

CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 6246

68th Legislature
2024 Regular Session

Passed by the Senate March 5, 2024
Yeas 34 Nays 15

President of the Senate

Passed by the House February 27, 2024
Yeas 84 Nays 11

**Speaker of the House of
Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 6246** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SENATE BILL 6246

AS AMENDED BY THE HOUSE

Passed Legislature - 2024 Regular Session

State of Washington **68th Legislature** **2024 Regular Session**

By Senators Dhingra, Kuderer, Nobles, Saldaña, Valdez, Wellman, and C. Wilson

Read first time 01/16/24. Referred to Committee on Law & Justice.

1 AN ACT Relating to the transmission of information relating to
2 firearm prohibitions for persons committed for mental health
3 treatment; amending RCW 9.41.049 and 70.02.260; and reenacting and
4 amending RCW 9.41.047, 10.77.086, 10.77.088, and 9.41.040.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 9.41.047 and 2023 c 295 s 5 and 2023 c 161 s 3 are
7 each reenacted and amended to read as follows:

8 (1)(a) At the time a person is convicted or found not guilty by
9 reason of insanity of an offense making the person ineligible to
10 possess a firearm under state or federal law, including if the person
11 was convicted of possession under RCW 69.50.4011, 69.50.4013,
12 69.50.4014, or 69.41.030, or at the time a person is committed by
13 court order under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, or
14 chapter 10.77 RCW for treatment for a mental disorder, or at the time
15 that charges are dismissed based on incompetency to stand trial under
16 RCW 10.77.086, or the charges are dismissed based on incompetency to
17 stand trial under RCW 10.77.088 and the court makes a finding that
18 the person has a history of one or more violent acts, the court shall
19 notify the person, orally and in writing, that the person must
20 immediately surrender all firearms to their local law enforcement
21 agency and any concealed pistol license and that the person may not

1 possess a firearm unless the person's right to do so is restored by
2 the superior court that issued the order.

3 (b) The court shall forward within three judicial days (~~(after)~~)
4 following conviction((~~r~~)) or finding of not guilty by reason of
5 insanity((~~r~~, entry of the commitment order, or dismissal of charges,~~r~~))
6 a copy of the person's driver's license or identicard, or comparable
7 information such as the person's name, address, and date of birth,
8 along with the date of conviction (~~(or commitment, or date charges~~
9 ~~are dismissed)~~) or finding of not guilty by reason of insanity, to
10 the department of licensing and to the Washington state patrol
11 firearms background check program. (~~(When a person is committed)~~)

12 (c) The court shall forward within three judicial days following
13 commitment by court order under RCW 71.05.240, 71.05.320, 71.34.740,
14 71.34.750, or chapter 10.77 RCW, for treatment for a mental disorder,
15 or (~~(when a person's))~~) upon dismissal of charges ((are dismissed))
16 based on incompetency to stand trial under RCW 10.77.086, or the
17 charges are dismissed based on incompetency to stand trial under RCW
18 10.77.088 ((and)) when the court makes a finding that the person has
19 a history of one or more violent acts, (~~(the court also shall~~
20 ~~forward, within three judicial days after entry of the commitment~~
21 ~~order, or dismissal of charges,~~r~~))~~) a copy of the person's driver's
22 license or identicard, or comparable information such as the person's
23 name, address, and date of birth, along with the date of commitment
24 or date charges are dismissed, to the national instant criminal
25 background check system index, denied persons file, created by the
26 federal Brady handgun violence prevention act (P.L. 103-159), and to
27 the department of licensing, Washington state patrol firearms
28 background check program, and the criminal division of the county
29 prosecutor in the county of commitment or the county in which charges
30 are dismissed. The petitioning party shall provide the court with the
31 information required. If more than one commitment order is entered
32 under one cause number, only one notification to the national instant
33 criminal background check system, the department of licensing, the
34 Washington state patrol firearms background check program, and the
35 (~~(national instant criminal background check system))~~) criminal
36 division of the county prosecutor in the county of commitment or
37 county in which charges are dismissed is required.

38 (2) Upon receipt of the information provided for by subsection
39 (1) of this section, the department of licensing shall determine if
40 the person has a concealed pistol license. If the person has a

1 concealed pistol license, the department of licensing shall
2 immediately notify the license-issuing authority which, upon receipt
3 of such notification, shall immediately revoke the license.

4 (3)(a) A person who is prohibited from possessing a firearm, by
5 reason of having been involuntarily committed for treatment for a
6 mental disorder under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750,
7 chapter 10.77 RCW, or equivalent statutes of another jurisdiction, or
8 by reason of having been detained under RCW 71.05.150 or 71.05.153,
9 or because the person's charges were dismissed based on incompetency
10 to stand trial under RCW 10.77.086, or the charges were dismissed
11 based on incompetency to stand trial under RCW 10.77.088 and the
12 court made a finding that the person has a history of one or more
13 violent acts, may, upon discharge, petition the superior court to
14 have his or her right to possess a firearm restored, except that a
15 person found not guilty by reason of insanity may not petition for
16 restoration of the right to possess a firearm until one year after
17 discharge.

18 (b) The petition must be brought in the superior court that
19 ordered the involuntary commitment or dismissed the charges based on
20 incompetency to stand trial or the superior court of the county in
21 which the petitioner resides.

