

HB 1828 with HCA 1 and HCA 2 -- RESTORATION OF FIREARM RIGHTS

SPONSOR: McGaugh

COMMITTEE ACTION: Voted "Do Pass with Amendments" by the Standing Committee on Civil and Criminal Proceedings by a vote of 6 to 4.

This bill allows an individual who has lost the right to possess firearms to have his or her rights restored under specified circumstances.

Any individual who has been deprived of his or her civil right to ship, transport, possess, or receive a firearm because of a conviction for a felony under the Missouri law or of a crime under the laws of any state or of the United States which, if committed within Missouri, would be a felony must have his or her civil right to ship, transport, possess, or receive a firearm automatically restored upon his or her discharge from confinement, probation, or parole, whichever occurs later.

Any individual who has been convicted of a violent felony as defined in these provisions and who has been deprived of his or her civil right to ship, transport, possess, or receive a firearm as a result of the conviction may file a petition in the circuit court of the county in which he or she was convicted or in the county in which he or she resides to restore his or her civil right to ship, transport, possess, or receive a firearm.

If the petition is granted, the court must order the petitioner's civil right to ship, transport, possess, or receive a firearm be restored.

This bill is the same as HB 373 (2015).

HCA #1: This amendment specifies that the provisions of the bill must not be construed to prevent a court from imposing a sentence requiring a non-violent felony offender seeking restoration of his or her civil rights to use the same process for violent felony offenders if the offender confesses on the record to violent acts or threats of violence as part of a plea arrangement involving a nonviolent felony offense, or if the offender also pled guilty or nolo contendere to a related misdemeanor offense involving violence or the threat of violence.

HCA #2: This amendment specifies that any person who has been convicted of a violent felony and who has been deprived of his or her civil right to ship, transport, possess, or receive a firearm as a result of the conviction may file an application in the circuit court of the county in which he or she was convicted or in

the county in which he or she resides to restore their civil right to ship, transport, possess, or receive a firearm. The court may grant the relief sought if the applicant has been discharged from confinement, probation, or parole, whichever occurred later, the conviction occurred five or more years before the filing of the application, the person has not been convicted at any other time for 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, and the court determines that the applicant will not be likely to act in a manner dangerous to the public safety and that the granting of relief is not contrary to the public interest. If the application is denied, the person cannot file another application until three years have elapsed without the permission of the court. If the application is granted, the applicant's civil right to ship, transport, possess, or receive a firearm must be restored.

PROPOSERS: Supporters say that this is a bill that would restore certain civil rights to convicted felons that satisfy specified criteria. One man testified that when he was 16 years old, he was involved in a tragic car accident that killed some kids and pled to involuntary manslaughter (a felony). When he was younger, he had immense difficulty getting a job due to his felony record. Once he worked long enough, that resolved itself, and he was able to establish a solid employment history. Now the issue for him is his inability to possess a firearm; his wife owns a firearm, but he can't touch it. He can't hunt or shoot with his kids. He has tried to get his felony expunged. The witness believes he is the perfect example of someone who has paid his debt to society, is not a danger to society or otherwise violent, and therefore should be able to have his firearms rights restored.

Testifying for the bill were Representative McGaugh; The National Rifle Association-Institute For Legislative Action; and Russ Monchil.

OPPOSERS: Those who oppose the bill say that this bill would dramatically change the law and allow violent persons to obtain firearms. Violent felons should never have their right to possess a firearm restored.

Testifying against the bill were Becky Morgan, Moms Demand Action For Gun Control and Wayne Lee.

OTHERS: Others testifying on the bill say right now there are over 11,000 felony charge codes. Some of these are wholly unrelated to anything pertaining to violence or firearms. Prior to 2008, a dangerous felon could still own a long-gun or shotgun; but couldn't possess a handgun.

Testifying on the bill was Ron Calzone.