H-5046.1

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**HOUSE BILL 3004**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Representatives Jinkins, Kagi, Senn, Doglio, Pollet, Peterson, Stanford, Fey, Appleton, Ryu, Robinson, Ormsby, Slatter, Kloba, Valdez, and Bergquist

AN ACT Relating to improving security in schools and the safety of students by: Creating a grant program for school districts to implement emergency response systems; creating a program to provide students and the community with the means to report unsafe or violent activities; requiring the same background check process to purchase certain rifles and shotguns as is currently required for pistols; prohibiting persons under the age of 21 from purchasing certain rifles and shotguns; and generating funds; amending RCW 9.41.090, 9.41.094, 9.41.097, 9.41.0975, 9.41.110, 9.41.113, 9.41.124, 36.28A.420, and 9.41.240; reenacting and amending RCW 42.56.240 and 9.41.010; adding a new section to chapter 43.10 RCW; adding a new section to chapter 28A.320 RCW; creating a new section; and prescribing penalties.

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

**Part I - School Emergency Response Systems**

NEW SECTION. **Sec.**  Subject to amounts appropriated for this purpose and consistent with the requirements of RCW 28A.335.010 and 28A.300.565, the superintendent of public instruction shall allocate grants to school districts on a competitive basis for the purpose of implementing emergency response systems using evolving technology to expedite the response and arrival of law enforcement in the event of a threat or emergency at a school.

**Part II - Students Protecting Students**

NEW SECTION. **Sec.**  A new section is added to chapter 43.10 RCW to read as follows:

(1) The students protecting students program is established within the office of the attorney general. The primary purpose of the program is to operate a statewide communications center that provides students and the community with the means to relay information anonymously concerning unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities, first to law enforcement and public safety agencies, and as appropriate to school officials. The office of the attorney general may contract with an organization or call center to provide the program described in this section.

(2) The students protecting students program must:

(a) Establish and maintain methods of anonymous reporting concerning unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities, where reporting can be accomplished by, at a minimum, phone, text message, and email, twenty-four hours per day, seven days per week;

(b) Establish methods and procedures, consistent with the federal health insurance portability and accountability act and the federal educational rights and privacy act, to ensure that the identity of the reporting party remains unknown to persons and entities, including employees or persons operating the program, law enforcement officers, public safety officers, and school officials;

(c) Establish methods and procedures so that information obtained from a reporting party who voluntarily discloses his or her identity and verifies that he or she is willing to be identified may be shared with employees or persons operating the program, law enforcement officers, public safety officers, and school officials;

(d) Establish methods and procedures to ensure that the identity of a reporting party who becomes known through any means other than voluntary disclosure is not further disclosed; and

(e) Promptly forward information received by the program to the appropriate law enforcement or public safety agency or school officials.

(3) The identity of the reporting party or other personally identifiable information may be released by the students protecting students program to a school district or law enforcement officer when that school district superintendent or law enforcement officer declares in an affidavit that after a threat assessment or other investigation of the report he or she has probable cause to believe that the reporting party knowingly filed a fraudulent report. The chief of the Washington state patrol must approve the release of the identity or other personally identifiable information by the students protecting students program under this subsection.

(4)(a) The students protecting students program and employees or persons operating the program must not be compelled to produce any personally identifiable information except on the motion of a criminal defendant to the court in which the offense is being tried, supported by an affidavit establishing that the personally identifiable information contains impeachment evidence or evidence that is exculpatory to the defendant in the trial of that offense.

(b) If the defendant's motion is granted, the court shall conduct an ex parte in camera review of personally identifiable information produced under the defendant's subpoena.

(c) If the court determines that the produced personally identifiable information contains impeachment evidence or evidence that is exculpatory to the defendant, the court shall order the personally identifiable information be produced to the defendant pursuant to a protective order that includes the redaction of the reporting party's identity and limitations on the use of the personally identifiable information, as needed, unless contrary to state or federal law. Personally identifiable information excised pursuant to a judicial order following the in camera review must be sealed and preserved in the records of the court, to be made available to the appellate court in the event of an appeal. After the time for appeal has expired, the court must return the personally identifiable information to the students protecting students program.

(5)(a) Personally identifiable information created or obtained through the implementation or operation of the students protecting students program is confidential and must not be disclosed. The students protecting students program and employees or persons operating the program may be compelled to produce personally identifiable information only before a court or other tribunal and only pursuant to court order for an in camera review. An in camera review must be limited to an inspection of personally identifiable information that is material to the specific case pending before the court. The attorney general acting on behalf of the students protecting students program has standing in an action to oppose the disclosure of personally identifiable information in the custody of the program.

(b) An employee or person operating the program who knowingly discloses personally identifiable information in violation of the provisions of this section commits a misdemeanor punishable under chapter 9A.20 RCW.

(6) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "In camera" means a confidential review by the judge alone in his or her chambers.

(b) "Personally identifiable information" means the name of the reporting party; the address, phone number, or email address of the reporting party; personal indirect identifiers of the reporting party, such as social security number, student number, date of birth, or mother's maiden name; or other information that, alone or in combination with other information, could be used to determine the identity of the reporting party.