22 (c) Except as provided in (d) and (e) of this subsection, firearm
23 rights shall be restored if the person petitioning for restoration of
24 firearm rights proves by a preponderance of the evidence that:

25 (i) The person petitioning for restoration of firearm rights is
26 no longer required to participate in court-ordered inpatient or
27 outpatient treatment;

28 (ii) The person petitioning for restoration of firearm rights has
29 successfully managed the condition related to the commitment or
30 detention or incompetency;

31 (iii) The person petitioning for restoration of firearm rights no
32 longer presents a substantial danger to self or to the public;
33 ((and))

34 (iv) The symptoms related to the commitment or detention or
35 incompetency are not reasonably likely to recur; and

36 (v) There is no active extreme risk protection order or order to
37 surrender and prohibit weapons entered against the petitioner.

38 (d) If a preponderance of the evidence in the record supports a
39 finding that the person petitioning for restoration of firearm rights
40 has engaged in violence and that it is more likely than not that the

1 person will engage in violence after the person's right to possess a
2 firearm is restored, the person petitioning for restoration of
3 firearm rights shall bear the burden of proving by clear, cogent, and
4 convincing evidence that the person does not present a substantial
5 danger to the safety of others.

6 (e) If the person seeking restoration of firearm rights seeks
7 restoration after having been detained under RCW 71.05.150 or
8 71.05.153, the state shall bear the burden of proof to show, by a
9 preponderance of the evidence, that the person does not meet the
10 restoration criteria in (c) of this subsection.

11 (f) When a person's right to possess a firearm has been restored
12 under this subsection, the court shall forward, within three judicial
13 days after entry of the restoration order, notification that the
14 person's right to possess a firearm has been restored to the
15 department of licensing and the Washington state patrol criminal
16 records division, with a copy of the person's driver's license or
17 identicard, or comparable identification such as the person's name,
18 address, and date of birth, and to the health care authority, and the
19 national instant criminal background check system index, denied
20 persons file. In the case of a person whose right to possess a
21 firearm has been suspended for six months as provided in RCW
22 71.05.182, the department of licensing shall forward notification of
23 the restoration order to the licensing authority, which, upon receipt
24 of such notification, shall immediately lift the suspension,
25 restoring the person's concealed pistol license.

26 (4) No person who has been found not guilty by reason of insanity
27 may petition a court for restoration of the right to possess a
28 firearm unless the person meets the requirements for the restoration
29 of the right to possess a firearm under RCW 9.41.041.

30 **Sec. 2.** RCW 9.41.049 and 2020 c 302 s 61 are each amended to
31 read as follows:

32 (1) When a designated crisis responder files a petition for
33 initial detention under RCW 71.05.150 or 71.05.153 on the grounds
34 that the person presents a likelihood of serious harm, the petition
35 shall include a copy of the person's driver's license or identicard
36 or comparable information such as their name, address, and date of
37 birth. If the person is not subsequently committed for involuntary
38 treatment under RCW 71.05.240, the court shall forward within three
39 business days of the probable cause hearing a copy of the person's

1 driver's license or identicard, or comparable information, along with
2 the date of release from the facility, to the department of
3 licensing, the criminal division of the county prosecutor in the
4 county in which the petition was filed, and ~~((tø))~~ the Washington
5 state patrol firearms background check program, ~~((whø))~~ which shall
6 forward the information to the national instant criminal background
7 check system index, denied persons file, created by the federal Brady
8 handgun violence prevention act (P.L. 103-159). Upon expiration of
9 the six-month period during which the person's right to possess a
10 firearm is suspended as provided in RCW 71.05.182, the Washington
11 state patrol shall forward to the national instant criminal
12 background check system index, denied persons file, notice that the
13 person's right to possess a firearm has been restored.

14 (2) Upon receipt of the information provided for by subsection
15 (1) of this section, the department of licensing shall determine if
16 the detained person has a concealed pistol license. If the person
17 does have a concealed pistol license, the department of licensing
18 shall immediately notify the license-issuing authority, which, upon
19 receipt of such notification, shall immediately suspend the license
20 for a period of six months from the date of the person's release from
21 the facility.

22 (3) A person who is prohibited from possessing a firearm by
23 reason of having been detained under RCW 71.05.150 or 71.05.153 may,
24 upon discharge, petition the superior court to have his or her right
25 to possess a firearm restored before the six-month suspension period
26 has elapsed by following the procedures provided in RCW 9.41.047(3).

27 **Sec. 3.** RCW 10.77.086 and 2023 c 453 s 8 and 2023 c 433 s 18 are
28 each reenacted and amended to read as follows:

29 (1)(a) Except as otherwise provided in this section, if the
30 defendant is charged with a felony and determined to be incompetent,
31 until he or she has regained the competency necessary to understand
32 the proceedings against him or her and assist in his or her own
33 defense, but in any event for a period of no longer than 90 days, the
34 court shall commit the defendant to the custody of the secretary for
35 inpatient competency restoration, or may alternatively order the
36 defendant to receive outpatient competency restoration based on a
37 recommendation from a forensic navigator and input from the parties.

38 (b) For a defendant who is determined to be incompetent and whose
39 highest charge is a class C felony other than assault in the third

1 degree under RCW 9A.36.031(1) (d) or (f), felony physical control of
2 a vehicle under RCW 46.61.504(6), felony hit and run resulting in
3 injury under RCW 46.52.020(4)(b), a hate crime offense under RCW
4 9A.36.080, a class C felony with a domestic violence designation, a
5 class C felony sex offense as defined in RCW 9.94A.030, or a class C
6 felony with a sexual motivation allegation, the court shall first
7 consider all available and appropriate alternatives to inpatient
8 competency restoration. The court shall dismiss the proceedings
9 without prejudice upon agreement of the parties if the forensic
10 navigator has found an appropriate and available diversion program
11 willing to accept the defendant.

