

SHB 1562 - S COMM AMD

By Committee on Law & Justice

NOT CONSIDERED 04/11/2023

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

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that gun
4 violence is a multifaceted public health problem that includes
5 suicide, homicide, intimate partner violence, community violence,
6 mass violence, nonfatal gunshot injuries and threats, with community
7 violence and mass violence often committed by those with a history of
8 domestic violence. National data indicates that in 2021,
9 approximately 20,996 Americans died by firearm homicide and that 81
10 percent of all homicides are committed with a firearm. According to
11 United States centers for disease control and prevention data, gun
12 homicide disproportionately impacts people of color, especially Black
13 males ages 15 to 34, who are 20 times more likely to die by gun
14 violence than white males in the same age group. Black, Indigenous,
15 and Latinx women are at higher risk for intimate partner violence-
16 related homicide, and disparities in homicide rates are especially
17 pronounced among women between 18 and 29 years of age. Nearly 60
18 percent of intimate partner violence-related homicides involve
19 firearms.

20 (2) When perpetrators of intimate partner violence, including
21 physical violence, sexual abuse, stalking, and psychological
22 aggression of a current or former intimate partner, have access to
23 firearms, women are especially at risk of serious or deadly harm.
24 When an abusive partner or former partner owns or has access to a
25 firearm, the likelihood of intimate partner homicide increases by a
26 factor of five. Women in the United States are 21 times more likely
27 to be killed with a gun than women in other high-income countries.
28 There are about 4,500,000 women in America who have been threatened
29 with a gun and nearly 1,000,000 women who have been shot or shot at
30 by an intimate partner. Perpetrators of intimate partner violence who

1 have access to firearms also use them to coerce, control, and
2 intimidate their partners.

3 (3) Many who seek protection from harm through the civil legal
4 system, and obtain a protection order and an order to surrender and
5 prohibit weapons, may not wish to engage the criminal legal system or
6 to have the threat or violence they have experienced be prosecuted.
7 According to the national intimate partner and sexual violence
8 survey, more than one in two non-Hispanic Black women, American
9 Indian, or Alaskan Native women, three in five multiracial non-
10 Hispanic women, and two in five Hispanic women have been a victim of
11 physical violence, rape, and/or stalking by a partner in their
12 lifetime. But they are far less likely to report the crimes, due to
13 distrust of the criminal legal system, intergenerational trauma, fear
14 of police interaction, and concern about over incarceration. For
15 many, the threat of violence continues over a long period of time,
16 making it critical that access to firearms is appropriately limited
17 when there are ongoing indicators of risk as reflected by a
18 protection order, an order to surrender and prohibit weapons, or
19 violations of these orders.

20 (4) An extensive body of research has identified specific risk
21 factors that increase the likelihood of individuals engaging in
22 future violence, including gun violence, and presenting further risk
23 to public safety. The strongest predictor of future violence is prior
24 violent behavior, including perpetration of domestic violence and
25 violent misdemeanors. Other particularly strong risk factors for
26 future violence include recent violation of a domestic violence
27 protection order or other protection order; frequent risky alcohol
28 use or certain types of controlled substance use; and cruelty to
29 animals. Unlawful or reckless use, display, or brandishing of a
30 firearm and recent acquisition of firearms, ammunition, or other
31 deadly weapons are also risk factors for future violence, as is
32 access to firearms in general. Multiple research studies have also
33 shown that easy access to firearms by the general public increases
34 risk of death by both homicide and suicide. Individuals returning
35 from incarceration are a vulnerable population for whom these risks
36 may be compounded. Furthermore, homicide and suicide (by any means)
37 are leading causes of death for returning residents after they are
38 released from prison, especially soon after release. Research
39 provides important guidance regarding events that should result in
40 temporary prohibition of firearm rights so that the laws regarding

1 firearm possession and the restoration of firearm rights are grounded
2 in risk assessment data to help protect public health and safety
3 while upholding individual liberty. These changes are not intended to
4 punish, but to provide a regulatory framework to help ensure the
5 safety of those with a heightened risk of experiencing gun violence.

6 (5) The laws requiring certain individuals who are subject to
7 protection orders, no-contact orders, or restraining orders to
8 immediately relinquish dangerous weapons and concealed pistol
9 licenses, and be prohibited from possessing or purchasing firearms,
10 have been strengthened in recent years to help better address the
11 risks that access to firearms by those individuals poses for
12 survivors and their children. The legislature finds that similarly
13 strengthening the laws regarding unlawful possession and restoration
14 of firearm rights will protect these survivors, and their families
15 and communities, from added risk of harm, and include their personal
16 knowledge regarding possible violations of firearm prohibitions in
17 the restoration petition process.

18 (6) The legislature also finds it would be helpful to refine
19 statutory language that was at issue in the Washington state supreme
20 court's decision in *State v. Dennis*, 191 Wn.2d 169 (2018). In that
21 decision, the court held that absent more specific language in RCW
22 9.41.040 regarding the five-year waiting period before a person may
23 petition to have the person's firearm rights restored, the requisite
24 waiting period may include any conviction-free period of five or more
25 consecutive years, even if a person had been convicted of a new crime
26 within the five years immediately preceding the person's filing of a
27 petition for restoration of firearm rights. The legislature intends
28 to clarify that a person may not petition to have the person's
29 firearm rights restored if the person has been convicted of a new
30 prohibiting crime within the specified number of consecutive years
31 immediately preceding the person's filing of a petition.

32 (7) The legislature also finds that it is important to recognize
33 and remove barriers for individuals who have demonstrated that they
34 have safely reintegrated into their communities.

35 **Sec. 2.** RCW 9.41.010 and 2022 c 105 s 2 and 2022 c 104 s 2 are
36 each reenacted and amended to read as follows:

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

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

9 (2) "Assemble" means to fit together component parts.

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

14 (4) "Bump-fire stock" means a butt stock designed to be attached
15 to a semiautomatic firearm with the effect of increasing the rate of
16 fire achievable with the semiautomatic firearm to that of a fully
17 automatic firearm by using the energy from the recoil of the firearm
18 to generate reciprocating action that facilitates repeated activation
19 of the trigger.

20 (5) "Crime of violence" means:

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

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

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

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

39 (7) "Dealer" means a person engaged in the business of selling
40 firearms at wholesale or retail who has, or is required to have, a

1 federal firearms license under 18 U.S.C. Sec. 923(a). A person who
2 does not have, and is not required to have, a federal firearms
3 license under 18 U.S.C. Sec. 923(a), is not a dealer if that person
4 makes only occasional sales, exchanges, or purchases of firearms for
5 the enhancement of a personal collection or for a hobby, or sells all
6 or part of his or her personal collection of firearms.

7 (8) "Distribute" means to give out, provide, make available, or
8 deliver a firearm or large capacity magazine to any person in this
9 state, with or without consideration, whether the distributor is in-
10 state or out-of-state. "Distribute" includes, but is not limited to,
11 filling orders placed in this state, online or otherwise.
12 "Distribute" also includes causing a firearm or large capacity
13 magazine to be delivered in this state.

14 (9) "Family or household member" has the same meaning as in RCW
15 7.105.010.

16 (10) "Federal firearms dealer" means a licensed dealer as defined
17 in 18 U.S.C. Sec. 921(a)(11).

18 (11) "Federal firearms importer" means a licensed importer as
19 defined in 18 U.S.C. Sec. 921(a)(9).

20 (12) "Federal firearms manufacturer" means a licensed
21 manufacturer as defined in 18 U.S.C. Sec. 921(a)(10).

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

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

33 (15) "Felony firearm offense" means:

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

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

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

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

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

1 (16) "Firearm" means a weapon or device from which a projectile
2 or projectiles may be fired by an explosive such as gunpowder. For
3 the purposes of RCW 9.41.040, "firearm" also includes frames and
4 receivers. "Firearm" does not include a flare gun or other
5 pyrotechnic visual distress signaling device, or a powder-actuated
6 tool or other device designed solely to be used for construction
7 purposes.

8 (17)(a) "Frame or receiver" means a part of a firearm that, when
9 the complete firearm is assembled, is visible from the exterior and
10 provides housing or a structure designed to hold or integrate one or
11 more fire control components, even if pins or other attachments are
12 required to connect the fire control components. Any such part
13 identified with a serial number shall be presumed, absent an official
14 determination by the bureau of alcohol, tobacco, firearms, and
15 explosives or other reliable evidence to the contrary, to be a frame
16 or receiver.

17 (b) For purposes of this subsection, "fire control component"
18 means a component necessary for the firearm to initiate, complete, or
19 continue the firing sequence, including any of the following: Hammer,
20 bolt, bolt carrier, breechblock, cylinder, trigger mechanism, firing
21 pin, striker, or slide rails.

22 (18) "Gun" has the same meaning as firearm.

23 (19) "Import" means to move, transport, or receive an item from a
24 place outside the territorial limits of the state of Washington to a
25 place inside the territorial limits of the state of Washington.
26 "Import" does not mean situations where an individual possesses a
27 large capacity magazine when departing from, and returning to,
28 Washington state, so long as the individual is returning to
29 Washington in possession of the same large capacity magazine the
30 individual transported out of state.

31 (20) "Intimate partner" has the same meaning as provided in RCW
32 7.105.010.

33 (21) "Large capacity magazine" means an ammunition feeding device
34 with the capacity to accept more than 10 rounds of ammunition, or any
35 conversion kit, part, or combination of parts, from which such a
36 device can be assembled if those parts are in possession of or under
37 the control of the same person, but shall not be construed to include
38 any of the following:

1 (a) An ammunition feeding device that has been permanently
2 altered so that it cannot accommodate more than 10 rounds of
3 ammunition;

4 (b) A 22 caliber tube ammunition feeding device; or

5 (c) A tubular magazine that is contained in a lever-action
6 firearm.

7 (22) "Law enforcement officer" includes a general authority
8 Washington peace officer as defined in RCW 10.93.020, or a specially
9 commissioned Washington peace officer as defined in RCW 10.93.020.

10 "Law enforcement officer" also includes a limited authority
11 Washington peace officer as defined in RCW 10.93.020 if such officer
12 is duly authorized by his or her employer to carry a concealed
13 pistol.

14 (23) "Lawful permanent resident" has the same meaning afforded a
15 person "lawfully admitted for permanent residence" in 8 U.S.C. Sec.
16 1101(a)(20).

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

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

21 (26) "Loaded" means:

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

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

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

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

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

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

38 (28) "Manufacture" means, with respect to a firearm or large
39 capacity magazine, the fabrication, making, formation, production, or

1 construction of a firearm or large capacity magazine, by manual labor
2 or by machinery.

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

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

8 (31) "Pistol" means any firearm with a barrel less than 16 inches
9 in length, or is designed to be held and fired by the use of a single
10 hand.

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

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

18 (34) "Secure gun storage" means:

19 (a) A locked box, gun safe, or other secure locked storage space
20 that is designed to prevent unauthorized use or discharge of a
21 firearm; and

22 (b) The act of keeping an unloaded firearm stored by such means.

23 (35)(a) "Semiautomatic assault rifle" means any rifle which
24 utilizes a portion of the energy of a firing cartridge to extract the
25 fired cartridge case and chamber the next round, and which requires a
26 separate pull of the trigger to fire each cartridge.

27 (b) "Semiautomatic assault rifle" does not include antique
28 firearms, any firearm that has been made permanently inoperable, or
29 any firearm that is manually operated by bolt, pump, lever, or slide
30 action.

