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**SUBSTITUTE HOUSE BILL 1612**

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**State of Washington**

**63rd Legislature**

**2013 Regular Session**

**By** House Judiciary (originally sponsored by Representatives Hope, Pedersen, Hayes, Buys, Dahlquist, Hargrove, O'Ban, Holy, Goodman, Fagan, Smith, Magendanz, Orcutt, Klippert, Kretz, Warnick, Roberts, Moscoso, Ryu, and Bergquist)

READ FIRST TIME 02/22/13.

1       AN ACT Relating to firearm offenders; amending RCW 42.56.240;  
2 reenacting and amending RCW 9.41.010; adding new sections to chapter  
3 9.41 RCW; adding a new section to chapter 43.43 RCW; and prescribing  
4 penalties.

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

6       **Sec. 1.** RCW 42.56.240 and 2012 c 88 s 1 are each amended to read  
7 as follows:

8       The following investigative, law enforcement, and crime victim  
9 information is exempt from public inspection and copying under this  
10 chapter:

11       (1) Specific intelligence information and specific investigative  
12 records compiled by investigative, law enforcement, and penology  
13 agencies, and state agencies vested with the responsibility to  
14 discipline members of any profession, the nondisclosure of which is  
15 essential to effective law enforcement or for the protection of any  
16 person's right to privacy;

17       (2) Information revealing the identity of persons who are witnesses  
18 to or victims of crime or who file complaints with investigative, law  
19 enforcement, or penology agencies, other than the commission, if

1 disclosure would endanger any person's life, physical safety, or  
2 property. If at the time a complaint is filed the complainant, victim,  
3 or witness indicates a desire for disclosure or nondisclosure, such  
4 desire shall govern. However, all complaints filed with the commission  
5 about any elected official or candidate for public office must be made  
6 in writing and signed by the complainant under oath;

7 (3) Any records of investigative reports prepared by any state,  
8 county, municipal, or other law enforcement agency pertaining to sex  
9 offenses contained in chapter 9A.44 RCW or sexually violent offenses as  
10 defined in RCW 71.09.020, which have been transferred to the Washington  
11 association of sheriffs and police chiefs for permanent electronic  
12 retention and retrieval pursuant to RCW 40.14.070(2)(b);

13 (4) License applications under RCW 9.41.070; copies of license  
14 applications or information on the applications may be released to law  
15 enforcement or corrections agencies;

16 (5) Information revealing the identity of child victims of sexual  
17 assault who are under age eighteen. Identifying information means the  
18 child victim's name, address, location, photograph, and in cases in  
19 which the child victim is a relative or stepchild of the alleged  
20 perpetrator, identification of the relationship between the child and  
21 the alleged perpetrator;

22 (6) The statewide gang database referenced in RCW 43.43.762;

23 (7) Data from the electronic sales tracking system established in  
24 RCW 69.43.165;

25 (8) Information submitted to the statewide unified sex offender  
26 notification and registration program under RCW 36.28A.040(6) by a  
27 person for the purpose of receiving notification regarding a registered  
28 sex offender, including the person's name, residential address, and e-  
29 mail address; and

30 (9) Personally identifying information collected by law enforcement  
31 agencies pursuant to local security alarm system programs and vacation  
32 crime watch programs. Nothing in this subsection shall be interpreted  
33 so as to prohibit the legal owner of a residence or business from  
34 accessing information regarding his or her residence or business; and

35 (10) The central registry of firearm offenders established in  
36 section 6 of this act.

1           **Sec. 2.** RCW 9.41.010 and 2009 c 216 s 1 are each reenacted and  
2 amended to read as follows:

3           Unless the context clearly requires otherwise, the definitions in  
4 this section apply throughout this chapter.

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

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

17           (3) "Crime of violence" means:

18           (a) Any of the following felonies, as now existing or hereafter  
19 amended: Any felony defined under any law as a class A felony or an  
20 attempt to commit a class A felony, criminal solicitation of or  
21 criminal conspiracy to commit a class A felony, manslaughter in the  
22 first degree, manslaughter in the second degree, indecent liberties if  
23 committed by forcible compulsion, kidnapping in the second degree,  
24 arson in the second degree, assault in the second degree, assault of a  
25 child in the second degree, extortion in the first degree, burglary in  
26 the second degree, residential burglary, and robbery in the second  
27 degree;

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

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

34           (4) "Dealer" means a person engaged in the business of selling  
35 firearms at wholesale or retail who has, or is required to have, a  
36 federal firearms license under 18 U.S.C. Sec. 923(a). A person who  
37 does not have, and is not required to have, a federal firearms license  
38 under 18 U.S.C. Sec. 923(a), is not a dealer if that person makes only

1 occasional sales, exchanges, or purchases of firearms for the  
2 enhancement of a personal collection or for a hobby, or sells all or  
3 part of his or her personal collection of firearms.

