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## Civil Rights & Judiciary Committee

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### HB 1599

**Brief Description:** Concerning court files and records exemptions for firearm background checks.

**Sponsors:** Representatives Goodman, Berry, Ramel and Pollet; by request of Washington State Patrol.

#### Brief Summary of Bill

- Allows the Washington State Patrol Firearms Background Check Program to access files and records of Involuntary Treatment Act court proceedings for purposes of conducting background checks for firearms transfers, firearms-related licenses, and release of firearms from evidence.

**Hearing Date:** 2/1/23

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

#### **Background:**

##### Involuntary Treatment Act.

The Involuntary Treatment Act (ITA) for adults sets forth the procedures, rights, and requirements for involuntary treatment of behavioral health disorders. Under the ITA, a person may be committed by a court for involuntary treatment if he or she, due to a mental health or substance use disorder, poses a likelihood of serious harm, is gravely disabled, or is in need of assisted outpatient treatment. The provisions governing involuntary treatment of minors over the age of 13 (minor ITA) are parallel with the adult ITA in many respects.

The adult ITA provides that files and records of court proceedings regarding involuntary

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treatment under both the adult and minor ITA statutes are closed and only accessible to persons and entities listed in statute. Files and records are accessible to: the Department of Health; the Department of Social and Health Services; the Health Care Authority; the state hospitals; any person who is the subject of an involuntary treatment petition; the subject of the petition's attorney or guardian; resource management services for the subject of the petition; and service providers authorized to receive such information by resource management services.

Under the minor ITA, records and files maintained in any court proceedings are confidential and available only to the minor, the minor's parent, and the minor's attorney. The court may order the subsequent release or use of these records or files only upon good cause shown if the court finds that appropriate safeguards for strict confidentiality will be maintained. The minor ITA also contains a provision asking the Supreme Court to adopt rules governing the release of files and records of minor ITA court proceedings.

#### Loss of Firearm Rights Based on an Involuntary Treatment Act Detention or Commitment.

Both state and federal law generally prohibit a person from possessing firearms if the person has been involuntarily committed for mental health treatment. Federal law prohibits firearms possession by a person who has been adjudicated as a mental defective or been committed to any mental institution. Under state law, persons committed under the ITA for involuntary mental health treatment for 14 days or longer lose the right to possess firearms. In addition, a person loses the right to possess firearms for a period of six months if the person is detained for 120-hour evaluation and treatment because the person presents a likelihood of serious harm as the result of a mental disorder or substance use disorder, but is not subsequently committed for involuntary treatment.

When a person loses the right to possess firearms under these circumstances, the court must forward the person's identification information to the National Instant Criminal Background Check System (NICS). Any subsequent restoration of the person's right to possess firearms must also be forwarded to the NICS.

#### Firearm Background Check Requirements.

Under federal law, a dealer must conduct a background check on all firearms transfers to determine whether the purchaser is prohibited by state or federal law from possessing a firearm. This background check is conducted through the NICS. Under state law, a state background check in addition to the federal NICS check is required for the purchase or transfer of a pistol or semiautomatic assault rifle. The state background check must be conducted by the local law enforcement agency, and must include a check of the NICS, Washington State Patrol (WSP) database, Health Care Authority database, and other appropriate agencies or resources.

Legislation enacted in 2020 requires the WSP to establish a state firearms background check program to serve as a single point of contact for firearms dealers to conduct background checks for firearms transfers required under state and federal law. The WSP Firearms Background Check Program is in the process of establishing the state firearm background check system, which is expected to be operational statewide beginning January 1, 2024. Once the state system

is operational, firearms dealers must contact the WSP Firearms Background Check Program to conduct background checks for all firearms transfers. The state background check program must include a check of the NICS, specified state databases, and other databases or resources as appropriate.

**Summary of Bill:**

The WSP Firearms Background Check Program is authorized to access files and records of court proceedings under the ITA for the purpose of conducting background checks for processing and purchasing firearms, concealed pistol licenses, alien firearms licenses, and release of firearms from evidence, including appeals of denials.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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