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

34 (a) Any crime of violence;

35 (b) Any felony violation of the uniform controlled substances
36 act, chapter 69.50 RCW, that is classified as a class B felony or
37 that has a maximum term of imprisonment of at least 10 years;

38 (c) Child molestation in the second degree;

39 (d) Incest when committed against a child under age 14;

40 (e) Indecent liberties;

1 (f) Leading organized crime;

2 (g) Promoting prostitution in the first degree;

3 (h) Rape in the third degree;

4 (i) Drive-by shooting;

5 (j) Sexual exploitation;

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

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

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

16 (n) Any other felony with a deadly weapon verdict under RCW
17 9.94A.825;

18 (o) Any felony offense in effect at any time prior to June 6,
19 1996, that is comparable to a serious offense, or any federal or out-
20 of-state conviction for an offense that under the laws of this state
21 would be a felony classified as a serious offense; ((~~or~~))

22 (p) Any felony conviction under RCW 9.41.115; or

23 (q) Any felony charged under RCW 46.61.502(6) or 46.61.504(6).

24 (37) "Short-barreled rifle" means a rifle having one or more
25 barrels less than 16 inches in length and any weapon made from a
26 rifle by any means of modification if such modified weapon has an
27 overall length of less than 26 inches.

28 (38) "Short-barreled shotgun" means a shotgun having one or more
29 barrels less than 18 inches in length and any weapon made from a
30 shotgun by any means of modification if such modified weapon has an
31 overall length of less than 26 inches.

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

38 (40) "Transfer" means the intended delivery of a firearm to
39 another person without consideration of payment or promise of payment
40 including, but not limited to, gifts and loans. "Transfer" does not

1 include the delivery of a firearm owned or leased by an entity
2 licensed or qualified to do business in the state of Washington to,
3 or return of such a firearm by, any of that entity's employees or
4 agents, defined to include volunteers participating in an honor
5 guard, for lawful purposes in the ordinary course of business.

6 (41) "Undetectable firearm" means any firearm that is not as
7 detectable as 3.7 ounces of 17-4 PH stainless steel by walk-through
8 metal detectors or magnetometers commonly used at airports or any
9 firearm where the barrel, the slide or cylinder, or the frame or
10 receiver of the firearm would not generate an image that accurately
11 depicts the shape of the part when examined by the types of X-ray
12 machines commonly used at airports.

13 (42)(a) "Unfinished frame or receiver" means a frame or receiver
14 that is partially complete, disassembled, or inoperable, that: (i)
15 Has reached a stage in manufacture where it may readily be completed,
16 assembled, converted, or restored to a functional state; or (ii) is
17 marketed or sold to the public to become or be used as the frame or
18 receiver of a functional firearm once finished or completed,
19 including without limitation products marketed or sold to the public
20 as an 80 percent frame or receiver or unfinished frame or receiver.

21 (b) For purposes of this subsection:

22 (i) "Readily" means a process that is fairly or reasonably
23 efficient, quick, and easy, but not necessarily the most efficient,
24 speedy, or easy process. Factors relevant in making this
25 determination, with no single one controlling, include the following:
26 (A) Time, i.e., how long it takes to finish the process; (B) ease,
27 i.e., how difficult it is to do so; (C) expertise, i.e., what
28 knowledge and skills are required; (D) equipment, i.e., what tools
29 are required; (E) availability, i.e., whether additional parts are
30 required, and how easily they can be obtained; (F) expense, i.e., how
31 much it costs; (G) scope, i.e., the extent to which the subject of
32 the process must be changed to finish it; and (H) feasibility, i.e.,
33 whether the process would damage or destroy the subject of the
34 process, or cause it to malfunction.

35 (ii) "Partially complete," as it modifies frame or receiver,
36 means a forging, casting, printing, extrusion, machined body, or
37 similar article that has reached a stage in manufacture where it is
38 clearly identifiable as an unfinished component part of a firearm.

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

1 (44) "Untraceable firearm" means any firearm manufactured after
2 July 1, 2019, that is not an antique firearm and that cannot be
3 traced by law enforcement by means of a serial number affixed to the
4 firearm by a federal firearms manufacturer, federal firearms
5 importer, or federal firearms dealer in compliance with all federal
6 laws and regulations.

7 (45) "Conviction" or "convicted" means, whether in an adult court
8 or adjudicated in a juvenile court, that a plea of guilty has been
9 accepted or a verdict of guilty has been filed, or a finding of guilt
10 has been entered, notwithstanding the pendency of any future
11 proceedings including, but not limited to, sentencing or disposition,
12 posttrial or post-fact-finding motions, and appeals. "Conviction"
13 includes a dismissal entered after a period of probation, suspension,
14 or deferral of sentence, and also includes equivalent dispositions by
15 courts in jurisdictions other than Washington state.

16 (46) "Domestic violence" has the same meaning as provided in RCW
17 10.99.020.

18 (47) "Sex offense" has the same meaning as provided in RCW
19 9.94A.030.

20 **Sec. 3.** RCW 9.41.040 and 2022 c 268 s 28 are each amended to
21 read as follows:

22 (1)(a) A person, whether an adult or juvenile, is guilty of the
23 crime of unlawful possession of a firearm in the first degree, if the
24 person owns, accesses, has in ~~((his or her))~~ the person's custody,
25 control, or possession, ~~((or has in his or her control))~~ or receives
26 any firearm after having previously been convicted or found not
27 guilty by reason of insanity in this state or elsewhere of any
28 serious offense ~~((as defined in this chapter)).~~

29 (b) Unlawful possession of a firearm in the first degree is a
30 class B felony punishable according to chapter 9A.20 RCW.

31 (2)(a) A person, whether an adult or juvenile, is guilty of the
32 crime of unlawful possession of a firearm in the second degree, if
33 the person does not qualify under subsection (1) of this section for
34 the crime of unlawful possession of a firearm in the first degree and
35 the person owns, accesses, has in ~~((his or her))~~ the person's
36 custody, control, or possession, ~~((or has in his or her control))~~ or
37 receives any firearm:

38 (i) After having previously been convicted or found not guilty by
39 reason of insanity in this state or elsewhere of ~~((any))~~:

1 (A) Any felony not specifically listed as prohibiting firearm
2 possession under subsection (1) of this section(~~(, or any)~~);

3 (B) Any of the following crimes when committed by one family or
4 household member against another or by one intimate partner against
5 another, as those terms are defined by the statutes in effect at the
6 time of the commission of the crime, committed on or after July 1,
7 1993: Assault in the fourth degree, coercion, stalking, reckless
8 endangerment, criminal trespass in the first degree, or violation of
9 the provisions of a protection order or no-contact order restraining
10 the person or excluding the person from a residence (RCW 10.99.040 or
11 any of the former RCW 26.50.060, 26.50.070, and 26.50.130);

12 (~~(ii) After having previously been convicted or found not guilty~~
13 ~~by reason of insanity in this state or elsewhere of))~~ (C) Harassment
14 when committed by one family or household member against another or
15 by one intimate partner against another, as those terms are defined
16 by the statutes in effect at the time of the commission of the crime,
17 committed on or after June 7, 2018;

18 (~~(iii) After having previously been convicted or found not~~
19 ~~guilty by reason of insanity in this state or elsewhere of a))~~ (D)
20 Any of the following misdemeanor or gross misdemeanor crimes not
21 included under (a) (i) (B) or (C) of this subsection, committed on or
22 after the effective date of this section: Domestic violence (RCW
23 10.99.020); stalking; cyberstalking; cyber harassment, excluding
24 cyber harassment committed solely pursuant to the element set forth
25 in RCW 9A.90.120(1)(a)(i); harassment; aiming or discharging a
26 firearm (RCW 9.41.230); unlawful carrying or handling of a firearm
27 (RCW 9.41.270); animal cruelty in the second degree committed under
28 RCW 16.52.207(1); or any prior offense as defined in RCW
29 46.61.5055(14) if committed within seven years of a conviction for
30 any other prior offense under RCW 46.61.5055;

31 (E) A violation of the provisions of a protection order under
32 chapter 7.105 RCW restraining the person or excluding the person from
33 a residence, when committed by one family or household member against
34 another or by one intimate partner against another, committed on or
35 after July 1, 2022; or

36 (~~(iv))~~) (F) A violation of the provisions of an order to
37 surrender and prohibit weapons, an extreme risk protection order, or
38 the provisions of any other protection order or no-contact order not
39 included under (a) (i) (B) or (E) of this subsection restraining the

1 person or excluding the person from a residence, committed on or
2 after the effective date of this section;

3 (ii) During any period of time that the person is subject to a
4 ~~((court order))~~ protection order, no-contact order, or restraining
5 order by a court issued under chapter 7.105, 9A.40, 9A.44, 9A.46,
6 9A.88, 10.99, 26.09, 26.26A, or 26.26B RCW or any of the former
7 chapters 7.90, 7.92, 10.14, and 26.50 RCW that:

8 (A) Was issued after a hearing for which the person received
9 actual notice, and at which the person had an opportunity to
10 participate, whether the court then issues a full order or reissues a
11 temporary order. If the court enters an agreed order by the parties
12 without a hearing, such an order meets the requirements of this
13 subsection;

14 (B) Restrains the person from harassing, stalking, or threatening
15 the person protected under the order or child of the person or
16 protected person, or others identified in the order, or engaging in
17 other conduct that would place the protected person in reasonable
18 fear of bodily injury to the protected person or child or others
19 identified in the order; and

20 (C) (I) Includes a finding that the person represents a credible
21 threat to the physical safety of the protected person or child or
22 others identified in the order, or by its terms explicitly prohibits
23 the use, attempted use, or threatened use of physical force against
24 the protected person or child or other persons that would reasonably
25 be expected to cause bodily injury; or

26 (II) Includes an order under RCW 9.41.800 requiring the person to
27 surrender all firearms and prohibiting the person from accessing,
28 having in his or her custody or control, possessing, purchasing,
29 receiving, or attempting to purchase or receive, firearms;

30 ~~((v))~~ (iii) After having previously been involuntarily
31 committed based on a mental disorder under RCW 71.05.240, 71.05.320,
32 71.34.740, 71.34.750, chapter 10.77 RCW, or equivalent statutes of
33 another jurisdiction, unless his or her right to possess a firearm
34 has been restored as provided in RCW 9.41.047;

35 ~~((vi))~~ (iv) After dismissal of criminal charges based on
36 incompetency to stand trial under RCW 10.77.088 when the court has
37 made a finding indicating that the defendant has a history of one or
38 more violent acts, unless his or her right to possess a firearm has
39 been restored as provided in RCW 9.41.047;

1 (~~(vii)~~) (v) If the person is under 18 years of age, except as
2 provided in RCW 9.41.042; and/or

3 (~~(viii)~~) (vi) If the person is free on bond or personal
4 recognizance pending trial(~~(, appeal, or sentencing)~~) for a serious
5 offense as defined in RCW 9.41.010.

6 (b) Unlawful possession of a firearm in the second degree is a
7 class C felony punishable according to chapter 9A.20 RCW.

