
SUBSTITUTE SENATE BILL 5006

State of Washington

68th Legislature

2023 Regular Session

By Senate Law & Justice (originally sponsored by Senators Pedersen, Rivers, Dhingra, Frame, Hasegawa, Hunt, Kuderer, Mullet, Nobles, Stanford, and Valdez)

READ FIRST TIME 01/20/23.

1 AN ACT Relating to clarifying waiver of firearm rights; amending
2 RCW 9.41.040, 9.41.350, and 9.41.352; reenacting RCW 9.41.010; adding
3 a new section to chapter 9.41 RCW; and prescribing penalties.

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

5 **Sec. 1.** RCW 9.41.010 and 2022 c 105 s 2 and 2022 c 104 s 2 are
6 each reenacted to read as follows:

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

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

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

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

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

7 (5) "Crime of violence" means:

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

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

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

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

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

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

1 (9) "Family or household member" has the same meaning as in RCW
2 7.105.010.

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

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

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

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

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

20 (15) "Felony firearm offense" means:

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

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

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

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

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

27 (16) "Firearm" means a weapon or device from which a projectile
28 or projectiles may be fired by an explosive such as gunpowder.
29 "Firearm" does not include a flare gun or other pyrotechnic visual
30 distress signaling device, or a powder-actuated tool or other device
31 designed solely to be used for construction purposes.

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

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

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

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

15 (20) "Intimate partner" has the same meaning as provided in RCW
16 7.105.010.

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

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

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

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

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

36 (23) "Lawful permanent resident" has the same meaning afforded a
37 person "lawfully admitted for permanent residence" in 8 U.S.C. Sec.
38 1101(a)(20).

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

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

3 (26) "Loaded" means:

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

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

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

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

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

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

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

24 (29) "Mental health professional" means a psychiatrist,
25 psychologist, or physician assistant working with a supervising
26 psychiatrist, psychiatric advanced registered nurse practitioner,
27 psychiatric nurse, social worker, mental health counselor, marriage
28 and family therapist, or such other mental health professionals as
29 may be defined in statute or by rules adopted by the department of
30 health pursuant to the provisions of chapter 71.05 RCW.

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

33 (~~(30)~~) (31) "Person" means any individual, corporation,
34 company, association, firm, partnership, club, organization, society,
35 joint stock company, or other legal entity.

36 (~~(31)~~) (32) "Pistol" means any firearm with a barrel less than
37 16 inches in length, or is designed to be held and fired by the use
38 of a single hand.

39 (~~(32)~~) (33) "Rifle" means a weapon designed or redesigned, made
40 or remade, and intended to be fired from the shoulder and designed or

1 redesigned, made or remade, and intended to use the energy of the
2 explosive in a fixed metallic cartridge to fire only a single
3 projectile through a rifled bore for each single pull of the trigger.

4 ~~((33))~~ (34) "Sale" and "sell" mean the actual approval of the
5 delivery of a firearm in consideration of payment or promise of
6 payment.

7 ~~((34))~~ (35) "Secure gun storage" means:

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

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

12 ~~((35))~~ (36)(a) "Semiautomatic assault rifle" means any rifle
13 which utilizes a portion of the energy of a firing cartridge to
14 extract the fired cartridge case and chamber the next round, and
15 which requires a separate pull of the trigger to fire each cartridge.

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

20 ~~((36))~~ (37) "Serious offense" means any of the following
21 felonies or a felony attempt to commit any of the following felonies,
22 as now existing or hereafter amended:

23 (a) Any crime of violence;

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

27 (c) Child molestation in the second degree;

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

29 (e) Indecent liberties;

30 (f) Leading organized crime;

31 (g) Promoting prostitution in the first degree;

32 (h) Rape in the third degree;

33 (i) Drive-by shooting;

34 (j) Sexual exploitation;

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

39 (l) Vehicular homicide, when proximately caused by the driving of
40 any vehicle by any person while under the influence of intoxicating

1 liquor or any drug as defined by RCW 46.61.502, or by the operation
2 of any vehicle in a reckless manner;

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

5 (n) Any other felony with a deadly weapon verdict under RCW
6 9.94A.825;

7 (o) Any felony offense in effect at any time prior to June 6,
8 1996, that is comparable to a serious offense, or any federal or out-
9 of-state conviction for an offense that under the laws of this state
10 would be a felony classified as a serious offense; or

11 (p) Any felony conviction under RCW 9.41.115.

