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SUPREME COURT OF THE STATE OF WASHINGTON

DARREN LEE ARENDS,
Petitioner,
vs.
STATE OF WASHINGTON,
Respondent.

**JOINT BRIEF OF BRADY CENTER TO PREVENT GUN
VIOLENCE, GIFFORDS LAW CENTER TO PREVENT
GUN VIOLENCE, NORTHWEST JUSTICE PROJECT,
SEXUAL VIOLENCE LAW CENTER, AND ALLIANCE
FOR GUN RESPONSIBILITY AS *AMICI CURIAE* IN
SUPPORT OF RESPONDENT**

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IDENTITY AND INTERESTS OF AMICI CURIAE

Amici are the Brady Center to Prevent Gun Violence, Giffords Law Center to Prevent Gun Violence, Northwest Justice Project, Sexual Violence Law Center, and Alliance for Gun Responsibility. Each of these organizations works to mitigate gun violence in our society. The specific nature and mission of each *amicus curiae* is set forth in greater detail in the accompanying motion for leave to file this *amicus* brief. *Amici* submit this brief to aid the Court in considering the importance of recent revisions to Washington’s firearms laws in helping to reduce gun violence, protect survivors of gun violence, and enhance public safety.

INTRODUCTION

This appeal focuses on the venue provision of Substitute House Bill 1562 (H.B. 1562) and questions of vested rights as applied to Petitioner, but the case has far-reaching implications for public safety. Nationwide, state legislatures are working to protect the public from increasing gun violence. Here, based on

extensive evidence-based research, the Washington legislature updated its existing laws on firearms possession and restoration of firearms possession rights.

Specifically, the legislature adopted H.B. 1562 to help reduce the risk of lethality and the disparate impact associated with gun violence and gender-based violence and to better address the risks that access to firearms by certain individuals poses to the public, survivors, and their children. The law was updated to reflect current national research regarding types of offenses correlated with violence and additional risk of further harm, to address new or more frequent types of threats (such as cyber-stalking and cyber-harassment), and to provide for consistent procedures statewide that include comprehensive background checks and survivor notification. As a democratically elected body, the legislature must be able to respond to public safety concerns and should do so based on the latest data available.

As explained below, studies have conclusively found that

certain risk factors increase the likelihood of future gun violence. The legislature addressed these risk factors in H.B. 1562. By enacting legislation that restricts firearms access based on these risk factors, the legislature took concrete, science-based, and evidence-backed steps to protect Washingtonians from future gun violence. The decision of the Court of Appeals upholding the new law should be affirmed.

STATEMENT OF THE CASE

Amici join in Respondent’s statement of the case.

ARGUMENT

I. Washington Amended the Firearms Laws at Issue to Enhance Public Safety.

In 2023, the state legislature amended Washington’s provisions regarding the unlawful possession of firearms to further mitigate the harms associated with gun violence and enhance public safety. Relying on a voluminous and multidisciplinary body of research analyzing the intersection of firearms and public health, the legislature affirmed that gun

violence is a “multifaceted public health problem” that includes “suicide, homicide, intimate partner violence, community violence, mass violence, [and] nonfatal gunshot injuries and threats.”¹

The legislature recognized that in 2021, nearly 21,000 Americans died by firearms-related homicide and that 81 percent of all homicides are committed with a firearm.² The legislature enacted H.B. 1562 to “reduc[e] the risks of lethality and other harm associated with gun violence, gender-based violence, and other types of violence.”³

As the legislature explained, “[a]n extensive body of research has identified specific risk factors that increase the likelihood of individuals engaging in future violence, including gun violence, and presenting further risk to public safety.”⁴

¹ Laws of 2023, ch. 295, § 1(1).

² *Id.*

³ *Id.* (enacting clause).

⁴ *Id.* § 1(4).

