
SENATE BILL 5491

State of Washington

67th Legislature

2022 Regular Session

By Senators Pedersen and Rivers

Prefiled 12/06/21.

1 AN ACT Relating to clarifying waiver of firearm rights; amending
2 RCW 9.41.010, 9.41.040, 9.41.098, 9.41.350, and 9.41.352; adding a
3 new section to chapter 9.41 RCW; prescribing penalties; and providing
4 an effective date.

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

6 **Sec. 1.** RCW 9.41.010 and 2021 c 215 s 93 are each amended to
7 read as follows:

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter.

10 (1) "Antique firearm" means a firearm or replica of a firearm not
11 designed or redesigned for using rim fire or conventional center fire
12 ignition with fixed ammunition and manufactured in or before 1898,
13 including any matchlock, flintlock, percussion cap, or similar type
14 of ignition system and also any firearm using fixed ammunition
15 manufactured in or before 1898, for which ammunition is no longer
16 manufactured in the United States and is not readily available in the
17 ordinary channels of commercial trade.

18 (2) "Barrel length" means the distance from the bolt face of a
19 closed action down the length of the axis of the bore to the crown of
20 the muzzle, or in the case of a barrel with attachments to the end of
21 any legal device permanently attached to the end of the muzzle.

1 (3) "Bump-fire stock" means a butt stock designed to be attached
2 to a semiautomatic firearm with the effect of increasing the rate of
3 fire achievable with the semiautomatic firearm to that of a fully
4 automatic firearm by using the energy from the recoil of the firearm
5 to generate reciprocating action that facilitates repeated activation
6 of the trigger.

7 (4) "Crime of violence" means:

8 (a) Any of the following felonies, as now existing or hereafter
9 amended: Any felony defined under any law as a class A felony or an
10 attempt to commit a class A felony, criminal solicitation of or
11 criminal conspiracy to commit a class A felony, manslaughter in the
12 first degree, manslaughter in the second degree, indecent liberties
13 if committed by forcible compulsion, kidnapping in the second degree,
14 arson in the second degree, assault in the second degree, assault of
15 a child in the second degree, extortion in the first degree, burglary
16 in the second degree, residential burglary, and robbery in the second
17 degree;

18 (b) Any conviction for a felony offense in effect at any time
19 prior to June 6, 1996, which is comparable to a felony classified as
20 a crime of violence in (a) of this subsection; and

21 (c) Any federal or out-of-state conviction for an offense
22 comparable to a felony classified as a crime of violence under (a) or
23 (b) of this subsection.

24 (5) "Curio or relic" has the same meaning as provided in 27
25 C.F.R. Sec. 478.11.

26 (6) "Dealer" means a person engaged in the business of selling
27 firearms at wholesale or retail who has, or is required to have, a
28 federal firearms license under 18 U.S.C. Sec. 923(a). A person who
29 does not have, and is not required to have, a federal firearms
30 license under 18 U.S.C. Sec. 923(a), is not a dealer if that person
31 makes only occasional sales, exchanges, or purchases of firearms for
32 the enhancement of a personal collection or for a hobby, or sells all
33 or part of his or her personal collection of firearms.

34 (7) "Family or household member" has the same meaning as in RCW
35 7.105.010.

36 (8) "Felony" means any felony offense under the laws of this
37 state or any federal or out-of-state offense comparable to a felony
38 offense under the laws of this state.

39 (9) "Felony firearm offender" means a person who has previously
40 been convicted or found not guilty by reason of insanity in this

1 state of any felony firearm offense. A person is not a felony firearm
2 offender under this chapter if any and all qualifying offenses have
3 been the subject of an expungement, pardon, annulment, certificate,
4 or rehabilitation, or other equivalent procedure based on a finding
5 of the rehabilitation of the person convicted or a pardon, annulment,
6 or other equivalent procedure based on a finding of innocence.

