

SHB 1612 - S COMM AMD
By Committee on Law & Justice

ADOPTED 04/17/2013

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 42.56.240 and 2012 c 88 s 1 are each amended to read
4 as follows:

5 The following investigative, law enforcement, and crime victim
6 information is exempt from public inspection and copying under this
7 chapter:

8 (1) Specific intelligence information and specific investigative
9 records compiled by investigative, law enforcement, and penology
10 agencies, and state agencies vested with the responsibility to
11 discipline members of any profession, the nondisclosure of which is
12 essential to effective law enforcement or for the protection of any
13 person's right to privacy;

14 (2) Information revealing the identity of persons who are witnesses
15 to or victims of crime or who file complaints with investigative, law
16 enforcement, or penology agencies, other than the commission, if
17 disclosure would endanger any person's life, physical safety, or
18 property. If at the time a complaint is filed the complainant, victim,
19 or witness indicates a desire for disclosure or nondisclosure, such
20 desire shall govern. However, all complaints filed with the commission
21 about any elected official or candidate for public office must be made
22 in writing and signed by the complainant under oath;

23 (3) Any records of investigative reports prepared by any state,
24 county, municipal, or other law enforcement agency pertaining to sex
25 offenses contained in chapter 9A.44 RCW or sexually violent offenses as
26 defined in RCW 71.09.020, which have been transferred to the Washington
27 association of sheriffs and police chiefs for permanent electronic
28 retention and retrieval pursuant to RCW 40.14.070(2)(b);

29 (4) License applications under RCW 9.41.070; copies of license

1 applications or information on the applications may be released to law
2 enforcement or corrections agencies;

3 (5) Information revealing the identity of child victims of sexual
4 assault who are under age eighteen. Identifying information means the
5 child victim's name, address, location, photograph, and in cases in
6 which the child victim is a relative or stepchild of the alleged
7 perpetrator, identification of the relationship between the child and
8 the alleged perpetrator;

9 (6) The statewide gang database referenced in RCW 43.43.762;

10 (7) Data from the electronic sales tracking system established in
11 RCW 69.43.165;

12 (8) Information submitted to the statewide unified sex offender
13 notification and registration program under RCW 36.28A.040(6) by a
14 person for the purpose of receiving notification regarding a registered
15 sex offender, including the person's name, residential address, and e-
16 mail address; and

17 (9) Personally identifying information collected by law enforcement
18 agencies pursuant to local security alarm system programs and vacation
19 crime watch programs. Nothing in this subsection shall be interpreted
20 so as to prohibit the legal owner of a residence or business from
21 accessing information regarding his or her residence or business; and

22 (10) The felony firearm offense conviction database of felony
23 firearm offenders established in section 6 of this act.

24 **Sec. 2.** RCW 9.41.010 and 2009 c 216 s 1 are each reenacted and
25 amended to read as follows:

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

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

36 (2) "Barrel length" means the distance from the bolt face of a

1 closed action down the length of the axis of the bore to the crown of
2 the muzzle, or in the case of a barrel with attachments to the end of
3 any legal device permanently attached to the end of the muzzle.

4 (3) "Crime of violence" means:

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

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

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

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

29 (5) "Family or household member" means "family" or "household
30 member" as used in RCW 10.99.020.

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

34 (7) "Felony firearm offender" means a person who has previously
35 been convicted or found not guilty by reason of insanity in this state
36 of any felony firearm offense. A person is not a felony firearm
37 offender under this chapter if any and all qualifying offenses have
38 been the subject of an expungement, pardon, annulment, certificate, or

1 rehabilitation, or other equivalent procedure based on a finding of the
2 rehabilitation of the person convicted or a pardon, annulment, or other
3 equivalent procedure based on a finding of innocence.

4 (8) "Felony firearm offense" means:

5 (a) Any felony offense that is a violation of chapter 9.41 RCW;

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

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

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

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

11 (9) "Firearm" means a weapon or device from which a projectile or
12 projectiles may be fired by an explosive such as gunpowder.