“The strongest predictor of future violence is prior violent behavior, including perpetration of domestic violence and violent misdemeanors.”⁵ “Other particularly strong risk factors for future violence” include recent violation of a protection order; frequent alcohol misuse or certain types of controlled substance misuse; and cruelty to animals.⁶ Unlawful or reckless use, display, or brandishing of a firearm is also a risk factor for future violence.⁷

Based on these public health findings regarding heightened risk factors, H.B. 1562 made a number of changes to the law. Among them, the legislature added several types of criminal offenses mentioned above to the existing firearms prohibitor categories; individuals convicted of these offenses are prohibited from possessing firearms unless and until they successfully apply to have their firearms rights restored. The

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

additional “prohibiting crimes” include: an enhanced list of domestic violence offenses; stalking, harassment, and certain violations of a protection order, an order to surrender and prohibit weapons, or a no-contact order; aiming and discharging or unlawful carrying of a firearm; animal cruelty offenses; and having multiple impaired-driving convictions. This brief discusses the important, evidence-based reasons for including these categories of crimes as temporary gun possession prohibitors under state law.⁸

⁸ H.B. 1562 reformed the law in other ways, including clarifying that the “crime-free” waiting period before one may petition for restoration of firearm rights must immediately precede filing of the petition (to address the issue highlighted by this Court in *State v. Dennis*, 191 Wn.2d 169, 421 P.3d 944 (2018)); limiting the offenses that require re-starting the waiting period to those offenses that are prohibitors (rather than conviction for any type of offense); requiring a five-year waiting period for misdemeanors as well as felonies for those violent offenses detailed above; including as prohibitors out-of-state convictions for offenses that would disqualify the person from purchasing or possessing in that state; no longer requiring that all non-restitution fines and fees be paid before petitioning; requiring verification from the Washington State Patrol that there has been a check of all civil and criminal records relevant to the statutory restoration prohibitors, and that the petitioner is

II. The New Law Addresses Important Risk Factors for Firearms-Related Violence.

“Prohibiting access to firearms by groups of people at high risk of committing violence against themselves or others is one of the leading strategies to prevent firearm violence.”⁹ For individuals with a history of violent behavior, firearms access exacerbates the risk that they will perpetrate further violence. By aligning the prohibitors correlated with a known risk for future gun violence, and thus disallowing individuals who are convicted of those categories of offenses from possessing firearms, the legislature took specific, evidence-based action to enhance public safety.

not subject to any other firearm prohibition; and requiring notification to victims and protected persons of the court’s decision, if they have requested notification.

⁹ Magdalena Cerdá et al., *Would Restricting Firearm Purchases Due to Alcohol- and Drug-Related Misdemeanor Offenses Reduce Firearm Homicide and Suicide? An Agent-Based Simulation*, 9:17 *Injury Epidemiol.* 1, 1 (2022).

A. Domestic Abusers’ Access to Firearms Poses Significant and Often Lethal Risks to Partners, Families, and the Public.

H.B. 1562 includes domestic violence misdemeanors and other gender-based violence-related offenses as prohibitor offenses. This reflects reams of data establishing that domestic and intimate partner violence is a significant threat to public health, which is a conclusion echoed by the Centers for Disease Control and Prevention.¹⁰ Abusers’ access to firearms heightens this threat.¹¹ H.B. 1562 promotes public safety by including more domestic violence crimes as firearms prohibitors, and thereby more systematically taking guns out of the hands of convicted domestic abusers.

¹⁰ Ctrs. for Disease Control & Prevention, *About Intimate Partner Violence* (May 16, 2024), <https://tinyurl.com/37fm6yyb> (“Intimate partner violence is a significant public health issue.”); *see also* Tiara C. Willie et al., *Associations Between State Intimate Partner Violence-Related Firearm Policies and Injuries Among Women and Men Who Experience Intimate Partner Violence*, 8:8 *Injury Epidemiol.* 1, 2 (2021).

¹¹ Sierra Smucker et al., *Suicide and Additional Homicides Associated with Intimate Partner Homicide: North Carolina 2004–2013*, 95 *J. Urb. Health* 337, 337 (2018).

The research is clear: Firearms are lethal in the hands of domestic abusers. Public health data shows that about half or even more of the thousands of intimate partner homicides committed in the United States every year are committed with firearms.¹² Moreover, the percentage of intimate partner homicides perpetrated with firearms has increased in recent years.¹³ The threat created by an abuser's access to guns is extreme; a victim of domestic partner violence is five times more likely to be killed by an abusive partner if that partner has access to a gun.¹⁴

¹² April M. Zeoli et al., *Risks and Targeted Interventions: Firearms in Intimate Partner Violence*, 38 *Epidemiol. Revs.* 125, 125 (2016).