12 (2)(a) To be eligible for an order for outpatient competency
13 restoration, a defendant must be clinically appropriate and be
14 willing to:

15 (i) Adhere to medications or receive prescribed intramuscular
16 medication;

17 (ii) Abstain from alcohol and unprescribed drugs; and

18 (iii) Comply with urinalysis or breathalyzer monitoring if
19 needed.

20 (b) If the court orders inpatient competency restoration, the
21 department shall place the defendant in an appropriate facility of
22 the department for competency restoration.

23 (c) If the court orders outpatient competency restoration, the
24 court shall modify conditions of release as needed to authorize the
25 department to place the person in approved housing, which may include
26 access to supported housing, affiliated with a contracted outpatient
27 competency restoration program. The department, in conjunction with
28 the health care authority, must establish rules for conditions of
29 participation in the outpatient competency restoration program, which
30 must include the defendant being subject to medication management.
31 The court may order regular urinalysis testing. The outpatient
32 competency restoration program shall monitor the defendant during the
33 defendant's placement in the program and report any noncompliance or
34 significant changes with respect to the defendant to the department
35 and, if applicable, the forensic navigator.

36 (d) If a defendant fails to comply with the restrictions of the
37 outpatient restoration program such that restoration is no longer
38 appropriate in that setting or the defendant is no longer clinically
39 appropriate for outpatient competency restoration, the director of
40 the outpatient competency restoration program shall notify the

1 authority and the department of the need to terminate the outpatient
2 competency restoration placement and intent to request placement for
3 the defendant in an appropriate facility of the department for
4 inpatient competency restoration. The outpatient competency
5 restoration program shall coordinate with the authority, the
6 department, and any law enforcement personnel under (d)(i) of this
7 subsection to ensure that the time period between termination and
8 admission into the inpatient facility is as minimal as possible. The
9 time period for inpatient competency restoration shall be reduced by
10 the time period spent in active treatment within the outpatient
11 competency restoration program, excluding time periods in which the
12 defendant was absent from the program and all time from notice of
13 termination of the outpatient competency restoration period through
14 the defendant's admission to the facility. The department shall
15 obtain a placement for the defendant within seven days of the notice
16 of intent to terminate the outpatient competency restoration
17 placement.

18 (i) The department may authorize a peace officer to detain the
19 defendant into emergency custody for transport to the designated
20 inpatient competency restoration facility. If medical clearance is
21 required by the designated competency restoration facility before
22 admission, the peace officer must transport the defendant to a crisis
23 stabilization unit, evaluation and treatment facility, or emergency
24 department of a local hospital for medical clearance once a bed is
25 available at the designated inpatient competency restoration
26 facility. The signed outpatient competency restoration order of the
27 court shall serve as authority for the detention of the defendant
28 under this subsection. This subsection does not preclude voluntary
29 transportation of the defendant to a facility for inpatient
30 competency restoration or for medical clearance, or authorize
31 admission of the defendant into jail.

32 (ii) The department shall notify the court and parties of the
33 defendant's admission for inpatient competency restoration before the
34 close of the next judicial day. The court shall schedule a hearing
35 within five days to review the conditions of release of the defendant
36 and anticipated release from treatment and issue appropriate orders.

37 (e) The court may not issue an order for outpatient competency
38 restoration unless the department certifies that there is an
39 available appropriate outpatient competency restoration program that
40 has adequate space for the person at the time the order is issued or

1 the court places the defendant under the guidance and control of a
2 professional person identified in the court order.

3 (3) For a defendant whose highest charge is a class C felony, or
4 a class B felony that is not classified as violent under RCW
5 9.94A.030, the maximum time allowed for the initial competency
6 restoration period is 45 days if the defendant is referred for
7 inpatient competency restoration, or 90 days if the defendant is
8 referred for outpatient competency restoration, provided that if the
9 outpatient competency restoration placement is terminated and the
10 defendant is subsequently admitted to an inpatient facility, the
11 period of inpatient treatment during the first competency restoration
12 period under this subsection shall not exceed 45 days.

13 (4) When any defendant whose highest charge is a class C felony
14 other than assault in the third degree under RCW 9A.36.031(1) (d) or
15 (f), felony physical control of a vehicle under RCW 46.61.504(6),
16 felony hit and run resulting in injury under RCW 46.52.020(4)(b), a
17 hate crime offense under RCW 9A.36.080, a class C felony with a
18 domestic violence designation, a class C felony sex offense as
19 defined in RCW 9.94A.030, or a class C felony with a sexual
20 motivation allegation is admitted for inpatient competency
21 restoration with an accompanying court order for involuntary
22 medication under RCW 10.77.092, and the defendant is found not
23 competent to stand trial following that period of competency
24 restoration, the court shall dismiss the charges pursuant to
25 subsection (7) of this section.

26 (5) If the court determines or the parties agree before the
27 initial competency restoration period or at any subsequent stage of
28 the proceedings that the defendant is unlikely to regain competency,
29 the court may dismiss the charges without prejudice without ordering
30 the defendant to undergo an initial or further period of competency
31 restoration treatment, in which case the court shall order that the
32 defendant be referred for evaluation for civil commitment in the
33 manner provided in subsection (7) of this section.