7 (10) "Felony firearm offense" means:

8 (a) Any felony offense that is a violation of this chapter;

9 (b) A violation of RCW 9A.36.045;

10 (c) A violation of RCW 9A.56.300;

11 (d) A violation of RCW 9A.56.310;

12 (e) Any felony offense if the offender was armed with a firearm
13 in the commission of the offense.

14 (11) "Firearm" means a weapon or device from which a projectile
15 or projectiles may be fired by an explosive such as gunpowder.
16 "Firearm" does not include a flare gun or other pyrotechnic visual
17 distress signaling device, or a powder-actuated tool or other device
18 designed solely to be used for construction purposes.

19 (12) "Gun" has the same meaning as firearm.

20 (13) "Intimate partner" has the same meaning as provided in RCW
21 7.105.010.

22 (14) "Law enforcement officer" includes a general authority
23 Washington peace officer as defined in RCW 10.93.020, or a specially
24 commissioned Washington peace officer as defined in RCW 10.93.020.
25 "Law enforcement officer" also includes a limited authority
26 Washington peace officer as defined in RCW 10.93.020 if such officer
27 is duly authorized by his or her employer to carry a concealed
28 pistol.

29 (15) "Lawful permanent resident" has the same meaning afforded a
30 person "lawfully admitted for permanent residence" in 8 U.S.C. Sec.
31 1101(a)(20).

32 (16) "Licensed collector" means a person who is federally
33 licensed under 18 U.S.C. Sec. 923(b).

34 (17) "Licensed dealer" means a person who is federally licensed
35 under 18 U.S.C. Sec. 923(a).

36 (18) "Loaded" means:

37 (a) There is a cartridge in the chamber of the firearm;

38 (b) Cartridges are in a clip that is locked in place in the
39 firearm;

1 (c) There is a cartridge in the cylinder of the firearm, if the
2 firearm is a revolver;

3 (d) There is a cartridge in the tube or magazine that is inserted
4 in the action; or

5 (e) There is a ball in the barrel and the firearm is capped or
6 primed if the firearm is a muzzle loader.

7 (19) "Machine gun" means any firearm known as a machine gun,
8 mechanical rifle, submachine gun, or any other mechanism or
9 instrument not requiring that the trigger be pressed for each shot
10 and having a reservoir clip, disc, drum, belt, or other separable
11 mechanical device for storing, carrying, or supplying ammunition
12 which can be loaded into the firearm, mechanism, or instrument, and
13 fired therefrom at the rate of five or more shots per second.

14 (20) "Manufacture" means, with respect to a firearm, the
15 fabrication or construction of a firearm.

16 (21) "Mental health professional" means a psychiatrist,
17 psychologist, physician assistant working with a supervising
18 psychiatrist, psychiatric advanced registered nurse practitioner,
19 psychiatric nurse, social worker, mental health counselor, marriage
20 and family therapist, and such other mental health professionals as
21 may be defined in statute, or by rules adopted by the department of
22 health pursuant to the provisions of chapter 71.05 RCW.

23 (22) "Nonimmigrant alien" means a person defined as such in 8
24 U.S.C. Sec. 1101(a) (15).

25 (~~(22)~~) (23) "Person" means any individual, corporation,
26 company, association, firm, partnership, club, organization, society,
27 joint stock company, or other legal entity.

28 (~~(23)~~) (24) "Pistol" means any firearm with a barrel less than
29 sixteen inches in length, or is designed to be held and fired by the
30 use of a single hand.

31 (~~(24)~~) (25) "Rifle" means a weapon designed or redesigned, made
32 or remade, and intended to be fired from the shoulder and designed or
33 redesigned, made or remade, and intended to use the energy of the
34 explosive in a fixed metallic cartridge to fire only a single
35 projectile through a rifled bore for each single pull of the trigger.

36 (~~(25)~~) (26) "Sale" and "sell" mean the actual approval of the
37 delivery of a firearm in consideration of payment or promise of
38 payment.

39 (~~(26)~~) (27) "Secure gun storage" means:

1 (a) A locked box, gun safe, or other secure locked storage space
2 that is designed to prevent unauthorized use or discharge of a
3 firearm; and

4 (b) The act of keeping an unloaded firearm stored by such means.