12 (~~((37))~~) (38) "Short-barreled rifle" means a rifle having one or
13 more barrels less than 16 inches in length and any weapon made from a
14 rifle by any means of modification if such modified weapon has an
15 overall length of less than 26 inches.

16 (~~((38))~~) (39) "Short-barreled shotgun" means a shotgun having one
17 or more barrels less than 18 inches in length and any weapon made
18 from a shotgun by any means of modification if such modified weapon
19 has an overall length of less than 26 inches.

20 (~~((39))~~) (40) "Shotgun" means a weapon with one or more barrels,
21 designed or redesigned, made or remade, and intended to be fired from
22 the shoulder and designed or redesigned, made or remade, and intended
23 to use the energy of the explosive in a fixed shotgun shell to fire
24 through a smooth bore either a number of ball shot or a single
25 projectile for each single pull of the trigger.

26 (~~((40))~~) (41) "Substance use disorder professional" means a
27 person certified under chapter 18.205 RCW.

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

36 (~~((41))~~) (43) "Undetectable firearm" means any firearm that is
37 not as detectable as 3.7 ounces of 17-4 PH stainless steel by walk-
38 through metal detectors or magnetometers commonly used at airports or
39 any firearm where the barrel, the slide or cylinder, or the frame or
40 receiver of the firearm would not generate an image that accurately

1 depicts the shape of the part when examined by the types of X-ray
2 machines commonly used at airports.

3 ~~((42))~~ (44) (a) "Unfinished frame or receiver" means a frame or
4 receiver that is partially complete, disassembled, or inoperable,
5 that: (i) Has reached a stage in manufacture where it may readily be
6 completed, assembled, converted, or restored to a functional state;
7 or (ii) is marketed or sold to the public to become or be used as the
8 frame or receiver of a functional firearm once finished or completed,
9 including without limitation products marketed or sold to the public
10 as an 80 percent frame or receiver or unfinished frame or receiver.

11 (b) For purposes of this subsection:

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

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

29 ~~((43))~~ (45) "Unlicensed person" means any person who is not a
30 licensed dealer under this chapter.

31 ~~((44))~~ (46) "Untraceable firearm" means any firearm
32 manufactured after July 1, 2019, that is not an antique firearm and
33 that cannot be traced by law enforcement by means of a serial number
34 affixed to the firearm by a federal firearms manufacturer, federal
35 firearms importer, or federal firearms dealer in compliance with all
36 federal laws and regulations.

37 **Sec. 2.** RCW 9.41.040 and 2022 c 268 s 28 are each amended to
38 read as follows:

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

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

9 (2) (a) A person, whether an adult or juvenile, is guilty of the
10 crime of unlawful possession of a firearm in the second degree, if
11 the person does not qualify under subsection (1) of this section for
12 the crime of unlawful possession of a firearm in the first degree and
13 the person owns, has in his or her possession, or has in his or her
14 control any firearm:

15 (i) After having previously been convicted or found not guilty by
16 reason of insanity in this state or elsewhere of any felony not
17 specifically listed as prohibiting firearm possession under
18 subsection (1) of this section, or any of the following crimes when
19 committed by one family or household member against another or by one
20 intimate partner against another, as those terms are defined by the
21 statutes in effect at the time of the commission of the crime,
22 committed on or after July 1, 1993: Assault in the fourth degree,
23 coercion, stalking, reckless endangerment, criminal trespass in the
24 first degree, or violation of the provisions of a protection order or
25 no-contact order restraining the person or excluding the person from
26 a residence (RCW 10.99.040 or any of the former RCW 26.50.060,
27 26.50.070, and 26.50.130);

28 (ii) After having previously been convicted or found not guilty
29 by reason of insanity in this state or elsewhere of harassment when
30 committed by one family or household member against another or by one
31 intimate partner against another, committed on or after June 7, 2018;

32 (iii) After having previously been convicted or found not guilty
33 by reason of insanity in this state or elsewhere of a violation of
34 the provisions of a protection order under chapter 7.105 RCW
35 restraining the person or excluding the person from a residence, when
36 committed by one family or household member against another or by one
37 intimate partner against another, committed on or after July 1, 2022;

38 (iv) During any period of time that the person is subject to a
39 court order issued under chapter 7.105, 9A.46, 10.99, 26.09, 26.26A,