¹³ Emma E. Fridel & James Alan Fox, *Gender Differences in Patterns and Trends in U.S. Homicide, 1976-2017*, 6 *Violence & Gender* 27, 34 (2019).

¹⁴ Zeoli, *supra* note 12, at 127; Jacquelyn C. Campbell et al., *Risk Factors for Femicide in Abusive Relationships: Results From a Multisite Case Control Study*, 93 *Am. J. Pub. Health* 1089, 1092 (2003); David M. Studdert et al., *Homicide Deaths Among Adult Cohabitants of Handgun Owners in California, 2004 to 2016*, 175 *Annals Internal Med.* 804, 807 (2022) (finding that among homicides occurring at home, people living

Studies have also found that abusers frequently kill people in addition to their partners—including other family members—during domestic violence incidents. When an intimate partner homicide is committed with a firearm, the offender is twice as likely to kill multiple victims than when they use another weapon.¹⁵ Indeed, more than half of fatal mass shootings—i.e., where four or more people are fatally shot—involve the killing of a domestic partner or family member.¹⁶ One analysis found that since 2020, a gun has been used in more than 80 percent of incidents where someone kills

with handgun owners were seven times more likely to be fatally shot by their spouses or intimate partners).

¹⁵ April M. Zeoli & Jennifer K. Paruk, *Potential to Prevent Mass Shootings Through Domestic Violence Firearm Restrictions*, 19 *Criminology & Pub. Pol’y* 129, 130 (2020) (relying on North Carolina data).

¹⁶ Lisa B. Geller et al., *The Role of Domestic Violence in Fatal Mass Shootings in the United States, 2014–2019*, 8:38 *Injury Epidemiol.* 1, 5 (2021) (“Between 2014 and 2019, in 68.2% of mass shootings, the perpetrator either shot or killed at least one partner or family member or had a history of [domestic violence].”).

at least two immediate family members.¹⁷ It also identified both prior domestic violence and firearms access as primary risk factors for the killing of multiple family members, including the killer’s partner.¹⁸ Armed abusers additionally pose substantial dangers to law enforcement personnel—as one study found, 95 percent of their sample of law enforcement officers who were killed while responding to domestic disturbance calls were killed with a firearm.¹⁹

Tens of thousands of non-fatal domestic violence incidents are also committed with guns every year,²⁰ and studies have found that perpetrators possessing guns “tend to inflict the most severe abuse.”²¹

¹⁷ Mary Claire Molloy, *American Annihilation: US Families Face a Unique Danger – Murder From Within*, Indianapolis Star, July 13, 2023, <https://tinyurl.com/ytywhwr8>.

¹⁸ *Id.*

¹⁹ Cassandra Kercher et al., *Homicides of Law Enforcement Officers Responding to Domestic Disturbance Calls*, 19 *Injury Prevention* 331, 331 (2013).

²⁰ Zeoli, *supra* note 12, at 125.

²¹ Campbell, *supra* note 14, at 1092.

Women bear the brunt of this abuse. They are the majority of victims of intimate partner homicide and violence and are more likely to be killed or assaulted with firearms as part of this violence than male victims.²² Black women are particularly at risk.²³ As are pregnant women: Homicide is the leading cause of death during and after pregnancy, and a majority of the killings of pregnant women are committed by an intimate partner with a firearm.²⁴

²² Zeoli, *supra* note 12, at 125.

²³ Mikaela A. Wallin et al., *The Association of Federal and State-Level Firearm Restriction Policies With Intimate Partner Homicide: A Re-Analysis By Race of the Victim*, 37(17-18) J. Interpersonal Violence NP16509, NP16510 (2022); Emiko Petrosky et al., *Racial and Ethnic Differences in Homicides of Adult Women and the Role of Intimate Partner Violence — United States, 2003–2014*, 66 Morbidity & Mortality Wkly. Rep. 741, 742 (2017).

