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## Community Safety Committee

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### HB 1139

**Brief Description:** Promoting public safety and deterring unlawful firearm possession by increasing criminal penalties for unlawful possession of a firearm.

**Sponsors:** Representatives Low, Leavitt, Eslick and Davis.

#### Brief Summary of Bill

- Classifies Unlawful Possession of a Firearm in the first degree as a violent offense and increases the penalties of Unlawful Possession of a Firearm in the first and second degree.
- Adds Unlawful Possession of a Firearm in the first and second degree to the enumerated list of offenses for which a peace officer must arrest someone without a warrant when there is probable cause to believe the person has committed that offense.

**Hearing Date:** 2/11/25

**Staff:** Lena Langer (786-7192).

#### **Background:**

##### Sentencing.

The Sentencing Reform Act provides a determinate sentencing system in which sentencing courts generally impose sentences within a standard range. The standard range for a person is determined by reference to a grid, which provides a base sentence according to the person's offender score and the seriousness level of the present offense. The offender score is a point total based on a person's qualifying prior convictions. Certain prior convictions are excluded from offender score calculations if the person remains crime free in the community for a specified period of time following release.

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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.*

### Juvenile Dispositions.

In 2023 legislation was enacted providing that a person's prior juvenile dispositions may not be included in the person's offender score calculations for any subsequent adult convictions, except for adjudications of guilt for Murder in the first or second degree and class A felony sex offenses. Out-of-state or federal convictions that would have been presumptively adjudicated in juvenile court under Washington law may not be included in the offender score unless they are comparable to Murder in the first or second degree, or a class A felony sex offense.

### Unlawful Possession of a Firearm.

An adult or juvenile commits the crime of Unlawful Possession of a Firearm in the first degree if the person owns, accesses, has in their custody, control, or possession, or receives any firearm after the person has been convicted or found not guilty by reason of insanity of a crime classified as a serious offense. Unlawful Possession of a Firearm in the first degree is a class B felony ranked at seriousness level VII.

An adult or juvenile commits the crime of Unlawful Possession of a Firearm in the second degree if the person owns, accesses, has in their custody, control, or possession, or receives any firearm:

- after the person has been convicted or found not guilty by reason of insanity of any of the following crimes:
  - any felony that would not otherwise raise the charge to Unlawful Possession of a Firearm in the first degree;
  - certain domestic violence gross misdemeanors;
  - a violation of certain protection orders; or
  - a violation of the provisions of an order to surrender and prohibit weapons, an extreme risk protection order, or the provisions of any other protection or no-contact order;
- during any period of time that the person is subject to a protection order, no-contact order, or restraining order that:
  - was issued after a hearing where the person received actual notice and an opportunity to be heard, or an agreed order was issued without a hearing;
  - restrains the person from harassing, stalking, or threatening the persons identified in the order;
  - includes a finding that the person represents a credible threat to the physical safety of the protected person; or
  - includes an order requiring the person to surrender all firearms and prohibiting the person from accessing, having in their custody or control, possessing, purchasing, receiving, or attempting to purchase or receive firearms;
- after having been previously involuntarily committed based on a mental disorder, unless the person's right to possess a firearm has been restored;
- after dismissal of criminal charges based on incompetency to stand trial when the court has found that the person has a history of one or more violent acts, unless the person's right to possess a firearm has been restored;

- if the person is under 18 years of age, unless allowed by law; or
- if the person is free on bond or personal recognizance pending trial for a serious offense.

Unlawful Possession of a Firearm in the second degree is a class C felony ranked at seriousness level III.

### Violent Offenses.

Classifying a crime as a violent offense has a number of consequences:

- In calculating a person's offender score, if the present conviction is for a violent offense, prior adult violent felony convictions and certain juvenile convictions count as two points.
- If the current conviction is a violent offense, the individual is prohibited from participating in a community parenting program unless the person has been determined not to be at a high risk to reoffend, and is also prohibited from the parenting sentencing alternative.
- Individuals convicted of a violent offense are prohibited from receiving a first-time offender waiver.
- Courts must impose 18 months of community custody for persons sentenced for violent offenses that are not also classified as serious violent offenses.
- If a person is sentenced to a term of confinement of one year or less for a violent offense, the court may impose up to one year of community custody.
- A person's record of conviction may not be vacated if the offense was a violent offense.
- Victims of crimes are not eligible for benefits through the Crime Victims Compensation Fund if the victim has been convicted of a felony offense within the five years preceding the criminal act for which the victim is applying where the felony offense is a violent offense.
- Courts may not give offenders credit for any time the offender was required to comply with an electronic monitoring program prior to sentencing if the offender was convicted of a violent offense.

### Arrest Without a Warrant.

A peace officer that has probable cause to believe a person has committed a felony has the authority to arrest the person without a warrant. Generally, officers may only arrest persons without a warrant for committing misdemeanor or gross misdemeanor offenses when the offense is committed in the presence of the officer, with several exceptions. A peace officer must arrest without a warrant and take into custody individuals who the officer has probable cause to believe have violated certain provisions of a domestic violence protection order, sexual assault protection order, stalking protection order, vulnerable adult protection order, extreme risk protection order, foreign protection order, or Canadian domestic violence protection order. A peace officer must also arrest without a warrant individuals who the officer has probable cause to believe have, within the last four hours, assaulted a family or household member or intimate partner, and other specified factors exist.

### **Summary of Bill:**

Unlawful Possession of a Firearm in the first degree is classified as a violent offense and

reranked from seriousness level VII to seriousness level VIII. Unlawful Possession of a Firearm in the second degree is reranked from seriousness level III to V.

In calculating a person's offender score, if the present conviction is for Unlawful Possession of a Firearm in the first or second degree, two points are counted for each prior juvenile adjudication and adult conviction for Unlawful Possession of a Firearm in the first or second degree.

A peace officer must arrest without a warrant and take into custody individuals who the officer has probable cause to believe have violated the offense of Unlawful Possession of a Firearm in the first or second degree.

**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available.

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