8 (3) (~~(Notwithstanding RCW 9.41.047 or any other provisions of~~
9 ~~law, as used in this chapter, a person has been "convicted," whether~~
10 ~~in an adult court or adjudicated in a juvenile court, at such time as~~
11 ~~a plea of guilty has been accepted or a verdict of guilty has been~~
12 ~~filed, notwithstanding the pendency of any future proceedings~~
13 ~~including, but not limited to, sentencing or disposition, post-trial~~
14 ~~or post-fact-finding motions, and appeals. Conviction includes a~~
15 ~~dismissal entered after a period of probation, suspension, or~~
16 ~~deferral of sentence, and also includes equivalent dispositions by~~
17 ~~courts in jurisdictions other than Washington state.)) A person shall
18 not be precluded from possession of a firearm if the conviction has
19 been the subject of a pardon, annulment, certificate of
20 rehabilitation, or other equivalent procedure based on a finding of
21 the rehabilitation of the person convicted or the conviction or
22 disposition has been the subject of a pardon, annulment, or other
23 equivalent procedure based on a finding of innocence. Where no record
24 of the court's disposition of the charges can be found, there shall
25 be a rebuttable presumption that the person was not convicted of the
26 charge.~~

27 (4) (~~(a)~~) Notwithstanding subsection (1) or (2) of this section,
28 a person convicted or found not guilty by reason of insanity of an
29 offense prohibiting the possession of a firearm under this section
30 other than murder, manslaughter, robbery, rape, indecent liberties,
31 arson, assault, kidnapping, extortion, burglary, or violations with
32 respect to controlled substances under RCW 69.50.401 and 69.50.410,
33 who received a probationary sentence under RCW 9.95.200, and who
34 received a dismissal of the charge under RCW 9.95.240, shall not be
35 precluded from possession of a firearm as a result of the conviction
36 or finding of not guilty by reason of insanity. (~~(Notwithstanding any~~
37 ~~other provisions of this section, if a person is prohibited from~~
38 ~~possession of a firearm under subsection (1) or (2) of this section~~
39 ~~and has not previously been convicted or found not guilty by reason~~
40 ~~of insanity of a sex offense prohibiting firearm ownership under~~

1 ~~subsection (1) or (2) of this section and/or any felony defined under~~
2 ~~any law as a class A felony or with a maximum sentence of at least 20~~
3 ~~years, or both, the individual may petition a court of record to have~~
4 ~~his or her right to possess a firearm restored:~~

5 ~~(i) Under RCW 9.41.047; and/or~~

6 ~~(ii) (A) If the conviction or finding of not guilty by reason of~~
7 ~~insanity was for a felony offense, after five or more consecutive~~
8 ~~years in the community without being convicted or found not guilty by~~
9 ~~reason of insanity or currently charged with any felony, gross~~
10 ~~misdemeanor, or misdemeanor crimes, if the individual has no prior~~
11 ~~felony convictions that prohibit the possession of a firearm counted~~
12 ~~as part of the offender score under RCW 9.94A.525; or~~

13 ~~(B) If the conviction or finding of not guilty by reason of~~
14 ~~insanity was for a nonfelony offense, after three or more consecutive~~
15 ~~years in the community without being convicted or found not guilty by~~
16 ~~reason of insanity or currently charged with any felony, gross~~
17 ~~misdemeanor, or misdemeanor crimes, if the individual has no prior~~
18 ~~felony convictions that prohibit the possession of a firearm counted~~
19 ~~as part of the offender score under RCW 9.94A.525 and the individual~~
20 ~~has completed all conditions of the sentence.~~

21 ~~(b) An individual may petition a court of record to have his or~~
22 ~~her right to possess a firearm restored under (a) of this subsection~~
23 ~~only at:~~

24 ~~(i) The court of record that ordered the petitioner's prohibition~~
25 ~~on possession of a firearm; or~~

26 ~~(ii) The superior court in the county in which the petitioner~~
27 ~~resides.)~~

28 (5) In addition to any other penalty provided for by law, if a
29 person under the age of 18 years is found by a court to have
30 possessed a firearm in a vehicle in violation of subsection (1) or
31 (2) of this section or to have committed an offense while armed with
32 a firearm during which offense a motor vehicle served an integral
33 function, the court shall notify the department of licensing within
34 24 hours and the person's privilege to drive shall be revoked under
35 RCW 46.20.265, unless the offense is the juvenile's first offense in
36 violation of this section and has not committed an offense while
37 armed with a firearm, an unlawful possession of a firearm offense, or
38 an offense in violation of chapter 66.44, 69.52, 69.41, or 69.50 RCW.

39 (6) Nothing in chapter 129, Laws of 1995 shall ever be construed
40 or interpreted as preventing an offender from being charged and

1 subsequently convicted for the separate felony crimes of theft of a
2 firearm or possession of a stolen firearm, or both, in addition to
3 being charged and subsequently convicted under this section for
4 unlawful possession of a firearm in the first or second degree.
5 Notwithstanding any other law, if the offender is convicted under
6 this section for unlawful possession of a firearm in the first or
7 second degree and for the felony crimes of theft of a firearm or
8 possession of a stolen firearm, or both, then the offender shall
9 serve consecutive sentences for each of the felony crimes of
10 conviction listed in this subsection.

11 (7) Each firearm unlawfully possessed under this section shall be
12 a separate offense.

13 (8) A person may petition to restore the right to possess a
14 firearm as provided in section 4 of this act.

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

17 (1) A person who is prohibited from possession of a firearm under
18 RCW 9.41.040 may not petition a court to have the person's right to
19 possess a firearm restored if the person has been convicted or found
20 not guilty by reason of insanity of: A felony sex offense; a class A
21 felony; or a felony offense with a maximum sentence of at least 20
22 years.

23 (2) A person who is prohibited from possession of a firearm under
24 RCW 9.41.040, and is not disqualified from petitioning for
25 restoration of firearm rights under subsection (1) of this section or
26 required to petition as provided for in RCW 9.41.047, may petition a
27 superior court to have the person's right to possess a firearm
28 restored.

29 (a) The person must have, for the period of consecutive years as
30 specified below immediately preceding the filing of the petition,
31 been in the community without being convicted or found not guilty by
32 reason of insanity of any crime that prohibits the possession of a
33 firearm, as follows:

34 (i) Five years for a conviction or finding of not guilty by
35 reason of insanity for any felony offense, or any of the following
36 gross misdemeanor or misdemeanor offenses:

- 37 (A) Domestic violence (RCW 10.99.020);
38 (B) Stalking;
39 (C) Cyberstalking;

1 (D) Cyber harassment, excluding cyber harassment committed solely
2 pursuant to the element set forth in RCW 9A.90.120(1)(a)(i);

3 (E) Harassment;

4 (F) Aiming or discharging a firearm (RCW 9.41.230);

5 (G) Unlawful carrying or handling of a firearm (RCW 9.41.270);

6 (H) Animal cruelty in the second degree committed under RCW
7 16.52.207(1);

8 (I) Prior offense as defined by RCW 46.61.5055; or

9 (J) Violation of the provisions of an order to surrender and
10 prohibit weapons, an extreme risk protection order, or the provisions
11 of a protection order or no-contact order restraining the person or
12 excluding the person from a residence; and

13 (ii) Three years for a conviction or finding of not guilty by
14 reason of insanity for one or more nonfelony crimes not covered in
15 (a)(i) of this subsection.

16 (b) The person petitioning for firearm rights to be restored must
17 also meet the following requirements:

18 (i) Has no pending charges for any felony, gross misdemeanor, or
19 misdemeanor crime at the time the petition is filed or during the
20 petition process;

21 (ii) Has completed all sentencing conditions, other than
22 nonrestitution fines and fees, for each felony, gross misdemeanor, or
23 misdemeanor conviction on which the prohibition was based, including
24 all court-ordered treatment. The court shall waive the requirement of
25 this subsection (2)(b)(ii) if the petitioner provides verification
26 from the sentencing court that relevant court records are no longer
27 available, or attests to the unavailability of relevant records from
28 other entities;

29 (iii) Has no prior felony convictions that would count as part of
30 an offender score under RCW 9.94A.525 and has no out-of-state
31 conviction for an offense which would disqualify the person from
32 purchasing or possessing a firearm in the state of conviction; and

33 (iv) Has been determined by law enforcement based on available
34 records and information as not subject to any other prohibition on
35 possessing a firearm at the time the petition for the restoration of
36 firearm rights is filed or during the petition process, and would be
37 able to pass a background check to purchase a firearm if the petition
38 to restore firearm rights is granted.

39 (3) The process for petitioning for restoration of firearm rights
40 is as follows:

1 (a) The person must file a petition in a superior court in a
2 county that entered any prohibition.

3 (b) At the time of filing the petition, the person must serve the
4 prosecuting attorney in the county where the petition is filed with
5 the petition.

6 (c) Upon receipt of service of the petition, the prosecuting
7 attorney must take reasonable steps to notify the listed victim of a
8 prohibiting crime and any person who previously obtained a full
9 protection order or no-contact order against the person petitioning
10 for restoration of firearm rights, if those persons have requested
11 notification, of the procedure to provide a sworn written statement
12 regarding the existence of any additional facts or information that
13 they may have relevant to whether the person petitioning for
14 restoration of firearm rights meets the requirements for restoration
15 set forth in this section.

16 (d) The prosecuting attorney must verify in writing to the court
17 that the prosecuting attorney has reviewed the relevant records,
18 including written verification from Washington state patrol that
19 Washington state patrol has conducted a records check of all civil
20 and criminal records relevant to the prohibitors in RCW 9.41.040, and
21 based on that information, whether there is sufficient evidence to
22 determine that the person petitioning for restoration of firearm
23 rights meets all the requirements set forth in RCW 9.41.040 and in
24 this section to petition for and to be granted restoration of firearm
25 rights.

26 (e) The court may set a hearing on the petition if the court
27 determines additional information is necessary to determine whether
28 the person meets the requirements for restoration of firearm rights.

29 (f) The court shall grant the petition only if the court finds
30 that the person petitioning for restoration of firearm rights meets
31 the requirements set forth in this section.

32 (g) The prosecuting attorney shall notify any victim who requests
33 notification of the court's decision.

34 (4) When a person's right to possess a firearm has been restored
35 under this section, the court shall forward, within three judicial
36 days after entry of the restoration order, notification that the
37 person's right to possess a firearm has been restored to the
38 Washington state patrol with a copy of the person's driver's license
39 or identicard, or comparable identification such as the person's
40 name, address, and date of birth.

1 (5) By December 30, 2023, the administrative office of the courts
2 shall develop and distribute standard forms for petitions and orders
3 issued under this section and RCW 9.41.047, and update protection
4 order and no-contact order forms to allow victims to opt out of the
5 notification provided for in this section if they do not wish to be
6 notified at the time of a petition for firearm rights restoration.
7 Beginning January 1, 2024, courts shall use the standard forms for
8 petitions and orders under this section and RCW 9.41.047, and the
9 updated protection order and no-contact order forms.

10 (6) An appointed or elected public official, public employee, or
11 public agency as defined in RCW 4.24.470, or combination of units of
12 local government and its employees as provided in RCW 36.28A.010, are
13 immune from civil liability for good faith conduct in the performance
14 of the official's, employee's, or agency's duties under this section.

