

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**

A Bill

ACT 595 OF 1995
HOUSE BILL 1684

4 **By: Representatives Luker, Young and Beatty**

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For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE 5-73-103 TO ESTABLISH
9 PROCEDURES BY WHICH THOSE CONVICTED OF FELONIES MAY HAVE
10 THEIR RIGHT TO POSSESS A FIREARM LAWFULLY RESTORED; TO
11 DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES."

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Subtitle

14 "AN ACT TO AMEND ARKANSAS CODE
15 5-73-103."

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

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19 SECTION 1. Arkansas Code 5-73-103 is amended to read as follows:

20 "5-73-103. Possession of firearms by certain persons.

21 (a) Except as provided in subsection (d) of this section or unless
22 authorized by and subject to such conditions as prescribed by the Governor, or
23 his designee, or the Bureau of Alcohol, Tobacco and Firearms of the United
24 States Treasury Department, or other bureau or office designated by the
25 Treasury Department, no person shall possess or own any firearm who has been:

26 (1) Convicted of a felony; or

27 (2) Adjudicated mentally ill; or

28 (3) Committed involuntarily to any mental institution.

29 (b) A determination by a jury or a court in circuit court that a person
30 committed a felony shall constitute a conviction even though the person was
31 placed on probation, received suspension of imposition or execution of
32 sentence, had his conviction expunged pursuant to any act, or was entitled to
33 have his conviction expunged pursuant to any act, except that a person who
34 pleads guilty or nolo contendere or is found guilty of a felony in circuit
35 court may lawfully possess a firearm only if his right to do so is
36 subsequently restored by the Governor pursuant to either subsection (d)(1) or

1 subsection (d) (2) of this section or is otherwise authorized pursuant to
2 subsection (a) of this section.

3 (c) (1) A person who violates this section commits a Class B felony if
4 he has been convicted of a felony.

5 (2) Otherwise, he commits a Class A misdemeanor.

6 (d) The Governor shall have authority to restore the right of a
7 convicted felon to own and possess a firearm:

8 (1) by granting a pardon explicitly restoring the right of the
9 person to possess a firearm; or

10 (2) without granting a pardon, upon the recommendation of the
11 chief law enforcement officer in the jurisdiction in which the person resides,
12 so long as the underlying felony did not involve the use of a weapon and
13 occurred more than three (3) years ago."

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15 SECTION 2. All provisions of this act of a general and permanent nature
16 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
17 Revision Commission shall incorporate the same in the Code.

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19 SECTION 3. If any provision of this act or the application thereof to
20 any person or circumstance is held invalid, such invalidity shall not affect
21 other provisions or applications of the act which can be given effect without
22 the invalid provision or application, and to this end the provisions of this
23 act are declared to be severable.

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25 SECTION 4. All laws and parts of laws in conflict with this act are
26 hereby repealed.

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28 SECTION 5. EMERGENCY. It is hereby found and determined by the General
29 Assembly that confusion has arisen with regard to the legality of possession
30 of a firearm by persons who, upon pleading guilty or nolo contendere or being
31 found guilty of a felony in circuit court, have been placed on probation,
32 received a suspended sentence, had their conviction expunged, or are
33 authorized to have their conviction expunged. Further, the opinion of the
34 Arkansas Supreme Court in Irvin v. State, 301 Ark. 416, 784 S.W.2d 763 (1990),
35 is at odds with the intent of the General Assembly with regard to the status

1 of those whose felony convictions are subject to being expunged, even though
2 they have not been actually expunged. It is the intent of this Act to
3 legislatively overrule *Irvin v. State, supra*. Therefore, in order to
4 immediately clarify the intent of the General Assembly with regard to the
5 status of those persons who, upon pleading guilty or nolo contendere or being
6 found guilty of felony in circuit court, have been placed on probation,
7 received a suspended sentence, had their conviction expunged, or are
8 authorized to have their conviction expunged, an emergency is hereby declared
9 to exist and this act being necessary for the immediate preservation of the
10 public peace, health and safety shall be in full force and effect from and
11 after its passage and approval.

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APPROVED: 3-13-95

