

**Metropolitan King County Council**

**Law & Justice Committee**

**REVISED STAFF REPORT**

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| **Agenda Item:** |  | **Name:** | Andrew Kim |
| **Proposed No**.: | 2018-0373 | **Date:** | September 11, 2018 |

**COMMITTEE ACTION**

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| ***Proposed Substitute Ordinance 2018-0373.2 which would make it unlawful for any person in unincorporated King County to keep a firearm, whether loaded or unloaded with ammunition, within any premise unless the firearm is safely stored in or using a secure firearm storage or safety device, passed out of committee on September 11, 2018, with a “Do Pass Substitute” recommendation. The Ordinance was amended in committee to modify the penalty from a criminal infraction to a civil infraction, allow fifteen day gap between the initial warning and the first civil infraction citation, allow the court to waive the penalty if a violator shows evidence that a secure firearm storage or security device was obtained, and require the law enforcement officer to inform the violator (after the citation is issued) that providing evidence to the court that a secure firearm storage or security device was obtained would waive the penalty.*** |

**SUBJECT**

An ordinance relating to the secure storage of firearms and adding a new chapter to K.C.C. Title 12 and prescribing penalties.

**SUMMARY**

Proposed Ordinance 2018-0373 would make it unlawful for any person in unincorporated King County to keep a firearm, whether loaded or unloaded with ammunition, within any premise unless the firearm is safely stored in or using a secure firearm storage or safety device. A violation would result in a misdemeanor with a fine of not more than one thousand dollars and imprisonment in the county jail for not more than ninety days. Law enforcement officers of the King County Sheriff’s Office (KCSO) would enforce the proposed ordinance and would require officers to provide an initial written warning to first-time violators along with information of nearby facilities where secure firearm storage or safety devices may be purchased.

KCSO staff state that they would require an additional 2.0 to 5.0 FTEs, depending on the enforcement approach, to enforce the proposed ordinance. The Prosecuting Attorney’s Office (PAO) staff state that given the limited scope of the proposed ordinance to unincorporated King County, the number of cases generated would not require additional resources for the department.

KSCO staff also state that the proposed ordinance may have disproportionate negative impacts to low-income individuals and persons of color due to costs associated with the proposed ordinance. Moreover, studies indicate firearm violence from homicide disproportionately impact communities of color and children of color. Relatedly, the King County Determinants of Equity report states that in King County, incarcerations rates are disproportionately higher for Black/African American adults and youths.

Amendment 1 has been prepared to correct an ambiguity in section 4 of the proposed ordinance to state that a violation would result in a fine or imprisonment or both, which would align with the sponsor’s intent of the proposed ordinance.

**BACKGROUND**

***Firearm Death and Injuries***

In 2018, through August 2018, there have been 39,436 incidents of gun violence nationally, including 9,882 firearms related deaths in the United States, which averages to about 40 gun related deaths per day.[[1]](#footnote-1) Since January 2013, there have been 25 mass shootings that have occurred in Washington State, that have resulted in 47 persons being killed and 71 being wounded. [[2]](#footnote-2)

The latest Washington State Department of Health (WSDOH) data show that in 2015, firearms were the third leading cause of injury-related death in the state, killing approximately 714 Washington residents. Of these firearm deaths, 75 percent were suicides and firearm suicides accounted for 47 percent of all suicides in the state in 2015. During the same period, 146 King County residents died from a firearm injury, including 6 youth ranging in age of seventeen and younger. In addition, according to the 2015 Washington Association of Sheriffs and Police Chiefs Annual Report, 62 percent of homicides in Washington State were committed with firearms.[[3]](#footnote-3)

According to the Pacific Northwest Suicide Resource Center, firearms were the leading method of suicide for both males and females in the United States and, despite having a much lower suicide rate overall, the firearm suicide rate in the United States is six times that of other high-income countries. The Center also notes that the King County suicide rate has increased by about 18 percent in the last decade.[[4]](#footnote-4)

The WSDOH data also indicate that 308 Washington State residents were hospitalized for nonfatal firearm injuries in 2015, including 30 youths ranging in age of seventeen and younger. During that same period, 95 King County residents were hospitalized for nonfatal firearm injuries, including 9 youth.[[5]](#footnote-5)

The January 21, 2014 Annals of Internal Medicine report finds that adolescents, between the ages of ten and nineteen years, with access to firearms are 2.6 times as likely to die by suicide as adolescents without access to firearms. The December 2008 Journal of Adolescent Health study of adolescent (between the ages of ten and nineteen years) suicides by firearm found that over half were carried out with firearms from the adolescent's home. More than 75 percent of firearms used in suicide attempts and unintentional injuries were stored in the residence of the victim, a relative, or friend.[[6]](#footnote-6)

