
Judiciary Committee

HB 1096

Title: An act relating to juvenile firearms and weapons crimes.

Brief Description: Concerning juvenile firearms and weapons crimes.

Sponsors: Representatives Hurst, Hope, Takko, Hayes, Klippert, Dahlquist, Holy, Sullivan, Haigh, Blake and Parker.

Brief Summary of Bill
<ul style="list-style-type: none">Revises sentencing standards and disposition alternatives for juvenile firearm offenses.

Hearing Date: 1/24/13

Staff: Omeara Harrington (786-7136).

Background:

Unlawful Possession of a Firearm.

First Degree.

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.

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 for the first or second offense. Local sanctions includes one or more of the following: 0 to 30 days of confinement; 0 to 12 months of community supervision; 0 to 150 hours of community restitution; and/or a \$0 to \$500 fine. If the juvenile has two or three prior adjudications, the juvenile is subject to confinement in

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a Juvenile Rehabilitation Administration (JRA) facility for 15-36 weeks, and if there are four or more prior adjudications, a term of 52-65 weeks is imposed.

Second Degree.

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.

Under the Juvenile Justice Act, second degree Unlawful Possession of a Firearm is categorized as a level C offense. This results in a standard range disposition of local sanctions, with a presumptive minimum of ten days of confinement if the violation is based on possession of a firearm as a person under 18 years old. If the juvenile has four or more prior adjudications, he or she is subject to JRA confinement for a term of 15 to 36 weeks.

Juvenile Sentencing Alternatives.

Deferred Disposition.

A disposition is the juvenile court equivalent of sentencing in adult court, and a deferred disposition in juvenile court is akin to a deferred prosecution in adult court. The juvenile offender is found guilty at the time that the court agrees to allow a deferred disposition. A deferred disposition requires a juvenile to complete certain conditions set out by the court including probation and payment of restitution, in exchange for having the charges dismissed. A juvenile is eligible for a deferred disposition unless he or she: is charged with a sex or violent offense; has a criminal history that includes any felony; or has two or more prior adjudications.

Manifest Injustice.

Washington uses a determinate sentencing structure in committing juvenile offenders. Youth committed to JRA custody have court determined minimum and maximum sentence terms. Sentencing length is determined using a point system that takes offense seriousness and criminal history into account. In determining the punishment to be imposed, the court must consider both aggravating and mitigating circumstances.

Juvenile courts have the authority to sentence outside the standard range through a finding of "Manifest Injustice." A judge or juvenile court commissioner can find that the standard range sentence is either too lenient for the seriousness of the offense and order a longer term of confinement (Manifest Injustice Up), or overly punitive and order a sentence less than the standard range (Manifest Injustice Down). The court's finding of Manifest Injustice must be supported by clear and convincing evidence. Manifest Injustice dispositions also carry determinate minimum and maximum sentence terms.

Summary of Bill:

Additional unlawful possession of a firearm categories and rankings are created in the juvenile offender sentencing standards:

- Unlawful possession of a firearm in the first degree is raised to offense category A-, carrying a JRA sentence of 15 to 36 weeks on a first offense, and 30 to 40 weeks if the juvenile is at least 15 years old. The terms increase incrementally depending on number of prior adjudications with a maximum of 103 to 129 weeks if the juvenile has four or more prior offenses.
- Unlawful possession of a firearm in the second degree is raised to offense category B+, if the charge is based on a reason other than being in possession under the age of 18, or a second or subsequent violation of unlawful possession based on minority age. This offense category carries a JRA sentence of 15 to 36 weeks for the first offense, or with one prior adjudication. The terms increase incrementally depending on number of prior adjudications with a maximum of 103 to 129 weeks if the juvenile has four or more prior offenses.
- A first adjudication for unlawful possession of a firearm in the second degree on grounds of being in possession under the age of 18 remains a class C offense, carrying local sanctions.

The court's options for entering alternative dispositions are limited in a number of ways. The court's discretion to impose a manifest injustice sentence for unlawful possession of firearm or crimes in which the juvenile was armed with a firearm is removed. If a juvenile is found to have committed the crime of unlawful possession of a firearm, either in the first or second degree on any grounds, and there is a standard range sentence of over 30 days (a JRA sentence), that sentence must stand. A first offense of unlawful possession of a firearm in the second degree based solely on grounds of being in possession under the age of 18 carries a mandatory minimum sentence of ten days in confinement.

Additionally, unlawful possession of a firearm in the second degree, theft of a firearm, and possession of a stolen firearm are added to the list of crimes for which a juvenile is ineligible for a deferred disposition.

Appropriation: None.

Fiscal Note: Available.

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