1 or 26.26B RCW or any of the former chapters 7.90, 7.92, 10.14, and
2 26.50 RCW that:

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

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

14 (C) (I) Includes a finding that the person represents a credible
15 threat to the physical safety of the protected person or child or by
16 its terms explicitly prohibits the use, attempted use, or threatened
17 use of physical force against the protected person or child that
18 would reasonably be expected to cause bodily injury; or

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

23 (v) After having previously been involuntarily committed based on
24 a mental disorder under RCW 71.05.240, 71.05.320, 71.34.740,
25 71.34.750, chapter 10.77 RCW, or equivalent statutes of another
26 jurisdiction, unless his or her right to possess a firearm has been
27 restored as provided in RCW 9.41.047;

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

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

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

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

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

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

38 (i) Under RCW 9.41.047; and/or

39 (ii)(A) If the conviction or finding of not guilty by reason of
40 insanity was for a felony offense, after five or more consecutive

1 years in the community without being convicted or found not guilty by
2 reason of insanity or currently charged with any felony, gross
3 misdemeanor, or misdemeanor crimes, if the individual has no prior
4 felony convictions that prohibit the possession of a firearm counted
5 as part of the offender score under RCW 9.94A.525; or

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

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

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

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

21 (5) In addition to any other penalty provided for by law, if a
22 person under the age of 18 years is found by a court to have
23 possessed a firearm in a vehicle in violation of subsection (1) or
24 (2) of this section or to have committed an offense while armed with
25 a firearm during which offense a motor vehicle served an integral
26 function, the court shall notify the department of licensing within
27 24 hours and the person's privilege to drive shall be revoked under
28 RCW 46.20.265, unless the offense is the juvenile's first offense in
29 violation of this section and has not committed an offense while
30 armed with a firearm, an unlawful possession of a firearm offense, or
31 an offense in violation of chapter 66.44, 69.52, 69.41, or 69.50 RCW.

32 (6) Nothing in chapter 129, Laws of 1995 shall ever be construed
33 or interpreted as preventing an offender from being charged and
34 subsequently convicted for the separate felony crimes of theft of a
35 firearm or possession of a stolen firearm, or both, in addition to
36 being charged and subsequently convicted under this section for
37 unlawful possession of a firearm in the first or second degree.
38 Notwithstanding any other law, if the offender is convicted under
39 this section for unlawful possession of a firearm in the first or
40 second degree and for the felony crimes of theft of a firearm or

1 possession of a stolen firearm, or both, then the offender shall
2 serve consecutive sentences for each of the felony crimes of
3 conviction listed in this subsection.

4 (7)(a) A person, whether an adult or a juvenile, commits the
5 civil infraction of unlawful possession of a firearm if the person
6 has in the person's possession or has in the person's control a
7 firearm after the person files a voluntary waiver of firearm rights
8 under RCW 9.41.350 and the form has been accepted by the clerk of the
9 court and the voluntary waiver has not been lawfully revoked.

10 (b) The civil infraction of unlawful possession of a firearm is a
11 class 4 civil infraction punishable according to chapter 7.80 RCW.

12 (c) Each firearm unlawfully possessed under this subsection (7)
13 shall be a separate infraction.

14 (8) Each firearm unlawfully possessed under this section shall be
15 a separate offense.

16 **Sec. 3.** RCW 9.41.350 and 2018 c 145 s 1 are each amended to read
17 as follows:

18 (1) A person may file a voluntary waiver of firearm rights,
19 either in writing or electronically, with the clerk of the court in
20 any county in Washington state. The clerk of the court must request a
21 physical or scanned copy of photo identification to verify the
22 person's identity prior to accepting the form. The person filing the
23 form may provide ~~((an alternate person to be contacted if a voluntary~~
24 ~~waiver of firearm rights is))~~ the name of a family member, mental
25 health professional, substance use disorder professional, or
26 alternate person to be contacted if the filer attempts to purchase a
27 firearm while the voluntary waiver of firearm rights is in effect or
28 if the filer applies to have the voluntary waiver revoked. The clerk
29 of the court must immediately give notice to the person filing the
30 form and any listed family member, mental health professional,
31 substance use disorder professional, or alternate person if the
32 filer's voluntary waiver of firearm rights has been accepted. The
33 notice must state that the filer's possession or control of a firearm
34 is unlawful under RCW 9.41.040(7) and that any firearm in the filer's
35 possession or control should be surrendered immediately. By the end
36 of the business day, the clerk of the court must transmit the
37 accepted form to the Washington state patrol. The Washington state
38 patrol must enter the voluntary waiver of firearm rights into the
39 national instant criminal background check system and any other

1 federal or state computer-based systems used by law enforcement
2 agencies or others to identify prohibited purchasers of firearms
3 within twenty-four hours of receipt of the form. Copies and records
4 of the voluntary waiver of firearm rights shall not be disclosed
5 except to law enforcement agencies.