²⁴ Maeve E. Wallace et al., *Firearm Relinquishment Laws Associated With Substantial Reduction In Homicide Of Pregnant And Postpartum Women*, 40 Health Affs. 1654, 1654 (2021); Harvard T.H. Chan School of Public Health, *Homicide Leading Cause of Death for Pregnant Women in U.S.* (Oct. 21, 2022), <https://tinyurl.com/2s388nny> (“Women in the U.S. who are pregnant or who have recently given birth are more likely to be murdered than to die from obstetric causes—and these

The scale of this epidemic of gun violence against women is profound. Tragically, nearly 1,300 women are killed by an intimate partner each year, and about 900,000 women alive today in the United States have been shot or shot at by an intimate partner.²⁵ An estimated 4.5 million women have been threatened by an intimate partner with a gun.²⁶ Coercive

homicides are linked to a deadly mix of intimate partner violence and firearms”); Aaron J. Kivisto et al., *Racial Disparities in Pregnancy-Associated Intimate Partner Homicide*, 37(13-14) *J. Interpersonal Violence* NP10938, NP10949-51 (2021) (observing particularly heightened risk for pregnant Black women as compared to pregnant white women).

²⁵ Susan B. Sorenson, *Guns in Intimate Partner Violence: Comparing Incidents by Type of Weapon*, 26 *J. Women’s Health* 249, 249 (2017); see also Avanti Adhia et al., *Nonfatal Use of Firearms in Intimate Partner Violence: Results of a National Survey*, 147 *Preventative Med.* 106500, at 6 (2021) (“[N]early 25 million [] adults in the US have experienced nonfatal firearm abuse by an intimate partner.”); Emory Univ. Sch. of Med., *Domestic Violence/Intimate Partner Violence Facts*, <https://tinyurl.com/mvz4shvf> (last visited Nov. 23, 2024).

²⁶ Sorenson, *supra* note 25, at 249.

control itself is a form of domestic violence,²⁷ and Washington courts have recognized that the presence of firearms can allow an abuser to establish or maintain this control even without physical violence.²⁸

Such threats can also serve as a harbinger of fatal violence. For example, in the years before he shot and killed five people and injured another in a spree of violence that occurred in 2012 and began at Seattle’s Cafe Racer, the gunman had flown into “violent rages” at home and had been charged with four domestic violence-related misdemeanors.²⁹ A similar story unfolded in Texas not long after; in the years before a gunman shot 26 people to death in a rural church and injured 20

²⁷ RCW 7.105.010(9) (defining “Domestic violence” as including “[p]hysical harm ... or the infliction of fear of physical harm, ... coercive control; unlawful harassment; or stalking”).

²⁸ See *Graser v. Olsen*, 28 Wn. App. 2d 933, 942, 542 P.3d 1013, 1018 (2023).

²⁹ Jennifer Sullivan & Jonathan Martin, *Gunman: A Life Full of Rage, a Shocking Final Act*, Seattle Times, June 11, 2012, <https://tinyurl.com/55zh7s93>.

more in 2017, he threatened his wife with a firearm and assaulted her and her son.³⁰ Reflecting the enduring nature of this problem, decades earlier, before carrying out the massacre from the belltower at the University of Texas at Austin in 1966, that gunman inflicted years of abuse on his wife.³¹

The research is also clear that taking guns out of the hands of domestic abusers is an effective public safety measure that reduces the often-lethal risk of domestic violence.³²

Observing that regardless of who is killed, most intimate partner homicides first involve a man abusing his female partner, one study found that restricting abusers' access to guns

³⁰ Charlotte Alter, *Domestic Violence is the 'Canary in the Coal Mine' for Mass Shootings*, Time, Nov. 6, 2017, <https://tinyurl.com/299rkxdn>.

³¹ Jo Scott-Coe, *The Link Between Domestic Violence and Mass Shootings*, Time, Mar. 11, 2024, <https://tinyurl.com/bdftnsm5>.

³² Zeoli, *supra* note 12, at 135; *see also* Carolina Díez et al., *State Intimate Partner Violence-Related Firearm Laws and Intimate Partner Homicide Rates in the United States, 1991 to 2015*, 167 *Annals of Internal Med.* 536, 536 (2017).

reduces overall homicide rates, and the rate of murders of women specifically.³³ Other studies have found that state laws prohibiting firearms possession and requiring firearms relinquishment by domestic abusers show promise in reducing pregnancy-associated homicides.³⁴ Still others have found that restricting firearms possession of those under domestic violence restraining orders is associated with a significant decrease in the rate of intimate partner homicide.³⁵ Researchers have also concluded that domestic violence firearms restrictions have the potential to prevent abusers from committing mass shootings.³⁶

Aligning with these robust findings from decades of public health research, the legislature found that gun violence disproportionately harms victims of domestic violence, and that domestic violence is a risk factor for future violence.³⁷ It

³³ Campbell, *supra* note 14, at 1089, 1092.

