

# SENATE BILL REPORT

## ESHB 2021

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As of February 16, 2024

**Title:** An act relating to the disposition of privately owned firearms in the custody of state or local government entities or law enforcement agencies.

**Brief Description:** Concerning the disposition of privately owned firearms in the custody of state or local government entities or law enforcement agencies.

**Sponsors:** House Committee on Civil Rights & Judiciary (originally sponsored by Representatives Senn, Walen, Berry, Fitzgibbon, Ryu, Duerr, Ramel, Reed, Ormsby, Peterson, Callan, Macri, Gregerson, Farivar, Alvarado, Lekanoff, Doglio, Riccelli, Reeves, Wylie, Santos, Hackney and Pollet).

**Brief History:** Passed House: 2/9/24, 68-29.

**Committee Activity:** Law & Justice: 2/19/24.

### Brief Summary of Bill

- Authorizes Washington State Patrol to destroy forfeited firearms.
- Authorizes local governments and law enforcement agencies to trade or auction antique firearms to museums or historical societies.
- Creates requirements for the disposition of firearms obtained through a firearm buy-back programs.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Staff:** Joe McKittrick (786-7287)

**Background:** A court may order the forfeiture of a firearm when it is proven the firearm was:

- found concealed on a person who does not have a concealed pistol license;
- commercially sold to any person without the required firearm application;

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- found in possession of a person prohibited from possessing a firearm;
- possessed or under the control of a person at the time the person committed or was arrested for committing a felony or a nonfelony in which a firearm was used or displayed;
- in possession of a person who was in any place in which a concealed pistol license is required, and the person was under the influence of alcohol;
- found in possession of a person who was awaiting trial, appeal, or sentencing for a felony or a nonfelony in which a firearm was used or displayed;
- found in possession of a person found to have been mentally incompetent when apprehended or who is thereafter committed for mental health treatment;
- used or displayed in violation of a valid written court order; or
- used in the commission of a felony or used or displayed in the commission of a nonfelony.

The court must order the return of a seized firearm if the court finds there is not probable cause to believe a violation occurred or the criminal proceedings are dismissed. Any firearm not ordered to be destroyed or held as evidence by a court may be disposed of in any manner determined by the local legislative authority who may keep any proceed of the auction or trade of the firearm.

Firearms may also be forfeited as unclaimed property if the owner does not claim the firearm within a certain period of time after being notified by the local agency. However, any illegal or unsafe firearms must be destroyed. Any other firearm may be retained and used by the law enforcement agency for a period of one year at which point the firearm must be disposed of as any other forfeited firearm.

Firearms classified as antiques, curios, relics, or firearms of particular historical significance must be auctioned to a licensed dealer.

Forfeited firearms in possession of the Washington State Patrol (WSP) on or after May 7, 1993, that are not held as evidence must be disposed of as follows:

- illegal firearms must be destroyed;
- 10 percent of the legal firearms may be retained by WSP for agency use; and
- all other legal firearms must be auctioned or traded to licensed dealers.

**Summary of Bill:** In addition to auctioning or trading forfeited firearms to licensed dealers, WSP may destroy retained firearms. Destruction of a firearm means melting or shredding all parts of the firearm. Firearms classified as antiques, curios, relics, or firearms of particular historical significance may be auctioned or traded to museums or historical societies.

Any firearm in the possession of a state or local government entity or law enforcement agency that is obtained through a firearm buyback program must be destroyed unless the firearm is:

- returned to the rightful owner if the firearm is determined to be stolen;
- retained and stored for law enforcement investigation or evidentiary purposes if the firearm was used in the commission of a crime; or
- provided to a museum or historical society if the firearm is classified as an antique, curio, relic, or firearm of historical significance.

Any state or local government entity or law enforcement agency that is conducting a firearm buy-back program must establish procedures for returning stolen firearms to their rightful owners and determining if a firearm has been used in the commission of a crime.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.