NEW SECTION. **Sec.**  A new section is added to chapter 28A.320 RCW to read as follows:

(1) Every school year, beginning in the 2018-19 school year, there must be made available to all students in each common school as defined in RCW 28A.150.020 at least one age-appropriate educational program, class, or activity developed in collaboration with the office of the attorney general and designed to teach students about the students protecting students program established in section 2 of this act. Such a program, class, or activity must include information about how to report anonymously concerning unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities, to appropriate law enforcement agencies, public safety agencies, and school officials.

(2) Beginning in the 2018-19 school year, schools and school districts must disseminate information about the students protecting students program established in section 2 of this act, including the contact information for anonymous reporting, through any normal means of existing communication to students and families.

**Sec.**  RCW 42.56.240 and 2017 c 261 s 7 and 2017 c 72 s 3 are each reenacted and amended to read as follows:

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

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

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

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

(4) License applications under RCW 9.41.070; copies of license applications or information on the applications may be released to law enforcement or corrections agencies;

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

(6) Information contained in a local or regionally maintained gang database as well as the statewide gang database referenced in RCW 43.43.762;

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

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

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

(10) The felony firearm offense conviction database of felony firearm offenders established in RCW 43.43.822;

(11) The identity of a state employee or officer who has in good faith filed a complaint with an ethics board, as provided in RCW 42.52.410, or who has in good faith reported improper governmental action, as defined in RCW 42.40.020, to the auditor or other public official, as defined in RCW 42.40.020;

(12) The following security threat group information collected and maintained by the department of corrections pursuant to RCW 72.09.745: (a) Information that could lead to the identification of a person's security threat group status, affiliation, or activities; (b) information that reveals specific security threats associated with the operation and activities of security threat groups; and (c) information that identifies the number of security threat group members, affiliates, or associates;

(13) The global positioning system data that would indicate the location of the residence of an employee or worker of a criminal justice agency as defined in RCW 10.97.030;

(14) Body worn camera recordings to the extent nondisclosure is essential for the protection of any person's right to privacy as described in RCW 42.56.050, including, but not limited to, the circumstances enumerated in (a) of this subsection. A law enforcement or corrections agency shall not disclose a body worn camera recording to the extent the recording is exempt under this subsection.

(a) Disclosure of a body worn camera recording is presumed to be highly offensive to a reasonable person under RCW 42.56.050 to the extent it depicts:

(i)(A) Any areas of a medical facility, counseling, or therapeutic program office where:

(I) A patient is registered to receive treatment, receiving treatment, waiting for treatment, or being transported in the course of treatment; or

(II) Health care information is shared with patients, their families, or among the care team; or

(B) Information that meets the definition of protected health information for purposes of the health insurance portability and accountability act of 1996 or health care information for purposes of chapter 70.02 RCW;

(ii) The interior of a place of residence where a person has a reasonable expectation of privacy;

(iii) An intimate image as defined in RCW 9A.86.010;

(iv) A minor;

(v) The body of a deceased person;

(vi) The identity of or communications from a victim or witness of an incident involving domestic violence as defined in RCW 10.99.020 or sexual assault as defined in RCW 70.125.030, or disclosure of intimate images as defined in RCW 9A.86.010. If at the time of recording the victim or witness indicates a desire for disclosure or nondisclosure of the recorded identity or communications, such desire shall govern; or

(vii) The identifiable location information of a community-based domestic violence program as defined in RCW 70.123.020, or emergency shelter as defined in RCW 70.123.020.

(b) The presumptions set out in (a) of this subsection may be rebutted by specific evidence in individual cases.

(c) In a court action seeking the right to inspect or copy a body worn camera recording, a person who prevails against a law enforcement or corrections agency that withholds or discloses all or part of a body worn camera recording pursuant to (a) of this subsection is not entitled to fees, costs, or awards pursuant to RCW 42.56.550 unless it is shown that the law enforcement or corrections agency acted in bad faith or with gross negligence.

(d) A request for body worn camera recordings must:

(i) Specifically identify a name of a person or persons involved in the incident;

(ii) Provide the incident or case number;

(iii) Provide the date, time, and location of the incident or incidents; or

(iv) Identify a law enforcement or corrections officer involved in the incident or incidents.

(e)(i) A person directly involved in an incident recorded by the requested body worn camera recording, an attorney representing a person directly involved in an incident recorded by the requested body worn camera recording, a person or his or her attorney who requests a body worn camera recording relevant to a criminal case involving that person, or the executive director from either the Washington state commission on African-American affairs, Asian Pacific American affairs, or Hispanic affairs, has the right to obtain the body worn camera recording, subject to any exemption under this chapter or any applicable law. In addition, an attorney who represents a person regarding a potential or existing civil cause of action involving the denial of civil rights under the federal or state Constitution, or a violation of a United States department of justice settlement agreement, has the right to obtain the body worn camera recording if relevant to the cause of action, subject to any exemption under this chapter or any applicable law. The attorney must explain the relevancy of the requested body worn camera recording to the cause of action and specify that he or she is seeking relief from redaction costs under this subsection (14)(e).

(ii) A law enforcement or corrections agency responding to requests under this subsection (14)(e) may not require the requesting individual to pay costs of any redacting, altering, distorting, pixelating, suppressing, or otherwise obscuring any portion of a body worn camera recording.

(iii) A law enforcement or corrections agency may require any person requesting a body worn camera recording pursuant to this subsection (14)(e) to identify himself or herself to ensure he or she is a person entitled to obtain the body worn camera recording under this subsection (14)(e).

