

HOUSE BILL REPORT

HB 1455

As Passed House:
February 22, 2011

Title: An act relating to where an individual may petition to restore firearm possession rights.

Brief Description: Concerning where an individual may petition to restore firearm possession rights.

Sponsors: Representative McCune.

Brief History:

Committee Activity:

Judiciary: 2/7/11, 2/10/11 [DP].

Floor Activity:

Passed House: 2/22/11, 94-0.

Brief Summary of Bill

- Provides that a petition for the restoration of the right to possess a firearm must be brought in the superior court that ordered the prohibition or the superior court where the petitioner resides.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 13 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Chandler, Eddy, Frockt, Kirby, Klippert, Nealey, Orwall, Rivers and Roberts.

Staff: Edie Adams (786-7180).

Background:

A person loses the right to possess a firearm if the person is convicted of any felony offense and certain non-felony crimes committed against a family or household member. Involuntary commitment for mental health treatment also results in the loss of the right to possess a firearm. The right to possess may be restored only by a court order after the person has met certain eligibility requirements.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Restoration Following an Involuntary Commitment.

A person who has been involuntarily committed for mental health treatment may apply for restoration of the right to possess a firearm upon discharge from the commitment. The petitioner must show by a preponderance of the evidence that he or she is no longer required to participate in court-ordered treatment, is successfully managing the condition related to the commitment, does not present a danger to self or the public, and is not reasonably likely to suffer a recurrence of the symptoms related to the commitment.

A petition for restoration of firearm rights lost because of an involuntary commitment may be filed in the superior court that ordered the commitment or where the petitioner resides.

Restoration Following a Criminal Conviction.

Generally, firearm possession rights lost because of a criminal conviction may be restored if certain conditions are met by the offender and certain time periods have passed. In the case of a conviction for a class A felony or for any sex offense, however, the right to possess can never be regained. For other offenses, a person may petition a court for restoration if the person is not currently charged with any crime, has no convictions that continue to count as criminal history under the Sentencing Reform Act, and has spent a specified amount of time in the community without a new conviction, depending on the class of offense.

There is no requirement as to where the petition for restoration of firearm rights under this provision must be brought.

Summary of Bill:

A petition for the restoration of the right to possess a firearm where the loss of rights was based on a criminal conviction must be brought in the court of record that ordered the petitioner's prohibition on possession or the superior court in the county in which the petitioner resides.

The petition process applicable to restoration of firearms following a loss of the right based on an involuntary mental health commitment is amended to provide that the petition must, rather than may, be filed in the superior court that ordered the commitment or the superior court where the petitioner resides.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This is a good clean up bill that will impose the same standard for where petitions are brought for restorations following a criminal conviction and restorations following involuntary commitments. The petitioner should go back to the county where the person lost the right because that is the jurisdiction that knows the person and his or her past behavior. Some individuals are filing in jurisdictions that they have no connection with because they are trying to find a court that is more favorable to restoring firearms rights. These petitions should be filed in the jurisdiction where the person lives or where the loss of firearms rights occurred so that all relevant information that may be contained in local databases, such as gang databases, is available to the court making the determination of whether the person should have his or her firearm rights restored.

(Opposed) None.

Persons Testifying: Representative McCune, prime sponsor; and Justin Maschhoff.

Persons Signed In To Testify But Not Testifying: None.