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SENATE BILL 6056

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State of Washington

53rd Legislature

1994 Regular Session

By Senators Ludwig and Pelz

Read first time 01/10/94. Referred to Committee on Law & Justice.

1 AN ACT Relating to possession of firearms by certain persons;  
2 reenacting and amending RCW 9.41.040; and prescribing penalties.

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

4 **Sec. 1.** RCW 9.41.040 and 1992 c 205 s 118 and 1992 c 168 s 2 are  
5 each reenacted and amended to read as follows:

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

14 ~~(3))~~ As used in this section, a person has been "convicted or  
15 adjudicated" at such time as a plea of guilty has been accepted or a  
16 verdict of guilty has been filed, notwithstanding the pendency of any  
17 future proceedings including but not limited to sentencing or  
18 disposition, post-trial or post-factfinding motions, and appeals. ~~((A~~  
19 ~~person shall not be precluded from possession if the conviction or~~

1 adjudication has been the subject of a pardon, annulment, certificate  
2 of rehabilitation, or other equivalent procedure based on a finding of  
3 the rehabilitation of the person convicted or adjudicated or the  
4 conviction or disposition has been the subject of a pardon, annulment,  
5 or other equivalent procedure based on a finding of innocence.

6 (4) Except as provided in subsection (5) of this section, a person  
7 is guilty of the crime of unlawful possession of a short firearm or  
8 pistol if, after having been convicted or adjudicated of any felony  
9 violation of the uniform controlled substances act, chapter 69.50 RCW,  
10 or equivalent statutes of another jurisdiction, the person owns or has  
11 in his or her possession or under his or her control any short firearm  
12 or pistol.

13 (5) Notwithstanding subsection (1) of this section, a person  
14 convicted of an offense other than murder, manslaughter, robbery, rape,  
15 indecent liberties, arson, assault, kidnapping, extortion, burglary, or  
16 violations with respect to controlled substances under RCW 69.50.401(a)  
17 and 69.50.410, who received a probationary sentence under RCW 9.95.200,  
18 and who received a dismissal of the charge under RCW 9.95.240, shall  
19 not be precluded from ownership, possession, or control of a firearm as  
20 a result of the conviction.

21 (6)) (3) Unlawful possession of a firearm shall be punished as the  
22 highest class of felony for which the person has previously been  
23 convicted or adjudicated.

24 (4) Restoration of rights for convicted felons may occur under the  
25 following procedures:

26 (a) A person convicted of a class C felony or the equivalent may  
27 after seven years petition a community review board for firearm rights  
28 restoration. The petitioner must affirmatively display rehabilitation  
29 and responsible citizenship. The petitioner shall pay the sum of  
30 twenty dollars to the county treasury to cover the cost of the petition  
31 process. The board shall submit its findings to the superior court for  
32 review. The court shall then issue an order to the department of  
33 licensing affirming or denying the issuance of a firearm possession  
34 rights restoration license.

35 (b) A person convicted of a class B felony or the equivalent may  
36 after fifteen years petition a community review board for firearm  
37 rights restoration. The petitioner must affirmatively display  
38 rehabilitation and responsible citizenship. The petitioner shall pay  
39 the sum of twenty dollars to the county treasury to cover the cost of

1 the restoration process. The board shall submit its findings to the  
2 superior court for review. The court shall then issue an order to the  
3 department of licensing affirming or denying the issuance of a firearm  
4 possession rights restoration license.

5 (c) A person convicted of a class A felony is not eligible for  
6 firearm possession rights restoration.

7 (d) A person is not precluded from firearm possession if the person  
8 convicted or adjudicated is subject to a pardon, annulment, or other  
9 equivalent procedure based on a finding of innocence.

10 (5) (a) A person who has been committed by court order for  
11 treatment of mental illness under RCW 71.05.320 or chapter 10.77 RCW,  
12 or equivalent statutes of another jurisdiction, may not possess, in any  
13 manner, a firearm as defined in RCW 9.41.010.

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

17 (c) The secretary of social and health services shall develop  
18 appropriate rules to create an approval process under this subsection.  
19 The secretary shall maintain a master file of all persons adjudicated  
20 mentally incompetent to possess firearms and make the master file  
21 available to law enforcement officials for determination of concealed  
22 weapons permits or firearm possession.

23 (d) The rules must provide for the immediate restoration of the  
24 right to possess a firearm upon a showing in a court of competent  
25 jurisdiction that a person no longer is required to participate in an  
26 inpatient or outpatient treatment program, and is no longer required to  
27 take medication to treat any condition related to the commitment.  
28 Unlawful possession of a firearm under this subsection shall be  
29 punished as a class C felony under chapter 9A.20 RCW.

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