³⁴ Wallace, *supra* note 24, at 1659.

³⁵ Zeoli, *supra* note 12, at 131.

³⁶ Zeoli & Paruk, *supra* note 15, at 140.

³⁷ Laws of 2023, ch. 295, § 1(1), (2).

explained that nearly 60 percent of intimate partner homicides involve firearms. “When perpetrators of intimate partner violence, including physical violence, sexual abuse, stalking, and psychological aggression of a current or former intimate partner, have access to firearms, women are especially at risk of serious or deadly harm.”³⁸ Indeed, the legislature found that when an abusive partner or former partner owns or has access to a firearm, the likelihood of intimate partner homicide increases by a factor of five, and that women in the United States are 21 times more likely to be killed with a gun than women in other high-income countries.³⁹

With H.B. 1562, the legislature took concrete steps to mitigate this extraordinary threat to public health by making evidence-based changes to decrease the risk that Washingtonians will suffer life-changing—often, life-ending—violence at the hands of domestic abusers who are allowed

³⁸ *Id.* § 1(2).

³⁹ *Id.*

access to guns.

B. Cruelty to Animals Is Also a Strong Risk Factor for Future Firearms Violence Toward Humans.

“A growing body of research indicates that people who commit acts of cruelty towards animals rarely stop there.”⁴⁰

This Court has recognized as much.⁴¹ Referencing this literature, the legislature here found cruelty to animals to be a “particularly strong risk factor[] for future violence,” and included it as a prohibitor crime.⁴² Doing so furthers public safety because committing animal cruelty is a risk factor for later violence directed at humans, including gun-related violence.

Animal cruelty is often enmeshed with domestic

⁴⁰ Cynthia Hodges, *The Link: Cruelty to Animals and Violence Towards People*, Michigan State Univ. Animal Legal & Historical Center (2008), <https://tinyurl.com/5arvvnu9>.

⁴¹ *State v. Abdi-Issa*, 199 Wn.2d 163, 173, 504 P.3d 223, 228-29 (2022) (en banc) (“Animal abuse is an indicator of domestic abuse in a relationship.”).

⁴² Laws of 2023, ch. 295, §§ 1(4), 3(2)(a)(i)(D), 4(2)(a)(i)(H).

violence. For decades, studies have documented links between animal abuse, domestic violence, and child abuse.⁴³ They have found that “[o]rcheestrated harm to animals creates a level of intimidation that secures families’ obedience. ... Emotional abuse involving animals is one of the first indications of escalated and broadened physical violence toward family members.”⁴⁴

Indeed, “between one-half to three-fourths of battered women with pets report that their companion animals have been threatened, harmed or killed by their abusers.”⁴⁵ Studies have found that men who commit domestic violence and also abuse

⁴³ Melissa Trollinger, *The Link Among Animal Abuse, Child Abuse, and Domestic Violence*, 30 Colo. Law. 29, 29-30 (2001) (summarizing research).

⁴⁴ Phil Arkow, *Recognizing and Responding to Cases of Suspected Animal Cruelty, Abuse, and Neglect: What the Veterinarian Needs to Know*, 6 Veterinary Med.: Rsch. & Repts. 349, 351 (2015).

⁴⁵ Clifton P. Flynn, *Examining the Links Between Animal Abuse and Human Violence*, 55 Crime, Law & Soc. Change 453, 456 (2011).

pets are particularly dangerous.⁴⁶ They have higher rates of sexual violence, marital rape, emotional violence, and stalking. And they use more controlling behaviors, including threats and economic abuse, than do men who do not abuse pets.⁴⁷

Perpetrators of animal cruelty are also a risk to the safety of those outside their immediate families. One study that analyzed arrest data of people charged with crimes against animals found that two-thirds also had a battery-related violent offense.⁴⁸ Reflecting such findings, federal law enforcement agencies identify animal abuse as a warning sign for premeditated violence against humans, including terrorism.⁴⁹ “Torturing animals in an up-close and personal way” is a

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.* at 458.

