

# HOUSE BILL REPORT

## SSB 5553

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### As Reported by House Committee On: Judiciary

**Title:** An act relating to preventing suicide by permitting the voluntary waiver of firearm rights.

**Brief Description:** Preventing suicide by permitting the voluntary waiver of firearm rights.

**Sponsors:** Senate Committee on Law & Justice (originally sponsored by Senators Pedersen, Fain, Frockt, Takko, Hobbs, Zeiger, Kuderer and Darneille).

**Brief History:**

**Committee Activity:**

Judiciary: 2/9/18, 2/15/18 [DPA].

**Brief Summary of Substitute Bill  
(As Amended by Committee)**

- Creates a process for a person to voluntarily waive the person's firearm rights and to revoke a voluntary waiver of firearm rights, and establishes requirements and restrictions relating to this process.
- Establishes a criminal penalty for any person who knowingly makes a false statement regarding the person's identity on a form for the voluntary waiver of firearm rights or the revocation of the voluntary waiver of firearm rights.
- Requires the Administrator for the Courts to create and make available forms for the voluntary waiver of firearm rights and the revocation of voluntary waiver of firearm rights.
- Prohibits a person from delivering a firearm to any person whom he or she has reasonable cause to believe has signed a valid voluntary waiver of firearm rights that has not been revoked.

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### HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass as amended. Signed by 11 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Graves, Assistant Ranking Minority Member; Goodman, Haler, Hansen, Kirby, Muri, Orwall and Valdez.

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*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.*

**Minority Report:** Do not pass. Signed by 2 members: Representatives Klippert and Shea.

**Staff:** Edie Adams (786-7180).

**Background:**

Article I, section 24 of the Washington Constitution and the Second Amendment of the United States Constitution protect an individual's right to bear arms. However, some persons lose the right to possess firearms under certain circumstances, including if the person has been convicted of a felony offense or certain misdemeanor domestic violence offenses, the person has been involuntarily committed for mental health treatment, or the person is subject to a court injunction regarding firearms.

Under state and federal law, background checks are required for firearms transfers in order to determine whether a person is ineligible to possess firearms. Washington law does not require a state background check for the transfer of long guns. Firearms dealers, when transferring long guns, run a background check through the federal National Instant Background Check System.

With respect to pistol transfers, state law requires a state background check to be conducted by a local law enforcement agency. When conducting background checks for pistol transfers, law enforcement agencies are required to determine whether the person is ineligible to possess a firearm under state laws regarding unlawful possession of a firearm. The state background check includes a check of the Washington State Patrol electronic database, the Department of Licensing firearms database, and state and local mental health agencies.

A dealer generally may not transfer a firearm to a purchaser until the earlier of: (1) all background check results are known and the person is not ineligible to possess a firearm; or (2) 10 business days have elapsed from the date the dealer requested the background check. However, under a statute governing pistol transfers, a dealer may transfer a pistol to a person who has a valid concealed pistol license before receiving the results of the state background check from local law enforcement.

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**Summary of Amended Bill:**

A process is created for a person to voluntarily waive the person's right to purchase or receive firearms by filing a voluntary waiver of firearm rights with the clerk of the court in any county in Washington. The clerk must verify the person's identity through photo identification before accepting the form. By the end of the business day, the clerk must transmit the accepted form to the Washington State Patrol (WSP). Within 24 hours of receipt, the WSP must enter the voluntary waiver of firearm rights into the National Instant Criminal Background Check System (NICS) and any other federal or state computer-based systems used by law enforcement agencies to identify prohibited purchasers of firearms.

A person may revoke a voluntary waiver of firearm rights form if at least seven days have elapsed since the form was filed. The revocation must be filed in the same county where the

voluntary waiver of firearm rights form was filed, and the clerk must verify the person's identity before accepting the form. By the end of the business day, the clerk must transmit the revocation form to the WSP and to any contact person listed on the voluntary waiver of firearm rights form. Within seven days of receipt of the revocation form, the WSP must remove the person's voluntary waiver of firearm rights from the NICS and any other database into which the person's waiver information was entered, unless the person is otherwise ineligible to possess a firearm under state law, and destroy all records of the voluntary waiver of firearm rights.

A voluntary waiver of firearm rights may not be required of an individual as a condition for receiving employment, benefits, or services. Neither a voluntary waiver of firearm rights nor a revocation of a voluntary waiver of firearm rights may be considered by a court in any legal proceeding.

