

HOUSE BILL REPORT

ESSB 5825

*As Passed House
April 11, 1991*

Title: An act relating to restricting possession of firearms by offenders under the supervision of the department of corrections.

Brief Description: Restricting offenders' possession of firearms.

Sponsor(s): Senate Committee on Law & Justice (originally sponsored by Senators Nelson, Madsen, Thorsness, Erwin, Rasmussen, Oke and L. Kreidler; by request of Department of Corrections).

Brief History:

Reported by House Committee on:
Human Services, April 3, 1991, DP;
Passed House, April 11, 1991, 87-8.

**HOUSE COMMITTEE ON
HUMAN SERVICES**

Majority Report: *Do pass.* Signed by 10 members: Representatives Leonard, Chair; Riley, Vice Chair; Winsley, Ranking Minority Member; Tate, Assistant Ranking Minority Member; Anderson; Beck; Brekke; Hargrove; Hochstatter; and H. Myers.

Staff: Antonio Sanchez (786-7383).

Background: The Division of Community Corrections, within the Department of Corrections, is given the responsibility for managing felony offenders within local communities. Community correction officers monitor offender behavior and direct offenders towards acceptable lifestyles through involvement in community-based rehabilitative programs. The programs are: Community Supervision, Work Training Release, and Victim/Witness Notification. The Division of Community Corrections operates 44 field offices that serve 39 counties of Washington. There are 457 staff, of which 311 are community corrections officers. These officers indicate that a growing number of the offenders under their supervision are in possession of firearms or ammunition. The Division of Community Corrections currently has 53,930 total field cases, 35,145 of which are on active supervision

and 738 on work release. The Department of Corrections has expressed concern about the safety of their community supervision officers and recommends that all offenders under their supervision be prohibited from possessing firearms or ammunition.

State and federal laws on the possession of firearms differ in some respects. The federal list of offenses which disqualify a person from possessing a firearm is slightly more extensive than the state list. Thus a person's criminal record may prevent him or her from possessing a firearm under federal law, while state law would not prohibit the possession of a firearm. However, federal law preempts state law where the two laws are inconsistent, and such a person could not legally possess a firearm.

Even though an individual is prohibited from possessing a pistol under federal law, in some instances the person may still technically be eligible to obtain a concealed pistol permit under state law. Such a result is possible because the state permit law denies a permit to anyone ineligible to own a pistol under state law, but does not explicitly prohibit issuance of a permit to an applicant ineligible to possess a weapon under federal law. Therefore, a person prevented from owning a pistol under federal law, but not under state law, may still get a concealed pistol permit.

Currently, judges are able to impose sentencing restrictions on offenders possessing firearms and ammunition, however, it is not mandatory.

Summary of Bill: Offenders sentenced to terms requiring community supervision, community service, or community placement under the Department of Corrections, are not allowed to own, use, or possess firearms or ammunition.

Offenders found in actual or constructive possession of firearms or ammunition, are subject to a class C felony and modification of their judgment and sentence. Constructive possession refers to the power and intent to control the firearm or ammunition.

The firearms or ammunition owned, used, or possessed by offenders may be confiscated by community corrections officers and turned over to the Washington State Patrol for appropriate disposal.

A permit to carry a concealed pistol may not be issued to a person who is ineligible to possess a weapon under federal law. Technical clarifications are made regarding the role of the Department of Licensing in permit revocations.

Fiscal Note: Available.

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

Testimony For: The safety of community corrections officers will be enhanced if we can keep guns out of the hands of felons. It is important to send a message, at the time of sentencing, that the felony offender should not have weapons.

Testimony Against: None.

Witnesses: Dave Savage, Department of Corrections; Ted Cowan, National Association to Keep and Bear Arms; Mike Redman, Washington Association of Prosecuting Attorneys; Bev Hermenson, Washington Federation of State Employees; and Trish Tobis, citizen.