34 (6) On or before expiration of the initial competency restoration
35 period the court shall conduct a hearing to determine whether the
36 defendant is now competent to stand trial. If the court finds by a
37 preponderance of the evidence that the defendant is incompetent to
38 stand trial, the court may order an extension of the competency
39 restoration period for an additional period of 90 days, but the court
40 must at the same time set a date for a new hearing to determine the

1 defendant's competency to stand trial before the expiration of this
2 second restoration period. The defendant, the defendant's attorney,
3 and the prosecutor have the right to demand that the hearing be
4 before a jury. No extension shall be ordered for a second or third
5 competency restoration period if the defendant is ineligible for a
6 subsequent competency restoration period under subsection (4) of this
7 section or the defendant's incompetence has been determined by the
8 secretary to be solely the result of an intellectual or developmental
9 disability, dementia, or traumatic brain injury which is such that
10 competence is not reasonably likely to be regained during an
11 extension.

12 (7) (a) Except as provided in (b) of this subsection, at the
13 hearing upon the expiration of the second competency restoration
14 period, or at the end of the first competency restoration period if
15 the defendant is ineligible for a second or third competency
16 restoration period under subsection (~~((3))~~) (4) or (6) of this
17 section, if the jury or court finds that the defendant is incompetent
18 to stand trial, the court shall dismiss the charges without prejudice
19 and order the defendant to be committed to the department for
20 placement in a facility operated or contracted by the department for
21 up to 120 hours if the defendant has not undergone competency
22 restoration services or has engaged in outpatient competency
23 restoration services, and up to 72 hours if the defendant engaged in
24 inpatient competency restoration services starting from admission to
25 the facility, excluding Saturdays, Sundays, and holidays, for
26 evaluation for the purpose of filing a civil commitment petition
27 under chapter 71.05 RCW. If at the time the order to dismiss the
28 charges without prejudice is entered by the court the defendant is
29 already in a facility operated or contracted by the department, the
30 72-hour or 120-hour period shall instead begin upon department
31 receipt of the court order.

32 (b) The court shall not dismiss the charges if the defendant is
33 eligible for a second or third competency restoration period under
34 subsection (6) of this section and the court or jury finds that: (i)
35 The defendant (A) is a substantial danger to other persons; or (B)
36 presents a substantial likelihood of committing criminal acts
37 jeopardizing public safety or security; and (ii) there is a
38 substantial probability that the defendant will regain competency
39 within a reasonable period of time. If the court or jury makes such a

1 finding, the court may extend the period of commitment for up to an
2 additional six months.

3 (8) Any period of competency restoration treatment under this
4 section includes only the time the defendant is actually at the
5 facility or is actively participating in an outpatient competency
6 restoration program and is in addition to reasonable time for
7 transport to or from the facility.

8 (9) If at any time the court dismisses charges based on
9 incompetency to stand trial under this section, the court shall issue
10 an order prohibiting the defendant from the possession of firearms
11 until a court restores his or her right to possess a firearm under
12 RCW 9.41.047. The court shall notify the defendant orally and in
13 writing that the defendant may not possess a firearm unless the
14 defendant's right to do so is restored by the superior court that
15 issued the order under RCW 9.41.047, and that the defendant must
16 immediately surrender all firearms and any concealed pistol license
17 to their local law enforcement agency.

18 **Sec. 4.** RCW 10.77.088 and 2023 c 453 s 9 and 2023 c 433 s 19 are
19 each reenacted and amended to read as follows:

20 (1) If the defendant is charged with a nonfelony crime which is a
21 serious offense as identified in RCW 10.77.092 and found by the court
22 to be not competent, the court shall first consider all available and
23 appropriate alternatives to inpatient competency restoration. If the
24 parties agree that there is an appropriate diversion program
25 available to accept the defendant, the court shall dismiss the
26 proceedings without prejudice and refer the defendant to the
27 recommended diversion program. If the parties do not agree that there
28 is an appropriate diversion program available to accept the
29 defendant, then the court:

30 (a) Shall dismiss the proceedings without prejudice and detain
31 the defendant pursuant to subsection (6) of this section, unless the
32 prosecutor objects to the dismissal and provides notice of a motion
33 for an order for competency restoration treatment, in which case the
34 court shall schedule a hearing within seven days.

35 (b) At the hearing, the prosecuting attorney must establish that
36 there is a compelling state interest to order competency restoration
37 treatment for the defendant. The court may consider prior criminal
38 history, prior history in treatment, prior history of violence, the
39 quality and severity of the pending charges, any history that

1 suggests whether competency restoration treatment is likely to be
2 successful, in addition to the factors listed under RCW 10.77.092. If
3 the defendant is subject to an order under chapter 71.05 RCW or
4 proceedings under chapter 71.05 RCW have been initiated, there is a
5 rebuttable presumption that there is no compelling state interest in
6 ordering competency restoration treatment. If the prosecuting
7 attorney proves by a preponderance of the evidence that there is a
8 compelling state interest in ordering competency restoration
9 treatment, then the court shall issue an order in accordance with
10 subsection (2) of this section.

11 (2) (a) If a court finds pursuant to subsection (1)(b) of this
12 section that there is a compelling state interest in pursuing
13 competency restoration treatment, the court shall order the defendant
14 to receive outpatient competency restoration consistent with the
15 recommendation of the forensic navigator, unless the court finds that
16 an order for outpatient competency restoration is inappropriate
17 considering the health and safety of the defendant and risks to
18 public safety.

19 (b) To be eligible for an order for outpatient competency
20 restoration, a defendant must be willing to:

21 (i) Adhere to medications or receive prescribed intramuscular
22 medication;

23 (ii) Abstain from alcohol and unprescribed drugs; and

24 (iii) Comply with urinalysis or breathalyzer monitoring if
25 needed.