⁴⁹ Nat’l Counterterrorism Ctr. et al., *Animal Cruelty: A Possible Warning Behavior for Terrorism and Other Premeditated Violence Against Humans Which Needs Reporting and Further Vetting*, First Responder’s Toolbox (2018), <https://tinyurl.com/28zv3ywa>.

particular red flag for extreme violence, including sadistic serial killing.⁵⁰

Incidents of violence that follow prior animal abuse often involve firearms, as several tragic examples illustrate. Twenty-five years ago, two teenage boys shot twelve students and one teacher to death at Columbine High School in Littleton, Colorado, before dying by suicide.⁵¹ Before that, they had bragged to their classmates about mutilating animals.⁵² More recently, a young man killed 17 students and staff members and injured many more by opening fire on them with a semiautomatic rifle at Marjory Stoneman Douglas High School in Parkland, Florida.⁵³ His prior cruelty to animals had

⁵⁰ Arnold Arluke et al., *Harming Animals and Massacring Humans: Characteristics of Public Mass and Active Shooters Who Abused Animals*, 36 *Behav. Sci. & L.* 739, 740 (2018).

⁵¹ *Columbine High School*, FBI Records: The Vault, <https://tinyurl.com/yd2as3k2> (last visited Dec. 3, 2024).

⁵² Trollinger, *supra* note 43, at 29.

⁵³ Cameron McWhirter, *Nikolas Cruz Pleads Guilty in Parkland School Shooting That Killed 17*, *Wall St. J.*, Oct. 20, 2021, <https://tinyurl.com/4p2z5fw4>.

included “‘shooting squirrels and chickens,’ disemboweling a toad, trying to ‘maim a neighbor’s baby potbelly pigs’ and trying to ‘crush animals trapped in rabbit holes.’”⁵⁴ While most animal-abusing children do not become mass shooters,⁵⁵ over a third of white mass shooters under the age of 25 have a reported history of animal abuse.⁵⁶ More broadly, studies have found that active/mass shooters who had engaged in animal abuse were “more likely to kill and wound a high number of victims than active/mass shooters in general.”⁵⁷

As with the connections researchers have identified between domestic violence and firearms violence, the finding that “[a] person who has abused animals is five times more

⁵⁴ Arluke, *supra* note 50, at 745 (citations omitted); *see also* Laura Romero et al., *Buffalo Mass Shooting Suspect Allegedly Detailed Animal Abuse in Writings*, ABC News, May 18, 2022, <https://tinyurl.com/2xnp5ts> (discussing another tragic example).

⁵⁵ Flynn, *supra* note 45, at 454; Arluke, *supra* note 50, at 740.

⁵⁶ Arluke, *supra* note 50, at 744.

⁵⁷ *Id.* at 747.

likely to commit violence against people”⁵⁸ has sparked research into policy innovations to address such violence. Some scholars have suggested treatment, rather than incarceration, for younger animal abusers as an intervention that could prevent violence against humans.⁵⁹ Another suggested approach is expanding safety net programs to help domestic violence victims find shelter not only for themselves, but also for their pets.⁶⁰ At the federal level, proposals to study the impact of disallowing firearms for those with animal cruelty convictions have been gaining traction.⁶¹

⁵⁸ Editorial Board, *Animal Abusers Shouldn't Own Guns*, *Bos. Globe*, July 18, 2018, <https://tinyurl.com/232b96u4>.

⁵⁹ Phyllis Coleman, *Targeting School Shootings: Using Three Warning Signs—Animal Abuse, Domestic Violence, and Conduct Disorder—To Help Prevent Massacres*, 32 *Widener Commw. L. Rev.* 65, 115 (2023).

⁶⁰ *See id.*; *see, e.g.*, Nicole Pallotta, *Federal Farm Bill Includes Important Protections for Animals*, *Animal Legal Defense Fund* (Mar. 11, 2019), <https://tinyurl.com/52csp4z> (summarizing federal Pet and Women Safety Act).