(f)(i) A law enforcement or corrections agency responding to a request to disclose body worn camera recordings may require any requester not listed in (e) of this subsection to pay the reasonable costs of redacting, altering, distorting, pixelating, suppressing, or otherwise obscuring any portion of the body worn camera recording prior to disclosure only to the extent necessary to comply with the exemptions in this chapter or any applicable law.

(ii) An agency that charges redaction costs under this subsection (14)(f) must use redaction technology that provides the least costly commercially available method of redacting body worn camera recordings, to the extent possible and reasonable.

(iii) In any case where an agency charges a requestor for the costs of redacting a body worn camera recording under this subsection (14)(f), the time spent on redaction of the recording shall not count towards the agency's allocation of, or limitation on, time or costs spent responding to public records requests under this chapter, as established pursuant to local ordinance, policy, procedure, or state law.

(g) For purposes of this subsection (14):

(i) "Body worn camera recording" means a video and/or sound recording that is made by a body worn camera attached to the uniform or eyewear of a law enforcement or corrections officer from a covered jurisdiction while in the course of his or her official duties and that is made on or after June 9, 2016, and prior to July 1, 2019; and

(ii) "Covered jurisdiction" means any jurisdiction that has deployed body worn cameras as of June 9, 2016, regardless of whether or not body worn cameras are being deployed in the jurisdiction on June 9, 2016, including, but not limited to, jurisdictions that have deployed body worn cameras on a pilot basis.

(h) Nothing in this subsection shall be construed to restrict access to body worn camera recordings as otherwise permitted by law for official or recognized civilian and accountability bodies or pursuant to any court order.

(i) Nothing in this section is intended to modify the obligations of prosecuting attorneys and law enforcement under *Brady v. Maryland,* 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963), *Kyles v. Whitley*, 541 U.S. 419, 115 S. Ct. 1555, 131 L. Ed.2d 490 (1995), and the relevant Washington court criminal rules and statutes.

(j) A law enforcement or corrections agency must retain body worn camera recordings for at least sixty days and thereafter may destroy the records;

(15) Any records and information contained within the statewide sexual assault kit tracking system established in RCW 43.43.545; ((~~and~~))

(16)(a) Survivor communications with, and survivor records maintained by, campus-affiliated advocates.

(b) Nothing in this subsection shall be construed to restrict access to records maintained by a campus-affiliated advocate in the event that:

(i) The survivor consents to inspection or copying;

(ii) There is a clear, imminent risk of serious physical injury or death of the survivor or another person;

(iii) Inspection or copying is required by federal law; or

(iv) A court of competent jurisdiction mandates that the record be available for inspection or copying.

(c) "Campus-affiliated advocate" and "survivor" have the definitions in RCW 28B.112.030; ((~~and~~))

(17) Information and records prepared, owned, used, or retained by the Washington association of sheriffs and police chiefs and information and records prepared, owned, used, or retained by the Washington state patrol pursuant to chapter 261, Laws of 2017; and

(18) Personally identifiable information, as defined in section 2 of this act, received, made, or kept by, or received from, the students protecting students program established in section 2 of this act, that is confidential under section 2(5) of this act.

**Part III - Semiautomatic Rifles or Shotguns with Tactical Features**

**Sec.**  RCW 9.41.010 and 2017 c 264 s 1 are each reenacted and amended to read as follows:

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

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

(2) "Barrel length" means the distance from the bolt face of a closed action down the length of the axis of the bore to the crown of the muzzle, or in the case of a barrel with attachments to the end of any legal device permanently attached to the end of the muzzle.

(3) "Crime of violence" means:

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

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

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

(4) "Curio or relic" has the same meaning as provided in 27 C.F.R. Sec. 478.11.

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

(6) "Family or household member" means "family" or "household member" as used in RCW 10.99.020.

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

(8) "Felony firearm offender" means a person who has previously been convicted or found not guilty by reason of insanity in this state of any felony firearm offense. A person is not a felony firearm offender under this chapter if any and all qualifying offenses have been the subject of an expungement, pardon, annulment, certificate, or rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted or a pardon, annulment, or other equivalent procedure based on a finding of innocence.

(9) "Felony firearm offense" means:

(a) Any felony offense that is a violation of this chapter;

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

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

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

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

(10) "Firearm" means a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder. "Firearm" does not include a flare gun or other pyrotechnic visual distress signaling device, or a powder-actuated tool or other device designed solely to be used for construction purposes.

(11) "Gun" has the same meaning as firearm.

(12) "Law enforcement officer" includes a general authority Washington peace officer as defined in RCW 10.93.020, or a specially commissioned Washington peace officer as defined in RCW 10.93.020. "Law enforcement officer" also includes a limited authority Washington peace officer as defined in RCW 10.93.020 if such officer is duly authorized by his or her employer to carry a concealed pistol.

(13) "Lawful permanent resident" has the same meaning afforded a person "lawfully admitted for permanent residence" in 8 U.S.C. Sec. 1101(a)(20).

(14) "Licensed collector" means a person who is federally licensed under 18 U.S.C. Sec. 923(b).

(15) "Licensed dealer" means a person who is federally licensed under 18 U.S.C. Sec. 923(a).

(16) "Loaded" means:

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

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

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

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

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

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

(18) "Nonimmigrant alien" means a person defined as such in 8 U.S.C. Sec. 1101(a)(15).

(19) "Person" means any individual, corporation, company, association, firm, partnership, club, organization, society, joint stock company, or other legal entity.