26 (c) If the court orders inpatient competency restoration, the
27 department shall place the defendant in an appropriate facility of
28 the department for competency restoration under subsection (3) of
29 this section.

30 (d) If the court orders outpatient competency restoration, the
31 court shall modify conditions of release as needed to authorize the
32 department to place the person in approved housing, which may include
33 access to supported housing, affiliated with a contracted outpatient
34 competency restoration program. The department, in conjunction with
35 the health care authority, must establish rules for conditions of
36 participation in the outpatient competency restoration program, which
37 must include the defendant being subject to medication management.
38 The court may order regular urinalysis testing. The outpatient
39 competency restoration program shall monitor the defendant during the
40 defendant's placement in the program and report any noncompliance or

1 significant changes with respect to the defendant to the department
2 and, if applicable, the forensic navigator.

3 (e) If a defendant fails to comply with the restrictions of the
4 outpatient competency restoration program such that restoration is no
5 longer appropriate in that setting or the defendant is no longer
6 clinically appropriate for outpatient competency restoration, the
7 director of the outpatient competency restoration program shall
8 notify the authority and the department of the need to terminate the
9 outpatient competency restoration placement and intent to request
10 placement for the defendant in an appropriate facility of the
11 department for inpatient competency restoration. The outpatient
12 competency restoration program shall coordinate with the authority,
13 the department, and any law enforcement personnel under (e)(i) of
14 this subsection to ensure that the time period between termination
15 and admission into the inpatient facility is as minimal as possible.
16 The time period for inpatient competency restoration shall be reduced
17 by the time period spent in active treatment within the outpatient
18 competency restoration program, excluding time periods in which the
19 defendant was absent from the program and all time from notice of
20 termination of the outpatient competency restoration period through
21 the defendant's admission to the facility. The department shall
22 obtain a placement for the defendant within seven days of the notice
23 of intent to terminate the outpatient competency restoration
24 placement.

25 (i) The department may authorize a peace officer to detain the
26 defendant into emergency custody for transport to the designated
27 inpatient competency restoration facility. If medical clearance is
28 required by the designated competency restoration facility before
29 admission, the peace officer must transport the defendant to a crisis
30 stabilization unit, evaluation and treatment facility, or emergency
31 department of a local hospital for medical clearance once a bed is
32 available at the designated inpatient competency restoration
33 facility. The signed outpatient competency restoration order of the
34 court shall serve as authority for the detention of the defendant
35 under this subsection. This subsection does not preclude voluntary
36 transportation of the defendant to a facility for inpatient
37 competency restoration or for medical clearance, or authorize
38 admission of the defendant into jail.

39 (ii) The department shall notify the court and parties of the
40 defendant's admission for inpatient competency restoration before the

1 close of the next judicial day. The court shall schedule a hearing
2 within five days to review the conditions of release of the defendant
3 and anticipated release from treatment and issue appropriate orders.

4 (f) The court may not issue an order for outpatient competency
5 restoration unless the department certifies that there is an
6 available appropriate outpatient restoration program that has
7 adequate space for the person at the time the order is issued or the
8 court places the defendant under the guidance and control of a
9 professional person identified in the court order.

10 (g) If the court does not order the defendant to receive
11 outpatient competency restoration under (a) of this subsection, the
12 court shall commit the defendant to the department for placement in a
13 facility operated or contracted by the department for inpatient
14 competency restoration.

15 (3) The placement under subsection (2) of this section shall not
16 exceed 29 days if the defendant is ordered to receive inpatient
17 competency restoration, and shall not exceed 90 days if the defendant
18 is ordered to receive outpatient competency restoration. The court
19 may order any combination of this subsection, but the total period of
20 inpatient competency restoration may not exceed 29 days.

21 (4) Beginning October 1, 2023, if the defendant is charged with a
22 serious traffic offense under RCW 9.94A.030, the court may order the
23 clerk to transmit an order to the department of licensing for
24 revocation of the defendant's driver's license for a period of one
25 year. The court shall direct the clerk to transmit an order to the
26 department of licensing reinstating the defendant's driver's license
27 if the defendant is subsequently restored to competency, and may do
28 so at any time before the end of one year for good cause upon the
29 petition of the defendant.

30 (5) If the court has determined or the parties agree that the
31 defendant is unlikely to regain competency, the court may dismiss the
32 charges without prejudice without ordering the defendant to undergo
33 competency restoration treatment, in which case the court shall order
34 that the defendant be referred for evaluation for civil commitment in
35 the manner provided in subsection (6) of this section.

36 (6) (a) If the proceedings are dismissed under RCW 10.77.084 and
37 the defendant was on conditional release at the time of dismissal,
38 the court shall order the designated crisis responder within that
39 county to evaluate the defendant pursuant to chapter 71.05 RCW. The

1 evaluation may be conducted in any location chosen by the
2 professional.

3 (b) If the defendant was in custody and not on conditional
4 release at the time of dismissal, the defendant shall be detained and
5 sent to an evaluation and treatment facility for up to 120 hours if
6 the defendant has not undergone competency restoration services or
7 has engaged in outpatient competency restoration services and up to
8 72 hours if the defendant engaged in inpatient competency restoration
9 services, excluding Saturdays, Sundays, and holidays, for evaluation
10 for purposes of filing a petition under chapter 71.05 RCW. The 120-
11 hour or 72-hour period shall commence upon the next nonholiday
12 weekday following the court order and shall run to the end of the
13 last nonholiday weekday within the 120-hour or 72-hour period.