⁶¹ *See* Press Release, Rep. Katherine Clark, *Patch: Clark Bill Studies Link Between Animal Cruelty and Future Gun Violence*, Aug. 24, 2022, <https://tinyurl.com/yne3sj5b>.

With H.B. 1562, the legislature explicitly recognized the strong relationship between the abuse of animals and violence against humans.⁶² In amending the law to include certain animal cruelty crimes as offenses triggering a prohibition on firearms possession, the legislature acted in alignment with decades of public health data to protect Washingtonians.

C. Committing Repeat Impaired-Driving Offenses Is Another Strong Risk Factor for Future Firearms Violence.

H.B. 1562 also prohibits firearms possession by individuals convicted of impaired driving twice or more within a seven-year period.⁶³ This change addresses the demonstrated link between recidivist DUI offenses and gun violence.

⁶² Laws of 2023, ch. 295, §§ 1(4), 3(2)(a)(i)(D), 4(2)(a)(i)(H); *see Abdi-Issa*, 199 Wn.2d at 173, 504 P.3d at 228 (observing that legislature “recognized the relationship between animal abuse and domestic violence,” categorized “domestic violence as a serious crime against society,” and “inten[ded] to ensure that victims have the maximum protection from abuse that the law can provide”).

⁶³ Laws of 2023, ch. 295, § 3(2)(a)(i)(D); *see also* RCW 46.61.5055 (Alcohol and drug violators—Penalty schedule).

Multiple studies confirm the dangerous intersection of alcohol misuse and firearms generally, and a history of impaired driving and subsequent gun violence specifically.

Peer-reviewed studies “consistently show that alcohol misuse is a strong risk factor for violence, and that the combination of gun access and alcohol misuse is often deadly.”⁶⁴ As researchers explain, when measured through DUI and other alcohol-related convictions, “alcohol misuse is associated with a risk of dangerous firearm behaviors, interpersonal firearm violence, and gun suicide.”⁶⁵ Studies show that 34 percent of firearms-homicide perpetrators, 30 percent of firearms-homicide victims, and 25 percent of firearms-suicide victims were “acutely” intoxicated at the time

⁶⁴ *Alcohol Misuse and Gun Violence: An Evidence-Based Approach for State Policy*, Consortium for Risk-Based Firearm Pol’y & Ctr. for Gun Violence Sols., Johns Hopkins Bloomberg Sch. of Pub. Health, at 11 (2023), <https://tinyurl.com/3b3437w2>.

⁶⁵ *Id.* at 6, 8.

of the violent event.⁶⁶

As particularly relevant here, studies have shown an association between prior convictions for alcohol-related crimes and the risk of future violent offenses. For example, researchers have found that legal gun owners who have been convicted of an alcohol-related offense (chiefly DUI) are up to five times more likely to be arrested at a later point for a violent or gun-related crime.⁶⁷

A 2019 study analyzed almost 80,000 legal handgun purchasers in California from 2001 through 2013, and found that a history of DUI convictions was associated with “a significant increase” in the risk of later arrests for specific violent crimes (murder, rape, robbery, and aggravated assault),

⁶⁶ Charles C. Branas et al., *Alcohol Use and Firearm Violence*, 38 *Epidemiol. Revs.* 32, 36-37, 43 (2016).

⁶⁷ Garen J. Wintemute et al., *Firearms, Alcohol and Crime: Convictions for Driving Under the Influence (DUI) and Other Alcohol-Related Crimes and Risk for Future Criminal Activity Among Authorised Purchasers of Handguns*, 24 *Injury Prevention* 68, 68 (2018).

firearms-related violent crimes, and violent crimes generally.⁶⁸

The study specifically found that nine percent of handgun purchasers with prior DUI convictions were later arrested for violent crimes, compared to two percent of those with no prior criminal history.⁶⁹

Because of the strong association between alcohol misuse and violence, many states have adopted statutes limiting firearms possession by persons with a history of risky alcohol use. These standards have sometimes been difficult to implement. Some states, for example, have prohibited firearms possession by those “who are addicted to alcohol” or by

⁶⁸ Rose M. C. Kagawa et al., *Association of Prior Convictions for Driving Under the Influence With Risk of Subsequent Arrest for Violent Crimes Among Handgun Purchasers*, 180 JAMA Internal Med. 35, 39 (2020).

