

Second Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 14-0698.01 Michael Dohr x4347

HOUSE BILL 14-1230

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A BILL FOR AN ACT

101 CONCERNING RESTORATION OF THE RIGHT TO CARRY A FIREARM BY  
102 CERTAIN FELONS.

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills summaries>.)*

Under current law, a person who was convicted of a felony is prohibited from using, possessing, or carrying a firearm. The bill creates a process to allow a person convicted of a certain nonviolent felony to have his or her right to carry a firearm restored. To restore the right, the person must file a petition with the district court after a 5-year waiting

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

period and provide a lawful purpose for restoration.

The court may issue a certificate of restoration if, after review of the petition, the criminal history of the person and any submission to the court by the district attorney or any victim in the case and any other relevant evidence, the court finds, by a preponderance of the evidence, that:

- ! The person is engaged in or seeking to be engaged in a lawful occupation or activity, including employment, training, education, or rehabilitative programs, or the person has a lawful source of income;
- ! The person has not had any criminal convictions since the completion of his or her sentence, excluding minor traffic violations, and criminal charges are not pending against the person;
- ! The person has presented, in the petition, lawful and substantial reasons for restoration of the right to possess a firearm or any other weapon; and
- ! Granting the petition would not impose an unreasonable risk to the safety or welfare of the public or any person.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 18-12-108, **amend**  
3 (1), (3), and (6) (a); and **add** (6) (c) (III) as follows:

4 **18-12-108. Possession of weapons by previous offenders.** (1) A  
5 person commits the crime of possession of a weapon by a previous  
6 offender if the person knowingly possesses, uses, or carries upon his or  
7 her person a firearm as described in section 18-1-901 (3) (h) or any other  
8 weapon that is subject to the provisions of this article subsequent to the  
9 person's conviction for a felony, or subsequent to the person's conviction  
10 for attempt or conspiracy to commit a felony, under Colorado or any other  
11 state's law or under federal law, UNLESS THE PERSON'S RIGHT TO POSSESS  
12 A FIREARM OR ANY OTHER WEAPON HAS BEEN RESTORED AS PROVIDED IN  
13 SECTION 18-12-108.1 OR THE PERSON WAS CONVICTED OF A FELONY  
14 UNDER THE LAWS OF ANOTHER STATE OR UNDER FEDERAL LAW AND HAS

1 HAD HIS OR HER RIGHT TO POSSESS A FIREARM OR OTHER WEAPON  
2 RESTORED PURSUANT TO THE LAW OF THAT JURISDICTION.

3 (3) A person commits the crime of possession of a weapon by a  
4 previous offender if the person knowingly possesses, uses, or carries upon  
5 his or her person a firearm as described in section 18-1-901 (3) (h) or any  
6 other weapon that is subject to the provisions of this article subsequent to  
7 the person's adjudication for an act which, if committed by an adult,  
8 would constitute a felony, or subsequent to the person's adjudication for  
9 attempt or conspiracy to commit a felony, under Colorado or any other  
10 state's law or under federal law, UNLESS THE PERSON'S RIGHT TO POSSESS  
11 A FIREARM OR ANY OTHER WEAPON HAS BEEN RESTORED AS PROVIDED IN  
12 SECTION 18-12-108.1 OR THE PERSON WAS CONVICTED OF A FELONY  
13 UNDER THE LAWS OF ANOTHER STATE OR UNDER FEDERAL LAW AND HAS  
14 HAD HIS OR HER RIGHT TO POSSESS A FIREARM OR OTHER WEAPON  
15 RESTORED PURSUANT TO THE LAW OF THAT JURISDICTION.

16 (6) (a) Upon the discharge of any inmate from the custody of the  
17 department of corrections OR RELEASE FROM SUPERVISION FROM  
18 PROBATION OR OTHER COMMUNITY SERVICE, the department shall provide  
19 a written advisement to such inmate of the prohibited acts and penalties  
20 specified in this section. The written advisement, at a minimum, shall  
21 include the written statement specified in paragraph (c) of this subsection  
22 (6).