14 (7) If the defendant is charged with a nonfelony crime that is
15 not a serious offense as defined in RCW 10.77.092 and found by the
16 court to be not competent, the court may stay or dismiss proceedings
17 and detain the defendant for sufficient time to allow the designated
18 crisis responder to evaluate the defendant and consider initial
19 detention proceedings under chapter 71.05 RCW. The court must give
20 notice to all parties at least 24 hours before the dismissal of any
21 proceeding under this subsection, and provide an opportunity for a
22 hearing on whether to dismiss the proceedings.

23 (8) If at any time the court dismisses charges under subsections
24 (1) through (7) of this section, the court shall make a finding as to
25 whether the defendant has a history of one or more violent acts. If
26 the court so finds, the ~~((defendant is barred))~~ court shall issue an
27 order prohibiting the defendant from the possession of firearms until
28 a court restores his or her right to possess a firearm under RCW
29 9.41.047. The court shall ~~((state to the defendant and provide~~
30 ~~written notice that the defendant is barred from the possession of~~
31 ~~firearms and that the prohibition remains in effect until a court~~
32 ~~restores his or her right to possess a firearm under RCW 9.41.047))~~
33 notify the defendant orally and in writing that the defendant may not
34 possess a firearm unless the defendant's right to do so is restored
35 by the superior court that issued the order under RCW 9.41.047, and
36 that the defendant must immediately surrender all firearms and any
37 concealed pistol license to their local law enforcement agency.

38 (9) Any period of competency restoration treatment under this
39 section includes only the time the defendant is actually at the
40 facility or is actively participating in an outpatient competency

1 restoration program and is in addition to reasonable time for
2 transport to or from the facility.

3 **Sec. 5.** RCW 9.41.040 and 2023 c 295 s 3 and 2023 c 262 s 2 are
4 each reenacted and amended to read as follows:

5 (1)(a) A person, whether an adult or juvenile, is guilty of the
6 crime of unlawful possession of a firearm in the first degree, if the
7 person owns, accesses, has in the person's custody, control, or
8 possession, or receives any firearm after having previously been
9 convicted or found not guilty by reason of insanity in this state or
10 elsewhere of any serious offense.

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

13 (2)(a) A person, whether an adult or juvenile, is guilty of the
14 crime of unlawful possession of a firearm in the second degree, if
15 the person does not qualify under subsection (1) of this section for
16 the crime of unlawful possession of a firearm in the first degree and
17 the person owns, accesses, has in the person's custody, control, or
18 possession, or receives any firearm:

19 (i) After having previously been convicted or found not guilty by
20 reason of insanity in this state or elsewhere of:

21 (A) Any felony not specifically listed as prohibiting firearm
22 possession under subsection (1) of this section;

23 (B) Any of the following crimes when committed by one family or
24 household member against another or by one intimate partner against
25 another, as those terms are defined by the statutes in effect at the
26 time of the commission of the crime, committed on or after July 1,
27 1993: Assault in the fourth degree, coercion, stalking, reckless
28 endangerment, criminal trespass in the first degree, or violation of
29 the provisions of a protection order or no-contact order restraining
30 the person or excluding the person from a residence (RCW 10.99.040 or
31 any of the former RCW 26.50.060, 26.50.070, and 26.50.130);

32 (C) Harassment when committed by one family or household member
33 against another or by one intimate partner against another, as those
34 terms are defined by the statutes in effect at the time of the
35 commission of the crime, committed on or after June 7, 2018;

36 (D) Any of the following misdemeanor or gross misdemeanor crimes
37 not included under (a)(i) (B) or (C) of this subsection, committed on
38 or after July 23, 2023: Domestic violence (RCW 10.99.020); stalking;
39 cyberstalking; cyber harassment, excluding cyber harassment committed

1 solely pursuant to the element set forth in RCW 9A.90.120(1)(a)(i);
2 harassment; aiming or discharging a firearm (RCW 9.41.230); unlawful
3 carrying or handling of a firearm (RCW 9.41.270); animal cruelty in
4 the second degree committed under RCW 16.52.207(1); or any prior
5 offense as defined in RCW 46.61.5055(14) if committed within seven
6 years of a conviction for any other prior offense under RCW
7 46.61.5055;

8 (E) A violation of the provisions of a protection order under
9 chapter 7.105 RCW restraining the person or excluding the person from
10 a residence, when committed by one family or household member against
11 another or by one intimate partner against another, committed on or
12 after July 1, 2022; or

13 (F) A violation of the provisions of an order to surrender and
14 prohibit weapons, an extreme risk protection order, or the provisions
15 of any other protection order or no-contact order not included under
16 (a)(i) (B) or (E) of this subsection restraining the person or
17 excluding the person from a residence, committed on or after July 23,
18 2023;

19 (ii) During any period of time that the person is subject to a
20 protection order, no-contact order, or restraining order by a court
21 issued under chapter 7.105, 9A.40, 9A.44, 9A.46, 9A.88, 10.99, 26.09,
22 26.26A, or 26.26B RCW or any of the former chapters 7.90, 7.92,
23 10.14, and 26.50 RCW that:

24 (A) Was issued after a hearing for which the person received
25 actual notice, and at which the person had an opportunity to
26 participate, whether the court then issues a full order or reissues a
27 temporary order. If the court enters an agreed order by the parties
28 without a hearing, such an order meets the requirements of this
29 subsection;