***Firearm Violence and Race***

According to various Public Health – Seattle & King County analysis on firearm violence in King County, firearm violence has a disproportionate impact on communities of color and children of color are victims of homicide by firearms at a higher rate than white children in King County.[[7]](#footnote-7) According to a Washington State Office of Financial Management’s 2013 Research Brief, there were proportionately more firearm suicides among Whites and American Indian & Alaska Natives, however, more firearm homicides among Blacks and Latinxs; and essentially an even divide between firearm homicides and suicides among Asian-Americans.[[8]](#footnote-8)

***Firearm Secure Storage***

A 2018 study, published by the American Journal of Public Health, evaluated the 2015 Washington State Behavioral Risk Factor Surveillance System data which included a broad survey of Washington State residents, and found that 34 percent of adults surveyed reported having a firearm in their households, of which, almost one-in-five reported that the firearms were not stored in a safe manner even when children were in the homes and the respondents suffered from depression and suicidal thoughts or were engaged in the significant consumption of alcohol.[[9]](#footnote-9) The Washington State Behavioral Risk Factor Surveillance System data also finds that approximately 21 percent of King County adults reported firearms present in or around their homes. Among those adults, an estimated 31 percent stored their firearms loaded and an estimated 43 percent stored their firearms unlocked and not stored in a way to render them safe. Moreover, approximately 15 percent of firearm owners reported storing them loaded and unlocked.[[10]](#footnote-10)

A June 2004 study from the American Journal of Epidemiology concluded that those persons with guns in the home were at greater risk than those without guns in the home of dying from homicide, firearm homicide, suicide and firearm suicide.[[11]](#footnote-11) According to a February 2005 Journal of the American Medical Association study, locked guns can reduce the odds of accidental death or suicide by seventy-three percent.[[12]](#footnote-12)

***King County Activities Regarding Firearms***

The Violence and Injury Prevention Unit of the Public Health – Seattle & King County is tasked with taking a public health approach to help residents better understand how and when firearms are used unsafely, and then develop solutions that put an end to these preventable injuries and losses. The unit’s primary activities include: (1) supporting a public awareness campaign around safe storage of guns, specifically through its Lok-It-Up program; (2) collecting data and identifying trends regarding firearm violence; and (3) educating stakeholders about laws in Washington and in other jurisdictions outside of Washington. Of note, in November 2017, the council appropriated an additional $100,000[[13]](#footnote-13) to the Lok-It-Up program to support efforts to effectively disseminate information on safely securing firearms in homes.

Through the same appropriations ordinance[[14]](#footnote-14), the council also appropriated $282,000 and 2.0 FTEs to the KCSO and $369,000 and 4.0 FTEs to the PAO to address the public safety risk related to firearm relinquishment and compliance in domestic violence and extreme risk protection order cases recommended by the Regional Team for Protection Orders and Order to Surrender Weapons. Relatedly, at its June 17, 2017 meeting, the King County Board of Health held a briefing to hear recommendations from the Regional Team for Protection Orders and Order to Surrender Weapons.[[15]](#footnote-15)

Lastly, King County Code Chapter 12.68 designates specific areas in unincorporated King County as “no shooting areas”, Chapter 12.78 prohibits the supplying of firearms or ammunition to those under 21 years of age in unincorporated King County, and Chapter 12.48 regulates pistol sales. However, most of these code provisions were enacted prior to 1980 and would need legal review to determine if it would comport with current state law.

***Firearm Storage Laws in Other Jurisdictions and Washington State***

According to the Giffords Law Center to Prevent Gun Violence, eleven states have laws concerning firearm locking devices. Massachusetts is the only state that generally requires that all firearms be stored with a lock in place; and California, Connecticut, and New York impose this requirement in certain situations. Other state laws regarding locking devices are similar to the federal law, in that they require locking devices to accompany certain guns manufactured, sold, or transferred. Five of the eleven states also set standards for the design of locking devices or require them to be approved by a state agency for effectiveness.[[16]](#footnote-16) The Giffords Law Center also highlight New York City, San Francisco, Sunnyvale, CA, and Albany, NY as notable local jurisdictions with laws that require safe storage and security of firearms.[[17]](#footnote-17)

Washington State currently does not have any laws that require safe storage or security of firearms. However, in July 2018, the Washington Secretary of State certified Initiative 1639 for the November 2018 General Election. The initiative would enact new state laws to implement firearm safety measures, including requiring enhanced background checks, waiting periods, and increased age requirements for semiautomatic assault rifles and secure gun storage for all firearms.[[18]](#footnote-18) More specifically, the initiative would make a gun owner face criminal prosecution for unsafe storage of firearms if the firearm is accessed by a prohibited person and the firearm is either discharged, exhibited to intimidate others, used in the commission of a crime, or used to cause personal injury or death. The initiative would also require firearm dealers to give or sell a firearm storage or safety device to purchaser/transferee at time of purchase or transfer. Lastly, the initiative would require dealers to post a warning sign that an individual may face criminal prosecution if a firearm is left unsecured at a location where a person who is prohibited from possessing firearms can obtain possession. Attachment 4 to this staff report provides the text of Initiative 1639. The initiative underwent legal challenges concerning the proper formatting of the ballot initiative. However, the Washington State Supreme Court gave a final ruling on August 24, 2018 to keep Initiative 1639 in the November 2018 General Election.[[19]](#footnote-19)

