

Judiciary

HB 1484

Title: *An act relating to firearms.*

Brief Description: *Modifying provisions relating to juveniles and firearms.*

Sponsors: *Representatives Carrell, Hurst, Benson and Boldt.*

Brief Summary of Bill

- *Requires a 10-year wait to restore the right to possess a firearm following a juvenile offense that was committed while armed with a firearm.*
- *Imposes an additional requirement for showing a lack of dangerousness before a person who has been committed for mental health treatment can regain the right to possess a firearm.*
- *Gives adult court jurisdiction over any juvenile over the age of 11 who is alleged to have committed a crime while armed with a firearm.*

Hearing Date: *2/6/01*

Staff: *Bill Perry (786-7123).*

Background:

A person may lose his or her right to possess a firearm for a number of reasons. Among these reasons are the commission of a felony or the commission of any one of a certain number of misdemeanors. A person who has been committed for mental health treatment may also lose his or her right to possess a firearm.

Restoration of Rights Following Conviction for a Crime. Generally, possession rights lost because of a 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 has no convictions that continue to count as criminal history under the Sentencing Reform Act (SRA) (this means that for a class B felony, the effective period a person must wait before petitioning is at least 10 years);*
- *The person is not currently charged with any crime; and*
- *The person has been in the community and without a conviction for at least 10 years in the case of a class B felony, at least five years in the case of a class C felony, or three years in the case of a misdemeanor.*

Restoration of Rights Following Commitment for Mental Health Treatment. A person who has been involuntarily committed by a court for mental health treatment loses his or her right to possess a firearm. The court-ordered commitment may be the result of a civil commitment process or may follow a finding in a criminal trial of not guilty by reason of insanity. Upon release from commitment, the person may petition the court for restoration of the right to possess a firearm. In order to have the right to possess restored, the person must show:

- *That he or she is no longer required to have treatment or take medication;*
- *That he or she does not present a substantial danger to self, others, or the public;*
- *By a preponderance of the evidence that the circumstances that resulted in the commitment are not likely to recur.*

There is no prescribed waiting period following release from commitment before a person may petition for restoration of the right to possess a firearm.

Juvenile Offenders Tried as Adults. Generally, offenses committed by persons under the age of 18 are heard in juvenile courts. In some instances, however, the Legislature has provided for adult court jurisdiction over juvenile offenders. If a juvenile is 16 or 17 years old he or she may be tried as an adult for any of the following offenses:

- *A serious violent offense;*
- *A violent offense committed before July 1, 1997, if the juvenile has a prescribed criminal history;*
- *Robbery in the first degree, rape of a child in the first degree, or drive by shooting, if committed after July 1, 1997;*
- *Burglary in the first degree committed after July 1, 1997, if the juvenile has a criminal history of any felony or misdemeanor conviction; and*
- *A violent offense committed after July 1, 1997, if the juvenile is alleged to have been armed with a firearm.*

Summary of Bill:

Restoration of Rights Following Conviction for a Crime. A person who was convicted as a juvenile of an offense committed while armed with a firearm must wait at least 10 years to petition a court for restoration of the right to possess a firearm.

Restoration of Rights Following Commitment for Mental Health Treatment. New restrictions are placed on a person released from mental health commitment regarding the restoration of the right to possess a firearm. In addition to proving by a preponderance of the evidence that the circumstances leading to commitment are unlikely to recur, the person must prove by clear, cogent, and convincing evidence that he or she presents no substantial danger to the safety of others.

The fact of being found not guilty by reason of insanity, whether or not commitment for mental health treatment follows, results in the loss of the right to possess a firearm.

A person who has been found not guilty by reason of insanity may not petition for restoration unless and until he or she would now be eligible had he or she been convicted of the offense.

Juvenile Offenders Tried as Adults. Any juvenile over the age of 11 who is alleged to have committed an offense while armed with a firearm will be tried as an adult.

Technical Changes. The definitions of "crime of violence" and "serious offense" are consolidated in the firearms law. No substantive change is made to the definitions.

Appropriation: None.

Fiscal Note: Requested on February 5, 2001.

Effective Date: The bill contains an emergency clause and takes effect immediately.