23 (c) The written statement shall provide that:

24 (III) THE RIGHT TO POSSESS A FIREARM AS DESCRIBED IN SECTION  
25 18-1-901 (3) (h) OR ANY OTHER WEAPON MAY BE RESTORED BY COURT  
26 ORDER PURSUANT TO THE PROVISIONS OF SECTION 18-12-108.1 FOR  
27 CERTAIN NONVIOLENT OFFENSES AFTER A FIVE-YEAR WAITING PERIOD IF

1 THE RESTORATION IS FOR A LAWFUL PURPOSE OR PURPOSES.

2 **SECTION 2.** In Colorado Revised Statutes, **add** 18-12-108.1 as  
3 follows:

4 **18-12-108.1. Certificate of restoration of right to possess a**  
5 **firearm or other weapon.** (1) (a) AFTER CONVICTION OF ANY FELONY  
6 OFFENSE ENUMERATED IN SUBSECTION (2) OF THIS SECTION, A PERSON  
7 MAY PETITION THE SENTENCING COURT, WITH NOTICE TO THE DISTRICT  
8 ATTORNEY, FOR A CERTIFICATE OF RESTORATION OF HIS OR HER RIGHT TO  
9 POSSESS A FIREARM AS DESCRIBED IN SECTION 18-1-901 (3) (h) OR ANY  
10 OTHER WEAPON IF AT LEAST FIVE YEARS HAVE PASSED SINCE THE  
11 COMPLETION OF ANY SENTENCE, INCLUDING ANY PERIOD OF SUPERVISION.  
12 THE DISTRICT ATTORNEY SHALL NOTIFY ANY VICTIM IF THE VICTIM  
13 RECEIVES NOTIFICATION UNDER ARTICLE 4.1 OF TITLE 24, C.R.S., OR IN  
14 ANY OTHER CASE AT THE DISCRETION OF THE DISTRICT ATTORNEY.

15 (b) THE COURT SHALL ISSUE A CERTIFICATE OF RESTORATION OF  
16 RIGHTS TO POSSESS A FIREARM OR ANY OTHER WEAPON IF, AFTER REVIEW  
17 OF THE PETITION, THE CRIMINAL HISTORY OF THE PERSON AND ANY  
18 SUBMISSION TO THE COURT BY THE DISTRICT ATTORNEY OR ANY VICTIM IN  
19 THE CASE AND ANY OTHER RELEVANT EVIDENCE, THE COURT FINDS, BY A  
20 PREPONDERANCE OF THE EVIDENCE, THAT:

21 (I) THE PERSON IS ENGAGED IN OR SEEKING TO BE ENGAGED IN A  
22 LAWFUL OCCUPATION OR ACTIVITY, INCLUDING EMPLOYMENT, TRAINING,  
23 EDUCATION, OR REHABILITATIVE PROGRAMS, OR THE PERSON HAS A  
24 LAWFUL SOURCE OF INCOME;

25 (II) THE PERSON HAS NOT HAD ANY CRIMINAL CONVICTIONS SINCE  
26 THE COMPLETION OF HIS OR HER SENTENCE, EXCLUDING MINOR TRAFFIC  
27 VIOLATIONS, AND CRIMINAL CHARGES ARE NOT PENDING AGAINST THE

1 PERSON;

2 (III) THE PERSON HAS PRESENTED, IN THE PETITION, LAWFUL AND  
3 SUBSTANTIAL REASONS FOR RESTORATION OF THE RIGHT TO POSSESS A  
4 FIREARM OR ANY OTHER WEAPON; AND

5 (IV) GRANTING THE PETITION WOULD NOT IMPOSE AN  
6 UNREASONABLE RISK TO THE SAFETY OR WELFARE OF THE PUBLIC OR ANY  
7 PERSON.

8 (c) THE COURT, IN ITS DISCRETION AND AFTER REVIEW OF ALL  
9 PLEADINGS FILED WITH THE COURT, MAY CONDUCT A HEARING TO  
10 DETERMINE IF THE PETITIONER HAS ESTABLISHED BY A PREPONDERANCE  
11 OF THE EVIDENCE THE FACTORS AS OUTLINED IN PARAGRAPH (b) OF THIS  
12 SUBSECTION (1).

13 (2) A PERSON WHOSE ONLY FELONY CONVICTION WAS FOR ONE OR  
14 MORE OF THE FOLLOWING FELONY OFFENSES IS ELIGIBLE TO PETITION FOR  
15 RESTORATION OF THE RIGHT TO POSSESS A FIREARM AS DESCRIBED IN  
16 SECTION 18-1-901 (3) (h) OR ANY OTHER WEAPON:

17 (a) A PROPERTY CRIME OFFENSE IN ARTICLE 4 OF THIS TITLE,  
18 EXCEPT FOR AN ARSON OFFENSE IN PART 1 OF ARTICLE 4 OF THIS TITLE; A  
19 BURGLARY OFFENSE IN SECTION 18-4-202, 18-4-202.1, 18-4-203, OR  
20 18-4-205; OR A ROBBERY OFFENSE IN PART 3 OF ARTICLE 4 OF THIS TITLE;