5 (~~((27))~~) (28) "Semiautomatic assault rifle" means any rifle which
6 utilizes a portion of the energy of a firing cartridge to extract the
7 fired cartridge case and chamber the next round, and which requires a
8 separate pull of the trigger to fire each cartridge.

9 "Semiautomatic assault rifle" does not include antique firearms,
10 any firearm that has been made permanently inoperable, or any firearm
11 that is manually operated by bolt, pump, lever, or slide action.

12 (~~((28))~~) (29) "Serious offense" means any of the following
13 felonies or a felony attempt to commit any of the following felonies,
14 as now existing or hereafter amended:

15 (a) Any crime of violence;

16 (b) Any felony violation of the uniform controlled substances
17 act, chapter 69.50 RCW, that is classified as a class B felony or
18 that has a maximum term of imprisonment of at least ten years;

19 (c) Child molestation in the second degree;

20 (d) Incest when committed against a child under age fourteen;

21 (e) Indecent liberties;

22 (f) Leading organized crime;

23 (g) Promoting prostitution in the first degree;

24 (h) Rape in the third degree;

25 (i) Drive-by shooting;

26 (j) Sexual exploitation;

27 (k) Vehicular assault, when caused by the operation or driving of
28 a vehicle by a person while under the influence of intoxicating
29 liquor or any drug or by the operation or driving of a vehicle in a
30 reckless manner;

31 (l) Vehicular homicide, when proximately caused by the driving of
32 any vehicle by any person while under the influence of intoxicating
33 liquor or any drug as defined by RCW 46.61.502, or by the operation
34 of any vehicle in a reckless manner;

35 (m) Any other class B felony offense with a finding of sexual
36 motivation, as "sexual motivation" is defined under RCW 9.94A.030;

37 (n) Any other felony with a deadly weapon verdict under RCW
38 9.94A.825;

39 (o) Any felony offense in effect at any time prior to June 6,
40 1996, that is comparable to a serious offense, or any federal or out-

1 of-state conviction for an offense that under the laws of this state
2 would be a felony classified as a serious offense; or

3 (p) Any felony conviction under RCW 9.41.115.

4 ~~((29))~~ (30) "Short-barreled rifle" means a rifle having one or
5 more barrels less than sixteen inches in length and any weapon made
6 from a rifle by any means of modification if such modified weapon has
7 an overall length of less than twenty-six inches.

8 ~~((30))~~ (31) "Short-barreled shotgun" means a shotgun having one
9 or more barrels less than eighteen inches in length and any weapon
10 made from a shotgun by any means of modification if such modified
11 weapon has an overall length of less than twenty-six inches.

12 ~~((31))~~ (32) "Shotgun" means a weapon with one or more barrels,
13 designed or redesigned, made or remade, and intended to be fired from
14 the shoulder and designed or redesigned, made or remade, and intended
15 to use the energy of the explosive in a fixed shotgun shell to fire
16 through a smooth bore either a number of ball shot or a single
17 projectile for each single pull of the trigger.

18 ~~((32))~~ (33) "Substance use disorder professional" means a
19 person certified under chapter 18.205 RCW.

20 (34) "Transfer" means the intended delivery of a firearm to
21 another person without consideration of payment or promise of payment
22 including, but not limited to, gifts and loans. "Transfer" does not
23 include the delivery of a firearm owned or leased by an entity
24 licensed or qualified to do business in the state of Washington to,
25 or return of such a firearm by, any of that entity's employees or
26 agents, defined to include volunteers participating in an honor
27 guard, for lawful purposes in the ordinary course of business.

28 ~~((33))~~ (35) "Undetectable firearm" means any firearm that is
29 not as detectable as 3.7 ounces of 17-4 PH stainless steel by walk-
30 through metal detectors or magnetometers commonly used at airports or
31 any firearm where the barrel, the slide or cylinder, or the frame or
32 receiver of the firearm would not generate an image that accurately
33 depicts the shape of the part when examined by the types of X-ray
34 machines commonly used at airports.