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

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

(22) "Sale" and "sell" mean the actual approval of the delivery of a firearm in consideration of payment or promise of payment.

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

(a) Any crime of violence;

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

(c) Child molestation in the second degree;

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

(e) Indecent liberties;

(f) Leading organized crime;

(g) Promoting prostitution in the first degree;

(h) Rape in the third degree;

(i) Drive-by shooting;

(j) Sexual exploitation;

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

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

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

(n) Any other felony with a deadly weapon verdict under RCW 9.94A.825;

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

(p) Any felony conviction under RCW 9.41.115.

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

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

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

(27) "Transfer" means the intended delivery of a firearm to another person without consideration of payment or promise of payment including, but not limited to, gifts and loans. "Transfer" does not include the delivery of a firearm owned or leased by an entity licensed or qualified to do business in the state of Washington to, or return of such a firearm by, any of that entity's employees or agents, defined to include volunteers participating in an honor guard, for lawful purposes in the ordinary course of business.

(28) "Unlicensed person" means any person who is not a licensed dealer under this chapter.

(29) "Semiautomatic rifle or shotgun with tactical features" means:

(a) A semiautomatic rifle that has the capacity to accept a detachable magazine and has one or more of the following:

(i) A pistol grip that protrudes conspicuously beneath the action of the weapon;

(ii) A thumbhole stock;

(iii) A folding or telescoping stock;

(iv) A second handgrip or a protruding grip that can be held by the nontrigger hand;

(v) A flash suppressor, muzzle break, muzzle compensator, or threaded barrel designed to accommodate a flash suppressor, muzzle break, or muzzle compensator;

(vi) A grenade launcher or flare launcher;

(b) A semiautomatic, centerfire, or rimfire rifle with a fixed magazine, that has the capacity to accept more than ten rounds of ammunition;

(c) A semiautomatic, centerfire, or rimfire rifle that has an overall length of less than thirty inches;

(d) A semiautomatic shotgun that has both of the following:

(i) A pistol grip that protrudes conspicuously beneath the action of the weapon, thumbhole stock, or vertical handgrip;

(ii) A folding or telescoping stock; or

(iii) An ability to accept a detachable magazine;

(e) A shotgun with a revolving cylinder; or

(f) A conversion kit, part, or combination of parts, from which a semiautomatic rifle or shotgun with tactical features can be assembled if those parts are in the possession or under the control of the same person.

"Semiautomatic rifle or shotgun with tactical features" does not include antique firearms, any firearm that has been made permanently inoperable, or any firearm that is manually operated by bolt, pump, lever, or slide action.

(30) "Detachable magazine" means an ammunition feeding device that can be loaded or unloaded while detached from a firearm and readily inserted into a firearm.

**Sec.**  RCW 9.41.090 and 2015 c 1 s 5 are each amended to read as follows:

(1) In addition to the other requirements of this chapter, no dealer may deliver a pistol or semiautomatic rifle or shotgun with tactical features to the purchaser thereof until:

(a) The purchaser produces a valid concealed pistol license and the dealer has recorded the purchaser's name, license number, and issuing agency, such record to be made in triplicate and processed as provided in subsection (5) of this section. For purposes of this subsection (1)(a), a "valid concealed pistol license" does not include a temporary emergency license, and does not include any license issued before July 1, 1996, unless the issuing agency conducted a records search for disqualifying crimes under RCW 9.41.070 at the time of issuance;

(b) The dealer is notified in writing by the chief of police or the sheriff of the jurisdiction in which the purchaser resides that the purchaser is eligible to possess a pistol or semiautomatic rifle or shotgun with tactical features under RCW 9.41.040 and that the application to purchase is approved by the chief of police or sheriff; or

(c) The requirements or time periods in RCW 9.41.092 have been satisfied.

(2)(a) Except as provided in (b) of this subsection, in determining whether the purchaser meets the requirements of RCW 9.41.040, the chief of police or sheriff, or the designee of either, shall check with the national crime information center, the Washington state patrol electronic database, the department of social and health services electronic database, and with other agencies or resources as appropriate, to determine whether the applicant is ineligible under RCW 9.41.040 to possess a firearm.

(b) Once the system is established, a dealer shall use the state system and national instant criminal background check system, provided for by the Brady Handgun Violence Prevention Act (18 U.S.C. Sec. 921 et seq.), to make criminal background checks of applicants to purchase firearms. However, a chief of police or sheriff, or a designee of either, shall continue to check the department of social and health services' electronic database and with other agencies or resources as appropriate, to determine whether applicants are ineligible under RCW 9.41.040 to possess a firearm.

(3) In any case under this section where the applicant has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor, the dealer shall hold the delivery of the pistol or semiautomatic rifle or shotgun with tactical features until the warrant for arrest is served and satisfied by appropriate court appearance. The local jurisdiction for purposes of the sale shall confirm the existence of outstanding warrants within seventy-two hours after notification of the application to purchase a pistol or semiautomatic rifle or shotgun with tactical features is received. The local jurisdiction shall also immediately confirm the satisfaction of the warrant on request of the dealer so that the hold may be released if the warrant was for an offense other than an offense making a person ineligible under RCW 9.41.040 to possess a ((~~pistol~~)) firearm.