30 (B) Restrains the person from harassing, stalking, or threatening
31 the person protected under the order or child of the person or
32 protected person, or others identified in the order, or engaging in
33 other conduct that would place the protected person in reasonable
34 fear of bodily injury to the protected person or child or others
35 identified in the order; and

36 (C) (I) Includes a finding that the person represents a credible
37 threat to the physical safety of the protected person or child or
38 others identified in the order, or by its terms explicitly prohibits
39 the use, attempted use, or threatened use of physical force against

1 the protected person or child or other persons that would reasonably
2 be expected to cause bodily injury; or

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

7 (iii) After having previously been involuntarily committed based
8 on a mental disorder under RCW 71.05.240, 71.05.320, 71.34.740,
9 71.34.750, chapter 10.77 RCW, or equivalent statutes of another
10 jurisdiction, unless his or her right to possess a firearm has been
11 restored as provided in RCW 9.41.047;

12 (iv) After dismissal of criminal charges based on incompetency to
13 stand trial under RCW 10.77.086, or after dismissal of criminal
14 charges based on incompetency to stand trial under RCW 10.77.088 when
15 the court has made a finding indicating that the defendant has a
16 history of one or more violent acts, unless his or her right to
17 possess a firearm has been restored as provided in RCW 9.41.047;

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

20 (vi) If the person is free on bond or personal recognizance
21 pending trial for a serious offense as defined in RCW 9.41.010.

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

24 (3) A person shall not be precluded from possession of a firearm
25 if the conviction has been the subject of a pardon, annulment,
26 certificate of rehabilitation, or other equivalent procedure based on
27 a finding of the rehabilitation of the person convicted or the
28 conviction or disposition has been the subject of a pardon,
29 annulment, or other equivalent procedure based on a finding of
30 innocence. Where no record of the court's disposition of the charges
31 can be found, there shall be a rebuttable presumption that the person
32 was not convicted of the charge.

33 (4) Notwithstanding subsection (1) or (2) of this section, a
34 person convicted or found not guilty by reason of insanity of an
35 offense prohibiting the possession of a firearm under this section
36 other than murder, manslaughter, robbery, rape, indecent liberties,
37 arson, assault, kidnapping, extortion, burglary, or violations with
38 respect to controlled substances under RCW 69.50.401 and 69.50.410,
39 who received a probationary sentence under RCW 9.95.200, and who
40 received a dismissal of the charge under RCW 9.95.240, shall not be

1 precluded from possession of a firearm as a result of the conviction
2 or finding of not guilty by reason of insanity.

3 (5) In addition to any other penalty provided for by law, if a
4 person under the age of 18 years is found by a court to have
5 possessed a firearm in a vehicle in violation of subsection (1) or
6 (2) of this section or to have committed an offense while armed with
7 a firearm during which offense a motor vehicle served an integral
8 function, the court shall notify the department of licensing within
9 24 hours and the person's privilege to drive shall be revoked under
10 RCW 46.20.265, unless the offense is the juvenile's first offense in
11 violation of this section and has not committed an offense while
12 armed with a firearm, an unlawful possession of a firearm offense, or
13 an offense in violation of chapter 66.44, 69.52, 69.41, or 69.50 RCW.

14 (6) Nothing in chapter 129, Laws of 1995 shall ever be construed
15 or interpreted as preventing an offender from being charged and
16 subsequently convicted for the separate felony crimes of theft of a
17 firearm or possession of a stolen firearm, or both, in addition to
18 being charged and subsequently convicted under this section for
19 unlawful possession of a firearm in the first or second degree.
20 Notwithstanding any other law, if the offender is convicted under
21 this section for unlawful possession of a firearm in the first or
22 second degree and for the felony crimes of theft of a firearm or
23 possession of a stolen firearm, or both, then the offender shall
24 serve consecutive sentences for each of the felony crimes of
25 conviction listed in this subsection.

26 (7)(a) A person, whether an adult or a juvenile, commits the
27 civil infraction of unlawful possession of a firearm if the person
28 has in the person's possession or has in the person's control a
29 firearm after the person files a voluntary waiver of firearm rights
30 under RCW 9.41.350 and the form has been accepted by the clerk of the
31 court and the voluntary waiver has not been lawfully revoked.

32 (b) The civil infraction of unlawful possession of a firearm is a
33 class 4 civil infraction punishable according to chapter 7.80 RCW.

34 (c) Each firearm unlawfully possessed under this subsection (7)
35 shall be a separate infraction.

36 (d) The court may, in its discretion, order performance of up to
37 two hours of community restitution in lieu of a monetary penalty
38 prescribed for a civil infraction under this subsection (7).

39 (8) Each firearm unlawfully possessed under this section shall be
40 a separate offense.

1 (9) A person may petition to restore the right to possess a
2 firearm as provided in RCW 9.41.041.

3 **Sec. 6.** RCW 70.02.260 and 2018 c 201 s 8005 are each amended to
4 read as follows:

5 (1)(a) A mental health service agency shall release to the
6 persons authorized under subsection (2) of this section, upon
7 request:

8 (i) The fact, place, and date of an involuntary commitment, the
9 fact and date of discharge or release, and the last known address of
10 a person who has been committed under chapter 71.05 or 71.34 RCW.

