

HOUSE BILL REPORT

HB 2589

As Reported by House Committee On:
Judiciary

Title: An act relating to unlawful possession of a firearm in the first degree.

Brief Description: Making second degree unlawful possession of a firearm a predicate offense for first degree unlawful possession of a firearm.

Sponsors: Representatives Goodman, Ross, Hurst, Ladenburg, Kelley, Moscoso and Green.

Brief History:

Committee Activity:

Judiciary: 1/25/12, 1/30/12 [DP].

Brief Summary of Bill

- Makes Unlawful Possession of a Firearm in the second degree a predicate offense for Unlawful Possession of a Firearm in the first degree, except where the second degree conviction is based on a predicate gross misdemeanor conviction.

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, Hansen, Kirby, Klippert, Nealey, Orwall, Rivers and Roberts.

Staff: Edie Adams (786-7180).

Background:

Standard Sentencing.

An adult who is convicted of a felony crime is sentenced under the provisions of the Sentencing Reform Act (SRA). The SRA contains a sentencing grid that provides a standard sentence range based on the seriousness level of the current offense (ranging from level I to XVI) and the offender's prior criminal history score, which is calculated based on rules

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relating to the number and type of past convictions and the current conviction. The sentencing judge will sentence the offender to a period of confinement within that standard range unless the judge imposes an exceptional sentence.

Juveniles who are adjudicated of offenses are sentenced under the Juvenile Justice Act. The Juvenile Justice Act also contains a sentencing grid that provides a standard sentence range based on the current offense category (ranging from A to E) and the number of prior adjudications. Standard sentences under the grid include local sanctions or commitment to the Juvenile Rehabilitation Administration (JRA) for various confinement ranges starting at 15-36 weeks. Local sanctions can include up to: 30 days of confinement; 12 months community supervision; 150 hours community restitution; or a \$500 fine.

Unlawful Possession of a Firearm.

A person is guilty of Unlawful Possession of a Firearm in the first degree if the person owns, possesses, or has in his or her control, any firearm after having previously been convicted of a serious offense. A "serious offense" includes any crime of violence, any class B felony drug offense, any class B felony with a finding of sexual motivation, any felony with a deadly weapon verdict, Vehicular Homicide and Vehicular Assault when committed while under the influence of alcohol or drugs or while driving recklessly, and a number of other specified crimes.

Unlawful Possession of a Firearm in the first degree is a class B felony ranked at seriousness level VII under the SRA. For a defendant who has no prior convictions other than the predicate serious offense, the standard sentencing range is 21-27 months. Under the Juvenile Justice Act, first degree Unlawful Possession of a Firearm is a level B offense, resulting in a standard range disposition of local sanctions, unless the juvenile has another adjudication, in which case the juvenile is subject to JRA confinement for 15-36 weeks.

A person is guilty of Unlawful Possession of a Firearm in the second degree if the person owns, possesses, or has in his or her control any firearm and the person:

- has previously been convicted of any felony (other than a serious offense);
- has previously been convicted of certain specified gross misdemeanors;
- has previously been involuntarily committed for mental health treatment;
- is under the age of 18 (with some exceptions); or
- is free on bond or personal recognizance pending trial, appeal, or sentencing for a serious offense.

The gross misdemeanor offenses that serve as predicate offenses for Unlawful Possession of a Firearm in the second degree are any of the following offenses if committed by one family or household member against another: Assault in the fourth degree; Coercion; Stalking; Reckless Endangerment; Criminal Trespass in the first degree; or violation of provisions of a protection order or no-contact order restraining the person or excluding the person from a residence.

Unlawful Possession of a Firearm in the second degree is a class C felony ranked at seriousness level III under the SRA. For an adult offender who has no prior convictions, the standard sentence range is one to three months, and for an offender who has one prior felony

conviction, the standard sentence range is three to eight months. Under the Juvenile Justice Act, second degree Unlawful Possession of a Firearm is categorized as a level C offense, resulting in a standard range disposition of local sanctions, unless the offender has four or more prior adjudications, in which case the juvenile is subject to JRA confinement for 15-36 weeks.

Summary of Bill:

A person is guilty of Unlawful Possession of a Firearm in the first degree if the person owns or possesses a firearm after having previously been convicted of the crime of Unlawful Possession of a Firearm in the second degree, other than an Unlawful Possession of a Firearm in the second degree conviction that is based on a predicate gross misdemeanor conviction.

Appropriation: None.

Fiscal Note: Available.

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) Our current sentencing structure results in an inappropriate tolerance in the law for felons and minors who unlawfully possess firearms. A minor carrying a firearm on the streets or to school is a very serious case but the law does not treat it seriously. For a juvenile who unlawfully possesses a firearm, it takes five convictions before the juvenile will be sentenced to the JRA. The first four convictions only result in local sanctions with zero to 30 days of confinement. It is hard to explain to anyone why a juvenile has to be convicted of unlawful possession five times before going to the JRA. For an adult convicted of Unlawful Possession of a Firearm in the second degree, it currently takes four more convictions before the person goes to prison, rather than jail. Under the bill, a minor will be sentenced to JRA confinement on the third conviction of Unlawful Possession of a Firearm. We need to address youth gang violence and send a message that we will not tolerate illegal gun possession. This bill gets tough on gang members and people who continue to arm themselves despite having felony convictions.

(Opposed) None.

Persons Testifying: Don Satterberg, King County Prosecutor.

Persons Signed In To Testify But Not Testifying: None.