

# SENATE BILL REPORT

## HB 1455

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As of March 11, 2011

**Title:** An act relating to where an individual may petition to restore firearm possession rights.

**Brief Description:** Concerning where an individual may petition to restore firearm possession rights.

**Sponsors:** Representative McCune.

**Brief History:** Passed House: 2/22/11, 94-0.

**Committee Activity:** Judiciary: 3/09/11.

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### SENATE COMMITTEE ON JUDICIARY

**Staff:** Lidia Mori (786-7755)

**Background:** A person loses the right to possess a firearm if the person is convicted of any felony offense and certain non-felony crimes committed against a family or household member. Involuntary commitment for mental health treatment also results in the loss of the right to possess a firearm. The right to possess may be restored only by a court order after the person has met certain eligibility requirements.

A person who has been involuntarily committed for mental health treatment may apply for restoration of the right to possess a firearm upon discharge from the commitment. The petitioner must show by a preponderance of the evidence that he or she is no longer required to participate in court-ordered treatment, is successfully managing the condition related to the commitment, does not present a danger to self or the public, and is not reasonably likely to suffer a recurrence of the symptoms related to the commitment. A petition for restoration of firearm rights lost because of an involuntary commitment may be filed in the superior court that ordered the commitment or where the petitioner resides.

Firearm possession rights that are lost due to certain criminal convictions may be restored if certain conditions are met by the offender and certain time periods have passed. The right to possess a firearm can never be regained if a person is convicted of a class A felony or a sex offense. For other offenses, a person may petition a court for restoration if the person is not currently charged with any crime, has no convictions that continue to count as criminal history under the Sentencing Reform Act, and has spent a specified amount of time in the community without a new conviction, depending on the class of offense. There is no

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requirement as to where the petition for restoration of firearm rights under this provision must be brought.

**Summary of Bill:** A petition for the restoration of the right to possess a firearm, where the loss of rights was based on a criminal conviction, must be brought in the court of record that ordered the petitioner's prohibition on possession or the superior court in the county in which the petitioner resides.

The petition process applicable to restoration of the right to possess firearms following a loss of the right due to an involuntary mental health commitment is amended to provide that the petition must, rather than may, be filed in the superior court that ordered the commitment or the superior court where the petitioner resides.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: The issue addressed by this bill was brought forward by a law enforcement officer who became aware that people are shopping around in different counties in order to bring a petition for restoration of firearm rights in a county where their current or past criminal behavior isn't well known. The bill requires a person to bring the petition in the county that ordered the prohibition on possession or in the county that he or she resides in so that, if the person moves, they can bring the petition where they now live.

**Persons Testifying:** PRO: Representative McCune, prime sponsor.