

HOUSE BILL REPORT

SHB 1612

As Passed Legislature

Title: An act relating to felony firearm offenders.

Brief Description: Concerning information on firearm offenders.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Hope, Pedersen, Hayes, Buys, Dahlquist, Hargrove, O'Ban, Holy, Goodman, Fagan, Smith, Magendanz, Orcutt, Klippert, Kretz, Warnick, Roberts, Moscoso, Ryu and Bergquist).

Brief History:

Committee Activity:

Judiciary: 2/13/13, 2/21/13 [DPS].

Floor Activity:

Passed House: 3/12/13, 85-10.

Senate Amended.

Passed Senate: 4/17/13, 41-7.

House Concurred.

Passed House: 4/23/13, 89-8.

Passed Legislature.

Brief Summary of Substitute Bill

- Requires the Washington State Patrol to maintain a felony firearm offense conviction database of felony firearm offenders, and creates registration requirements.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Pedersen, Chair; Hansen, Vice Chair; Rodne, Ranking Minority Member; O'Ban, Assistant Ranking Minority Member; Goodman, Hope, Jinkins, Kirby, Klippert, Nealey, Orwall and Roberts.

Minority Report: Do not pass. Signed by 1 member: Representative Shea.

Staff: Omeara Harrington (786-7136).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

The Washington State Patrol (WSP) is the state's central repository for criminal history data, and maintains the Criminal History Record Information (CHRI) database. The CHRI consists of fingerprint-based records and disposition information submitted by law enforcement agencies and courts throughout the state. Criminal justice agencies may request and receive unrestricted CHRI from the WSP for criminal justice purposes. The public may also request and receive CHRI for non-criminal justice purposes, limited to conviction information only, and information regarding registered sex or kidnapping offenders.

Washington's sex and kidnapping offender registry has been in existence since 1990. A person who has been convicted of a sex or kidnapping offense must register with the county sheriff in the county in which he or she resides and provide a variety of location and identification information. The sheriff must forward registration information, including the offender's risk level and notice of address changes, to the WSP for inclusion on the registry. A person who has a duty to register and fails to do so is guilty of either a class C felony or a gross misdemeanor, depending on the underlying offense.

Summary of Substitute Bill:

The WSP is required to maintain a felony firearm offense conviction database of felony firearm offenders. Felony firearm offenders are persons who have been convicted or found not guilty by reason of insanity in this state of various felony firearm offenses. The registry is only for law enforcement purposes and is not subject to public disclosure.

Upon conviction or finding of not guilty by reason of insanity of a felony firearm offense, the court must consider whether to impose a requirement that the person register as a felony firearm offender. In exercising its discretion, the court must consider relevant factors including the person's criminal history, whether the person has been previously found not guilty by reason of insanity of any offense in any state, and any evidence of the person's propensity for violence that would likely endanger others.

A person required to register must do so in person with the county sheriff no later than 48 hours after release from custody or the date the court imposes the felony firearm offender's sentence, if the offender receives a sentence that does not include confinement. The offender must register yearly, no later than 20 days after each anniversary of the first registration. The duty to register continues for four years. Upon expiration of the person's duty to register, the WSP must automatically remove the person's name and information from the registry.

A variety of information must be provided when in the registration process, including: name and aliases, residential address, identifying information including a physical description, the offense for which the person was convicted, date and place of conviction, and the names of any other county where the offender has registered as a felony firearm offender. The county sheriff may require verifying documentation of the required information and may take the person's photograph or fingerprints for inclusion in the registry.

If the registrant changes his or her residential address within the state, they must update their address information within 48 hours of moving. If the person lacks a fixed address, they must disclose where they plan to stay.

A person who has a duty to register and knowingly fails to comply with any of the registration requirements is guilty of a gross misdemeanor.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Firearm offender registration has worked in other parts of the country, including New York City and Baltimore. When this system was first implemented in Baltimore there was an automatic reduction in offenses because the police department was on notice of offenders. Firearm offenders have a high recidivism rate, and being known as an offender serves a deterrent function.

The registry is not public, and is a law enforcement tool that will increase officer safety. This will benefit street-level police, particularly when performing Terry Stops. Currently, when an officer pulls someone over and runs their name through dispatch, it will not show up that the person is a firearm offender. This would make firearm offenders visible to police the way sex offenders are, and mapping programming would reveal where they live.

The requirement to register is left to the court's discretion. If there are special circumstances making registration inappropriate, the judge will be able to recognize that and not impose the requirement to register.

(Opposed) The problems with this bill are that it creates a new crime, it invites disparities in enforcement because it will be up to a judge to decide who registers, and it creates an undue burden on law enforcement when there is already a comprehensive database of felony offenders.

There are some firearm offenses included in the bill that should not qualify a person for the registry. Having a loaded shotgun in a vehicle is a misdemeanor, and is typically a hunting related offense or a mistake.

It is possible that someone could access this information through a public records request. There is too much opportunity for the registry to be used against citizens. American civil liberties are under attack.

Persons Testifying: (In support) Representative Hope, prime sponsor; and Don Pierce, Sheriffs and Police Association.

(Opposed) Cynthia Jones, Washington Association of Criminal Defense Lawyers and Washington Defender Association; Jim Goldsmith; and David Reeder.

Persons Signed In To Testify But Not Testifying: None.