(4) In any case where the chief or sheriff of the local jurisdiction has reasonable grounds based on the following circumstances: (a) Open criminal charges, (b) pending criminal proceedings, (c) pending commitment proceedings, (d) an outstanding warrant for an offense making a person ineligible under RCW 9.41.040 to possess a ((~~pistol~~)) firearm, or (e) an arrest for an offense making a person ineligible under RCW 9.41.040 to possess a ((~~pistol~~)) firearm, if the records of disposition have not yet been reported or entered sufficiently to determine eligibility to purchase a ((~~pistol~~)) firearm, the local jurisdiction may hold the sale and delivery of the pistol or semiautomatic rifle or shotgun with tactical features up to thirty days in order to confirm existing records in this state or elsewhere. After thirty days, the hold will be lifted unless an extension of the thirty days is approved by a local district court or municipal court for good cause shown. A dealer shall be notified of each hold placed on the sale by local law enforcement and of any application to the court for additional hold period to confirm records or confirm the identity of the applicant.

(5)(a) At the time of applying for the purchase of a pistol or semiautomatic rifle or shotgun with tactical features, the purchaser shall sign in triplicate and deliver to the dealer an application containing:

(i) His or her full name, residential address, date and place of birth, race, and gender;

(ii) The date and hour of the application;

(iii) The applicant's driver's license number or state identification card number;

(iv) If purchasing a pistol or semiautomatic rifle or shotgun with tactical features, a description of the pistol or semiautomatic rifle or shotgun with tactical features including the make, model, caliber and manufacturer's number if available at the time of applying for the purchase of a pistol or semiautomatic rifle or shotgun with tactical features. If the manufacturer's number is not available at the time of purchase of the pistol or semiautomatic rifle or shotgun with tactical features, the application may be processed, but delivery of the pistol or semiautomatic rifle or shotgun with tactical features to the purchaser may not occur unless the manufacturer's number is recorded on the application by the dealer and transmitted to the chief of police of the municipality or the sheriff of the county in which the purchaser resides; and a statement that the purchaser is eligible to possess a pistol or semiautomatic rifle or shotgun with tactical features under ((~~RCW 9.41.040~~)) state or federal law.

(b) The application shall contain a warning substantially as follows:

CAUTION: Although state and local laws do not differ, federal law and state law on the possession of firearms differ. If you are prohibited by federal law from possessing a firearm, you may be prosecuted in federal court. State permission to purchase a firearm is not a defense to a federal prosecution.

The purchaser shall be given a copy of the department of fish and wildlife pamphlet on the legal limits of the use of firearms, firearms safety, and the fact that local laws and ordinances on firearms are preempted by state law and must be consistent with state law.

(c) The dealer shall, by the end of the business day, sign and attach his or her address and deliver a copy of the application and such other documentation as required under subsection (1) of this section to the chief of police of the municipality or the sheriff of the county of which the purchaser is a resident. The triplicate shall be retained by the dealer for six years. The dealer shall deliver the pistol or semiautomatic rifle or shotgun with tactical features to the purchaser following the period of time specified in this chapter unless the dealer is notified of an investigative hold under subsection (4) of this section in writing by the chief of police of the municipality or the sheriff of the county, whichever is applicable, denying the purchaser's application to purchase and the grounds thereof. The application shall not be denied unless the purchaser is not eligible to possess a pistol or semiautomatic rifle or shotgun with tactical features under ((~~RCW 9.41.040~~)) state or ((~~9.41.045, or~~)) federal law.

(d) The chief of police of the municipality or the sheriff of the county shall retain or destroy applications to purchase a pistol or semiautomatic rifle or shotgun with tactical features in accordance with the requirements of 18 U.S.C. Sec. 922.

(6) A person who knowingly makes a false statement regarding identity or eligibility requirements on the application to purchase a ((~~pistol~~)) firearm is guilty of false swearing under RCW 9A.72.040.

(7) This section does not apply to sales to licensed dealers for resale or to the sale of antique firearms.

**Sec.**  RCW 9.41.094 and 1994 sp.s. c 7 s 411 are each amended to read as follows:

A signed application to purchase a pistol or semiautomatic rifle or shotgun with tactical features shall constitute a waiver of confidentiality and written request that the department of social and health services, mental health institutions, and other health care facilities release, to an inquiring court or law enforcement agency, information relevant to the applicant's eligibility to purchase a pistol or semiautomatic rifle or shotgun with tactical features to an inquiring court or law enforcement agency.

**Sec.**  RCW 9.41.097 and 2009 c 216 s 6 are each amended to read as follows:

(1) The department of social and health services, mental health institutions, and other health care facilities shall, upon request of a court or law enforcement agency, supply such relevant information as is necessary to determine the eligibility of a person to possess a pistol or semiautomatic rifle or shotgun with tactical features or to be issued a concealed pistol license under RCW 9.41.070 or to purchase a pistol or semiautomatic rifle or shotgun with tactical features under RCW 9.41.090.

(2) Mental health information received by: (a) The department of licensing pursuant to RCW 9.41.047 or 9.41.173; (b) an issuing authority pursuant to RCW 9.41.047 or 9.41.070; (c) a chief of police or sheriff pursuant to RCW 9.41.090 or 9.41.173; (d) a court or law enforcement agency pursuant to subsection (1) of this section, shall not be disclosed except as provided in RCW 42.56.240(4).