15 **Sec. 5.** RCW 9.41.047 and 2020 c 302 s 60 are each amended to
16 read as follows:

17 (1)(a) At the time a person is convicted or found not guilty by
18 reason of insanity of an offense making the person ineligible to
19 possess a firearm, or at the time a person is committed by court
20 order under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, or
21 chapter 10.77 RCW for ~~((mental health))~~ treatment for a mental
22 disorder, or at the time that charges are dismissed based on
23 incompetency to stand trial under RCW 10.77.088 and the court makes a
24 finding that the person has a history of one or more violent acts,
25 the ~~((convicting or committing court, or))~~ court ~~((that dismisses~~
26 ~~charges,))~~ shall notify the person, orally and in writing, that the
27 person must immediately surrender all firearms and any concealed
28 pistol license and that the person may not possess a firearm unless
29 ~~((his or her))~~ the person's right to do so is restored by ~~((a))~~ the
30 superior court ~~((of record. For purposes of this section a convicting~~
31 ~~court includes a court in which a person has been found not guilty by~~
32 ~~reason of insanity))~~ that issued the order.

33 (b) The court shall forward within three judicial days after
34 conviction, finding of not guilty by reason of insanity, entry of the
35 commitment order, or dismissal of charges, a copy of the person's
36 driver's license or identicard, or comparable information such as
37 ~~((their))~~ the person's name, address, and date of birth, along with
38 the date of conviction or commitment, or date charges are dismissed,
39 to the department of licensing. When a person is committed by court

1 order under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, or
2 chapter 10.77 RCW, for (~~mental health~~) treatment for a mental
3 disorder, or when a person's charges are dismissed based on
4 incompetency to stand trial under RCW 10.77.088 and the court makes a
5 finding that the person has a history of one or more violent acts,
6 the court also shall forward, within three judicial days after entry
7 of the commitment order, or dismissal of charges, a copy of the
8 person's driver's license, or comparable information, along with the
9 date of commitment or date charges are dismissed, to the national
10 instant criminal background check system index, denied persons file,
11 created by the federal Brady handgun violence prevention act (P.L.
12 103-159) and to the Washington state patrol. The petitioning party
13 shall provide the court with the information required. If more than
14 one commitment order is entered under one cause number, only one
15 notification to the department of licensing and the national instant
16 criminal background check system is required.

17 (2) Upon receipt of the information provided for by subsection
18 (1) of this section, the department of licensing shall determine if
19 the (~~convicted or committed~~) person(~~, or the person whose charges~~
20 ~~are dismissed based on incompetency to stand trial,~~) has a concealed
21 pistol license. If the person (~~does have~~) has a concealed pistol
22 license, the department of licensing shall immediately notify the
23 license-issuing authority which, upon receipt of such notification,
24 shall immediately revoke the license.

25 (3)(a) A person who is prohibited from possessing a firearm, by
26 reason of having been involuntarily committed for (~~mental health~~)
27 treatment for a mental disorder under RCW 71.05.240, 71.05.320,
28 71.34.740, 71.34.750, chapter 10.77 RCW, or equivalent statutes of
29 another jurisdiction, or by reason of having been detained under RCW
30 71.05.150 or 71.05.153, or because the person's charges were
31 dismissed based on incompetency to stand trial under RCW 10.77.088
32 and the court made a finding that the person has a history of one or
33 more violent acts, may, upon discharge, petition the superior court
34 to have his or her right to possess a firearm restored, except that a
35 person found not guilty by reason of insanity may not petition for
36 restoration of the right to possess a firearm until one year after
37 discharge.

38 (b) The petition must be brought in the superior court that
39 ordered the involuntary commitment or dismissed the charges based on

1 incompetency to stand trial or the superior court of the county in
2 which the petitioner resides.

3 (c) Except as provided in (d) and (e) of this subsection, (~~the~~)
4 ~~court shall restore the petitioner's right to possess a firearm~~)
5 firearm rights shall be restored if the (~~petitioner~~) person
6 petitioning for restoration of firearm rights proves by a
7 preponderance of the evidence that:

8 (i) The (~~petitioner~~) person petitioning for restoration of
9 firearm rights is no longer required to participate in court-ordered
10 inpatient or outpatient treatment;

11 (ii) The (~~petitioner~~) person petitioning for restoration of
12 firearm rights has successfully managed the condition related to the
13 commitment or detention or incompetency;

14 (iii) The (~~petitioner~~) person petitioning for restoration of
15 firearm rights no longer presents a substantial danger to (~~himself~~
16 ~~or herself,~~) self or to the public; and

17 (iv) The symptoms related to the commitment or detention or
18 incompetency are not reasonably likely to recur.

19 (d) If a preponderance of the evidence in the record supports a
20 finding that the person petitioning (~~the court~~) for restoration of
21 firearm rights has engaged in violence and that it is more likely
22 than not that the person will engage in violence after (~~his or her~~)
23 the person's right to possess a firearm is restored, the person
24 petitioning for restoration of firearm rights shall bear the burden
25 of proving by clear, cogent, and convincing evidence that (~~he or~~
26 ~~she~~) the person does not present a substantial danger to the safety
27 of others.

28 (e) If the (~~petitioner~~) person seeking restoration of firearm
29 rights seeks restoration after having been detained under RCW
30 71.05.150 or 71.05.153, the state shall bear the burden of proof to
31 show, by a preponderance of the evidence, that the (~~petitioner~~)
32 person does not meet the restoration criteria in (c) of this
33 subsection.

34 (f) When a person's right to possess a firearm has been restored
35 under this subsection, the court shall forward, within three judicial
36 days after entry of the restoration order, notification that the
37 person's right to possess a firearm has been restored to the
38 department of licensing with a copy of the person's driver's license
39 or identicard, or comparable identification such as (~~their~~) the
40 person's name, address, and date of birth, the health care authority,

1 and the national instant criminal background check system index,
2 denied persons file. In the case of a person whose right to possess a
3 firearm has been suspended for six months as provided in RCW
4 71.05.182, the department of licensing shall forward notification of
5 the restoration order to the licensing authority, which, upon receipt
6 of such notification, shall immediately lift the suspension,
7 restoring the license.

8 (4) No person who has been found not guilty by reason of insanity
9 may petition a court for restoration of the right to possess a
10 firearm unless the person meets the requirements for the restoration
11 of the right to possess a firearm under ((RCW 9.41.040(4))) section 4
12 of this act.

13 NEW SECTION. **Sec. 6.** If any provision of this act or its
14 application to any person or circumstance is held invalid, the
15 remainder of the act or the application of the provision to other
16 persons or circumstances is not affected.

17 **CONFORMING AMENDMENTS TO CORRECT CITATIONS**

18 **Sec. 7.** RCW 9.41.042 and 2022 c 268 s 33 are each amended to
19 read as follows:

20 RCW 9.41.040(2)(a)((~~vii~~)) (v) shall not apply to any person
21 under the age of eighteen years who is:

22 (1) In attendance at a hunter's safety course or a firearms
23 safety course;

24 (2) Engaging in practice in the use of a firearm or target
25 shooting at an established range authorized by the governing body of
26 the jurisdiction in which such range is located or any other area
27 where the discharge of a firearm is not prohibited;

28 (3) Engaging in an organized competition involving the use of a
29 firearm, or participating in or practicing for a performance by an
30 organized group that uses firearms as a part of the performance;

31 (4) Hunting or trapping under a valid license issued to the
32 person under Title 77 RCW;

33 (5) In an area where the discharge of a firearm is permitted, is
34 not trespassing, and the person either: (a) Is at least fourteen
35 years of age, has been issued a hunter safety certificate, and is
36 using a lawful firearm other than a pistol; or (b) is under the

1 supervision of a parent, guardian, or other adult approved for the
2 purpose by the parent or guardian;

3 (6) Traveling with any unloaded firearm in the person's
4 possession to or from any activity described in subsection (1), (2),
5 (3), (4), or (5) of this section;

6 (7) On real property under the control of his or her parent,
7 other relative, or legal guardian and who has the permission of the
8 parent or legal guardian to possess a firearm;

9 (8) At his or her residence and who, with the permission of his
10 or her parent or legal guardian, possesses a firearm for the purpose
11 of exercising the rights specified in RCW 9A.16.020(3); or

12 (9) Is a member of the armed forces of the United States,
13 national guard, or organized reserves, when on duty.

14 **Sec. 8.** RCW 13.40.0357 and 2022 c 268 s 37 and 2022 c 16 s 9 are
15 each reenacted and amended to read as follows:

16 **DESCRIPTION AND OFFENSE CATEGORY**

		JUVENILE DISPOSITION
JUVENILE		CATEGORY FOR
DISPOSITION		ATTEMPT, BAILJUMP,
OFFENSE		CONSPIRACY, OR
CATEGORY	DESCRIPTION (RCW CITATION)	SOLICITATION

17
18
19
20
21
22 **Arson and Malicious Mischief**

A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (9A.48.090)	E
E	Tampering with Fire Alarm Apparatus (9.40.100)	E
E	Tampering with Fire Alarm Apparatus with Intent to Commit Arson (9.40.105)	E
A	Possession of Incendiary Device (9.40.120)	B+

23
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36 **Assault and Other Crimes Involving**
37 **Physical Harm**

1	A	Assault 1 (9A.36.011)	B+
2	B+	Assault 2 (9A.36.021)	C+
3	C+	Assault 3 (9A.36.031)	D+
4	D+	Assault 4 (9A.36.041)	E
5	B+	Drive-By Shooting (9A.36.045)	C+
6		committed at age 15 or under	
7	A++	Drive-By Shooting (9A.36.045)	A
8		committed at age 16 or 17	
9	D+	Reckless Endangerment (9A.36.050)	E
10	C+	Promoting Suicide Attempt (9A.36.060)	D+
11	D+	Coercion (9A.36.070)	E
12	C+	Custodial Assault (9A.36.100)	D+
13		Burglary and Trespass	
14	B+	Burglary 1 (9A.52.020) committed at	C+
15		age 15 or under	
16	A-	Burglary 1 (9A.52.020) committed at	B+
17		age 16 or 17	
18	B	Residential Burglary (9A.52.025)	C
19	B	Burglary 2 (9A.52.030)	C
20	D	Burglary Tools (Possession of)	E
21		(9A.52.060)	
22	D	Criminal Trespass 1 (9A.52.070)	E
23	E	Criminal Trespass 2 (9A.52.080)	E
24	C	Mineral Trespass (78.44.330)	C
25	C	Vehicle Prowling 1 (9A.52.095)	D
26	D	Vehicle Prowling 2 (9A.52.100)	E
27		Drugs	
28	E	Possession/Consumption of Alcohol	E
29		(66.44.270)	
30	C	Illegally Obtaining Legend Drug	D
31		(69.41.020)	
32	C+	Sale, Delivery, Possession of Legend	D+
33		Drug with Intent to Sell (69.41.030(2)(a))	
34	E	Possession of Legend	E
35		Drug (69.41.030(2)(b))	

