention, admission, commitment, or patient's rights under chapter 71.05 RCW;

(z) To staff members of the protection and advocacy agency or to staff members of a private, nonprofit corporation for the purpose of protecting and advocating the rights of persons with mental disorders or developmental disabilities. Resource management services may limit the release of information to the name, birthdate, and county of residence of the patient, information regarding whether the patient was voluntarily admitted, or involuntarily committed, the date and place of admission, placement, or commitment, the name and address of a guardian of the patient, and the date and place of the guardian's appointment. Any staff member who wishes to obtain additional information must notify the patient's resource management services in writing of the request and of the resource management services' right to object. The staff member shall send the notice by mail to the guardian's address. If the guardian does not object in writing within fifteen days after the notice is mailed, the staff member may obtain the additional information. If the guardian objects in writing within fifteen days after the notice is mailed, the staff member may not obtain the additional information;

(aa) To all current treating providers, including Indian health care providers, of the patient with prescriptive authority who have written a prescription for the patient within the last twelve months. For purposes of coordinating health care, the department or the authority may release without written authorization of the patient, information acquired for billing and collection purposes as described in RCW 70.02.050(1)(d). The department, or the authority, if applicable, shall notify the patient that billing and collection information has been released to named providers, and provide the substance of the information released and the dates of such release. Neither the department nor the authority may release counseling, inpatient psychiatric hospitalization, or drug and alcohol treatment information without a signed written release from the client;

(bb)(i) To the secretary of social and health services and the director of the health care authority for either program evaluation or research, or both so long as the secretary or director, where applicable, adopts rules for the conduct of the evaluation or research, or both. Such rules must include, but need not be limited to, the requirement that all evaluators and researchers sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I, . . . . . ., agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding persons who have received services such that the person who received such services is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under the provisions of state law.

/s/ . . . . . ."

(ii) Nothing in this chapter may be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards, including standards to assure maintenance of confidentiality, set forth by the secretary, or director, where applicable;

(cc) To any person if the conditions in RCW 70.02.205 are met;

(dd) To the secretary of health for the purposes of the maternal mortality review panel established in RCW 70.54.450; or

(ee) To a tribe or Indian health care provider to carry out the requirements of RCW 71.05.150(6).

(3) Whenever federal law or federal regulations restrict the release of information contained in the information and records related to mental health services of any patient who receives treatment for a substance use disorder, the department or the authority may restrict the release of the information as necessary to comply with federal law and regulations.

(4) Civil liability and immunity for the release of information about a particular person who is committed to the department of social and health services or the authority under RCW 71.05.280(3) and 71.05.320(4)(c) after dismissal of a sex offense as defined in RCW 9.94A.030, is governed by RCW 4.24.550.

(5) The fact of admission to a provider of mental health services, as well as all records, files, evidence, findings, or orders made, prepared, collected, or maintained pursuant to chapter 71.05 RCW are not admissible as evidence in any legal proceeding outside that chapter without the written authorization of the person who was the subject of the proceeding except as provided in RCW 70.02.260, in a subsequent criminal prosecution of a person committed pursuant to RCW 71.05.280(3) or 71.05.320(4)(c) on charges that were dismissed pursuant to chapter 10.77 RCW due to incompetency to stand trial, in a civil commitment proceeding pursuant to chapter 71.09 RCW, or, in the case of a minor, a guardianship or dependency proceeding. The records and files maintained in any court proceeding pursuant to chapter 71.05 RCW must be confidential and available subsequent to such proceedings only to the person who was the subject of the proceeding or his or her attorney. In addition, the court may order the subsequent release or use of such records or files only upon good cause shown if the court finds that appropriate safeguards for strict confidentiality are and will be maintained.

(6)(a) Except as provided in RCW 4.24.550, any person may bring an action against an individual who has willfully released confidential information or records concerning him or her in violation of the provisions of this section, for the greater of the following amounts:

(i) One thousand dollars; or

(ii) Three times the amount of actual damages sustained, if any.

(b) It is not a prerequisite to recovery under this subsection that the plaintiff suffered or was threatened with special, as contrasted with general, damages.

(c) Any person may bring an action to enjoin the release of confidential information or records concerning him or her or his or her ward, in violation of the provisions of this section, and may in the same action seek damages as provided in this subsection.

(d) The court may award to the plaintiff, should he or she prevail in any action authorized by this subsection, reasonable attorney fees in addition to those otherwise provided by law.

(e) If an action is brought under this subsection, no action may be brought under RCW 70.02.170.

