

HOUSE BILL REPORT

HB 1484

As Reported by House Committee On:
Judiciary

Title: An act relating to firearms.

Brief Description: Modifying provisions relating to juveniles and firearms.

Sponsors: Representatives Carrell, Hurst, Benson and Boldt.

Brief History:

Committee Activity:

Judiciary: 2/6/01, 2/22/01 [DPS].

Brief Summary of Substitute Bill

- 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.
- Provides that a person found not guilty of a crime by reason of insanity must meet the requirements for restoration of the right to possess a firearm that would have applied had he or she been found guilty of the crime.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Lantz, Democratic Co-Chair; Hurst, Democratic Vice Chair; Lambert, Republican Vice Chair; Boldt, Casada, Dickerson, Esser, Lovick and McDermott.

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 involuntarily committed by a court for mental health treatment also 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.

Summary of Substitute Bill:

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.

Substitute Bill Compared to Original Bill:

The substitute bill removes from the original bill provisions that would have:

- imposed a 10-year wait before a juvenile who is convicted of committing a crime while armed may seek restoration of possession rights.
- caused all juveniles over age 11 to be tried as adults if charged with committing a crime while armed.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: (Original bill) The bill would rationalize current law by treating minors who are capable of committing crimes, and do so while armed, as adults.

Testimony Against: (Original bill) There are already adequate procedures for transferring juveniles to adult court when appropriate. Transfer should not be automatic for juveniles this young. Even under the current law obvious mistakes are made in sending juveniles to adult court.

Testified: (In support of original bill) Representative Carrell, prime sponsor.

(Opposed to original bill) George Yeannakis, Washington Defender Association and Washington Association of Criminal Defense Lawyers.