1	B+	Violation of Uniform Controlled	B+
2		Substances Act - Narcotic,	
3		Methamphetamine, or Flunitrazepam	
4		Sale (69.50.401(2) (a) or (b))	
5	C	Violation of Uniform Controlled	C
6		Substances Act - Nonnarcotic Sale	
7		(69.50.401(2)(c))	
8	E	Possession of Cannabis <40 grams	E
9		(69.50.4014)	
10	C	Fraudulently Obtaining Controlled	C
11		Substance (69.50.403)	
12	C+	Sale of Controlled Substance for Profit	C+
13		(69.50.410)	
14	E	Unlawful Inhalation (9.47A.020)	E
15	B	Violation of Uniform Controlled	B
16		Substances Act - Narcotic,	
17		Methamphetamine, or Flunitrazepam	
18		Counterfeit Substances (69.50.4011(2)	
19		(a) or (b))	
20	C	Violation of Uniform Controlled	C
21		Substances Act - Nonnarcotic Counterfeit	
22		Substances (69.50.4011(2) (c), (d), or (e))	
23	C	Violation of Uniform Controlled	C
24		Substances Act - Possession of a	
25		Controlled Substance (69.50.4013)	
26	C	Violation of Uniform Controlled	C
27		Substances Act - Possession of a	
28		Controlled Substance (69.50.4012)	
29		Firearms and Weapons	
30	B	Theft of Firearm (9A.56.300)	C
31	B	Possession of Stolen Firearm	C
32		(9A.56.310)	
33	E	Carrying Loaded Pistol Without Permit	E
34		(9.41.050)	
35	C	Possession of Firearms by Minor (<18)	C
36		(9.41.040(2)(a)((vii)) (v))	
37	D+	Possession of Dangerous Weapon	E
38		(9.41.250)	

1	D	Intimidating Another Person by use of	E
2		Weapon (9.41.270)	
3		Homicide	
4	A+	Murder 1 (9A.32.030)	A
5	A+	Murder 2 (9A.32.050)	B+
6	B+	Manslaughter 1 (9A.32.060)	C+
7	C+	Manslaughter 2 (9A.32.070)	D+
8	B+	Vehicular Homicide (46.61.520)	C+
9		Kidnapping	
10	A	Kidnap 1 (9A.40.020)	B+
11	B+	Kidnap 2 (9A.40.030)	C+
12	C+	Unlawful Imprisonment (9A.40.040)	D+
13		Obstructing Governmental Operation	
14	D	Obstructing a Law Enforcement Officer	E
15		(9A.76.020)	
16	E	Resisting Arrest (9A.76.040)	E
17	B	Introducing Contraband 1 (9A.76.140)	C
18	C	Introducing Contraband 2 (9A.76.150)	D
19	E	Introducing Contraband 3 (9A.76.160)	E
20	B+	Intimidating a Public Servant	C+
21		(9A.76.180)	
22	B+	Intimidating a Witness (9A.72.110)	C+
23		Public Disturbance	
24	C+	Criminal Mischief with Weapon	D+
25		(9A.84.010(2)(b))	
26	D+	Criminal Mischief Without Weapon	E
27		(9A.84.010(2)(a))	
28	E	Failure to Disperse (9A.84.020)	E
29	E	Disorderly Conduct (9A.84.030)	E
30		Sex Crimes	
31	A	Rape 1 (9A.44.040)	B+
32	B++	Rape 2 (9A.44.050) committed at age 14	B+
33		or under	
34	A-	Rape 2 (9A.44.050) committed at age 15	B+
35		through age 17	
36	C+	Rape 3 (9A.44.060)	D+

1	B++	Rape of a Child 1 (9A.44.073)	B+
2		committed at age 14 or under	
3	A-	Rape of a Child 1 (9A.44.073)	B+
4		committed at age 15	
5	B+	Rape of a Child 2 (9A.44.076)	C+
6	B	Incest 1 (9A.64.020(1))	C
7	C	Incest 2 (9A.64.020(2))	D
8	D+	Indecent Exposure (Victim <14)	E
9		(9A.88.010)	
10	E	Indecent Exposure (Victim 14 or over)	E
11		(9A.88.010)	
12	B+	Promoting Prostitution 1 (9A.88.070)	C+
13	C+	Promoting Prostitution 2 (9A.88.080)	D+
14	E	O & A (Prostitution) (9A.88.030)	E
15	B+	Indecent Liberties (9A.44.100)	C+
16	B++	Child Molestation 1 (9A.44.083)	B+
17		committed at age 14 or under	
18	A-	Child Molestation 1 (9A.44.083)	B+
19		committed at age 15 through age 17	
20	B	Child Molestation 2 (9A.44.086)	C+
21	C	Failure to Register as a Sex Offender	D
22		(9A.44.132)	
23		Theft, Robbery, Extortion, and	
24		Forgery	
25	B	Theft 1 (9A.56.030)	C
26	C	Theft 2 (9A.56.040)	D
27	D	Theft 3 (9A.56.050)	E
28	B	Theft of Livestock 1 and 2 (9A.56.080	C
29		and 9A.56.083)	
30	C	Forgery (9A.60.020)	D
31	A	Robbery 1 (9A.56.200) committed at	B+
32		age 15 or under	
33	A++	Robbery 1 (9A.56.200) committed at	A
34		age 16 or 17	
35	B+	Robbery 2 (9A.56.210)	C+
36	B+	Extortion 1 (9A.56.120)	C+
37	C+	Extortion 2 (9A.56.130)	D+

1	C	Identity Theft 1 (9.35.020(2))	D
2	D	Identity Theft 2 (9.35.020(3))	E
3	D	Improperly Obtaining Financial	E
4		Information (9.35.010)	
5	B	Possession of a Stolen Vehicle	C
6		(9A.56.068)	
7	B	Possession of Stolen Property 1	C
8		(9A.56.150)	
9	C	Possession of Stolen Property 2	D
10		(9A.56.160)	
11	D	Possession of Stolen Property 3	E
12		(9A.56.170)	
13	B	Taking Motor Vehicle Without	C
14		Permission 1 (9A.56.070)	
15	C	Taking Motor Vehicle Without	D
16		Permission 2 (9A.56.075)	
17	B	Theft of a Motor Vehicle (9A.56.065)	C
18		Motor Vehicle Related Crimes	
19	E	Driving Without a License (46.20.005)	E
20	B+	Hit and Run - Death (46.52.020(4)(a))	C+
21	C	Hit and Run - Injury (46.52.020(4)(b))	D
22	D	Hit and Run-Attended (46.52.020(5))	E
23	E	Hit and Run-Unattended (46.52.010)	E
24	C	Vehicular Assault (46.61.522)	D
25	C	Attempting to Elude Pursuing Police	D
26		Vehicle (46.61.024)	
27	E	Reckless Driving (46.61.500)	E
28	D	Driving While Under the Influence	E
29		(46.61.502 and 46.61.504)	
30	B+	Felony Driving While Under the	B
31		Influence (46.61.502(6))	
32	B+	Felony Physical Control of a Vehicle	B
33		While Under the Influence (46.61.504(6))	
34		Other	
35	B	Animal Cruelty 1 (16.52.205)	C
36	B	Bomb Threat (9.61.160)	C

1	C	Escape 1 ¹ (9A.76.110)	C
2	C	Escape 2 ¹ (9A.76.120)	C
3	D	Escape 3 (9A.76.130)	E
4	E	Obscene, Harassing, Etc., Phone Calls	E
5		(9.61.230)	
6	A	Other Offense Equivalent to an Adult	B+
7		Class A Felony	
8	B	Other Offense Equivalent to an Adult	C
9		Class B Felony	
10	C	Other Offense Equivalent to an Adult	D
11		Class C Felony	
12	D	Other Offense Equivalent to an Adult	E
13		Gross Misdemeanor	
14	E	Other Offense Equivalent to an Adult	E
15		Misdemeanor	
16	V	Violation of Order of Restitution,	V
17		Community Supervision, or Confinement	
18		(13.40.200) ²	

19 ¹Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses
20 and the standard range is established as follows:

21 1st escape or attempted escape during 12-month period - 28 days
22 confinement

23 2nd escape or attempted escape during 12-month period - 8 weeks
24 confinement

25 3rd and subsequent escape or attempted escape during 12-month
26 period - 12 weeks confinement

27 ²If the court finds that a respondent has violated terms of an order,
28 it may impose a penalty of up to 30 days of confinement.

29 **JUVENILE SENTENCING STANDARDS**

30 This schedule must be used for juvenile offenders. The court may
31 select sentencing option A, B, C, or D.

32 **OPTION A**

33 **JUVENILE OFFENDER SENTENCING GRID**

34 **STANDARD RANGE**

35 A++ 129 to 260 weeks for all category A++ offenses

1	A+	180 weeks to age 21 for all category A+ offenses					
2	A	103-129 weeks for all category A offenses					
3	A-	30-40 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks	
4	B++	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks	
5	CURRENT	B+	15-36 weeks	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks
6	OFFENSE	B	LS	LS	15-36 weeks	15-36 weeks	52-65 weeks
7	CATEGORY	C+	LS	LS	LS	15-36 weeks	15-36 weeks
8		C	LS	LS	LS	LS	15-36 weeks
9		D+	LS	LS	LS	LS	LS
10		D	LS	LS	LS	LS	LS
11		E	LS	LS	LS	LS	LS
12	PRIOR		0	1	2	3	4 or more
13	ADJUDICATIONS						

14 NOTE: References in the grid to days or weeks mean periods of
15 confinement. "LS" means "local sanctions" as defined in RCW
16 13.40.020.

17 (1) The vertical axis of the grid is the current offense
18 category. The current offense category is determined by the offense
19 of adjudication.

20 (2) The horizontal axis of the grid is the number of prior
21 adjudications included in the juvenile's criminal history. Each prior
22 felony adjudication shall count as one point. Each prior violation,
23 misdemeanor, and gross misdemeanor adjudication shall count as 1/4
24 point. Fractional points shall be rounded down.

25 (3) The standard range disposition for each offense is determined
26 by the intersection of the column defined by the prior adjudications
27 and the row defined by the current offense category.

28 (4) RCW 13.40.180 applies if the offender is being sentenced for
29 more than one offense.

30 (5) A current offense that is a violation is equivalent to an
31 offense category of E. However, a disposition for a violation shall
32 not include confinement.

33 **OR**
34 **OPTION B**
35 **SUSPENDED DISPOSITION ALTERNATIVE**

1 (1) If the offender is subject to a standard range disposition
2 involving confinement by the department, the court may impose the
3 standard range and suspend the disposition on condition that the
4 offender comply with one or more local sanctions and any educational
5 or treatment requirement. The treatment programs provided to the
6 offender must be either research-based best practice programs as
7 identified by the Washington state institute for public policy or the
8 joint legislative audit and review committee, or for chemical
9 dependency treatment programs or services, they must be evidence-
10 based or research-based best practice programs. For the purposes of
11 this subsection:

12 (a) "Evidence-based" means a program or practice that has had
13 multiple site random controlled trials across heterogeneous
14 populations demonstrating that the program or practice is effective
15 for the population; and

16 (b) "Research-based" means a program or practice that has some
17 research demonstrating effectiveness, but that does not yet meet the
18 standard of evidence-based practices.

19 (2) If the offender fails to comply with the suspended
20 disposition, the court may impose sanctions pursuant to RCW 13.40.200
21 or may revoke the suspended disposition and order the disposition's
22 execution.