11 (ii) Information and records related to mental health services,
12 in the format determined under subsection (9) of this section,
13 concerning a person who:

14 (A) Is currently committed to the custody or supervision of the
15 department of corrections or the indeterminate sentence review board
16 under chapter 9.94A or 9.95 RCW;

17 (B) Has been convicted or found not guilty by reason of insanity
18 of a serious violent offense; or

19 (C) Was charged with a serious violent offense and the charges
20 were dismissed under RCW 10.77.086.

21 (b) Legal counsel for the mental health service agency, including
22 a county prosecutor or assistant attorney general who represents the
23 mental health service agency for the purpose of involuntary
24 commitment proceedings, may release ((such)) this information ((~~to~~
25 the persons authorized under subsection (2) of this section)) on
26 behalf of the mental health service agency((, ~~so long as nothing~~)).

27 (c) Nothing in this subsection requires the disclosure of
28 attorney work product or attorney-client privileged information.

29 (2) The information subject to release under subsection (1) of
30 this section must be released to law enforcement officers, city or
31 county prosecuting attorneys, personnel of a county or city jail,
32 designated mental health professionals or designated crisis
33 responders, as appropriate, public health officers, therapeutic court
34 personnel as defined in RCW 71.05.020, or personnel of the department
35 of corrections, including the indeterminate sentence review board and
36 personnel assigned to perform board-related duties, when such
37 information is requested during the course of business and for the
38 purpose of carrying out the responsibilities of the requesting
39 person's office. No mental health service agency or person employed

1 by a mental health service agency, or its legal counsel, may be
2 liable for information released to or used under the provisions of
3 this section or rules adopted under this section except under RCW
4 71.05.680.

5 (3) A person who requests information under subsection (1)(a)(ii)
6 of this section must comply with the following restrictions:

7 (a) Information must be requested only for the purposes permitted
8 by this subsection and for the purpose of carrying out the
9 responsibilities of the requesting person's office. Appropriate
10 purposes for requesting information under this section include:

11 (i) Completing presentence investigations or risk assessment
12 reports;

13 (ii) Assessing a person's risk to the community;

14 (iii) Assessing a person's risk of harm to self or others when
15 confined in a city or county jail;

16 (iv) Planning for and provision of supervision of an offender,
17 including decisions related to sanctions for violations of conditions
18 of community supervision; and

19 (v) Responding to an offender's failure to report for department
20 of corrections supervision; and

21 (vi) Assessing the need for an extreme risk protection order
22 under chapter 7.105 RCW;

23 (b) Information may not be requested under this section unless
24 the requesting person has reasonable suspicion that the individual
25 who is the subject of the information:

26 (i) Has engaged in activity indicating that a crime or a
27 violation of community custody or parole has been committed or, based
28 upon his or her current or recent past behavior, is likely to be
29 committed in the near future; or

30 (ii) Is exhibiting signs of a deterioration in mental functioning
31 which may make the individual appropriate for civil commitment under
32 chapter 71.05 or 71.34 RCW, or which is associated with a recent
33 detention or order of commitment under chapter 71.05 or 71.34 RCW or
34 an order of commitment or dismissal of charges under chapter 10.77
35 RCW; and

36 (c) Any information received under this section must be held
37 confidential and subject to the limitations on disclosure outlined in
38 this chapter, except:

39 (i) The information may be shared with other persons who have the
40 right to request similar information under subsection (2) of this

1 section, solely for the purpose of coordinating activities related to
2 the individual who is the subject of the information in a manner
3 consistent with the official responsibilities of the persons
4 involved;

5 (ii) The information may be shared with a prosecuting attorney
6 who is acting in an advisory capacity for a person who receives
7 information under this section or who is carrying out other official
8 duties within the scope of this section. A prosecuting attorney under
9 this subsection is subject to the same restrictions and
10 confidentiality limitations as the person who requested the
11 information; and

12 (iii) As provided in RCW 72.09.585.

13 (4) A request for information and records related to mental
14 health services under this section does not require the consent of
15 the subject of the records. The request must be provided in writing,
16 except to the extent authorized in subsection (5) of this section. A
17 written request may include requests made by email or facsimile so
18 long as the requesting person is clearly identified. The request must
19 specify the information being requested.

20 (5) In the event of an emergency situation that poses a
21 significant risk to the public or the offender, a mental health
22 service agency, or its legal counsel, shall release information
23 related to mental health services delivered to the offender and, if
24 known, information regarding where the offender is likely to be found
25 to the department of corrections or law enforcement upon request. The
26 initial request may be written or oral. All oral requests must be
27 subsequently confirmed in writing. Information released in response
28 to an oral request is limited to a statement as to whether the
29 offender is or is not being treated by the mental health service
30 agency and the address or information about the location or
31 whereabouts of the offender.

32 (6) Disclosure under this section to state or local law
33 enforcement authorities is mandatory for the purposes of the federal
34 health insurance portability and accountability act.

35 (7) Whenever federal law or federal regulations restrict the
36 release of information contained in the treatment records of any
37 patient who receives treatment for alcoholism or drug dependency, the
38 release of the information may be restricted as necessary to comply
39 with federal law and regulations.

1 (8) This section does not modify the terms and conditions of
2 disclosure of information related to sexually transmitted diseases
3 under this chapter.

4 (9) In collaboration with interested organizations, the authority
5 shall develop a standard form for requests for information related to
6 mental health services made under this section and a standard format
7 for information provided in response to the requests. Consistent with
8 the goals of the health information privacy provisions of the federal
9 health insurance portability and accountability act, in developing
10 the standard form for responsive information, the authority shall
11 design the form in such a way that the information disclosed is
12 limited to the minimum necessary to serve the purpose for which the
13 information is requested.

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