**Sec.**  RCW 9.41.0975 and 2009 c 216 s 7 are each amended to read as follows:

(1) The state, local governmental entities, any public or private agency, and the employees of any state or local governmental entity or public or private agency, acting in good faith, are immune from liability:

(a) For failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful;

(b) For preventing the sale or transfer of a firearm to a person who may lawfully receive or possess a firearm;

(c) For issuing a concealed pistol license or alien firearm license to a person ineligible for such a license;

(d) For failing to issue a concealed pistol license or alien firearm license to a person eligible for such a license;

(e) For revoking or failing to revoke an issued concealed pistol license or alien firearm license;

(f) For errors in preparing or transmitting information as part of determining a person's eligibility to receive or possess a firearm, or eligibility for a concealed pistol license or alien firearm license;

(g) For issuing a dealer's license to a person ineligible for such a license; or

(h) For failing to issue a dealer's license to a person eligible for such a license.

(2) An application may be made to a court of competent jurisdiction for a writ of mandamus:

(a) Directing an issuing agency to issue a concealed pistol license or alien firearm license wrongfully refused;

(b) Directing a law enforcement agency to approve an application to purchase a pistol or semiautomatic rifle or shotgun with tactical features wrongfully denied;

(c) Directing that erroneous information resulting either in the wrongful refusal to issue a concealed pistol license or alien firearm license or in the wrongful denial of a purchase application for a pistol or semiautomatic rifle or shotgun with tactical features be corrected; or

(d) Directing a law enforcement agency to approve a dealer's license wrongfully denied.

The application for the writ may be made in the county in which the application for a concealed pistol license or alien firearm license or to purchase a pistol or semiautomatic rifle or shotgun with tactical features was made, or in Thurston county, at the discretion of the petitioner. A court shall provide an expedited hearing for an application brought under this subsection (2) for a writ of mandamus. A person granted a writ of mandamus under this subsection (2) shall be awarded reasonable attorneys' fees and costs.

**Sec.**  RCW 9.41.110 and 2009 c 479 s 10 are each amended to read as follows:

(1) No dealer may sell or otherwise transfer, or expose for sale or transfer, or have in his or her possession with intent to sell, or otherwise transfer, any pistol or semiautomatic rifle or shotgun with tactical features without being licensed as provided in this section.

(2) No dealer may sell or otherwise transfer, or expose for sale or transfer, or have in his or her possession with intent to sell, or otherwise transfer, any firearm other than a pistol or semiautomatic rifle or shotgun with tactical features without being licensed as provided in this section.

(3) No dealer may sell or otherwise transfer, or expose for sale or transfer, or have in his or her possession with intent to sell, or otherwise transfer, any ammunition without being licensed as provided in this section.

(4) The duly constituted licensing authorities of any city, town, or political subdivision of this state shall grant licenses in forms prescribed by the director of licensing effective for not more than one year from the date of issue permitting the licensee to sell firearms within this state subject to the following conditions, for breach of any of which the license shall be forfeited and the licensee subject to punishment as provided in RCW 9.41.010 through 9.41.810. A licensing authority shall forward a copy of each license granted to the department of licensing. The department of licensing shall notify the department of revenue of the name and address of each dealer licensed under this section.

(5)(a) A licensing authority shall, within thirty days after the filing of an application of any person for a dealer's license, determine whether to grant the license. However, if the applicant does not have a valid permanent Washington driver's license or Washington state identification card, or has not been a resident of the state for the previous consecutive ninety days, the licensing authority shall have up to sixty days to determine whether to issue a license. No person shall qualify for a license under this section without first receiving a federal firearms license and undergoing fingerprinting and a background check. In addition, no person ineligible to possess a firearm under RCW 9.41.040 or ineligible for a concealed pistol license under RCW 9.41.070 shall qualify for a dealer's license.

(b) A dealer shall require every employee who may sell a firearm in the course of his or her employment to undergo fingerprinting and a background check. An employee must be eligible to possess a firearm, and must not have been convicted of a crime that would make the person ineligible for a concealed pistol license, before being permitted to sell a firearm. Every employee shall comply with requirements concerning purchase applications and restrictions on delivery of pistols or semiautomatic rifles or shotguns with tactical features that are applicable to dealers.

(6)(a) Except as otherwise provided in (b) of this subsection, the business shall be carried on only in the building designated in the license. For the purpose of this section, advertising firearms for sale shall not be considered the carrying on of business.

(b) A dealer may conduct business temporarily at a location other than the building designated in the license, if the temporary location is within Washington state and is the location of a gun show sponsored by a national, state, or local organization, or an affiliate of any such organization, devoted to the collection, competitive use, or other sporting use of firearms in the community. Nothing in this subsection (6)(b) authorizes a dealer to conduct business in or from a motorized or towed vehicle.

In conducting business temporarily at a location other than the building designated in the license, the dealer shall comply with all other requirements imposed on dealers by RCW 9.41.090((~~,~~)) and 9.41.100, and ((~~9.41.110~~)) this section. The license of a dealer who fails to comply with the requirements of RCW 9.41.080 and 9.41.090 and subsection (8) of this section while conducting business at a temporary location shall be revoked, and the dealer shall be permanently ineligible for a dealer's license.

(7) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises in the area where firearms are sold, or at the temporary location, where it can easily be read.

(8)(a) No pistol or semiautomatic rifle or shotgun with tactical features may be sold: (i) In violation of any provisions of RCW 9.41.010 through 9.41.810; nor (ii) may a pistol or semiautomatic rifle or shotgun with tactical features be sold under any circumstances unless the purchaser is personally known to the dealer or shall present clear evidence of his or her identity.