In July 20, 2018, the City of Seattle enacted an ordinance related to the safe storage of and access to firearms.[[20]](#footnote-20) The ordinance would prohibit an individual from storing or keeping a firearm in any premises, unless the firearm is secured in a locked container, properly engaged so as to render such weapon inaccessible or unusable to any person other than the owner or other lawfully authorized user. A violation would be a civil infraction. In addition, the ordinance would also issue a civil infraction to an individual if that individual knows or reasonably should know that a minor, an at-risk person, or a prohibited person is likely to gain access to the firearm, and also obtains the firearm. Attachment 5 includes a copy of the City of Seattle ordinance.

***Summary of Proposed Ordinance 2018-0373***

The following provides an outline of the proposed ordinance:

 **Section 1:** Adds a new chapter in King County Code Title 12;

**Section 2:** Provides definition of key terms including a detailed definition of “secure firearm storage or safety device”;

**Section 3:** Makes it unlawful for any person in unincorporated King County to keep a firearm, whether loaded or unloaded with ammunition, within any premise unless the firearm is safely stored in or using a secure firearm storage or safety device; and

**Section 4:** Establishes enforcement mechanisms and prescribes penalties.

**ANALYSIS**

***Resource Impacts for Enforcement***

KCSO staff estimate that they would require an additional 2.0 to 5.0 FTEs, depending on the enforcement approach, to enforce the proposed ordinance. At most they would need 3 commissioned staff (detectives) to investigate reports of unsecured weapons, take statements, and apply for and execute search warrants, an Administrative Assistant II and an Evidence and Supply Specialist to handle the weapons taken in as evidence. At minimum they would need 2.0 FTEs which would include an Administrative Assistant II for paperwork and tracking and an Evidence and Supply Specialist to handle the weapons taken in as evidence. KCSO staff state that a minimum level enforcement approach would potentially entail noticing an unsecured firearm during a response to another incident.

The Prosecuting Attorney’s Office (PAO) staff state that given the limited scope of the proposed ordinance to unincorporated King County, the number of cases generated would not require additional resources for the department.

Staff have not received a written response from the Department of Public Defense (DPD) regarding resource impacts to their department with regards to the proposed ordinance. However, Interim Director Anita Khandelwal has confirmed her attendance to the committee meeting to respond to questions on the proposed ordinance.

***ESJ Analysis***

It should be noted that the King County Determinants of Equity Report[[21]](#footnote-21) finds that even though the overall incarceration rate has declined between 2005 and 2011 in King County, Black/African American adults remain significantly overrepresented in the county jail population relative to their percentage in the general population. In addition, in 2013, Black/African American youth were five times more likely to be referred to the Juvenile Justice system than White youth. The report also concludes that the high level of incarceration has a significant economic and opportunity impact on the Black/African American community.

KSCO staff also state that the proposed ordinance may have disproportionate impacts to low-income individuals and persons of color due to costs associated with purchasing firearm storage and safety devices, fines for violating the proposed ordinance, and costs incurred due to the court process.

In June 2016, the city of San Francisco adopted an ordinance to prohibit any person from keeping a firearm within any residence unless the firearm is stored in a locked container or disabled with a trigger lock. A violation would constitute a misdemeanor and a fine not to exceed $1,000 or imprisonment.[[22]](#footnote-22) Given the similarity of San Francisco’s ordinance to the proposed ordinance, staff reached out to San Francisco staff to obtain outcomes data to determine whether the San Francisco ordinance had disproportionate impacts to communities of color. Staff established connection with San Francisco staff but have not received data related to their adopted ordinance.

Lastly, through their website, Public Health – Seattle & King County provides information on five main types of firearm locking devices, its prices, and where to purchase them in the county.[[23]](#footnote-23) Attachment 3 includes a snapshot of the website with this information.

***Legal Review***

The proposed ordinance has been review by council’s legal counsel.

**AMENDMENT**

Amendment 1 has been prepared to correct an ambiguity in section 4 of the proposed ordinance. Currently, the proposed ordinance states that a violation of the proposed ordinance would result in a fine and imprisonment or both, which is a redundant phrase. The amendment would make a correction to state that a violation would result in a fine or imprisonment or both, which would align with the sponsor’s intent of the proposed ordinance.