35 ~~((34))~~ (36) "Unlicensed person" means any person who is not a
36 licensed dealer under this chapter.

37 ~~((35))~~ (37) "Untraceable firearm" means any firearm
38 manufactured after July 1, 2019, that is not an antique firearm and
39 that cannot be traced by law enforcement by means of a serial number

1 affixed to the firearm by a federally licensed manufacturer or
2 importer.

3 **Sec. 2.** RCW 9.41.040 and 2021 c 215 s 72 are each amended to
4 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, has in his or her possession, or has in his or her
8 control any firearm after having previously been convicted or found
9 not guilty by reason of insanity in this state or elsewhere of any
10 serious offense as defined in this chapter.

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, has in his or her possession, or has in his or her
18 control any firearm:

19 (i) After having previously been convicted or found not guilty by
20 reason of insanity in this state or elsewhere of any felony not
21 specifically listed as prohibiting firearm possession under
22 subsection (1) of this section, or any of the following crimes when
23 committed by one family or household member against another or by one
24 intimate partner against another, committed on or after July 1, 1993:
25 Assault in the fourth degree, coercion, stalking, reckless
26 endangerment, criminal trespass in the first degree, or violation of
27 the provisions of a domestic violence protection order or no-contact
28 order restraining the person or excluding the person from a residence
29 (chapter 7.105 RCW, RCW 10.99.040, or any of the former RCW
30 26.50.060, 26.50.070, and 26.50.130);

31 (ii) After having previously been convicted or found not guilty
32 by reason of insanity in this state or elsewhere of harassment when
33 committed by one family or household member against another or by one
34 intimate partner against another, committed on or after June 7, 2018;

35 (iii) During any period of time that the person is subject to a
36 court order issued under chapter 7.105, 9A.46, 10.99, 26.09, 26.26A,
37 or 26.26B RCW or any of the former chapters 7.90, 7.92, 10.14, and
38 26.50 RCW that:

1 (A) Was issued after a hearing for which the person received
2 actual notice, and at which the person had an opportunity to
3 participate, whether the court then issues a full order or reissues a
4 temporary order. If the court enters an agreed order by the parties
5 without a hearing, such an order meets the requirements of this
6 subsection;

7 (B) Restrains the person from harassing, stalking, or threatening
8 the person protected under the order or child of the person or
9 protected person, or engaging in other conduct that would place the
10 protected person in reasonable fear of bodily injury to the protected
11 person or child; and

12 (C) (I) Includes a finding that the person represents a credible
13 threat to the physical safety of the protected person or child and by
14 its terms explicitly prohibits the use, attempted use, or threatened
15 use of physical force against the protected person or child that
16 would reasonably be expected to cause bodily injury; or

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

21 (iv) After having previously been involuntarily committed based
22 on a mental disorder under RCW 71.05.240, 71.05.320, 71.34.740,
23 71.34.750, chapter 10.77 RCW, or equivalent statutes of another
24 jurisdiction, unless his or her right to possess a firearm has been
25 restored as provided in RCW 9.41.047;

26 (v) After dismissal of criminal charges based on incompetency to
27 stand trial under RCW 10.77.088 when the court has made a finding
28 indicating that the defendant has a history of one or more violent
29 acts, unless his or her right to possess a firearm has been restored
30 as provided in RCW 9.41.047;

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

33 (vii) If the person is free on bond or personal recognizance
34 pending trial, appeal, or sentencing for a serious offense as defined
35 in RCW 9.41.010.

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

38 (3) (a) A person, whether an adult or a juvenile, is found to have
39 committed the civil infraction of unlawful possession of a firearm if
40 the person has in his or her possession or has in his or her control

1 a firearm after the person files a voluntary waiver of firearm rights
2 under RCW 9.41.350 and the form has been accepted by the clerk of the
3 court.

4 (b) Possession or control of a firearm after submitting a waiver
5 of firearm rights, but prior to a lawful revocation of the waiver is
6 a class 4 civil infraction punishable according to chapter 7.80 RCW.
7 Each firearm unlawfully possessed under this subsection (3)(b) shall
8 be a separate infraction.