6 (2) A filer of a voluntary waiver of firearm rights may update
7 the contact information for any family member, mental health
8 professional, substance use disorder professional, or alternate
9 person provided under subsection (1) of this section by making an
10 electronic or written request to the clerk of the court in the same
11 county where the voluntary waiver of firearm rights was filed. The
12 clerk of the court must request a physical or scanned copy of photo
13 identification to verify the person's identity prior to updating the
14 contact information on the form. By the end of the business day, the
15 clerk of the court must transmit the updated contact information to
16 the Washington state patrol.

17 (3) No sooner than seven calendar days after filing a voluntary
18 waiver of firearm rights, the person may file a revocation of the
19 voluntary waiver of firearm rights, either in writing or
20 electronically, in the same county where the voluntary waiver of
21 firearm rights was filed. The clerk of the court must request a
22 physical or scanned copy of photo identification to verify the
23 person's identity prior to accepting the form. By the end of the
24 business day, the clerk of the court must transmit the form to the
25 Washington state patrol and to any ((contact)) family member, mental
26 health professional, substance use disorder professional, or
27 alternate person listed on the voluntary waiver of firearm rights
28 ((and destroy all records of the voluntary waiver)). Within seven
29 days of receiving a revocation of a voluntary waiver of firearm
30 rights, the Washington state patrol must remove the person from the
31 national instant criminal background check system, and any other
32 federal or state computer-based systems used by law enforcement
33 agencies or others to identify prohibited purchasers of firearms in
34 which the person was entered, unless the person is otherwise
35 ineligible to possess a firearm under RCW 9.41.040, and destroy all
36 records of the voluntary waiver.

37 ((+3)) (4) A person who knowingly makes a false statement
38 regarding their identity on the voluntary waiver of firearm rights
39 form or revocation of waiver of firearm rights form is guilty of
40 false swearing under RCW 9A.72.040.

1 ~~((4))~~ (5) Neither a voluntary waiver of firearm rights nor a
2 revocation of a voluntary waiver of firearm rights shall be
3 considered by a court in any legal proceeding.

4 ~~((5))~~ (6) A voluntary waiver of firearm rights may not be
5 required of an individual as a condition for receiving employment,
6 benefits, or services.

7 ~~((6))~~ (7) All records obtained and all reports produced, as
8 required by this section, are not subject to disclosure through the
9 public records act under chapter 42.56 RCW.

10 **Sec. 4.** RCW 9.41.352 and 2018 c 145 s 2 are each amended to read
11 as follows:

12 (1) The administrator for the courts, under the direction of the
13 chief justice, shall develop a voluntary waiver of firearm rights
14 form and a revocation of voluntary waiver of firearm rights form by
15 January 1, 2019.

16 (2) The forms must include all of the information necessary for
17 identification and entry of the person into the national instant
18 criminal background check system, and any other federal or state
19 computer-based systems used by law enforcement agencies or others to
20 identify prohibited purchasers of firearms. The voluntary waiver of
21 firearm rights form must include the following language:

22 Because you have filed this voluntary waiver of firearm rights,
23 effective immediately you may not purchase ~~((or))~~, receive, control,
24 or possess any firearm. You may revoke this voluntary waiver of
25 firearm rights any time after at least seven calendar days have
26 elapsed since the time of filing.

27 (3) The forms must be made available on the administrator for the
28 courts website, at all county clerk offices, and must also be made
29 widely available at firearm and ammunition dealers and health care
30 provider locations.

31 NEW SECTION. **Sec. 5.** A new section is added to chapter 9.41 RCW
32 to read as follows:

33 Mental health professionals and substance use disorder
34 professionals are encouraged to discuss the voluntary waiver of
35 firearm rights with their patients if the mental health professional
36 or substance use disorder professional reasonably believes that a
37 discussion will avoid or minimize an imminent danger to the health or

1 safety of the individual or any other individual; however, there is
2 no obligation to do so.

--- **END** ---