1. Gun Violence Archive, <http://www.gunviolencearchive.org/>. [↑](#footnote-ref-1)
2. Gun Violence Archive, <http://www.gunviolencearchive.org/reports/mass-shooting>. [↑](#footnote-ref-2)
3. Public Health – Seattle & King County: Guns in our community, <https://www.kingcounty.gov/depts/health/violence-injury-prevention/violence-prevention/gun-violence/LOK-IT-UP/firearm-facts.aspx>. Accessed September 8, 2018. [↑](#footnote-ref-3)
4. Pacific Northwest Suicide Resource Center, Suicide Statistics, <http://depts.washington.edu/hiprc/suicide/stats/>. [↑](#footnote-ref-4)
5. *Ibid.* [↑](#footnote-ref-5)
6. *Ibid.* [↑](#footnote-ref-6)
7. *Ibid.* [↑](#footnote-ref-7)
8. Washington State Office of Financial Management Research Brief No.71: Firearm Deaths in Washington State, April 2013. <https://www.ofm.wa.gov/sites/default/files/public/legacy/researchbriefs/2013/brief071.pdf>. [↑](#footnote-ref-8)
9. Erin Renee Morgan, MS, Anthony Gomez, BS, and Ali Rowhani-Rahbar, MD, PhD, MPH, “Firearm Ownership, Storage Practices, and Suicide Risk Factors in Washington State, 2013–2016,” American Journal of Public Health, Research and Practice, May 17, 2018. <https://ajph.aphapublications.org/doi/10.2105/AJPH.2018.304403>. [↑](#footnote-ref-9)
10. Public Health – Seattle & King County: Guns in our community, <https://www.kingcounty.gov/depts/health/violence-injury-prevention/violence-prevention/gun-violence/LOK-IT-UP/firearm-facts.aspx>. Accessed September 8, 2018. [↑](#footnote-ref-10)
11. Dahlberg, Linda L., Ikeda, Robin M., Kresnow, Marcie-jo. (2004). Guns in the Home and Risk of a Violent Death in the Home: Findings from a National Study. *American Journal of Epidemiology*, Volume 160, Issue 10, November 15, 2004, Pages 929–936, <https://doi.org/10.1093/aje/kwh309>. [↑](#footnote-ref-11)
12. Grossman, D.C., Mueller, B. A., Riedy, C., Dowd, M. D., Villaveces, A., Prodzinski, J. & et al. (2005). Gun storage practices and risk of youth suicide and unintentional firearm injuries. *Journal of the American Medical Association*, 293(6), 707-714. [↑](#footnote-ref-12)
13. Ordinance 18602, enacted November 16, 2017. [↑](#footnote-ref-13)
14. *Ibid.* [↑](#footnote-ref-14)
15. King County Board of Health Briefing 17-B12 [↑](#footnote-ref-15)
16. Giffords Law Center to Prevent Gun Violence: Storage Laws, <http://lawcenter.giffords.org/gun-laws/policy-areas/child-consumer-safety/safe-storage/>. [↑](#footnote-ref-16)
17. *Ibid.* [↑](#footnote-ref-17)
18. Washington State Secretary of State Kim Wyman News Release: Initiative 1639 concerning firearms certified for November ballot, July 27, 2018. <https://www.sos.wa.gov/office/news-releases.aspx#/news/1305>. [↑](#footnote-ref-18)
19. THE SUPREME COURT OF WASHINGTON Order No. 96191-3 ROBIN BALL; the NATIONAL RIFLE ASSOCIATION, ALAN GOTTLIEB and JULIANNE HOY VERSNEL vs. KIM WYMAN, Washington State Secretary of State and SAFE SCHOOLS SAFE COMMUNITIES, August 24, 2018. (<https://assets.documentcloud.org/documents/4783734/Gun-Initiative-Order-8-24-2018.pdf>. [↑](#footnote-ref-19)
20. City of Seattle Ordinance 125620, <https://seattle.legistar.com/View.ashx?M=F&ID=6398548&GUID=463C4AFB-63F7-4D96-8BF1-66D302A7E675>. [↑](#footnote-ref-20)
21. King County Determinants of Equity Report, January 2015, Office of Performance, Strategy, and Budget, <https://www.kingcounty.gov/~/media/elected/executive/equity-social-justice/2015/The_Determinants_of_Equity_Report>. [↑](#footnote-ref-21)
22. City of San Francisco Ordinance Number 97-16, adopted June 17, 2016. [↑](#footnote-ref-22)
23. Public Health – Seattle & King County: 5 main types of locking devices and where to purchase them, last updated July 15, 2016. <https://www.kingcounty.gov/depts/health/violence-injury-prevention/violence-prevention/gun-violence/LOK-IT-UP/types-purchase.aspx>. Accessed September 8, 2018. [↑](#footnote-ref-23)