

# HOUSE BILL REPORT

## ESSB 5268

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**As Reported by House Committee On:**  
Community Safety

**Title:** An act relating to imposing community custody after a conviction for unlawful possession of a firearm.

**Brief Description:** Imposing community custody after a conviction for unlawful possession of a firearm.

**Sponsors:** Senate Committee on Law & Justice (originally sponsored by Senators Wagoner, Dozier and Fortunato).

**Brief History:**

**Committee Activity:**

Community Safety: 3/24/25, 3/31/25 [DP].

**Brief Summary of Engrossed Substitute Bill**

- Requires the court to impose one year of community custody when sentencing a person for an offense involving the unlawful possession of a firearm, regardless of whether the person is a criminal street gang member or associate.

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### HOUSE COMMITTEE ON COMMUNITY SAFETY

**Majority Report:** Do pass. Signed by 8 members: Representatives Goodman, Chair; Graham, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Burnett, Davis, Farivar, Fosse and Obras.

**Minority Report:** Do not pass. Signed by 1 member: Representative Simmons, Vice Chair.

**Staff:** Corey Patton (786-7388).

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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.*

## **Background:**

### Unlawful Possession of a Firearm.

A person 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.

A person 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 certain offenses;
- during any period of time that the person is subject to a protection order, no-contact order, or restraining order, under certain conditions;
- 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.

### Community Custody.

Community custody is the portion of a person's criminal sentence served in the community under the supervision of the Department of Corrections (DOC) following the person's release from confinement. Courts are required to order community custody for persons convicted of certain offenses. For example, the court must impose one year of community custody when sentencing a person for an offense involving the unlawful possession of a firearm where the person is a criminal street gang member or associate.

A person in community custody is subject to conditions imposed by the DOC and the court. The DOC may establish and modify the person's conditions of community custody based on risks to community safety, and issue an arrest warrant if the person violates those conditions. A person who violates conditions of community custody may be subject to sanctions depending on the type of violation, the underlying offense, and other conditions.

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## **Summary of Bill:**

The court is required to impose one year of community custody when sentencing a person for an offense involving the unlawful possession of a firearm, regardless of whether the person is a criminal street gang member or associate.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains multiple effective dates. Please see the bill.

**Staff Summary of Public Testimony:**

(In support) Courts are overwhelmed and must triage cases involving the unlawful possession of a firearm, resulting in many charges not being heard. This bill was initially drafted to categorize offenses involving the unlawful possession of a firearm as violent offenses, but that approach turned out to be a tangled web. Instead, the current version of the bill allows courts to impose one year of community custody, which will help maintain professional supervision of offenders. The Department of Corrections may tailor the intensity of supervision based on risk assessments. The intention is to break the link between felons who should not have access to firearms and the incidence of future crimes involving death or injury.

This bill will help support law enforcement officers working in drug interdiction. People involved in drug trafficking tend to also unlawfully possess firearms. Federal funding that was previously used to support the state's drug interdiction efforts has since been reallocated by the Department of Commerce, creating uncertainty about the future of such efforts and the safety that was intended to come from multijurisdictional task forces.

(Opposed) None.

**Persons Testifying:** Senator Keith Wagoner, prime sponsor; James McMahan, WA Assoc Sheriffs and Police Chiefs; and Anne Anderson.

**Persons Signed In To Testify But Not Testifying:** None.