(b) A dealer who sells or delivers any firearm in violation of RCW 9.41.080 is guilty of a class C felony. In addition to any other penalty provided for by law, the dealer is subject to mandatory permanent revocation of his or her dealer's license and permanent ineligibility for a dealer's license.

(c) The license fee for pistols or semiautomatic rifles or shotguns with tactical features shall be one hundred ((~~twenty-five~~)) fifty dollars. The license fee for firearms other than pistols or semiautomatic rifles or shotguns with tactical features shall be one hundred ((~~twenty-five~~)) fifty dollars. The license fee for ammunition shall be one hundred ((~~twenty-five~~)) fifty dollars. Any dealer who obtains any license under subsection (1), (2), or (3) of this section may also obtain the remaining licenses without payment of any fee. The fees received under this section shall be deposited in the state general fund.

(9)(a) A true record ((~~in triplicate~~)) shall be made of every pistol or semiautomatic rifle or shotgun with tactical features sold with sufficient true copies as required by this subsection, in a book kept for the purpose, the form of which may be prescribed by the director of licensing and shall be personally signed by the purchaser and by the person effecting the sale, each in the presence of the other, and shall contain the date of sale, the caliber, make, model and manufacturer's number of the weapon, the name, address, occupation, and place of birth of the purchaser, and a statement signed by the purchaser, that he or she is not ineligible under RCW 9.41.040 to possess a firearm.

(b) For the sale of a pistol, the dealer shall: Send one copy ((~~shall~~)) within six hours ((~~be sent~~)) by certified mail to the chief of police of the municipality or the sheriff of the county of which the purchaser is a resident; ((~~the duplicate the dealer shall~~)) send a duplicate copy within seven days ((~~send~~)) to the director of licensing; ((~~the~~)) and retain a triplicate ((~~the dealer shall retain for~~)) copy in the dealer's records for a period of six years.

(c) For the sale of a semiautomatic rifle or shotgun with tactical features, the dealer shall: Send one copy within six hours by certified mail to the chief of police of the municipality or the sheriff of the county of which the purchaser is a resident; and retain a duplicate copy in the dealer's records for a period of six years.

(10) Subsections (2) through (9) of this section shall not apply to sales at wholesale.

(11) The dealer's licenses authorized to be issued by this section are general licenses covering all sales by the licensee within the effective period of the licenses. The department shall provide a single application form for dealer's licenses and a single license form which shall indicate the type or types of licenses granted.

(12) Except as provided in RCW 9.41.090, every city, town, and political subdivision of this state is prohibited from requiring the purchaser to secure a permit to purchase or from requiring the dealer to secure an individual permit for each sale.

**Sec.**  RCW 9.41.113 and 2017 c 264 s 2 are each amended to read as follows:

(1) All firearm sales or transfers, in whole or part in this state including without limitation a sale or transfer where either the purchaser or seller or transferee or transferor is in Washington, shall be subject to background checks unless specifically exempted by state or federal law. The background check requirement applies to all sales or transfers including, but not limited to, sales and transfers through a licensed dealer, at gun shows, online, and between unlicensed persons.

(2) No person shall sell or transfer a firearm unless:

(a) The person is a licensed dealer;

(b) The purchaser or transferee is a licensed dealer; or

(c) The requirements of subsection (3) of this section are met.

(3) Where neither party to a prospective firearms transaction is a licensed dealer, the parties to the transaction shall complete the sale or transfer through a licensed dealer as follows:

(a) The seller or transferor shall deliver the firearm to a licensed dealer to process the sale or transfer as if it is selling or transferring the firearm from its inventory to the purchaser or transferee, except that the unlicensed seller or transferor may remove the firearm from the business premises of the licensed dealer while the background check is being conducted. If the seller or transferor removes the firearm from the business premises of the licensed dealer while the background check is being conducted, the purchaser or transferee and the seller or transferor shall return to the business premises of the licensed dealer and the seller or transferor shall again deliver the firearm to the licensed dealer prior to completing the sale or transfer.

(b) Except as provided in (a) of this subsection, the licensed dealer shall comply with all requirements of federal and state law that would apply if the licensed dealer were selling or transferring the firearm from its inventory to the purchaser or transferee, including but not limited to conducting a background check on the prospective purchaser or transferee in accordance with federal and state law requirements and fulfilling all federal and state recordkeeping requirements.

(c) The purchaser or transferee must complete, sign, and submit all federal, state, and local forms necessary to process the required background check to the licensed dealer conducting the background check.

(d) If the results of the background check indicate that the purchaser or transferee is ineligible to possess a firearm, then the licensed dealer shall return the firearm to the seller or transferor.

(e) The licensed dealer may charge a fee that reflects the fair market value of the administrative costs and efforts incurred by the licensed dealer for facilitating the sale or transfer of the firearm.

(4) No person may sell or transfer a semiautomatic rifle or shotgun with tactical features to a person under twenty-one years of age.