23 (3) An offender is ineligible for the suspended disposition
24 option under this section if the offender:

25 (a) Is adjudicated of an A+ or A++ offense;

26 (b) Is fourteen years of age or older and is adjudicated of one
27 or more of the following offenses:

28 (i) A class A offense, or an attempt, conspiracy, or solicitation
29 to commit a class A offense;

30 (ii) Manslaughter in the first degree (RCW 9A.32.060);

31 (iii) Assault in the second degree (RCW 9A.36.021), extortion in
32 the first degree (RCW 9A.56.120), kidnapping in the second degree
33 (RCW 9A.40.030), drive-by shooting (RCW 9A.36.045), vehicular
34 homicide (RCW 46.61.520), hit and run death (RCW 46.52.020(4)(a)), or
35 manslaughter 2 (RCW 9A.32.070); or

36 (iv) Violation of the uniform controlled substances act (RCW
37 69.50.401(2) (a) and (b)), when the offense includes infliction of
38 bodily harm upon another or when during the commission or immediate

1 withdrawal from the offense the respondent was armed with a deadly
2 weapon;

3 (c) Is ordered to serve a disposition for a firearm violation
4 under RCW 13.40.193;

5 (d) Is adjudicated of a sex offense as defined in RCW 9.94A.030;
6 or

7 (e) Has a prior option B disposition.

8 **OR**

9 **OPTION C**

10 **CHEMICAL DEPENDENCY/MENTAL HEALTH DISPOSITION ALTERNATIVE**

11 If the juvenile offender is subject to a standard range
12 disposition of local sanctions or 15 to 36 weeks of confinement and
13 has not committed a B++ or B+ offense, the court may impose a
14 disposition under RCW 13.40.160(4) and 13.40.165.

15 **OR**

16 **OPTION D**

17 **MANIFEST INJUSTICE**

18 If the court determines that a disposition under option A, B, or C
19 would effectuate a manifest injustice, the court shall impose a
20 disposition outside the standard range under RCW 13.40.160(2).

21 **Sec. 9.** RCW 13.40.160 and 2022 c 268 s 38 are each amended to
22 read as follows:

23 (1) The standard range disposition for a juvenile adjudicated of
24 an offense is determined according to RCW 13.40.0357.

25 (a) When the court sentences an offender to a local sanction as
26 provided in RCW 13.40.0357 option A, the court shall impose a
27 determinate disposition within the standard ranges, except as
28 provided in subsection (2), (3), (4), (5), or (6) of this section.
29 The disposition may be comprised of one or more local sanctions.

30 (b) When the court sentences an offender to a standard range as
31 provided in RCW 13.40.0357 option A that includes a term of
32 confinement exceeding thirty days, commitment shall be to the
33 department for the standard range of confinement, except as provided
34 in subsection (2), (3), (4), (5), or (6) of this section.

35 (2) If the court concludes, and enters reasons for its
36 conclusion, that disposition within the standard range would
37 effectuate a manifest injustice the court shall impose a disposition

1 outside the standard range, as indicated in option D of RCW
2 13.40.0357. The court's finding of manifest injustice shall be
3 supported by clear and convincing evidence.

4 A disposition outside the standard range shall be determinate and
5 shall be comprised of confinement or community supervision, or a
6 combination thereof. When a judge finds a manifest injustice and
7 imposes a sentence of confinement exceeding thirty days, the court
8 shall sentence the juvenile to a maximum term, and the provisions of
9 RCW 13.40.030(2) shall be used to determine the range. A disposition
10 outside the standard range is appealable under RCW 13.40.230 by the
11 state or the respondent. A disposition within the standard range is
12 not appealable under RCW 13.40.230.

13 (3) If a juvenile offender is found to have committed a sex
14 offense, other than a sex offense that is also a serious violent
15 offense as defined by RCW 9.94A.030, and has no history of a prior
16 sex offense, the court may impose the special sex offender
17 disposition alternative under RCW 13.40.162.

18 (4) If the juvenile offender is subject to a standard range
19 disposition of local sanctions or 15 to 36 weeks of confinement and
20 has not committed an A- or B+ offense, the court may impose the
21 disposition alternative under RCW 13.40.165.

22 (5) If a juvenile is subject to a commitment of 15 to 65 weeks of
23 confinement, the court may impose the disposition alternative under
24 RCW 13.40.167.

25 (6) When the offender is subject to a standard range commitment
26 of 15 to 36 weeks and is ineligible for a suspended disposition
27 alternative, a manifest injustice disposition below the standard
28 range, special sex offender disposition alternative, chemical
29 dependency disposition alternative, or mental health disposition
30 alternative, the court in a county with a pilot program under RCW
31 13.40.169 may impose the disposition alternative under RCW 13.40.169.

32 (7) RCW 13.40.193 shall govern the disposition of any juvenile
33 adjudicated of possessing a firearm in violation of RCW
34 9.41.040(2)(a) (~~(vii)~~) (v) or any crime in which a special finding
35 is entered that the juvenile was armed with a firearm.

36 (8) RCW 13.40.308 shall govern the disposition of any juvenile
37 adjudicated of theft of a motor vehicle as defined under RCW
38 9A.56.065, possession of a stolen motor vehicle as defined under RCW
39 9A.56.068, taking a motor vehicle without permission in the first

1 degree under RCW 9A.56.070, and taking a motor vehicle without
2 permission in the second degree under RCW 9A.56.075.

3 (9) Whenever a juvenile offender is entitled to credit for time
4 spent in detention prior to a dispositional order, the dispositional
5 order shall specifically state the number of days of credit for time
6 served.

7 (10) Except as provided under subsection (3), (4), (5), or (6) of
8 this section, or option B of RCW 13.40.0357, or RCW 13.40.127, the
9 court shall not suspend or defer the imposition or the execution of
10 the disposition.

11 (11) In no case shall the term of confinement imposed by the
12 court at disposition exceed that to which an adult could be subjected
13 for the same offense.

14 **Sec. 10.** RCW 13.40.193 and 2022 c 268 s 39 are each amended to
15 read as follows:

16 (1) If a respondent is found to have been in possession of a
17 firearm in violation of RCW 9.41.040(2)(a)(~~(vii)~~) (v), the court
18 shall impose a minimum disposition of ten days of confinement. If the
19 offender's standard range of disposition for the offense as indicated
20 in RCW 13.40.0357 is more than thirty days of confinement, the court
21 shall commit the offender to the department for the standard range
22 disposition. The offender shall not be released until the offender
23 has served a minimum of ten days in confinement.

24 (2)(a) If a respondent is found to have been in possession of a
25 firearm in violation of RCW 9.41.040, the disposition must include a
26 requirement that the respondent participate in a qualifying program
27 as described in (b) of this subsection, when available, unless the
28 court makes a written finding based on the outcome of the juvenile
29 court risk assessment that participation in a qualifying program
30 would not be appropriate.

31 (b) For purposes of this section, "qualifying program" means an
32 aggression replacement training program, a functional family therapy
33 program, or another program applicable to the juvenile firearm
34 offender population that has been identified as evidence-based or
35 research-based and cost-beneficial in the current list prepared at
36 the direction of the legislature by the Washington state institute
37 for public policy.

38 (3) If the court finds that the respondent or an accomplice was
39 armed with a firearm, the court shall determine the standard range

1 disposition for the offense pursuant to RCW 13.40.160. If the
2 offender or an accomplice was armed with a firearm when the offender
3 committed any felony other than possession of a machine gun or bump-
4 fire stock, possession of a stolen firearm, drive-by shooting, theft
5 of a firearm, unlawful possession of a firearm in the first and
6 second degree, or use of a machine gun or bump-fire stock in a
7 felony, the following periods of total confinement must be added to
8 the sentence: (a) Except for (b) of this subsection, for a class A
9 felony, six months; for a class B felony, four months; and for a
10 class C felony, two months; (b) for any violent offense as defined in
11 RCW 9.94A.030, committed by a respondent who is sixteen or seventeen
12 years old at the time of the offense, a period of twelve months. The
13 additional time shall be imposed regardless of the offense's juvenile
14 disposition offense category as designated in RCW 13.40.0357.

15 (4) (a) If the court finds that the respondent who is sixteen or
16 seventeen years old and committed the offense of robbery in the first
17 degree, drive-by shooting, rape of a child in the first degree,
18 burglary in the first degree, or any violent offense as defined in
19 RCW 9.94A.030 and was armed with a firearm, and the court finds that
20 the respondent's participation was related to membership in a
21 criminal street gang or advancing the benefit, aggrandizement, gain,
22 profit, or other advantage for a criminal street gang, a period of
23 three months total confinement must be added to the sentence. The
24 additional time must be imposed regardless of the offense's juvenile
25 disposition offense category as designated in RCW 13.40.0357 and must
26 be served consecutively with any other sentencing enhancement.

27 (b) For the purposes of this section, "criminal street gang"
28 means any ongoing organization, association, or group of three or
29 more persons, whether formal or informal, having a common name or
30 common identifying sign or symbol, having as one of its primary
31 activities the commission of criminal acts, and whose members or
32 associates individually or collectively engage in or have engaged in
33 a pattern of criminal street gang activity. This definition does not
34 apply to employees engaged in concerted activities for their mutual
35 aid and protection, or to the activities of labor and bona fide
36 nonprofit organizations or their members or agents.

37 (5) When a disposition under this section would effectuate a
38 manifest injustice, the court may impose another disposition. When a
39 judge finds a manifest injustice and imposes a disposition of
40 confinement exceeding thirty days, the court shall commit the

1 juvenile to a maximum term, and the provisions of RCW 13.40.030(2)
2 shall be used to determine the range. When a judge finds a manifest
3 injustice and imposes a disposition of confinement less than thirty
4 days, the disposition shall be comprised of confinement or community
5 supervision or both.

6 (6) Any term of confinement ordered pursuant to this section
7 shall run consecutively to any term of confinement imposed in the
8 same disposition for other offenses.

9 **Sec. 11.** RCW 13.40.265 and 2022 c 268 s 40 are each amended to
10 read as follows:

11 (1) If a juvenile thirteen years of age or older is found by
12 juvenile court to have committed an offense while armed with a
13 firearm or an offense that is a violation of RCW 9.41.040(2)(a)
14 (~~((vii))~~) (v) or chapter 66.44, 69.41, 69.50, or 69.52 RCW, the court
15 shall notify the department of licensing within twenty-four hours
16 after entry of the judgment, unless the offense is the juvenile's
17 first offense while armed with a firearm, first unlawful possession
18 of a firearm offense, or first offense in violation of chapter 66.44,
19 69.41, 69.50, or 69.52 RCW.

20 (2) Except as otherwise provided in subsection (3) of this
21 section, upon petition of a juvenile who has been found by the court
22 to have committed an offense that is a violation of chapter 66.44,
23 69.41, 69.50, or 69.52 RCW, the court may at any time the court deems
24 appropriate notify the department of licensing that the juvenile's
25 driving privileges should be reinstated.

26 (3) If the offense is the juvenile's second or subsequent
27 violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the juvenile
28 may not petition the court for reinstatement of the juvenile's
29 privilege to drive revoked pursuant to RCW 46.20.265 until the date
30 the juvenile turns seventeen or one year after the date judgment was
31 entered, whichever is later.

32 **Sec. 12.** RCW 70.02.230 and 2022 c 268 s 43 are each amended to
33 read as follows:

34 (1) The fact of admission to a provider for mental health
35 services and all information and records compiled, obtained, or
36 maintained in the course of providing mental health services to
37 either voluntary or involuntary recipients of services at public or
38 private agencies may not be disclosed except as provided in this

1 section, RCW 70.02.050, 71.05.445, 74.09.295, 70.02.210, 70.02.240,
2 70.02.250, 70.02.260, and 70.02.265, or pursuant to a valid
3 authorization under RCW 70.02.030.