9 (4) Notwithstanding RCW 9.41.047 or any other provisions of law,
10 as used in this chapter, a person has been "convicted," whether in an
11 adult court or adjudicated in a juvenile court, at such time as a
12 plea of guilty has been accepted or a verdict of guilty has been
13 filed, notwithstanding the pendency of any future proceedings
14 including, but not limited to, sentencing or disposition, post-trial
15 or post-fact-finding motions, and appeals. Conviction includes a
16 dismissal entered after a period of probation, suspension, or
17 deferral of sentence, and also includes equivalent dispositions by
18 courts in jurisdictions other than Washington state. A person shall
19 not be precluded from possession of a firearm if the conviction has
20 been the subject of a pardon, annulment, certificate of
21 rehabilitation, or other equivalent procedure based on a finding of
22 the rehabilitation of the person convicted or the conviction or
23 disposition has been the subject of a pardon, annulment, or other
24 equivalent procedure based on a finding of innocence. Where no record
25 of the court's disposition of the charges can be found, there shall
26 be a rebuttable presumption that the person was not convicted of the
27 charge.

28 ~~((4))~~ (5)(a) Notwithstanding subsection (1) or (2) of this
29 section, a person convicted or found not guilty by reason of insanity
30 of an offense prohibiting the possession of a firearm under this
31 section other than murder, manslaughter, robbery, rape, indecent
32 liberties, arson, assault, kidnapping, extortion, burglary, or
33 violations with respect to controlled substances under RCW 69.50.401
34 and 69.50.410, who received a probationary sentence under RCW
35 9.95.200, and who received a dismissal of the charge under RCW
36 9.95.240, shall not be precluded from possession of a firearm as a
37 result of the conviction or finding of not guilty by reason of
38 insanity. Notwithstanding any other provisions of this section, if a
39 person is prohibited from possession of a firearm under subsection
40 (1) or (2) of this section and has not previously been convicted or

1 found not guilty by reason of insanity of a sex offense prohibiting
2 firearm ownership under subsection (1) or (2) of this section and/or
3 any felony defined under any law as a class A felony or with a
4 maximum sentence of at least 20 years, or both, the individual may
5 petition a court of record to have his or her right to possess a
6 firearm restored:

7 (i) Under RCW 9.41.047; and/or

8 (ii)(A) If the conviction or finding of not guilty by reason of
9 insanity was for a felony offense, after five or more consecutive
10 years in the community without being convicted or found not guilty by
11 reason of insanity or currently charged with any felony, gross
12 misdemeanor, or misdemeanor crimes, if the individual has no prior
13 felony convictions that prohibit the possession of a firearm counted
14 as part of the offender score under RCW 9.94A.525; or

15 (B) If the conviction or finding of not guilty by reason of
16 insanity was for a nonfelony offense, after three or more consecutive
17 years in the community without being convicted or found not guilty by
18 reason of insanity or currently charged with any felony, gross
19 misdemeanor, or misdemeanor crimes, if the individual has no prior
20 felony convictions that prohibit the possession of a firearm counted
21 as part of the offender score under RCW 9.94A.525 and the individual
22 has completed all conditions of the sentence.

23 (b) An individual may petition a court of record to have his or
24 her right to possess a firearm restored under (a) of this subsection
25 only at:

26 (i) The court of record that ordered the petitioner's prohibition
27 on possession of a firearm; or

28 (ii) The superior court in the county in which the petitioner
29 resides.

30 ~~((+5))~~ (6) In addition to any other penalty provided for by law,
31 if a person under the age of 18 years is found by a court to have
32 possessed a firearm in a vehicle in violation of subsection (1) or
33 (2) of this section or to have committed an offense while armed with
34 a firearm during which offense a motor vehicle served an integral
35 function, the court shall notify the department of licensing within
36 24 hours and the person's privilege to drive shall be revoked under
37 RCW 46.20.265, unless the offense is the juvenile's first offense in
38 violation of this section and has not committed an offense while
39 armed with a firearm, an unlawful possession of a firearm offense, or
40 an offense in violation of chapter 66.44, 69.52, 69.41, or 69.50 RCW.

