
SENATE BILL 6369

State of Washington

52nd Legislature

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By Senators Nelson, Rasmussen, Thorsness, Vognild, von Reichbauer and Oke

Read first time 01/27/92. Referred to Committee on Law & Justice.

1 AN ACT Relating to prohibiting possession of firearms for persons
2 committed for treatment of mental illness; amending RCW 9.41.040 and
3 71.05.240; and prescribing penalties.

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

5 **Sec. 1.** RCW 9.41.040 and 1983 c 232 s 2 are each amended to read
6 as follows:

7 (1) A person is guilty of the crime of unlawful possession of a
8 short firearm or pistol, if, having previously been convicted in this
9 state or elsewhere of a crime of violence or of a felony in which a
10 firearm was used or displayed, the person owns or has in his possession
11 any short firearm or pistol.

12 (2) Unlawful possession of a short firearm or pistol shall be
13 punished as a class C felony under chapter 9A.20 RCW.

1 (3) As used in this section, a person has been "convicted" at such
2 time as a plea of guilty has been accepted or a verdict of guilty has
3 been filed, notwithstanding the pendency of any future proceedings
4 including but not limited to sentencing, post-trial motions, and
5 appeals. A person shall not be precluded from possession if the
6 conviction has been the subject of a pardon, annulment, certificate of
7 rehabilitation, or other equivalent procedure based on a finding of the
8 rehabilitation of the person convicted or the conviction has been the
9 subject of a pardon, annulment, or other equivalent procedure based on
10 a finding of innocence.

11 (4) Except as provided in subsection (5) of this section, a person
12 is guilty of the crime of unlawful possession of a short firearm or
13 pistol if, after having been convicted of any felony violation of the
14 uniform controlled substances act, chapter 69.50 RCW, or equivalent
15 statutes of another jurisdiction, (~~or after any period of confinement~~
16 ~~under RCW 71.05.320 or an equivalent statute of another jurisdiction,~~
17 ~~or following a record of commitment pursuant to chapter 10.77 RCW or~~
18 ~~equivalent statutes of another jurisdiction, he~~) the person owns or
19 has in his or her possession or under his or her control any short
20 firearm or pistol.

21 (5) Notwithstanding subsection (1) of this section, a person
22 convicted of an offense other than murder, manslaughter, robbery, rape,
23 indecent liberties, arson, assault, kidnapping, extortion, burglary, or
24 violations with respect to controlled substances under RCW 69.50.401(a)
25 and 69.50.410, who received a probationary sentence under RCW 9.95.200,
26 and who received a dismissal of the charge under RCW 9.95.240, shall
27 not be precluded from ownership, possession, or control of a firearm as
28 a result of the conviction.

29 (6)(a) A person who has been committed by court order for treatment
30 of mental illness under RCW 71.05.320 or chapter 10.77 RCW, or

1 equivalent statutes of another jurisdiction, may not possess, in any
2 manner, a firearm as defined in RCW 9.41.010.

3 (b) At the time of commitment, the court shall specifically state
4 to the person under (a) of this subsection and give the person notice
5 in writing that the person is barred from possession of firearms.

6 (c) The secretary of social and health services shall develop
7 appropriate rules to create an approval process under this subsection.
8 The rules must provide for the immediate restoration of the right to
9 possess a firearm upon a showing in a court of competent jurisdiction
10 that a person no longer is required to participate in an inpatient or
11 outpatient treatment program, and is no longer required to take
12 medication to treat any condition related to the commitment. Unlawful
13 possession of a firearm under this subsection shall be punished as a
14 class C felony under chapter 9A.20 RCW.

15 **Sec. 2.** RCW 71.05.240 and 1987 c 439 s 5 are each amended to read
16 as follows:

17 If a petition is filed for fourteen day involuntary treatment or
18 ninety days of less restrictive alternative treatment, the court shall
19 hold a probable cause hearing within seventy-two hours of the initial
20 detention of such person as determined in RCW 71.05.180, as now or
21 hereafter amended. If requested by the detained person or his or her
22 attorney, the hearing may be postponed for a period not to exceed
23 forty-eight hours. The hearing may also be continued subject to the
24 conditions set forth in RCW 71.05.210 or subject to the petitioner's
25 showing of good cause for a period not to exceed twenty-four hours.

26 At the conclusion of the probable cause hearing, if the court finds
27 by a preponderance of the evidence that such person, as the result of
28 mental disorder, presents a likelihood of serious harm to others or
29 himself or herself, or is gravely disabled, and, after considering less

1 restrictive alternatives to involuntary detention and treatment, finds
2 that no such alternatives are in the best interests of such person or
3 others, the court shall order that such person be detained for
4 involuntary treatment not to exceed fourteen days in a facility
5 certified to provide treatment by the department of social and health
6 services. If the court finds that such person, as the result of a
7 mental disorder, presents a likelihood of serious harm to others or
8 himself or herself, or is gravely disabled, but that treatment in a
9 less restrictive setting than detention is in the best interest of such
10 person or others, the court shall order an appropriate less restrictive
11 course of treatment for not to exceed ninety days.

12 The court shall specifically state to such person and give such
13 person notice in writing that if involuntary treatment beyond the
14 fourteen day period or beyond the ninety days of less restrictive
15 treatment is to be sought, such person will have the right to a full
16 hearing or jury trial as required by RCW 71.05.310. The court shall
17 also provide written notice that the person is barred from the
18 possession of firearms.

19 NEW SECTION. Sec. 3. If any provision of this act or its
20 application to any person or circumstance is held invalid, the
21 remainder of the act or the application of the provision to other
22 persons or circumstances is not affected.