13 ~~((+8))~~ (10) "Law enforcement officer" includes a general authority
14 Washington peace officer as defined in RCW 10.93.020, or a specially
15 commissioned Washington peace officer as defined in RCW 10.93.020.
16 "Law enforcement officer" also includes a limited authority Washington
17 peace officer as defined in RCW 10.93.020 if such officer is duly
18 authorized by his or her employer to carry a concealed pistol.

19 ~~((+9))~~ (11) "Lawful permanent resident" has the same meaning
20 afforded a person "lawfully admitted for permanent residence" in 8
21 U.S.C. Sec. 1101(a)(20).

22 ~~((+10))~~ (12) "Loaded" means:

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

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

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

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

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

32 ~~((+11))~~ (13) "Machine gun" means any firearm known as a machine
33 gun, mechanical rifle, submachine gun, or any other mechanism or
34 instrument not requiring that the trigger be pressed for each shot and
35 having a reservoir clip, disc, drum, belt, or other separable
36 mechanical device for storing, carrying, or supplying ammunition which
37 can be loaded into the firearm, mechanism, or instrument, and fired
38 therefrom at the rate of five or more shots per second.

1 (~~(12)~~) (14) "Nonimmigrant alien" means a person defined as such
2 in 8 U.S.C. Sec. 1101(a)(15).

3 (~~(13)~~) (15) "Pistol" means any firearm with a barrel less than
4 sixteen inches in length, or is designed to be held and fired by the
5 use of a single hand.

6 (~~(14)~~) (16) "Rifle" means a weapon designed or redesigned, made
7 or remade, and intended to be fired from the shoulder and designed or
8 redesigned, made or remade, and intended to use the energy of the
9 explosive in a fixed metallic cartridge to fire only a single
10 projectile through a rifled bore for each single pull of the trigger.

11 (~~(15)~~) (17) "Sell" refers to the actual approval of the delivery
12 of a firearm in consideration of payment or promise of payment of a
13 certain price in money.

14 (~~(16)~~) (18) "Serious offense" means any of the following felonies
15 or a felony attempt to commit any of the following felonies, as now
16 existing or hereafter amended:

17 (a) Any crime of violence;

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

21 (c) Child molestation in the second degree;

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

23 (e) Indecent liberties;

24 (f) Leading organized crime;

25 (g) Promoting prostitution in the first degree;

26 (h) Rape in the third degree;

27 (i) Drive-by shooting;

28 (j) Sexual exploitation;

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

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

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

1 (n) Any other felony with a deadly weapon verdict under RCW
2 (~~(9.94A.602)~~) 9.94A.825; or

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

7 (~~(+17)~~) (19) "Short-barreled rifle" means a rifle having one or
8 more barrels less than sixteen inches in length and any weapon made
9 from a rifle by any means of modification if such modified weapon has
10 an overall length of less than twenty-six inches.

11 (~~(+18)~~) (20) "Short-barreled shotgun" means a shotgun having one
12 or more barrels less than eighteen inches in length and any weapon made
13 from a shotgun by any means of modification if such modified weapon has
14 an overall length of less than twenty-six inches.

15 (~~(+19)~~) (21) "Shotgun" means a weapon with one or more barrels,
16 designed or redesigned, made or remade, and intended to be fired from
17 the shoulder and designed or redesigned, made or remade, and intended
18 to use the energy of the explosive in a fixed shotgun shell to fire
19 through a smooth bore either a number of ball shot or a single
20 projectile for each single pull of the trigger.

21 NEW SECTION. **Sec. 3.** A new section is added to chapter 9.41 RCW
22 to read as follows:

23 (1) On or after the effective date of this section, whenever a
24 defendant in this state is convicted of a felony firearm offense or
25 found not guilty by reason of insanity of any felony firearm offense,
26 the court must consider whether to impose a requirement that the person
27 comply with the registration requirements of section 4 of this act and
28 may, in its discretion, impose such a requirement.

29 (2) In determining whether to require the person to register, the
30 court shall consider all relevant factors including, but not limited
31 to:

32 (a) The person's criminal history;

33 (b) Whether the person has previously been found not guilty by
34 reason of insanity of any offense in this state or elsewhere; and

35 (c) Evidence of the person's propensity for violence that would
36 likely endanger persons.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 9.41 RCW
2 to read as follows:

3 (1) Any adult or juvenile residing, whether or not the person has
4 a fixed residence, in this state who has been required by a court to
5 comply with the registration requirements of this section shall
6 personally register with the county sheriff for the county of the
7 person's residence.