1 (~~(6)~~) (7) Nothing in chapter 129, Laws of 1995 shall ever be
2 construed or interpreted as preventing an offender from being charged
3 and subsequently convicted for the separate felony crimes of theft of
4 a firearm or possession of a stolen firearm, or both, in addition to
5 being charged and subsequently convicted under this section for
6 unlawful possession of a firearm in the first or second degree.
7 Notwithstanding any other law, if the offender is convicted under
8 this section for unlawful possession of a firearm in the first or
9 second degree and for the felony crimes of theft of a firearm or
10 possession of a stolen firearm, or both, then the offender shall
11 serve consecutive sentences for each of the felony crimes of
12 conviction listed in this subsection.

13 (~~(7)~~) (8) Each firearm unlawfully possessed under this section
14 shall be a separate offense.

15 **Sec. 3.** RCW 9.41.098 and 2016 sp.s. c 29 s 281 are each amended
16 to read as follows:

17 (1) The superior courts and the courts of limited jurisdiction of
18 the state may order forfeiture of a firearm which is proven to be:

19 (a) Found concealed on a person not authorized by RCW 9.41.060 or
20 9.41.070 to carry a concealed pistol: PROVIDED, That it is an
21 absolute defense to forfeiture if the person possessed a valid
22 Washington concealed pistol license within the preceding two years
23 and has not become ineligible for a concealed pistol license in the
24 interim. Before the firearm may be returned, the person must pay the
25 past due renewal fee and the current renewal fee;

26 (b) Commercially sold to any person without an application as
27 required by RCW 9.41.090;

28 (c) In the possession of a person prohibited from possessing the
29 firearm under RCW 9.41.040 or 9.41.045;

30 (d) In the possession or under the control of a person at the
31 time the person committed or was arrested for committing a felony or
32 committing a nonfelony crime in which a firearm was used or
33 displayed;

34 (e) In the possession of a person who is in any place in which a
35 concealed pistol license is required, and who is under the influence
36 of any drug or under the influence of intoxicating liquor, as defined
37 in chapter 46.61 RCW;

38 (f) In the possession of a person free on bail or personal
39 recognizance pending trial, appeal, or sentencing for a felony or for

1 a nonfelony crime in which a firearm was used or displayed, except
2 that violations of Title 77 RCW shall not result in forfeiture under
3 this section;

4 (g) In the possession of a person found to have been mentally
5 incompetent while in possession of a firearm when apprehended or who
6 is thereafter committed pursuant to chapter 10.77 RCW or committed
7 for mental health treatment under chapter 71.05 RCW;

8 (h) Used or displayed by a person in the violation of a proper
9 written order of a court of general jurisdiction; or

10 (i) Used in the commission of a felony or of a nonfelony crime in
11 which a firearm was used or displayed.

12 (2) Upon order of forfeiture, the court in its discretion may
13 order destruction of any forfeited firearm. A court may temporarily
14 retain forfeited firearms needed for evidence.

15 (a) Except as provided in (b), (c), and (d) of this subsection,
16 firearms that are: (i) Judicially forfeited and no longer needed for
17 evidence; or (ii) forfeited due to a failure to make a claim under
18 RCW 63.32.010 or 63.40.010; may be disposed of in any manner
19 determined by the local legislative authority. Any proceeds of an
20 auction or trade may be retained by the legislative authority. This
21 subsection (2)(a) applies only to firearms that come into the
22 possession of the law enforcement agency after June 30, 1993.

23 By midnight, June 30, 1993, every law enforcement agency shall
24 prepare an inventory, under oath, of every firearm that has been
25 judicially forfeited, has been seized and may be subject to judicial
26 forfeiture, or that has been, or may be, forfeited due to a failure
27 to make a claim under RCW 63.32.010 or 63.40.010.