**Sec.**  RCW 70.02.240 and 2022 c 268 s 44 are each amended to read as follows:

The fact of admission and all information and records related to mental health services obtained through inpatient or outpatient treatment of a minor under chapter 71.34 RCW must be kept confidential, except as authorized by this section or under RCW 70.02.050, 70.02.210, 70.02.230, 70.02.250, 70.02.260, and 70.02.265. Confidential information under this section may be disclosed only:

(1) In communications between mental health professionals to meet the requirements of chapter 71.34 RCW, in the provision of services to the minor, or in making appropriate referrals;

(2) In the course of guardianship or dependency proceedings;

(3) To the minor, the minor's parent, including those acting as a parent as defined in RCW 71.34.020 for purposes of family-initiated treatment, and the minor's attorney, subject to RCW 13.50.100;

(4) To the courts as necessary to administer chapter 71.34 RCW;

(5) By a care coordinator under RCW 71.34.755 or 10.77.175 assigned to a person ordered to receive less restrictive alternative treatment for the purpose of sharing information to parties necessary for the implementation of proceedings under chapter 71.34 or 10.77 RCW;

(6) By a care coordinator under RCW 71.34.755 assigned to a person ordered to receive less restrictive alternative treatment for the purpose of sharing information to parties necessary for the implementation of proceedings under chapter 71.34 RCW;

(7) To law enforcement officers or public health officers as necessary to carry out the responsibilities of their office. However, only the fact and date of admission, and the date of discharge, the name and address of the treatment provider, if any, and the last known address must be disclosed upon request;

(8) To law enforcement officers, public health officers, relatives, and other governmental law enforcement agencies, if a minor has escaped from custody, disappeared from an evaluation and treatment facility, violated conditions of a less restrictive treatment order, or failed to return from an authorized leave, and then only such information as may be necessary to provide for public safety or to assist in the apprehension of the minor. The officers are obligated to keep the information confidential in accordance with this chapter;

(9) To the secretary of social and health services and the director of the health care authority for assistance in data collection and program evaluation or research so long as the secretary or director, where applicable, adopts rules for the conduct of such evaluation and research. The rules must include, but need not be limited to, the requirement that all evaluators and researchers sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I, . . . . . ., agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding minors who have received services in a manner such that the minor is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under state law.

/s/ . . . . . . ";

(10) To appropriate law enforcement agencies, upon request, all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The mental health service agency or its employees are not civilly liable for the decision to disclose or not, so long as the decision was reached in good faith and without gross negligence;

(11) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure must be made by the professional person in charge of the public or private agency or his or her designee and must include the dates of admission, discharge, authorized or unauthorized absence from the agency's facility, and only any other information that is pertinent to the threat or harassment. The agency or its employees are not civilly liable for the decision to disclose or not, so long as the decision was reached in good faith and without gross negligence;

(12) To a minor's next of kin, attorney, guardian, or conservator, if any, the information that the minor is presently in the facility or that the minor is seriously physically ill and a statement evaluating the mental and physical condition of the minor as well as a statement of the probable duration of the minor's confinement;

(13) Upon the death of a minor, to the minor's next of kin;

(14) To a facility in which the minor resides or will reside;

(15) To law enforcement officers and to prosecuting attorneys as are necessary to enforce RCW 9.41.040(2)(a)((~~(v)~~)) (iii). The extent of information that may be released is limited as follows:

(a) Only the fact, place, and date of involuntary commitment, an official copy of any order or orders of commitment, and an official copy of any written or oral notice of ineligibility to possess a firearm that was provided to the person pursuant to RCW 9.41.047(1), must be disclosed upon request;

(b) The law enforcement and prosecuting attorneys may only release the information obtained to the person's attorney as required by court rule and to a jury or judge, if a jury is waived, that presides over any trial at which the person is charged with violating RCW 9.41.040(2)(a)((~~(v)~~)) (iii);

(c) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(16) This section may not be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards, including standards to assure maintenance of confidentiality, set forth by the director of the health care authority or the secretary of the department of social and health services, where applicable. The fact of admission and all information obtained pursuant to chapter 71.34 RCW are not admissible as evidence in any legal proceeding outside chapter 71.34 RCW, except guardianship or dependency, without the written consent of the minor or the minor's parent;

(17) For the purpose of a correctional facility participating in the postinstitutional medical assistance system supporting the expedited medical determinations and medical suspensions as provided in RCW 74.09.555 and 74.09.295;

(18) Pursuant to a lawful order of a court.

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