4 (2) Information and records related to mental health services,
5 other than those obtained through treatment under chapter 71.34 RCW,
6 may be disclosed:

7 (a) In communications between qualified professional persons to
8 meet the requirements of chapter 71.05 RCW, including Indian health
9 care providers, in the provision of services or appropriate
10 referrals, or in the course of guardianship proceedings if provided
11 to a professional person:

12 (i) Employed by the facility;

13 (ii) Who has medical responsibility for the patient's care;

14 (iii) Who is a designated crisis responder;

15 (iv) Who is providing services under chapter 71.24 RCW;

16 (v) Who is employed by a state or local correctional facility
17 where the person is confined or supervised; or

18 (vi) Who is providing evaluation, treatment, or follow-up
19 services under chapter 10.77 RCW;

20 (b) When the communications regard the special needs of a patient
21 and the necessary circumstances giving rise to such needs and the
22 disclosure is made by a facility providing services to the operator
23 of a facility in which the patient resides or will reside;

24 (c)(i) When the person receiving services, or his or her
25 guardian, designates persons to whom information or records may be
26 released, or if the person is a minor, when his or her parents make
27 such a designation;

28 (ii) A public or private agency shall release to a person's next
29 of kin, attorney, personal representative, guardian, or conservator,
30 if any:

31 (A) The information that the person is presently a patient in the
32 facility or that the person is seriously physically ill;

33 (B) A statement evaluating the mental and physical condition of
34 the patient, and a statement of the probable duration of the
35 patient's confinement, if such information is requested by the next
36 of kin, attorney, personal representative, guardian, or conservator;
37 and

38 (iii) Other information requested by the next of kin or attorney
39 as may be necessary to decide whether or not proceedings should be
40 instituted to appoint a guardian or conservator;

1 (d)(i) To the courts, including tribal courts, as necessary to
2 the administration of chapter 71.05 RCW or to a court ordering an
3 evaluation or treatment under chapter 10.77 RCW solely for the
4 purpose of preventing the entry of any evaluation or treatment order
5 that is inconsistent with any order entered under chapter 71.05 RCW.

6 (ii) To a court or its designee in which a motion under chapter
7 10.77 RCW has been made for involuntary medication of a defendant for
8 the purpose of competency restoration.

9 (iii) Disclosure under this subsection is mandatory for the
10 purpose of the federal health insurance portability and
11 accountability act;

12 (e)(i) When a mental health professional or designated crisis
13 responder is requested by a representative of a law enforcement or
14 corrections agency, including a police officer, sheriff, community
15 corrections officer, a municipal attorney, or prosecuting attorney to
16 undertake an investigation or provide treatment under RCW 71.05.150,
17 10.31.110, or 71.05.153, the mental health professional or designated
18 crisis responder shall, if requested to do so, advise the
19 representative in writing of the results of the investigation
20 including a statement of reasons for the decision to detain or
21 release the person investigated. The written report must be submitted
22 within seventy-two hours of the completion of the investigation or
23 the request from the law enforcement or corrections representative,
24 whichever occurs later.

25 (ii) Disclosure under this subsection is mandatory for the
26 purposes of the federal health insurance portability and
27 accountability act;

28 (f) To the attorney of the detained person;

29 (g) To the prosecuting attorney as necessary to carry out the
30 responsibilities of the office under RCW 71.05.330(2),
31 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided
32 access to records regarding the committed person's treatment and
33 prognosis, medication, behavior problems, and other records relevant
34 to the issue of whether treatment less restrictive than inpatient
35 treatment is in the best interest of the committed person or others.
36 Information must be disclosed only after giving notice to the
37 committed person and the person's counsel;

38 (h)(i) To appropriate law enforcement agencies and to a person,
39 when the identity of the person is known to the public or private
40 agency, whose health and safety has been threatened, or who is known

1 to have been repeatedly harassed, by the patient. The person may
2 designate a representative to receive the disclosure. The disclosure
3 must be made by the professional person in charge of the public or
4 private agency or his or her designee and must include the dates of
5 commitment, admission, discharge, or release, authorized or
6 unauthorized absence from the agency's facility, and only any other
7 information that is pertinent to the threat or harassment. The agency
8 or its employees are not civilly liable for the decision to disclose
9 or not, so long as the decision was reached in good faith and without
10 gross negligence.

11 (ii) Disclosure under this subsection is mandatory for the
12 purposes of the federal health insurance portability and
13 accountability act;

14 (i)(i) To appropriate corrections and law enforcement agencies
15 all necessary and relevant information in the event of a crisis or
16 emergent situation that poses a significant and imminent risk to the
17 public. The mental health service agency or its employees are not
18 civilly liable for the decision to disclose or not so long as the
19 decision was reached in good faith and without gross negligence.

20 (ii) Disclosure under this subsection is mandatory for the
21 purposes of the health insurance portability and accountability act;

22 (j) To the persons designated in RCW 71.05.425 for the purposes
23 described in those sections;

24 (k) By a care coordinator under RCW 71.05.585 or 10.77.175
25 assigned to a person ordered to receive less restrictive alternative
26 treatment for the purpose of sharing information to parties necessary
27 for the implementation of proceedings under chapter 71.05 or 10.77
28 RCW;

29 (l) Upon the death of a person. The person's next of kin,
30 personal representative, guardian, or conservator, if any, must be
31 notified. Next of kin who are of legal age and competent must be
32 notified under this section in the following order: Spouse, parents,
33 children, brothers and sisters, and other relatives according to the
34 degree of relation. Access to all records and information compiled,
35 obtained, or maintained in the course of providing services to a
36 deceased patient are governed by RCW 70.02.140;

37 (m) To mark headstones or otherwise memorialize patients interred
38 at state hospital cemeteries. The department of social and health
39 services shall make available the name, date of birth, and date of

1 death of patients buried in state hospital cemeteries fifty years
2 after the death of a patient;

3 (n) To law enforcement officers and to prosecuting attorneys as
4 are necessary to enforce RCW 9.41.040(2)(a)(~~(v)~~) (iii). The extent
5 of information that may be released is limited as follows:

6 (i) Only the fact, place, and date of involuntary commitment, an
7 official copy of any order or orders of commitment, and an official
8 copy of any written or oral notice of ineligibility to possess a
9 firearm that was provided to the person pursuant to RCW 9.41.047(1),
10 must be disclosed upon request;

11 (ii) The law enforcement and prosecuting attorneys may only
12 release the information obtained to the person's attorney as required
13 by court rule and to a jury or judge, if a jury is waived, that
14 presides over any trial at which the person is charged with violating
15 RCW 9.41.040(2)(a)(~~(v)~~) (iii);

16 (iii) Disclosure under this subsection is mandatory for the
17 purposes of the federal health insurance portability and
18 accountability act;

19 (o) When a patient would otherwise be subject to the provisions
20 of this section and disclosure is necessary for the protection of the
21 patient or others due to his or her unauthorized disappearance from
22 the facility, and his or her whereabouts is unknown, notice of the
23 disappearance, along with relevant information, may be made to
24 relatives, the department of corrections when the person is under the
25 supervision of the department, and governmental law enforcement
26 agencies designated by the physician or psychiatric advanced
27 registered nurse practitioner in charge of the patient or the
28 professional person in charge of the facility, or his or her
29 professional designee;

30 (p) Pursuant to lawful order of a court, including a tribal
31 court;

32 (q) To qualified staff members of the department, to the
33 authority, to behavioral health administrative services
34 organizations, to managed care organizations, to resource management
35 services responsible for serving a patient, or to service providers
36 designated by resource management services as necessary to determine
37 the progress and adequacy of treatment and to determine whether the
38 person should be transferred to a less restrictive or more
39 appropriate treatment modality or facility;

1 (r) Within the mental health service agency or Indian health care
2 provider facility where the patient is receiving treatment,
3 confidential information may be disclosed to persons employed,
4 serving in bona fide training programs, or participating in
5 supervised volunteer programs, at the facility when it is necessary
6 to perform their duties;

7 (s) Within the department and the authority as necessary to
8 coordinate treatment for mental illness, developmental disabilities,
9 or substance use disorder of persons who are under the supervision of
10 the department;

11 (t) Between the department of social and health services, the
12 department of children, youth, and families, and the health care
13 authority as necessary to coordinate treatment for mental illness,
14 developmental disabilities, or substance use disorder of persons who
15 are under the supervision of the department of social and health
16 services or the department of children, youth, and families;

17 (u) To a licensed physician or psychiatric advanced registered
18 nurse practitioner who has determined that the life or health of the
19 person is in danger and that treatment without the information and
20 records related to mental health services could be injurious to the
21 patient's health. Disclosure must be limited to the portions of the
22 records necessary to meet the medical emergency;

23 (v) (i) Consistent with the requirements of the federal health
24 insurance portability and accountability act, to:

25 (A) A health care provider, including an Indian health care
26 provider, who is providing care to a patient, or to whom a patient
27 has been referred for evaluation or treatment; or

28 (B) Any other person who is working in a care coordinator role
29 for a health care facility, health care provider, or Indian health
30 care provider, or is under an agreement pursuant to the federal
31 health insurance portability and accountability act with a health
32 care facility or a health care provider and requires the information
33 and records to assure coordinated care and treatment of that patient.

34 (ii) A person authorized to use or disclose information and
35 records related to mental health services under this subsection
36 (2)(v) must take appropriate steps to protect the information and
37 records relating to mental health services.

38 (iii) Psychotherapy notes may not be released without
39 authorization of the patient who is the subject of the request for
40 release of information;

1 (w) To administrative and office support staff designated to
2 obtain medical records for those licensed professionals listed in (v)
3 of this subsection;

4 (x) To a facility that is to receive a person who is
5 involuntarily committed under chapter 71.05 RCW, or upon transfer of
6 the person from one evaluation and treatment facility to another. The
7 release of records under this subsection is limited to the
8 information and records related to mental health services required by
9 law, a record or summary of all somatic treatments, and a discharge
10 summary. The discharge summary may include a statement of the
11 patient's problem, the treatment goals, the type of treatment which
12 has been provided, and recommendation for future treatment, but may
13 not include the patient's complete treatment record;

14 (y) To the person's counsel or guardian ad litem, without
15 modification, at any time in order to prepare for involuntary
16 commitment or recommitment proceedings, reexaminations, appeals, or
17 other actions relating to detention, admission, commitment, or
18 patient's rights under chapter 71.05 RCW;

19 (z) To staff members of the protection and advocacy agency or to
20 staff members of a private, nonprofit corporation for the purpose of
21 protecting and advocating the rights of persons with mental disorders
22 or developmental disabilities. Resource management services may limit
23 the release of information to the name, birthdate, and county of
24 residence of the patient, information regarding whether the patient
25 was voluntarily admitted, or involuntarily committed, the date and
26 place of admission, placement, or commitment, the name and address of
27 a guardian of the patient, and the date and place of the guardian's
28 appointment. Any staff member who wishes to obtain additional
29 information must notify the patient's resource management services in
30 writing of the request and of the resource management services' right
31 to object. The staff member shall send the notice by mail to the
32 guardian's address. If the guardian does not object in writing within
33 fifteen days after the notice is mailed, the staff member may obtain
34 the additional information. If the guardian objects in writing within
35 fifteen days after the notice is mailed, the staff member may not
36 obtain the additional information;

37 (aa) To all current treating providers, including Indian health
38 care providers, of the patient with prescriptive authority who have
39 written a prescription for the patient within the last twelve months.
40 For purposes of coordinating health care, the department or the

1 authority may release without written authorization of the patient,
2 information acquired for billing and collection purposes as described
3 in RCW 70.02.050(1)(d). The department, or the authority, if
4 applicable, shall notify the patient that billing and collection
5 information has been released to named providers, and provide the
6 substance of the information released and the dates of such release.
7 Neither the department nor the authority may release counseling,
8 inpatient psychiatric hospitalization, or drug and alcohol treatment
9 information without a signed written release from the client;

10 (bb)(i) To the secretary of social and health services and the
11 director of the health care authority for either program evaluation
12 or research, or both so long as the secretary or director, where
13 applicable, adopts rules for the conduct of the evaluation or
14 research, or both. Such rules must include, but need not be limited
15 to, the requirement that all evaluators and researchers sign an oath
16 of confidentiality substantially as follows:

17 "As a condition of conducting evaluation or research concerning
18 persons who have received services from (fill in the facility,
19 agency, or person) I,, agree not to divulge, publish, or
20 otherwise make known to unauthorized persons or the public any
21 information obtained in the course of such evaluation or research
22 regarding persons who have received services such that the person who
23 received such services is identifiable.

