
Civil Rights & Judiciary Committee

HB 1118

Brief Description: Concerning restoration of the right to possess a firearm.

Sponsors: Representatives Simmons, McEntire, Leavitt and Walsh.

Brief Summary of Bill

- Allows for the filing of a petition for the restoration of firearm rights in certain venues in addition to the county where the prohibiting violation was entered under certain circumstances.
- Excludes certain offenses from the list of offenses that prohibit a person from filing a petition for the restoration of firearm rights.

Hearing Date: 1/21/25

Staff: Matt Sterling (786-7289).

Background:

Unlawful Possession of a Firearm.

State law prohibits certain persons from possessing firearms, including persons convicted of any felony offense and certain misdemeanor domestic violence offenses and persons subject to certain qualifying protective orders. A violation of this prohibition constitutes the felony crime of unlawful possession of a firearm. Unlawful Possession of a Firearm in the first degree, a class B felony, applies if the basis for the prohibition is a conviction or finding of not guilty by reason of insanity (NGRI) of a serious offense. Unlawful Possession of a Firearm in the second degree, a class C felony, is committed when a person owns, possesses, or has in the person's control, any firearm under a number of circumstances, including if the person has a conviction or finding of NGRI for certain disqualifying crimes or if the person is subject to a protective order meeting specified requirements. In addition, a person is prohibited from possessing firearms if the person

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is free on bond or personal recognizance pending trial, appeal, or sentencing for a serious offense.

Petition for Restoration of Firearm Rights.

To seek restoration of firearm rights, a person must file a petition for restoration in the superior court in a county that entered any prohibition. The Administrative Office of the Courts creates standard forms for restoration petitions and orders. Notice of the petition must be served on the prosecuting attorney. The prosecutor must take reasonable steps to notify the listed victim of a prohibiting crime and any person who previously obtained a full protective order against the person and who has requested notification of the procedure to provide a sworn statement regarding additional facts or information the person may have relevant to whether the petitioner meets requirements for restoration.

The prosecutor is responsible for determining if a person petitioning for restoration of firearm rights has any prior felony convictions that would count as part of an offender score and whether the person has any out-of-state convictions for an offense that would disqualify the person from purchasing or possessing a firearm in the state of conviction. A person must not be precluded from filing a petition on the basis that the person cannot verify whether the person is prohibited from possessing a firearm in the state of conviction. The prosecutor must verify in writing to the court that the prosecutor has reviewed the relevant records, including written verification that the Washington State Patrol has conducted a records check of all civil and criminal records relevant to firearm possession prohibitors, and based on that information, whether there is sufficient evidence to determine that the person meets eligibility requirements.

The court may set a hearing on the petition if the court determines additional information is necessary to determine whether the person meets the requirements for restoration of firearm rights. The court must grant the petition only if the court finds that the person meets the requirements for restoration. The prosecutor must notify any victim who requests notification of the court's decision.

Eligibility Requirements for Restoration of Firearm Rights.

A person may not petition a court to have the person's right to possess a firearm restored if the person has been convicted or found not guilty by reason of insanity of any:

- felony sex offense;
- class A felony;
- felony offense with a maximum sentence of at least 20 years; or
- offense that prohibits possession of a firearm for five consecutive years immediately preceding the petition for the following gross misdemeanor and misdemeanor offenses:
 - domestic violence;
 - stalking;
 - cyberstalking;
 - cyber harassment;
 - harassment;
 - aiming or discharging a firearm;

- unlawful carrying or handling of a firearm;
- Animal Cruelty in the second degree;
- "prior offense" under the impaired driving laws; and
- violation of an order to surrender and prohibit weapons (OTSW), an extreme risk protection order (ERPO), or the provisions of a protection order or no-contact order restraining the person or excluding the person from a residence.

Any person convicted of a second or subsequent offense under the Uniform Controlled Substances Act is subject to a doubling of the statutory maximum, which for some crimes will increase the sentence to 20 years. Certain felony drug offenses provide discretion for doubling the statutory maximum of a sentence from 10 years to 20 years for the manufacturing, delivering, possession, or sale for profit of a controlled substance or counterfeit schedule I controlled substance to a person:

- in a school;
- within one thousand feet of a school bus route or the perimeter of the school grounds;
- in a public park;
- in a public housing project designated by a local governing authority as a drug-free zone;
- in a public transit vehicle or in a public transit stop shelter; or
- at a civic center designated as a drug-free zone by the local governing authority.

Summary of Bill:

Petition for Restoration of Firearm Rights.

To seek restoration of firearm rights, a person must file a petition for restoration in the superior court in:

- any county that entered a prohibition;
- the county of the person's residence if the prohibiting conviction did not occur in this state; or
- in Thurston County if the person is not a resident of this state.

Eligibility Requirements for Restoration of Firearm Rights.

Certain felony drug offenses are excluded from the list of offenses that prohibit a person from filing a petition for the restoration of firearm rights when:

- the offense is a subsequent or repeated offense for a violation of the Controlled Substances Act; or
- when the offense is for the manufacturing, delivering, possession, or sale for profit of a controlled substance or counterfeit schedule I controlled substance to a person in or on certain public places or facilities.

Appropriation: None.

Fiscal Note: Requested on January 20, 2025.

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

passed.