

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

# A Bill

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,  
23 or 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  
30 person committed a felony shall constitute a conviction even though the  
31 person was placed on probation, received suspension of imposition or  
32 execution of sentence, had his conviction expunged pursuant to any act, or  
33 was entitled to have his conviction expunged pursuant to any act, except that  
34 a person who pleads guilty or nolo contendere or is found guilty of a felony  
35 in circuit court may lawfully possess a firearm only if his right to do so is

1 subsequently restored by the Governor pursuant to either subsection (d)(1) or  
2 subsection (d)(2) of this section or is otherwise authorized pursuant to  
3 subsection (a) of this section.

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

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

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

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

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

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

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

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27 hereby repealed.

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

1 S.W.2d 763 (1990), is at odds with the intent of the General Assembly with  
2 regard to the status of those whose felony convictions are subject to being  
3 expunged, even though they have not been actually expunged. It is the intent  
4 of this Act to legislatively overrule Irvin v. State, supra. Therefore, in  
5 order to immediately clarify the intent of the General Assembly with regard  
6 to the status of those persons who, upon pleading guilty or nolo contendere  
7 or being found guilty of felony in circuit court, have been placed on  
8 probation, received a suspended sentence, had their conviction expunged, or  
9 are authorized to have their conviction expunged, an emergency is hereby  
10 declared to exist and this act being necessary for the immediate preservation  
11 of the public peace, health and safety shall be in full force and effect from  
12 and after its passage and approval.

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