28 (b) Except as provided in (c) of this subsection, of the
29 inventoried firearms a law enforcement agency shall destroy illegal
30 firearms, may retain a maximum of ten percent of legal forfeited
31 firearms for agency use, and shall either:

32 (i) Comply with the provisions for the auction of firearms in
33 (~~RCW 9.41.098~~) this section that were in effect immediately
34 preceding May 7, 1993; or

35 (ii) Trade, auction, or arrange for the auction of, rifles and
36 shotguns. In addition, the law enforcement agency shall either trade,
37 auction, or arrange for the auction of, short firearms, or shall pay
38 a fee of twenty-five dollars to the state treasurer for every short
39 firearm neither auctioned nor traded, to a maximum of fifty thousand
40 dollars. The fees shall be accompanied by an inventory, under oath,

1 of every short firearm listed in the inventory required by (a) of
2 this subsection, that has been neither traded nor auctioned. The
3 state treasurer shall credit the fees to the firearms range account
4 established in RCW 79A.25.210. All trades or auctions of firearms
5 under this subsection shall be to licensed dealers. Proceeds of any
6 auction less costs, including actual costs of storage and sale, shall
7 be forwarded to the firearms range account established in RCW
8 79A.25.210.

9 (c) Antique firearms and firearms recognized as curios, relics,
10 and firearms of particular historical significance by the United
11 States treasury department bureau of alcohol, tobacco, firearms, and
12 explosives are exempt from destruction and shall be disposed of by
13 auction or trade to licensed dealers.

14 (d) Firearms in the possession of the Washington state patrol on
15 or after May 7, 1993, that are judicially forfeited and no longer
16 needed for evidence, or forfeited due to a failure to make a claim
17 under RCW 63.35.020, must be disposed of as follows: (i) Firearms
18 illegal for any person to possess must be destroyed; (ii) the
19 Washington state patrol may retain a maximum of ten percent of legal
20 firearms for agency use; and (iii) all other legal firearms must be
21 auctioned or traded to licensed dealers. The Washington state patrol
22 may retain any proceeds of an auction or trade. This subsection
23 (2)(d) does not apply to firearms that are voluntarily forfeited
24 after a valid voluntary waiver of firearm rights is signed and has
25 not been revoked under RCW 9.41.350.

26 (3) The court shall order the firearm returned to the owner upon
27 a showing that there is no probable cause to believe a violation of
28 subsection (1) of this section existed or the firearm was stolen from
29 the owner or the owner neither had knowledge of nor consented to the
30 act or omission involving the firearm which resulted in its
31 forfeiture.

32 (4) A law enforcement officer of the state or of any county or
33 municipality may confiscate a firearm found to be in the possession
34 of a person under circumstances specified in subsection (1) of this
35 section. After confiscation, the firearm shall not be surrendered
36 except: (a) To the prosecuting attorney for use in subsequent legal
37 proceedings; (b) for disposition according to an order of a court
38 having jurisdiction as provided in subsection (1) of this section; or
39 (c) to the owner if the proceedings are dismissed or as directed in
40 subsection (3) of this section.

1 **Sec. 4.** RCW 9.41.350 and 2018 c 145 s 1 are each amended to read
2 as follows:

3 (1) A person may file a voluntary waiver of firearm rights,
4 either in writing or electronically, with the clerk of the court in
5 any county in Washington state. The clerk of the court must request a
6 physical or scanned copy of photo identification to verify the
7 person's identity prior to accepting the form. The person filing the
8 form may provide (~~(an alternate person to be contacted if a voluntary~~
9 ~~waiver of firearm rights is)~~) the name of a family member, mental
10 health professional, substance use disorder professional, or
11 alternate person to be contacted if the filer attempts to purchase a
12 firearm while the voluntary waiver of firearm rights is in effect or
13 if the filer applies to have the voluntary waiver revoked. The clerk
14 of the court must immediately give notice to the person filing the
15 form if the filer's voluntary waiver of firearm rights has been
16 accepted. The notice must state that the filer's possession or
17 control of a firearm is unlawful under RCW 9.41.040(3) and that any
18 firearm in the filer's possession or control should be surrendered
19 immediately pursuant to RCW 9.41.040. By the end of the business day,
20 the clerk of the court must transmit the accepted form to the
21 Washington state patrol. The Washington state patrol must enter the
22 voluntary waiver of firearm rights into the national instant criminal
23 background check system and any other federal or state computer-based
24 systems used by law enforcement agencies or others to identify
25 prohibited purchasers of firearms within twenty-four hours of receipt
26 of the form. Copies and records of the voluntary waiver of firearm
27 rights shall not be disclosed except to law enforcement agencies.

