

FINAL BILL REPORT

HB 1599

C 298 L 23

Synopsis as Enacted

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.

House Committee on Civil Rights & Judiciary

Senate Committee on Law & Justice

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 treatment under both the adult and minor ITA statutes are closed and only accessible to persons and entities listed in statute. 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.

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

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

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 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.

The Washington State Patrol (WSP) Firearms Background Check Program is in the process of establishing a 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.

Bipartisan Safer Communities Act.

The federal Bipartisan Safer Communities Act (BSCA), enacted in 2022, specifically provides that federal firearms prohibitions apply if the person's juvenile record includes a prohibiting criminal conviction or involuntary commitment or mental health adjudication. In addition, the BSCA established new provisions relating to background checks for persons under the age of 21. The NICS must contact state and local authorities to determine whether the individual has juvenile criminal or mental health records that would disqualify the person from purchasing a firearm. Mental health history records may only be accessed from the time the person turned 16. This enhanced background check requirement for persons under the age of 21 expires automatically after 10 years if not renewed.

Summary:

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 (CPLs), alien firearms licenses, firearm rights restoration petitions, and release of firearms from evidence, including appeals of denials.

Votes on Final Passage:

House	95	0	
Senate	46	0	(Senate amended)
House	96	0	(House concurred)

Effective: July 23, 2023