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HOUSE BILL 2310

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State of Washington                      52nd Legislature                      1992 Regular Session

By Representatives Franklin, Ludwig, Orr, Wang, Ferguson and Anderson

Read first time 01/14/92. Referred to Committee on Judiciary.

1            AN ACT Relating to the possession of weapons in court facilities;  
2 amending RCW 9.41.098; adding a new section to chapter 9.41 RCW; and  
3 prescribing penalties.

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

5            NEW SECTION.    **Sec. 1.** A new section is added to chapter 9.41 RCW  
6 to read as follows:

7            (1) It is a misdemeanor for a person to possess a firearm, knife or  
8 other cutting or stabbing instrument, club, or any other weapon clearly  
9 capable of producing bodily harm in a building that contains a  
10 courtroom or judge's chamber.

11            (2) Subsection (1) of this section does not apply to:

12            (a) A person engaged in military activities sponsored by the  
13 federal or state governments, while engaged in official duties;

14            (b) Law enforcement personnel; or

1 (c) Security personnel while engaged in official duties.

2 (3) Each county shall cause the perimeter of the premises of any  
3 specific location covered by subsection (1) of this section to be  
4 posted at reasonable intervals to alert the public as to the existence  
5 of any law restricting the possession of weapons on the premises.

6 **Sec. 2.** RCW 9.41.098 and 1989 c 222 s 8 are each amended to read  
7 as follows:

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

10 (a) Found concealed on a person not authorized by RCW 9.41.060 or  
11 9.41.070 to carry a concealed pistol: PROVIDED, That it is an absolute  
12 defense to forfeiture if the person possessed a valid Washington  
13 concealed pistol license within the preceding two years and has not  
14 become ineligible for a concealed pistol license in the interim.  
15 Before the firearm may be returned, the person must pay the past due  
16 renewal fee and the current renewal fee;

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

19 (c) Found in the possession or under the control of a person at the  
20 time the person committed or was arrested for committing a crime of  
21 violence or a crime in which a firearm was used or displayed or a  
22 felony violation of the uniform controlled substances act, chapter  
23 69.50 RCW;

24 (d) Found concealed on a person who is in any place in which a  
25 concealed pistol license is required, and who is under the influence of  
26 any drug or under the influence of intoxicating liquor, having 0.10  
27 grams or more of alcohol per two hundred ten liters of breath or 0.10  
28 percent or more by weight of alcohol in the person's blood, as shown by  
29 analysis of the person's breath, blood, or other bodily substance;

1 (e) Found in the possession of a person prohibited from possessing  
2 the firearm under RCW 9.41.040 or section 1 of this act;

3 (f) Found in the possession of a person free on bail or personal  
4 recognizance pending trial, appeal, or sentencing for a crime of  
5 violence or a crime in which a firearm was used or displayed, except  
6 that violations of Title 77 RCW shall not result in forfeiture under  
7 this section;

8 (g) Found in the possession of a person found to have been mentally  
9 incompetent while in possession of a firearm when apprehended or who is  
10 thereafter committed pursuant to chapter 10.77 or 71.05 RCW;

11 (h) Known to have been used or displayed by a person in the  
12 violation of a proper written order of a court of general jurisdiction;  
13 or

14 (i) Known to have been used in the commission of a crime of  
15 violence or a crime in which a firearm was used or displayed or a  
16 felony violation of the uniformed controlled substances act, chapter  
17 69.50 RCW.

18 (2) Upon order of forfeiture, the court in its discretion shall  
19 order destruction of any firearm that is illegal for any person to  
20 possess. All firearms legal for citizen possession that are judicially  
21 forfeited or forfeited due to failure to make a claim under RCW  
22 63.32.010, 63.40.010, or 63.35.020 shall be submitted for auction to  
23 commercial sellers once a year if the submitting agency has accumulated  
24 at least ten firearms authorized for sale. Law enforcement agencies  
25 may conduct joint auctions for the purpose of maximizing efficiency.  
26 A maximum of ten percent of such firearms may be retained for use by  
27 local law enforcement agencies and the Washington state patrol. Before  
28 submission for auction, a court may temporarily retain forfeited  
29 firearms if needed for evidence. The proceeds from any sale shall be  
30 divided as follows: The local jurisdiction and the Washington state

1 patrol shall retain its costs, including actual costs of storage and  
2 sale, and shall forward the remainder to the state department of  
3 wildlife for use in its firearms training program pursuant to RCW  
4 77.32.155.

5 If a firearm is delivered to a law enforcement agency and the  
6 agency no longer requires use of the firearm, the agency shall dispose  
7 of the firearm by auction as provided by this subsection. The public  
8 auctioning agency shall, as a minimum, maintain a record of all  
9 forfeited firearms by manufacturer, model, caliber, serial number, date  
10 and circumstances of forfeiture, and final disposition. The records  
11 shall be open to public inspection and copying.

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

17 (4) A law enforcement officer of the state or of any county or  
18 municipality may confiscate a firearm found to be in the possession of  
19 a person under circumstances specified in subsection (1) of this  
20 section. After confiscation, the firearm shall not be surrendered  
21 except: (a) To the prosecuting attorney for use in subsequent legal  
22 proceedings; (b) for disposition according to an order of a court  
23 having jurisdiction as provided in subsection (1) of this section; or  
24 (c) to the owner if the proceedings are dismissed or as directed in  
25 subsection (3) of this section.