

1 **State of Arkansas**  
2 **79th General Assembly**  
3 **Second Extraordinary Session, 1994**  
4 **By: Senators Bell, Everett, Hoofman and Holiman**

**Call Item No. 7**  
**ACT 57 OF 1994**  
**SENATE BILL 9**

# **A Bill**

## **For An Act To Be Entitled**

8 "AN ACT TO AMEND ARKANSAS CODE 5-73-119 TO PROVIDE FOR AN  
9 ENHANCED PENALTY FOR POSSESSION OF A HANDGUN BY CERTAIN  
10 MINORS FOR SUBSEQUENT ADJUDICATIONS OF DELINQUENCY; TO  
11 DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES."

### **Subtitle**

14 "TO ENHANCE THE PENALTY FOR POSSESSION  
15 OF A HANDGUN BY CERTAIN MINORS."

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

19 SECTION 1. Arkansas Code Annotated § 5-73-119 is amended to read as  
20 follows:

21 "§ 5-73-119. Handguns - Possession by minor or possession on school  
22 property.

23 (a) (1) (A) No person in this state under the age of eighteen (18) years  
24 shall possess a handgun.

25 (B) Violation of subdivision (a) (1) (A) of this section shall be a Class  
26 A misdemeanor.

27 (C) Violation of subdivision (a) (1) (A) shall be a Class D felony if  
28 the person has previously:

29 (i) been adjudicated delinquent for a violation of (a) (1) (A); or

30 (ii) been adjudicated delinquent for any offense which would be a  
31 felony if committed by an adult; or

32 (iii) pled guilty or nolo contendere to or found guilty of a  
33 felony in circuit court while under the age of eighteen (18) years.

34 (2) (A) No person in this state shall possess a handgun upon the  
35 property of the public or private schools or in or upon any school bus or at a  
36 designated bus stop as identified on the route lists published by school

1 districts each year.

2 (B) Violation of subdivision (a) (2) (A) of this section shall be a  
3 Class D felony, and no sentence imposed for violation thereof shall be  
4 suspended or probated or treated as a first offense under § 16-93-301 et seq.

5 (3) (A) No person in this state shall possess a handgun upon the  
6 *property of any private institution of higher education or the publicly*  
7 *supported institutions of higher education in this state on or about his*  
8 person, in a vehicle occupied by him or otherwise readily available for use  
9 with a purpose to employ it as a weapon against a person.

10 (B) Violation of subdivision (a) (3) (A) shall be a Class D felony.

11 (b) A handgun is a firearm capable of firing rimfire ammunition or  
12 centerfire ammunition, and which is designed or constructed to be fired with  
13 one (1) hand.

14 (c) It is a defense to prosecution under this section that at the time  
15 of the act of possessing a handgun:

16 (1) The person is in his own dwelling or place of business or on  
17 property in which he has a possessory or proprietary interest; or

18 (2) The person is a law enforcement officer, prison guard, or  
19 member of the armed forces, acting in the course and scope of his official  
20 duties; or

21 (3) The person is assisting a law enforcement officer, prison  
22 guard, or member of the armed forces acting in the course and scope of his  
23 official duties pursuant to the direction or request of the law enforcement  
24 officer, prison guard, or member of the armed forces; or

25 (4) The person is a licensed security guard acting in the course  
26 and scope of his duties; or

27 (5) The person is hunting game with a handgun which may be hunted  
28 with a handgun under rules and regulations of the Arkansas State Game and Fish  
29 Commission or is en route to or from a hunting area for the purpose of hunting  
30 game with a handgun; or

31 (6) The person is a certified law enforcement officer; or

32 (7) The person is on a journey, unless the person is eighteen  
33 (18) years old or less; or

34 (8) *The person is participating in a certified hunting safety*  
35 *course sponsored by the Arkansas Game and Fish Commission or a firearm safety*

1 course recognized and approved by the Arkansas Game and Fish Commission or by  
2 a state or national nonprofit organization qualified and experienced in  
3 firearm safety; or

4 (9) The person is participating in a school-approved educational  
5 course or sporting activity involving the use of firearms.

6 (10) The person is a minor engaged in lawful marksmanship  
7 competition or practice or other lawful recreational shooting under the  
8 supervision of his parent or legal guardian or is traveling to or from this  
9 activity, with an unloaded handgun, accompanied by his parent or legal  
10 guardian."

11

12 SECTION 2. Arkansas Code 6-13-631 is amended to read as follows:

13 "§6-13-631. Effect of minority population on election. (a)  
14 Beginning with the 1994 annual school election, the qualified electors of a  
15 school district having a ten percent (10%) or greater minority population, as  
16 reported by the most recent federal decennial census information, shall elect  
17 the members of the board of directors as authorized in this section, utilizing  
18 selection procedures in compliance with the federal Voting Rights Act of 1965,  
19 as amended.