28 (2) No sooner than seven calendar days after filing a voluntary
29 waiver of firearm rights, the person may file a revocation of the
30 voluntary waiver of firearm rights in the same county where the
31 voluntary waiver of firearm rights was filed. The clerk of the court
32 must request photo identification to verify the person's identity
33 prior to accepting the form. By the end of the business day, the
34 clerk of the court must transmit the form to the Washington state
35 patrol and to any (~~(contact))~~) family member, mental health
36 professional, substance use disorder professional, or alternate
37 person listed on the voluntary waiver of firearm rights and destroy
38 all records of the voluntary waiver. Within seven days of receiving a
39 revocation of a voluntary waiver of firearm rights, the Washington
40 state patrol must remove the person from the national instant

1 criminal background check system, and any other federal or state
2 computer-based systems used by law enforcement agencies or others to
3 identify prohibited purchasers of firearms in which the person was
4 entered, unless the person is otherwise ineligible to possess a
5 firearm under RCW 9.41.040, and destroy all records of the voluntary
6 waiver.

7 (3) A person who knowingly makes a false statement regarding
8 their identity on the voluntary waiver of firearm rights form or
9 revocation of waiver of firearm rights form is guilty of false
10 swearing under RCW 9A.72.040.

11 (4) Neither a voluntary waiver of firearm rights nor a revocation
12 of a voluntary waiver of firearm rights shall be considered by a
13 court in any legal proceeding.

14 (5) A voluntary waiver of firearm rights may not be required of
15 an individual as a condition for receiving employment, benefits, or
16 services.

17 (6) All records obtained and all reports produced, as required by
18 this section, are not subject to disclosure through the public
19 records act under chapter 42.56 RCW.

20 **Sec. 5.** RCW 9.41.352 and 2018 c 145 s 2 are each amended to read
21 as follows:

22 (1) The administrator for the courts, under the direction of the
23 chief justice, shall develop a voluntary waiver of firearm rights
24 form and a revocation of voluntary waiver of firearm rights form by
25 January 1, 2019.

26 (2) The forms must include all of the information necessary for
27 identification and entry of the person into the national instant
28 criminal background check system, and any other federal or state
29 computer-based systems used by law enforcement agencies or others to
30 identify prohibited purchasers of firearms. The voluntary waiver of
31 firearm rights form must include the following language:

32 Because you have filed this voluntary waiver of firearm rights,
33 effective immediately you may not purchase (~~(or)~~), receive, control,
34 or possess any firearm. You may revoke this voluntary waiver of
35 firearm rights any time after at least seven calendar days have
36 elapsed since the time of filing.

37 (3) The forms must be made available on the administrator for the
38 courts website, at all county clerk offices, and must also be made

1 widely available at firearm and ammunition dealers and health care
2 provider locations.

3 NEW SECTION. **Sec. 6.** A new section is added to chapter 9.41 RCW
4 to read as follows:

5 Mental health professionals and substance use disorder
6 professionals as defined in RCW 9.41.010 are encouraged to discuss
7 the voluntary waiver of firearm rights with their patients if the
8 mental health professional or substance use disorder professional
9 reasonably believes that a discussion will avoid or minimize an
10 imminent danger to the health or safety of the individual or any
11 other individual; however, there is no obligation to do so.

12 NEW SECTION. **Sec. 7.** This act takes effect July 1, 2022.

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