

# SENATE BILL REPORT

## ESHB 2021

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As Passed Senate, February 29, 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, 2/20/24 [DP, DNP].

**Floor Activity:** Passed Senate: 2/29/24, 31-18.

### 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

**Majority Report:** Do pass.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Kuderer, Pedersen, Salomon and Valdez.

**Minority Report:** Do not pass.

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

Signed by Senators Padden, Ranking Member; McCune, Torres, Wagoner and Wilson, L..

**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;
- 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.

**Staff Summary of Public Testimony:** PRO: Washington State should not be in the business of selling arms. The Washington State Patrol currently does not have the permission to destroy forfeited weapons in their custody. So this legislation simply gives the Washington State Patrol the same permission that every other law enforcement agency in the state already has. The other aspect of the bill is to require buyback programs to destroy guns that are collected. The person who brings their gun to a buyback program wants it out of circulation. They want it gone to keep themselves in their community happy and safe. Any confiscated guns are re-circulated. Currently, the state patrol's sole option is to trade firearms to dealers. This bill would allow the Washington State Patrol the same level of flexibility as local law enforcement agencies have and empower them to destroy weapons and help stop the deadly life cycle of these guns. While addressing gun violence in our communities cannot be solved with one approach or one House Bill, there's one thing that destroying a gun that is turned in during a gun buyback program can guarantee, that that gun will never be used in a future act of violence or suicide. The families of all law enforcement want their loved ones to come home at the end of the day and removing guns from the streets will help ensure they do. No law enforcement agency composed of people charged with stopping gun violence and criminal usage should also be expected to sell guns

to their citizens. Keeping guns from recirculating into the system and getting them truly out of circulation is a major piece of the puzzle. There is an epidemic of gun violence in this country with more than 100 people dying from gun violence every day and guns are the leading cause of death for people below the age of 20.

CON: This bill incorrectly focuses the blame for firearm crimes on the gun and not the criminal. Firearms sold or auctioned after a buyback are transferred in accordance with Washington's intensive firearm transfer requirements, including background checks and a 10-day waiting period. This bill is more problematic because it requires the destruction of not only the firearm and the features that make it operative, but it also requires a destruction of accessories like a scope. This bill is a solution in search of a problem and creates unacceptable risk that important pieces of history will be ignorantly lost.

**Persons Testifying:** PRO: Representative Tana Senn, Prime Sponsor; Deion Glover, Washington State Patrol; Ann Marie Parsons; Chief John DeRousse, Everett Police Department; Neal Black, City of Kirkland; Jennifer Dolan-Waldman, Grandmothers Against Gun Violence; Craig Reynolds; Edward Humble.

CON: Aoibheann Cline, NRA; Teo Morca.

**Persons Signed In To Testify But Not Testifying:** No one.