Copies and records of the voluntary waiver of firearm rights shall not be disclosed except to law enforcement agencies. All records obtained and all reports produced relating to a voluntary waiver of firearm rights or a revocation of the waiver are not subject to disclosure through the Public Records Act.

A person who knowingly makes a false statement regarding the person's identity on a voluntary waiver of firearm rights form or revocation of voluntary waiver of firearm rights form is guilty of false swearing.

It is unlawful for a person to deliver a firearm to any person whom he or she has reasonable cause to believe has signed a valid voluntary waiver of firearm rights that has not been revoked.

A licensed dealer may not deliver a firearm to a purchaser or transferee until the earlier of: all results of a background check are known and the purchaser or transferee is not ineligible to possess firearms and does not have a voluntary waiver of firearm rights currently in effect; or 10 business days have passed since the request for a background check.

By January 1, 2019, the Administrator for the Courts must develop forms for the voluntary waiver of firearm rights and the revocation of voluntary waiver of firearm rights. The forms must include all necessary information for identification and entry of persons into the NICS and any other database used by law enforcement to identify prohibited purchasers of firearms. The voluntary waiver of firearm rights form must include the following language:

"Because you have filed this voluntary waiver of firearm rights, effective immediately you may not purchase or receive any firearm. You may revoke this voluntary waiver of firearm rights any time after at least seven calendar days have elapsed since the time of filing."

The forms must be made available on the Administrator for the Courts' website, at county clerk offices, and at firearm and ammunition dealer and health care provider locations.

**Amended Bill Compared to Substitute Bill:**

The original bill required a voluntary waiver of firearm rights to be entered into the Washington State Patrol electronic database. The original bill did not specifically state that records of the voluntary waiver of firearm rights may not be disclosed except to law enforcement agencies. Rather, the original bill provided that the records may not be disclosed except as allowed under a Public Records Act provision allowing disclosure of concealed pistol license applications to law enforcement and corrections agencies.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date of Amended Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed, except section 1 relating to the voluntary waiver of firearms rights, section 3 relating to unlawful delivery of a firearm, and section 4 relating to the transfer of a firearm by a licensed dealer, which take effect January 1, 2019.

**Staff Summary of Public Testimony:**

(In support) The idea for this bill came from two law professors who were looking for a way to get out of the traditional gun debate. The bill allows persons to put themselves on a prohibited purchaser registry. When people are in a crisis and struggling with impulsive thoughts of suicide, having access to firearms significantly increases the risk of harm. This bill creates an important tool for a person to take a step toward safety. The bill creates an easy process for someone to revoke the waiver.

The bill provides a means for self-protection and is a good addition to suicide prevention efforts. Nearly 80 percent of preventable firearms death are suicides. Reducing access to lethal means during a mental health crisis is an evidence-based approach to reducing suicide deaths. Firearm retailers have been partners in suicide prevention efforts to reduce access to lethal means.

The bill can be a good tool for veterans who may be at risk of suicide. Veterans often have a difficult transition back to civilian life, and may suffer from Post Traumatic Stress Disorder, other mental disorders, and substance abuse. Twenty-two veterans commit suicide in the United States every day. Suicide survivors have indicated they did not really want to end their lives but were suffering and alone, and easy access to firearms allowed them to act on their dark impulses.

(Opposed) This bill is not the right approach. It does not establish funding for increased evaluation and treatment of those with mental health issues. It is solely an attempt to diminish constitutional rights. The bill makes it a felony to deliver a firearm to someone who has waived firearm rights, but there is no way for a third party to know about the waiver. This could turn family members or friends who do not know about a waiver into criminals.

This bill is unnecessary. It is legislation in search of a problem. A person is not required to purchase a firearm, and if a person owns a gun, no law is needed to enable the person to

relinquish the firearm to a family member, friend, or dealer. The bill will ensnare innocent people. It could be used to extort an innocent person out of their firearms rights. Even though the bill may be written to prevent this type of abuse, it will occur.

**Persons Testifying:** (In support) Senator Pedersen, prime sponsor; Margaret Holding; Karyn Brownson; Ray Miller; and Jocelyn Wood.

(Opposed) Bill Murphy; Leslier Regier; and Ira Moser.

**Persons Signed In To Testify But Not Testifying:** Mike Silvers; Luis Berbesi; Catherine Person; Seth Dawson, Washington State Psychiatric Association and Washington Association for Substance Abuse and Violence Prevention; Michael Bell; and Monica Alexander.