8 (2) A person required to register under this section must provide
9 the following information when registering:

10 (a) Name and any aliases used;

11 (b) Complete and accurate residence address or, if the person lacks
12 a fixed residence, where he or she plans to stay;

13 (c) Identifying information of the gun offender, including a
14 physical description;

15 (d) The offense for which the person was convicted;

16 (e) Date and place of conviction; and

17 (f) The names of any other county where the offender has registered
18 pursuant to this section.

19 (3) The county sheriff may require the offender to provide
20 documentation that verifies the contents of his or her registration.

21 (4) The county sheriff may take the offender's photograph or
22 fingerprints for the inclusion of such record in the registration.

23 (5) Felony firearm offenders shall register with the county sheriff
24 not later than forty-eight hours after:

25 (a) The date of release from custody, as a result of the felony
26 firearm offense, of the state department of corrections, the state
27 department of social and health services, a local division of youth
28 services, or a local jail or juvenile detention facility; or

29 (b) The date the court imposes the felony firearm offender's
30 sentence, if the offender receives a sentence that does not include
31 confinement.

32 (6)(a) Except as described in (b) of this subsection, the felony
33 firearm offender shall register with the county sheriff not later than
34 twenty days after each twelve-month anniversary of the date the
35 offender is first required to register, as described in subsection (5)
36 of this section.

37 (b) If the felony firearm offender is confined to any correctional
38 institution, state institution or facility, or health care facility

1 throughout the twenty-day period described in (a) of this subsection,
2 the offender shall personally appear before the county sheriff not
3 later than forty-eight hours after release to verify and update, as
4 appropriate, his or her registration.

5 (7) If the felony firearm offender changes his or her residence
6 address and his or her new residence address is within this state, the
7 offender shall personally register with the county sheriff for the
8 county of the person's residence not later than forty-eight hours after
9 the change of address. If the offender's residence address is within
10 the same county as the offender's immediately preceding address, the
11 offender shall update the contents of his or her current registration.

12 (8) The duty to register shall continue for a period of four years
13 from the date the offender is first required to register, as described
14 in subsection (5) of this section.

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

17 (1) A person commits the crime of failure to register as a felony
18 firearm offender if the person has a duty to register under section 4
19 of this act and knowingly fails to comply with any of the requirements
20 of section 4 of this act.

21 (2) Failure to register as a felony firearm offender is a gross
22 misdemeanor.

23 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.43 RCW
24 to read as follows:

25 (1) The county sheriff shall forward registration information,
26 photographs, and fingerprints obtained pursuant to section 4 of this
27 act to the Washington state patrol within five working days.

28 (2) Upon implementation of this act, the Washington state patrol
29 shall maintain a felony firearm offense conviction database of felony
30 firearm offenders required to register under section 4 of this act and
31 shall adopt rules as are necessary to carry out the purposes of this
32 act.

33 (3) Upon expiration of the person's duty to register, as described
34 in section 4(8) of this act, the Washington state patrol shall
35 automatically remove the person's name and information from the
36 database.

1 (4) The felony firearm offense conviction database of felony
2 firearm offenders shall be used only for law enforcement purposes and
3 is not subject to public disclosure under chapter 42.56 RCW.

4 NEW SECTION. **Sec. 7.** If any provision of this act or its
5 application to any person or circumstance is held invalid, the
6 remainder of the act or the application of the provision to other
7 persons or circumstances is not affected."

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8 On page 1, line 1 of the title, after "Relating to" strike the
9 remainder of the title and insert "felony firearm offenders; amending
10 RCW 42.56.240; reenacting and amending RCW 9.41.010; adding new
11 sections to chapter 9.41 RCW; adding a new section to chapter 43.43
12 RCW; and prescribing penalties."

EFFECT: Clarifies that the bill applies to felony firearm
offenders. Establishes the felony firearm offense conviction database
rather than a central registry.

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