20 (b) (1) At least ninety (90) days before the election, the local  
21 board of directors shall:

22 (A) By resolution choose to elect board members from five  
23 (5) or seven (7) single-member zones or from five (5) single-member zones and  
24 two (2) at large; and

25 (B) With approval of the controlling county board of  
26 education, shall divide each school district having a ten percent (10%) or  
27 greater minority population into five (5) or seven (7) single-member zones in  
28 accordance with the federal Voting Rights Act of 1965, as amended.

29 (2) Zones shall have substantially equal population, with  
30 boundaries based on the most recent available federal decennial census  
31 information.

32 (c) A board of directors choosing to elect board members by five (5)  
33 single-member zones and two (2) at-large positions may fill the two (2)  
34 at-large positions by drawing lots from among the current board members.

35 (d) (1) (A) A candidate for election from a single-member zone must

1 be a qualified elector and a resident of the zone.

2 (B) A candidate for an at-large position must be a  
3 qualified elector and a resident of the district.

4 (2) (A) Except as provided in subsection (e) of this section, a  
5 district board member shall serve a five-year term.

6 (B) A term shall commence when the county court declares  
7 the results of the election by an order entered of record.

8 (e) At the first meeting of a new board of directors, the members shall  
9 establish initial terms by lot so that, to the extent possible, an equal  
10 number of positions are filled each year and not more than two (2) members'  
11 terms expire each year.

12 (f) (1) After each federal decennial census and at least ninety (90)  
13 days before the annual school election, the local board of directors, with the  
14 approval of the controlling county board of education, shall divide each  
15 school district having a ten percent (10%) or greater minority population into  
16 single-member zones. The zones shall be based on the most recent federal  
17 decennial census information and substantially equal in population.

18 (2) At the annual school election following the rezoning, a new school  
19 board shall be elected in accordance with procedures set forth in this  
20 section.

21 (g) (1) The following school districts shall be exempt from the  
22 provisions of this section:

23 (A) A school district that is currently operating under a  
24 federal court order enforcing school desegregation or the federal Voting  
25 Rights Act of 1965, as amended;

26 (B) A school district that is operating under a  
27 preconsolidation agreement that is in compliance with the federal Voting  
28 Rights Act of 1965, as amended;

29 (C) A school district that has a zoned board meeting the  
30 requirements of the federal Voting Rights Act of 1965, as amended; and

31 (D) A school district that a federal court has ruled is not  
32 in violation of the federal Voting Rights Act of 1965, as amended, so long as  
33 the court order is in effect.

34 (2) A school district which on August 13, 1993 was in the process  
35 of defending a lawsuit brought under the Voting Rights Act of 1965, as

1 amended, shall also be exempt from the provisions of this section until such  
2 time as the lawsuit has been finally resolved.

3       (h) The State Department of Education shall withhold twenty percent  
4 (20%) of the annual state funds allocation to a school district not in  
5 compliance with this section.

6       (i) The State Board of Education is hereby authorized to adopt rules  
7 and regulations necessary for the implementation of this section."

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9       SECTION 3. All provisions of this act of a general and permanent nature  
10 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
11 Revision Commission shall incorporate the same in the Code.

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13       SECTION 4. If any provision of this act or the application thereof to  
14 any person or circumstance is held invalid, such invalidity shall not affect  
15 other provisions or applications of the act which can be given effect without  
16 the invalid provision or application, and to this end the provisions of this  
17 act are declared to be severable.

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19       SECTION 5. All laws and parts of laws in conflict with this act are  
20 hereby repealed.

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22       SECTION 6. EMERGENCY. It is hereby found and determined by the  
23 Seventy-Ninth General Assembly of the State of Arkansas, meeting in the Second  
24 Extraordinary Session of 1994, that many juveniles who have previously been  
25 declared delinquent for having committed serious offenses possess handguns and  
26 that handgun possession by such juveniles poses a great risk of harm to them  
27 and to others. Therefore, in order to immediately increase the penalty for  
28 possession of a handgun by juveniles who have previously been found delinquent  
29 for having committed certain serious offenses, an emergency is hereby declared  
30 to exist and this act being necessary for the immediate preservation of the  
31 public peace, health and safety shall be in full force and effect from and  
32 after its passage and approval.

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*/s/Bell, et al.*

***As Engrossed: 8/16/94 8/22/94***

**SB 9**

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APPROVED: 8-26-94

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