

# HOUSE BILL NO. 1903

## 97TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE NEWMAN.

5337L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 571.070, RSMo, and to enact in lieu thereof two new sections relating to firearms, with a penalty provision.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 571.070, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 571.070 and 571.071, to read as follows:

571.070. 1. A person commits the crime of unlawful **purchase, ownership**, possession, **or control** of a firearm if such person knowingly **purchases or owns a firearm or** has any firearm in his or her possession **or under his or her control** and:

(1) Such person has been convicted of a felony under the laws of this state, or of a crime under the laws of any state or of the United States which, if committed within this state, would be a felony; or

(2) Such person is a fugitive from justice, is habitually in an intoxicated or drugged condition, or is currently adjudged mentally incompetent; or

(3) **Such person has, on or after August 28, 2014, been committed for a mental disorder to any hospital, or mental institution, unless such person can demonstrate that he or she is no longer prohibited from possessing a firearm under the provisions of section 571.071 or 571.092; or**

(4) **Such person has, on or after August 28, 2014, been found not guilty by reason of insanity of a crime of violence, including any juvenile who has not been adjudicated delinquent by reason of insanity of a crime of violence; or**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16           **(5) Such person has, on or after August 28, 2014, been found mentally incompetent**  
17 **to stand trial for a crime of violence, including any juvenile who has been found mentally**  
18 **incompetent to be adjudicated for a crime of violence; or**

19           **(6) Such person has been the subject of an order of relinquishment issued by the**  
20 **circuit court under section 571.071, unless such person can demonstrate that he or she is**  
21 **no longer prohibited from purchasing, owning, possessing, or controlling a firearm under**  
22 **the provisions of section 571.071 or 571.092.**

23           **2. As used in this section "crime of violence" means any crime which involves the**  
24 **threat or use of physical force.**

25           [2.] **3. Unlawful possession of a firearm is a class C felony.**

26           [3.] **4. The provisions of subdivision (1) of subsection 1 of this section shall not apply**  
27 **to the possession of an antique firearm.**

28           **5. On or after August 28, 2014, any judge who:**

29           **(1) Orders a person committed for a mental disorder;**

30           **(2) Finds a person not guilty by reason of insanity for a crime of violence or finds**  
31 **a juvenile not delinquent by reason of insanity for a crime of violence; or**

32           **(3) Finds a person mentally incompetent to stand trial for a crime of violence or**  
33 **finds a juvenile mentally incompetent to be adjudicated for a crime of violence;**

34

35 **Shall notify the appropriate law enforcement agency of the order or finding, order that law**  
36 **enforcement agency to investigate the person who is the subject of that order to determine**  
37 **if such person's firearms should be relinquished, and order that law enforcement agency**  
38 **to enter that person's name into the Missouri Uniform Law Enforcement System (MULES)**  
39 **as a person who is prohibited from purchasing, owning, possessing, or controlling a**  
40 **firearm.**

**571.071. 1. Any person who on or after August 28, 2014, is prohibited from**  
2 **purchasing, owning, possessing, or controlling a firearm under subsection 1 of section**  
3 **571.070 shall be investigated by the appropriate law enforcement agency to determine if**  
4 **such person's firearms should be relinquished. If such agency determines that firearms**  
5 **should be relinquished, the law enforcement agency shall refer the matter to the attorney**  
6 **general's office. The attorney general may, upon review of the matter, request an order**  
7 **from a circuit court prohibiting the purchase, ownership, possession, or control of a**  
8 **firearm and the relinquishment of any firearms.**

9           **2. The attorney general shall have the burden of proving by a preponderance of the**  
10 **evidence that the respondent's firearms should be relinquished because the respondent is**  
11 **dangerous to self or others. The respondent shall have the right to present evidence and**

12 be heard in any such proceedings. In the event the court makes such a finding, the court  
13 shall issue an order to the respondent to relinquish his or her firearms and such order shall  
14 be reported to the Missouri Uniform Law Enforcement System (MULES) for purposes of  
15 establishing that such person is a person prohibited from the purchase, ownership,  
16 possession or control of firearms.

17 3. The court may include in any order that such person shall relinquish to a law  
18 enforcement officer any firearms purchased, owned, possessed, or controlled by such  
19 person. Alternatively, the court may, in its discretion, allow such person to voluntarily  
20 relinquish to a law enforcement officer any firearms purchased, owned, possessed, or  
21 controlled by such person. The court may also, in its discretion, direct any law  
22 enforcement agency to immediately search for and seize any firearms purchased, owned,  
23 possessed, or controlled by such person, upon a showing by the petitioner that such person  
24 purchased or has ownership, possession, or control of such firearms.

25 4. Any person subject to an order of relinquishment under the provisions of this  
26 section may petition the court for an order to return the firearms ordered relinquished  
27 under the procedures established under section 571.092.

28 5. If the basis for relinquishment is removed by the court, any firearms taken from  
29 the person shall be restored in a timely fashion.

30 6. Any person aggrieved by a decision of the court under the provisions of this  
31 section may appeal such decision to the supreme court of Missouri.

32 7. The attorney general shall work with local law enforcement agencies and the  
33 department of mental health to develop appropriate internal policies and regulations to  
34 ensure that personnel who process such procedures under the provisions of this section are  
35 trained on appropriate mental health risk- assessment procedures and also are trained to  
36 look for histories of violence.

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