4 (5) "Family or household member" means "family" or "household  
5 member" as used in RCW 10.99.020.

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

9 (7) "Firearm" means a weapon or device from which a projectile or  
10 projectiles may be fired by an explosive such as gunpowder.

11 (8) "Firearm offender" means a person who has previously been  
12 convicted or found not guilty by reason of insanity in this state of  
13 any firearm offense. A person is not a firearm offender under this  
14 chapter if any and all qualifying offenses have been the subject of an  
15 expungement, pardon, annulment, certificate, or rehabilitation, or  
16 other equivalent procedure based on a finding of the rehabilitation of  
17 the person convicted or a pardon, annulment, or other equivalent  
18 procedure based on a finding of innocence.

19 (9) "Firearm offense" means:  
20 (a) Any felony offense that is a violation of chapter 9.41 RCW;  
21 (b) A violation of RCW 9A.36.045;  
22 (c) A violation of RCW 9A.56.300;  
23 (d) A violation of RCW 9A.56.310;  
24 (e) Any felony offense if the offender was armed with a firearm in  
25 the commission of the offense.

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

32 ~~((+9))~~ (11) "Lawful permanent resident" has the same meaning  
33 afforded a person "lawfully admitted for permanent residence" in 8  
34 U.S.C. Sec. 1101(a)(20).

35 ~~((+10))~~ (12) "Loaded" means:  
36 (a) There is a cartridge in the chamber of the firearm;  
37 (b) Cartridges are in a clip that is locked in place in the  
38 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 ~~((+11+))~~ (13) "Machine gun" means any firearm known as a machine  
8 gun, mechanical rifle, submachine gun, or any other mechanism or  
9 instrument not requiring that the trigger be pressed for each shot and  
10 having a reservoir clip, disc, drum, belt, or other separable  
11 mechanical device for storing, carrying, or supplying ammunition which  
12 can be loaded into the firearm, mechanism, or instrument, and fired  
13 therefrom at the rate of five or more shots per second.

14 ~~((+12+))~~ (14) "Nonimmigrant alien" means a person defined as such  
15 in 8 U.S.C. Sec. 1101(a)(15).

16 ~~((+13+))~~ (15) "Pistol" means any firearm with a barrel less than  
17 sixteen inches in length, or is designed to be held and fired by the  
18 use of a single hand.

19 ~~((+14+))~~ (16) "Rifle" means a weapon designed or redesigned, made  
20 or remade, and intended to be fired from the shoulder and designed or  
21 redesigned, made or remade, and intended to use the energy of the  
22 explosive in a fixed metallic cartridge to fire only a single  
23 projectile through a rifled bore for each single pull of the trigger.

24 ~~((+15+))~~ (17) "Sell" refers to the actual approval of the delivery  
25 of a firearm in consideration of payment or promise of payment of a  
26 certain price in money.

27 ~~((+16+))~~ (18) "Serious offense" means any of the following felonies  
28 or a felony attempt to commit any of the following felonies, as now  
29 existing or hereafter amended:

30 (a) Any crime of violence;

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

34 (c) Child molestation in the second degree;

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

36 (e) Indecent liberties;

37 (f) Leading organized crime;

38 (g) Promoting prostitution in the first degree;

1 (h) Rape in the third degree;  
2 (i) Drive-by shooting;  
3 (j) Sexual exploitation;  
4 (k) Vehicular assault, when caused by the operation or driving of  
5 a vehicle by a person while under the influence of intoxicating liquor  
6 or any drug or by the operation or driving of a vehicle in a reckless  
7 manner;

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

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

14 (n) Any other felony with a deadly weapon verdict under RCW  
15 (~~9.94A.602~~) 9.94A.825; or

16 (o) Any felony offense in effect at any time prior to June 6, 1996,  
17 that is comparable to a serious offense, or any federal or out-of-state  
18 conviction for an offense that under the laws of this state would be a  
19 felony classified as a serious offense.

20 (~~(+17)~~) (19) "Short-barreled rifle" means a rifle having one or  
21 more barrels less than sixteen inches in length and any weapon made  
22 from a rifle by any means of modification if such modified weapon has  
23 an overall length of less than twenty-six inches.

24 (~~(+18)~~) (20) "Short-barreled shotgun" means a shotgun having one  
25 or more barrels less than eighteen inches in length and any weapon made  
26 from a shotgun by any means of modification if such modified weapon has  
27 an overall length of less than twenty-six inches.