⁶⁹ *Id.* at 36; see also Ted Alcorn, *To Battle the Bullet, Baltimore Goes After the Bottle*, The Trace (Nov. 18, 2024), <https://tinyurl.com/ysx89ufp> (reporting on the connection between alcohol and gun violence).

“habitual drunkard[s].”⁷⁰ But experts recommend that, as the State of Washington has done here, states instead use “concrete indicators such as a prior history of convictions or arrest for drug- and alcohol-related crimes” to reduce firearms violence.⁷¹

One report coauthored by the Center for Gun Violence Solutions within Johns Hopkins’s Bloomberg School of Public Health outlined a series of recommendations for state legislatures. Among the most important, it suggested that states create “a clear standard prohibiting individuals convicted of two DUI/DWI convictions within a five-year period from possessing or purchasing a firearm for at least five years.”⁷² That report also noted that statistics from across the country

⁷⁰ Kagawa, *supra* note 68, at 36 (citing Ohio and Tennessee statutes).

⁷¹ Cerdá, *supra* note 9, at 26.

⁷² *Alcohol Misuse*, *supra* note 64, at 15; *see also* Branas, *supra* note 66, at 43 (suggesting that “multiple prior drunk driving convictions [may be] a straightforward and defensible statutory criterion for disqualifying persons from the purchase or possession of firearms”).

“suggest that the average person arrested for DUI has driven while intoxicated 80 times before his or her first arrest.”⁷³ Moreover, approximately 90 percent of people “arrested for two DUIs meet the clinical definition for alcohol abuse or dependence.”⁷⁴

As a result, prohibiting firearms possession by people with multiple DUI convictions “can minimize risks associated with the intersection of alcohol and firearms.”⁷⁵ In fact, a recent study found that firearms homicide of female victims is 19 percent lower in the five states that impose firearms prohibitions after one or two DUI convictions, compared to

⁷³ *Alcohol Misuse*, *supra* note 64, at 15 (citing data estimates from the CDC and FBI).

⁷⁴ *Id.*

⁷⁵ *Id.*; *see also* Kagawa, *supra* note 68, at 42 (observing that “available evidence suggests” restricting the purchase and possession of firearms by people convicted of DUI crimes “may reduce the incidence of violent criminal activity among [these] persons”).

states without such laws.⁷⁶ Based on its review of the evidence, the Consortium on Risk-Based Firearms Policy recommended “disqualifying those with a second drug- or alcohol-related misdemeanor offense from purchasing or possessing firearms.”⁷⁷

H.B. 1562 reflects these evidence-based approaches by prohibiting firearms possession by persons who have two or more impaired-driving convictions within a seven-year period.

CONCLUSION

An examination of the impact or efficacy of firearms rights restoration laws must consider not only the individual whose firearms rights are at issue, but also what the research reveals about those who may be subject to additional or

⁷⁶ Robert A. Tessler et al., *Association of State-Level Intoxicated Driving Laws with Firearm Homicide and Suicide*, 28 *Injury Prevention* 32, 32 (2022).

⁷⁷ Cerdá, *supra* note 9, at 25-26; *see also* *Guns, Public Health, and Mental Illness: An Evidence-Based Approach for State Policy*, Consortium for Risk-Based Firearm Pol’y, 4, 20, 22-23 (Dec. 2, 2013), <https://tinyurl.com/uk9mda5h> (making recommendations).

subsequent harm were the individual to be re-armed. As the Court of Appeals held, Washington’s law is “carefully structured to further public safety and prevent gun violence.”⁷⁸ This Court should affirm the decision of the Court of Appeals.

This brief contains 4,976 words measured pursuant to Rule of Appellate Procedure 18.17.

⁷⁸ *Arends v. State*, 31 Wn. App. 2d 257, 268, 548 P.3d 553 (2024), *review granted*, 3 Wn.3d 1012, 554 P.3d 1233 (2024).

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CERTIFICATE OF SERVICE

I hereby certify that I caused the foregoing document to be electronically filed with the Clerk of the Court and served on counsel of record via the Court's electronic filing system.

Executed at Seattle, Washington, this 6th day of
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