21 (b) A FRAUD OFFENSE IN ARTICLE 5 OF THIS TITLE;

22 (c) A GOVERNMENTAL OPERATIONS OFFENSE IN ARTICLE 8 OF THIS  
23 TITLE, EXCEPT FOR AN OFFENSE IN SECTION 18-8-206, 18-8-608, OR  
24 18-8-615 OR AN OFFENSE IN PART 7 OF ARTICLE 8 OF THIS TITLE (VICTIM  
25 AND WITNESS PROTECTION);

26 (d) AN OFFENSE IN ARTICLE 10 OF THIS TITLE (GAMBLING); ARTICLE  
27 13 OF THIS TITLE (MISCELLANEOUS OFFENSES); ARTICLE 15 OF THIS TITLE

1 (MAKING, FINANCING, OR COLLECTION OF LOANS); ARTICLE 16 OF THIS  
2 TITLE (PURCHASE OF VALUABLE ARTICLES); ARTICLE 18 OF THIS TITLE  
3 (CONTROLLED SUBSTANCES), EXCEPT FOR AN OFFENSE IN SECTION  
4 18-18-407; OR ARTICLE 20 OF THIS TITLE (LIMITED GAMING);

5 (e) AN OFFENSE IN VIOLATION OF TITLE 1 (ELECTIONS); TITLE 6  
6 (CONSUMER AND COMMERCIAL AFFAIRS); TITLE 8 (LABOR AND INDUSTRY);  
7 TITLE 9 (SAFETY - INDUSTRIAL AND COMMERCIAL); TITLE 11 (FINANCIAL  
8 INSTITUTIONS); TITLE 12 (PROFESSIONS AND OCCUPATIONS), EXCEPT FOR  
9 SECTION 12-29.5-108 (3), C.R.S.; TITLE 13 (COURTS AND COURT  
10 PROCEDURE); TITLE 14 (DOMESTIC MATTERS); TITLE 15 (PROBATE, TRUSTS,  
11 AND FIDUCIARIES); TITLE 22 (EDUCATION); TITLE 24  
12 (GOVERNMENT-STATE); TITLE 25 (HEALTH); TITLE 26 (HUMAN SERVICES);  
13 TITLE 28 (MILITARY AND VETERANS); TITLE 29 (GOVERNMENT - LOCAL);  
14 TITLE 33 (PARKS AND WILDLIFE); TITLE 34 (MINERAL RESOURCES); TITLE  
15 35 (AGRICULTURE); TITLE 36 (NATURAL RESOURCES - GENERAL); TITLE 37  
16 (WATER AND IRRIGATION); TITLE 38 (PROPERTY); TITLE 39 (TAXATION);  
17 TITLE 40 (UTILITIES); OR TITLE 42 (VEHICLES AND TRAFFIC), C.R.S.

18 (3) IF THE COURT DENIES THE PETITION FOR RESTORATION OF  
19 RIGHTS, THE PETITIONER SHALL NOT FILE A SUBSEQUENT PETITION UNTIL  
20 AT LEAST ONE YEAR AFTER THE DENIAL OF THE PETITION.

21 **SECTION 3.** In Colorado Revised Statutes, 24-4.1-303, **add**  
22 (13.3) as follows:

23 **24-4.1-303. Procedures for ensuring rights of victims of**  
24 **crimes.** (13.3) PURSUANT TO SECTION 18-12-108.1 (1), C.R.S., THE  
25 DISTRICT ATTORNEY SHALL NOTIFY THE VICTIM THAT THE DEFENDANT HAS  
26 PETITIONED THE COURT FOR A CERTIFICATE OF RESTORATION OF HIS OR  
27 HER RIGHT TO POSSESS A FIREARM AS DESCRIBED IN SECTION 18-1-901 (3)

1 (h), C.R.S., OR ANY OTHER WEAPON.

2           **SECTION 4. Effective date - applicability.** This act takes effect  
3 July 1, 2014. Section 1 of this act applies to offenses committed on or  
4 after said date. Sections 2 and 3 of this act apply to petitions filed on or  
5 after said date.

6           **SECTION 5. Safety clause.** The general assembly hereby finds,  
7 determines, and declares that this act is necessary for the immediate  
8 preservation of the public peace, health, and safety.