(5) This section does not apply to:

(a) A transfer between immediate family members, which for this subsection shall be limited to spouses, domestic partners, parents, parents-in-law, children, siblings, siblings-in-law, grandparents, grandchildren, nieces, nephews, first cousins, aunts, and uncles, that is a bona fide gift or loan;

(b) The sale or transfer of an antique firearm;

(c) A temporary transfer of possession of a firearm if such transfer is necessary to prevent imminent death or great bodily harm to the person to whom the firearm is transferred if:

(i) The temporary transfer only lasts as long as immediately necessary to prevent such imminent death or great bodily harm; and

(ii) The person to whom the firearm is transferred is not prohibited from possessing firearms under state or federal law;

(d) A temporary transfer of possession of a firearm if: (i) The transfer is intended to prevent suicide or self-inflicted great bodily harm; (ii) the transfer lasts only as long as reasonably necessary to prevent death or great bodily harm; and (iii) the firearm is not utilized by the transferee for any purpose for the duration of the temporary transfer;

(e) Any law enforcement or corrections agency and, to the extent the person is acting within the course and scope of his or her employment or official duties, any law enforcement or corrections officer, United States marshal, member of the armed forces of the United States or the national guard, or federal official;

(f) A federally licensed gunsmith who receives a firearm solely for the purposes of service or repair, or the return of the firearm to its owner by the federally licensed gunsmith;

(g) The temporary transfer of a firearm (i) between spouses or domestic partners; (ii) if the temporary transfer occurs, and the firearm is kept at all times, at an established shooting range authorized by the governing body of the jurisdiction in which such range is located; (iii) if the temporary transfer occurs and the transferee's possession of the firearm is exclusively at a lawful organized competition involving the use of a firearm, or while participating in or practicing for a performance by an organized group that uses firearms as a part of the performance; (iv) to a person who is under eighteen years of age for lawful hunting, sporting, or educational purposes while under the direct supervision and control of a responsible adult who is not prohibited from possessing firearms; (v) under circumstances in which the transferee and the firearm remain in the presence of the transferor; or (vi) while hunting if the hunting is legal in all places where the person to whom the firearm is transferred possesses the firearm and the person to whom the firearm is transferred has completed all training and holds all licenses or permits required for such hunting, provided that any temporary transfer allowed by this subsection is permitted only if the person to whom the firearm is transferred is not prohibited from possessing firearms under state or federal law;

(h) A person who (i) acquired a firearm other than a pistol or semiautomatic rifle or shotgun with tactical features by operation of law upon the death of the former owner of the firearm or (ii) acquired a pistol or semiautomatic rifle or shotgun with tactical features by operation of law upon the death of the former owner of the pistol or semiautomatic rifle or shotgun with tactical features within the preceding sixty days. At the end of the sixty-day period, the person must either have lawfully transferred the pistol or semiautomatic rifle or shotgun with tactical features or must have contacted the department of licensing to notify the department that he or she has possession of the pistol or semiautomatic rifle or shotgun with tactical features and intends to retain possession of the pistol or semiautomatic rifle or shotgun with tactical features, in compliance with all federal and state laws; or

(i) A sale or transfer when the purchaser or transferee is a licensed collector and the firearm being sold or transferred is a curio or relic.

**Sec.**  RCW 9.41.124 and 2015 c 1 s 7 are each amended to read as follows:

Residents of a state other than Washington may purchase rifles and shotguns, except those firearms defined as semiautomatic rifles or shotguns with tactical features, in Washington: PROVIDED, That such residents conform to the applicable provisions of the federal Gun Control Act of 1968, Title IV, Pub. L. 90-351 as administered by the United States secretary of the treasury: AND PROVIDED FURTHER, That such residents are eligible to purchase or possess such weapons in Washington and in the state in which such persons reside: AND PROVIDED FURTHER, That such residents are subject to the procedures and background checks required by this chapter.

**Sec.**  RCW 36.28A.420 and 2017 c 261 s 6 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the Washington association of sheriffs and police chiefs shall establish a grant program for local law enforcement agencies to:

(a) Conduct background checks for the purchase and sale of pistols and semiautomatic rifles and shotguns with tactical features as required by chapter 9.41 RCW.

(b) Conduct criminal investigations regarding persons who illegally attempted to purchase or transfer a firearm within their jurisdiction. ((~~(2)~~)) Each grant applicant must be required to submit reports to the Washington association of sheriffs and police chiefs that indicate the number of cases in which a person was denied a firearms sale or transfer, the number of cases where the denied sale or transfer was investigated for potential criminal prosecution, and the number of cases where an arrest was made, the case was referred for prosecution, and a conviction was obtained.

(2) The Washington association of sheriffs and police chiefs may retain up to three percent of the amounts provided pursuant to this section for the cost of administration.

(3) Information and records prepared, owned, used, or retained by the Washington association of sheriffs and police chiefs pursuant to chapter 261, Laws of 2017 are exempt from public inspection and copying under chapter 42.56 RCW.

**Sec.**  RCW 9.41.240 and 1994 sp.s. c 7 s 423 are each amended to read as follows:

(1) A person under twenty-one years of age may not purchase a pistol pursuant to Title 18 U.S.C. Sec. 922(b)(1) or a semiautomatic rifle or shotgun with tactical features pursuant to RCW 9.41.113.

(2) Unless an exception under RCW 9.41.042, 9.41.050, or 9.41.060 applies, a person at least eighteen years of age, but less than twenty-one years of age, may possess a pistol or semiautomatic rifle or shotgun with tactical features only:

((~~(1)~~)) (a) In the person's place of abode;

((~~(2)~~)) (b) At the person's fixed place of business; or

((~~(3)~~)) (c) On real property under his or her control.

**--- END ---**