24 I recognize that unauthorized release of confidential information
25 may subject me to civil liability under the provisions of state law.
26 /s/"

27 (ii) Nothing in this chapter may be construed to prohibit the
28 compilation and publication of statistical data for use by government
29 or researchers under standards, including standards to assure
30 maintenance of confidentiality, set forth by the secretary, or
31 director, where applicable;

32 (cc) To any person if the conditions in RCW 70.02.205 are met;

33 (dd) To the secretary of health for the purposes of the maternal
34 mortality review panel established in RCW 70.54.450; or

35 (ee) To a tribe or Indian health care provider to carry out the
36 requirements of RCW 71.05.150(6).

37 (3) Whenever federal law or federal regulations restrict the
38 release of information contained in the information and records
39 related to mental health services of any patient who receives

1 treatment for a substance use disorder, the department or the
2 authority may restrict the release of the information as necessary to
3 comply with federal law and regulations.

4 (4) Civil liability and immunity for the release of information
5 about a particular person who is committed to the department of
6 social and health services or the authority under RCW 71.05.280(3)
7 and 71.05.320(4)(c) after dismissal of a sex offense as defined in
8 RCW 9.94A.030, is governed by RCW 4.24.550.

9 (5) The fact of admission to a provider of mental health
10 services, as well as all records, files, evidence, findings, or
11 orders made, prepared, collected, or maintained pursuant to chapter
12 71.05 RCW are not admissible as evidence in any legal proceeding
13 outside that chapter without the written authorization of the person
14 who was the subject of the proceeding except as provided in RCW
15 70.02.260, in a subsequent criminal prosecution of a person committed
16 pursuant to RCW 71.05.280(3) or 71.05.320(4)(c) on charges that were
17 dismissed pursuant to chapter 10.77 RCW due to incompetency to stand
18 trial, in a civil commitment proceeding pursuant to chapter 71.09
19 RCW, or, in the case of a minor, a guardianship or dependency
20 proceeding. The records and files maintained in any court proceeding
21 pursuant to chapter 71.05 RCW must be confidential and available
22 subsequent to such proceedings only to the person who was the subject
23 of the proceeding or his or her attorney. In addition, the court may
24 order the subsequent release or use of such records or files only
25 upon good cause shown if the court finds that appropriate safeguards
26 for strict confidentiality are and will be maintained.

27 (6)(a) Except as provided in RCW 4.24.550, any person may bring
28 an action against an individual who has willfully released
29 confidential information or records concerning him or her in
30 violation of the provisions of this section, for the greater of the
31 following amounts:

32 (i) One thousand dollars; or

33 (ii) Three times the amount of actual damages sustained, if any.

34 (b) It is not a prerequisite to recovery under this subsection
35 that the plaintiff suffered or was threatened with special, as
36 contrasted with general, damages.

37 (c) Any person may bring an action to enjoin the release of
38 confidential information or records concerning him or her or his or
39 her ward, in violation of the provisions of this section, and may in
40 the same action seek damages as provided in this subsection.

1 (d) The court may award to the plaintiff, should he or she
2 prevail in any action authorized by this subsection, reasonable
3 attorney fees in addition to those otherwise provided by law.

4 (e) If an action is brought under this subsection, no action may
5 be brought under RCW 70.02.170.

6 **Sec. 13.** RCW 70.02.240 and 2022 c 268 s 44 are each amended to
7 read as follows:

8 The fact of admission and all information and records related to
9 mental health services obtained through inpatient or outpatient
10 treatment of a minor under chapter 71.34 RCW must be kept
11 confidential, except as authorized by this section or under RCW
12 70.02.050, 70.02.210, 70.02.230, 70.02.250, 70.02.260, and 70.02.265.
13 Confidential information under this section may be disclosed only:

14 (1) In communications between mental health professionals to meet
15 the requirements of chapter 71.34 RCW, in the provision of services
16 to the minor, or in making appropriate referrals;

17 (2) In the course of guardianship or dependency proceedings;

18 (3) To the minor, the minor's parent, including those acting as a
19 parent as defined in RCW 71.34.020 for purposes of family-initiated
20 treatment, and the minor's attorney, subject to RCW 13.50.100;

21 (4) To the courts as necessary to administer chapter 71.34 RCW;

22 (5) By a care coordinator under RCW 71.34.755 or 10.77.175
23 assigned to a person ordered to receive less restrictive alternative
24 treatment for the purpose of sharing information to parties necessary
25 for the implementation of proceedings under chapter 71.34 or 10.77
26 RCW;

27 (6) By a care coordinator under RCW 71.34.755 assigned to a
28 person ordered to receive less restrictive alternative treatment for
29 the purpose of sharing information to parties necessary for the
30 implementation of proceedings under chapter 71.34 RCW;

31 (7) To law enforcement officers or public health officers as
32 necessary to carry out the responsibilities of their office. However,
33 only the fact and date of admission, and the date of discharge, the
34 name and address of the treatment provider, if any, and the last
35 known address must be disclosed upon request;

36 (8) To law enforcement officers, public health officers,
37 relatives, and other governmental law enforcement agencies, if a
38 minor has escaped from custody, disappeared from an evaluation and
39 treatment facility, violated conditions of a less restrictive

1 treatment order, or failed to return from an authorized leave, and
2 then only such information as may be necessary to provide for public
3 safety or to assist in the apprehension of the minor. The officers
4 are obligated to keep the information confidential in accordance with
5 this chapter;

6 (9) To the secretary of social and health services and the
7 director of the health care authority for assistance in data
8 collection and program evaluation or research so long as the
9 secretary or director, where applicable, adopts rules for the conduct
10 of such evaluation and research. The rules must include, but need not
11 be limited to, the requirement that all evaluators and researchers
12 sign an oath of confidentiality substantially as follows:

13 "As a condition of conducting evaluation or research concerning
14 persons who have received services from (fill in the facility,
15 agency, or person) I,, agree not to divulge, publish, or
16 otherwise make known to unauthorized persons or the public any
17 information obtained in the course of such evaluation or research
18 regarding minors who have received services in a manner such that the
19 minor is identifiable.

20 I recognize that unauthorized release of confidential information
21 may subject me to civil liability under state law.

22 /s/";

23 (10) To appropriate law enforcement agencies, upon request, all
24 necessary and relevant information in the event of a crisis or
25 emergent situation that poses a significant and imminent risk to the
26 public. The mental health service agency or its employees are not
27 civilly liable for the decision to disclose or not, so long as the
28 decision was reached in good faith and without gross negligence;

29 (11) To appropriate law enforcement agencies and to a person,
30 when the identity of the person is known to the public or private
31 agency, whose health and safety has been threatened, or who is known
32 to have been repeatedly harassed, by the patient. The person may
33 designate a representative to receive the disclosure. The disclosure
34 must be made by the professional person in charge of the public or
35 private agency or his or her designee and must include the dates of
36 admission, discharge, authorized or unauthorized absence from the
37 agency's facility, and only any other information that is pertinent
38 to the threat or harassment. The agency or its employees are not

1 civilly liable for the decision to disclose or not, so long as the
2 decision was reached in good faith and without gross negligence;

3 (12) To a minor's next of kin, attorney, guardian, or
4 conservator, if any, the information that the minor is presently in
5 the facility or that the minor is seriously physically ill and a
6 statement evaluating the mental and physical condition of the minor
7 as well as a statement of the probable duration of the minor's
8 confinement;

9 (13) Upon the death of a minor, to the minor's next of kin;

10 (14) To a facility in which the minor resides or will reside;

11 (15) To law enforcement officers and to prosecuting attorneys as
12 are necessary to enforce RCW 9.41.040(2)(a)(~~(v)~~) (iii). The extent
13 of information that may be released is limited as follows:

14 (a) Only the fact, place, and date of involuntary commitment, an
15 official copy of any order or orders of commitment, and an official
16 copy of any written or oral notice of ineligibility to possess a
17 firearm that was provided to the person pursuant to RCW 9.41.047(1),
18 must be disclosed upon request;

19 (b) The law enforcement and prosecuting attorneys may only
20 release the information obtained to the person's attorney as required
21 by court rule and to a jury or judge, if a jury is waived, that
22 presides over any trial at which the person is charged with violating
23 RCW 9.41.040(2)(a)(~~(v)~~) (iii);

24 (c) Disclosure under this subsection is mandatory for the
25 purposes of the federal health insurance portability and
26 accountability act;

27 (16) This section may not be construed to prohibit the
28 compilation and publication of statistical data for use by government
29 or researchers under standards, including standards to assure
30 maintenance of confidentiality, set forth by the director of the
31 health care authority or the secretary of the department of social
32 and health services, where applicable. The fact of admission and all
33 information obtained pursuant to chapter 71.34 RCW are not admissible
34 as evidence in any legal proceeding outside chapter 71.34 RCW, except
35 guardianship or dependency, without the written consent of the minor
36 or the minor's parent;

37 (17) For the purpose of a correctional facility participating in
38 the postinstitutional medical assistance system supporting the
39 expedited medical determinations and medical suspensions as provided
40 in RCW 74.09.555 and 74.09.295;

1 (18) Pursuant to a lawful order of a court."

SHB 1562 - S COMM AMD

By Committee on Law & Justice

NOT CONSIDERED 04/11/2023

2 On page 1, line 4 of the title, after "rights;" strike the
3 remainder of the title and insert "amending RCW 9.41.040, 9.41.047,
4 9.41.042, 13.40.160, 13.40.193, 13.40.265, 70.02.230, and 70.02.240;
5 reenacting and amending RCW 9.41.010 and 13.40.0357; adding a new
6 section to chapter 9.41 RCW; and creating a new section."

EFFECT: Prohibits courts from restoring firearm rights to individuals with out-of-state convictions for an offense which would disqualify the person from purchasing or possessing a firearm in the state of conviction.

Requires as part of the process for petitioning for restoration of firearm rights that prosecutors receive written verification from the Washington state patrol that Washington state patrol has conducted a records check of all civil and criminal records relevant to the restoration prohibitors established in this act.

Establishes that courts must grant the petition for restoration of firearm rights only if the court finds that the person petitioning meets the requirements established in this act.

Removes the requirement that the court forward notification that a person's right to possess a firearm has been restored to the national instant criminal background check system index.

--- END ---