

HB 1903 -- FIREARMS

SPONSOR: Newman

Currently, a person commits the crime of unlawful possession of a firearm, a class C felony, if he or she knowingly has a firearm in his or her possession and has been convicted of a felony, is a fugitive from justice, is habitually in an intoxicated or drugged condition, or is currently adjudged mentally incompetent. This bill specifies that a person commits the crime of unlawful purchase, ownership, possession, or control of a firearm if the person knowingly purchases or owns a firearm or has any firearm in his or her possession or under his or her control and the person:

- (1) Has been convicted of a felony;
- (2) Is a fugitive from justice, is habitually in an intoxicated or drugged condition, or is currently adjudged mentally incompetent;
- (3) Has been committed, on or after August 28, 2014, for a mental disorder to any hospital or mental institution, unless the 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 RSMo;
- (4) Has been found not guilty, on or after August 28, 2014, 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;
- (5) Has been found mentally incompetent, on or after August 28, 2014, to stand trial for a crime of violence, including any juvenile who has been found mentally incompetent to be adjudicated for a crime of violence; or
- (6) Has been the subject of an order of relinquishment issued by the circuit court, unless the person can demonstrate that he or she is no longer prohibited from purchasing, owning, possessing, or controlling a firearm.

On or after August 28, 2014, any judge who orders a person committed for a mental disorder, finds a person not guilty by reason of insanity for a crime of violence, finds a juvenile not delinquent by reason of insanity for a crime of violence, finds a person mentally incompetent to stand trial for a crime of violence, or finds a juvenile mentally incompetent to be adjudicated for a crime of violence must notify the appropriate law enforcement agency of the order or finding, order the law enforcement agency to investigate if the person's firearms should be relinquished, and

order the law enforcement agency to enter the person's name into Missouri Uniform Law Enforcement System (MULES) as a person who is prohibited from purchasing, owning, possessing, or controlling a firearm.

The bill requires a law enforcement agency to investigate any person who is prohibited, on or after August 28, 2014, from purchasing, owning, possessing, or controlling a firearm to determine if the persons' firearms should be relinquished. If the agency determines that firearms should be relinquished, the law enforcement agency must refer the matter to the Office of the Attorney General. The Attorney General may, upon review of the matter, request an order from a circuit court prohibiting the purchase, ownership, possession, or control of a firearm and the relinquishment of any firearms.

The Attorney General has the burden of proving by a preponderance of the evidence that the respondent's firearms should be relinquished. The respondent must have the right to present evidence and be heard in any proceedings. In the event the court makes such a finding, the court must issue an order to the respondent to relinquish his or her firearms and the order must be reported to MULES to establish that the individual is a person prohibited from the purchase, ownership, possession or control of firearms.

The court may include in any order that a person must relinquish to a law enforcement officer any firearms purchased, owned, possessed, or controlled by the person. The court may, in its discretion, allow the person to voluntarily relinquish to a law enforcement officer any firearms purchased, owned, possessed, or controlled by the person. The court may also, in its discretion, direct any law enforcement agency to immediately search for and seize any firearms purchased, owned, possessed, or controlled by the person upon a showing by the petitioner that the person purchased or has ownership, possession, or control of the firearms.

Any person subject to an order of relinquishment under these provisions may petition the court for an order to return the firearms ordered relinquished. If the basis for relinquishment is removed by the court, any firearms taken from the person must be restored in a timely fashion. Any person aggrieved by a decision of the court under these provisions may appeal the decision to the Missouri Supreme Court. The Attorney General must work with local law enforcement agencies and the Department of Mental Health to develop appropriate internal policies and regulations to ensure that personnel who process these procedures are trained on appropriate mental health risk-assessment procedures and also are trained to look for histories of violence.