28 (~~(+19)~~) (21) "Shotgun" means a weapon with one or more barrels,  
29 designed or redesigned, made or remade, and intended to be fired from  
30 the shoulder and designed or redesigned, made or remade, and intended  
31 to use the energy of the explosive in a fixed shotgun shell to fire  
32 through a smooth bore either a number of ball shot or a single  
33 projectile for each single pull of the trigger.

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

36 (1) On or after the effective date of this section, whenever a  
37 defendant in this state is convicted of a firearm offense or found not

1 guilty by reason of insanity of any firearm offense, the court must  
2 consider whether to impose a requirement that the person comply with  
3 the registration requirements of section 4 of this act and may, in its  
4 discretion, impose such a requirement.

5 (2) In determining whether to require the person to register, the  
6 court shall consider all relevant factors including, but not limited  
7 to:

- 8 (a) The person's criminal history;
- 9 (b) Whether the person has previously been found not guilty by  
10 reason of insanity of any offense in this state or elsewhere; and
- 11 (c) Evidence of the person's propensity for violence that would  
12 likely endanger persons.

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

15 (1) Any adult or juvenile residing, whether or not the person has  
16 a fixed residence, in this state who has been required by a court to  
17 comply with the registration requirements of this section shall  
18 personally register with the county sheriff for the county of the  
19 person's residence.

20 (2) A person required to register under this section must provide  
21 the following information when registering:

- 22 (a) Name and any aliases used;
- 23 (b) Complete and accurate residence address or, if the person lacks  
24 a fixed residence, where he or she plans to stay;
- 25 (c) Identifying information of the gun offender, including a  
26 physical description;
- 27 (d) The offense for which the person was convicted;
- 28 (e) Date and place of conviction; and
- 29 (f) The names of any other county where the offender has registered  
30 pursuant to this section.

31 (3) The county sheriff may require the offender to provide  
32 documentation that verifies the contents of his or her registration.

33 (4) The county sheriff may take the offender's photograph or  
34 fingerprints for the inclusion of such record in the registration.

35 (5) Firearm offenders shall register with the county sheriff not  
36 later than forty-eight hours after:

1 (a) The date of release from custody, as a result of the firearm  
2 offense, of the state department of corrections, the state department  
3 of social and health services, a local division of youth services, or  
4 a local jail or juvenile detention facility; or

5 (b) The date the court imposes the firearm offender's sentence, if  
6 the offender receives a sentence that does not include confinement.

7 (6)(a) Except as described in (b) of this subsection, the firearm  
8 offender shall register with the county sheriff not later than twenty  
9 days after each twelve-month anniversary of the date the offender is  
10 first required to register, as described in subsection (5) of this  
11 section.

12 (b) If the firearm offender is confined to any correctional  
13 institution, state institution or facility, or health care facility  
14 throughout the twenty-day period described in (a) of this subsection,  
15 the offender shall personally appear before the county sheriff not  
16 later than forty-eight hours after release to verify and update, as  
17 appropriate, his or her registration.

18 (7) If the firearm offender changes his or her residence address  
19 and his or her new residence address is within this state, the offender  
20 shall personally register with the county sheriff for the county of the  
21 person's residence not later than forty-eight hours after the change of  
22 address. If the offender's residence address is within the same county  
23 as the offender's immediately preceding address, the offender shall  
24 update the contents of his or her current registration.

25 (8) The duty to register shall continue for a period of four years  
26 from the date the offender is first required to register, as described  
27 in subsection (5) of this section.

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

30 (1) A person commits the crime of failure to register as a firearm  
31 offender if the person has a duty to register under section 4 of this  
32 act and knowingly fails to comply with any of the requirements of  
33 section 4 of this act.

34 (2) Failure to register as a firearm offender is a gross  
35 misdemeanor.



1        NEW SECTION.    **Sec. 6.**    A new section is added to chapter 43.43 RCW  
2 to read as follows:

3        (1) The county sheriff shall forward registration information,  
4 photographs, and fingerprints obtained pursuant to section 4 of this  
5 act to the Washington state patrol within five working days.

6        (2) Upon implementation of this act, the Washington state patrol  
7 shall maintain a central registry of firearm offenders required to  
8 register under section 4 of this act and shall adopt rules as are  
9 necessary to carry out the purposes of this act.

10       (3) Upon expiration of the person's duty to register, as described  
11 in section 4(8) of this act, the Washington state patrol shall  
12 automatically remove the person's name and information from the  
13 registry.

14       (4) The central registry of firearm offenders shall be used only  
15 for law enforcement purposes and is not subject to public disclosure  
16 under chapter 42.56 RCW.

17       NEW SECTION.    **Sec. 7.**    If any provision of this act or its  
18 application to any person or circumstance is held invalid, the  
19 remainder of the act or the application of the provision to other  
20 persons or circumstances is not affected.

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