

As Introduced

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H. B. No. 551

Representative Wiggam

Cosponsors: Representatives Daniels, Kick, Dean, Gross, Johnson, King, Klopfenstein, Lorenz, McClain, Miller, K., Stewart, Williams, Willis, Young, T.

A BILL

To amend sections 2923.13 and 2923.14 of the 1
Revised Code to prohibit persons who are 2
unlawfully present in the United States from 3
possessing firearms. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2923.13 and 2923.14 of the 5
Revised Code be amended to read as follows: 6

Sec. 2923.13. (A) Unless relieved from disability under 7
operation of law or legal process, no person shall knowingly 8
acquire, have, carry, or use any firearm or dangerous ordnance, 9
if any of the following apply: 10

(1) The person is a fugitive from justice. 11

(2) The person is under indictment for or has been 12
convicted of any felony offense of violence or has been 13
adjudicated a delinquent child for the commission of an offense 14
that, if committed by an adult, would have been a felony offense 15
of violence. 16

(3) The person is under indictment for or has been 17
convicted of any felony offense involving the illegal 18
possession, use, sale, administration, distribution, or 19
trafficking in any drug of abuse or has been adjudicated a 20
delinquent child for the commission of an offense that, if 21
committed by an adult, would have been a felony offense 22
involving the illegal possession, use, sale, administration, 23
distribution, or trafficking in any drug of abuse. 24

(4) The person has a drug dependency, is in danger of drug 25
dependence, or has chronic alcoholism. 26

(5) The person is under adjudication of mental 27
incompetence, has been committed to a mental institution, has 28
been found by a court to be a person with a mental illness 29
subject to court order, or is an involuntary patient other than 30
one who is a patient only for purposes of observation. As used 31
in this division, "person with a mental illness subject to court 32
order" and "patient" have the same meanings as in section 33
5122.01 of the Revised Code. 34

(6) The person is an alien and is illegally or unlawfully 35
in the United States. 36

(B) Whoever violates this section is guilty of having 37
weapons while under disability, a felony of the third degree. 38

(C) For the purposes of this section, "under operation of 39
law or legal process" shall not itself include mere completion, 40
termination, or expiration of a sentence imposed as a result of 41
a criminal conviction. 42

Sec. 2923.14. (A) (1) Except as otherwise provided in 43
division (A) (2) of this section, any person who is prohibited 44
from acquiring, having, carrying, or using firearms may apply to 45

the court of common pleas in the county in which the person 46
resides for relief from such prohibition. 47

(2) Division (A)(1) of this section does not apply to a 48
person who has been convicted of or pleaded guilty to a 49
violation of section 2923.132 of the Revised Code or to a person 50
who, two or more times, has been convicted of or pleaded guilty 51
to a felony and a specification of the type described in section 52
2941.141, 2941.144, 2941.145, 2941.146, 2941.1412, or 2941.1424 53
of the Revised Code. 54

(B) The application shall recite the following: 55

(1) All indictments, convictions, or adjudications upon 56
which the applicant's disability is based, the sentence imposed 57
and served, and any release granted under a community control 58
sanction, post-release control sanction, or parole, any partial 59
or conditional pardon granted, or other disposition of each 60
case, or, if the disability is based upon a factor other than an 61
indictment, a conviction, or an adjudication, the factor upon 62
which the disability is based and all details related to that 63
factor; 64

(2) Facts showing the applicant to be a fit subject for 65
relief under this section. 66

(C) A copy of the application shall be served on the 67
county prosecutor. The county prosecutor shall cause the matter 68
to be investigated and shall raise before the court any 69
objections to granting relief that the investigation reveals. 70

(D) Upon hearing, the court may grant the applicant relief 71
pursuant to this section, if all of the following apply: 72

(1) One of the following applies: 73

(a) If the disability is based upon an indictment, a conviction, or an adjudication, the applicant has been fully discharged from imprisonment, community control, post-release control, and parole, or, if the applicant is under indictment, has been released on bail or recognizance.

(b) If the disability is based upon a factor other than an indictment, a conviction, or an adjudication, that factor no longer is applicable to the applicant.

(2) The applicant has led a law-abiding life since discharge or release, and appears likely to continue to do so.

(3) The applicant is not otherwise prohibited by law from acquiring, having, or using firearms.

(E) Costs of the proceeding shall be charged as in other civil cases, and taxed to the applicant.

(F) Relief from disability granted pursuant to this section restores the applicant to all civil firearm rights to the full extent enjoyed by any citizen, and is subject to the following conditions:

(1) Applies only with respect to indictments, convictions, or adjudications, or to the other factor, recited in the application as the basis for the applicant's disability;

(2) Applies only with respect to firearms lawfully acquired, possessed, carried, or used by the applicant;

(3) May be revoked by the court at any time for good cause shown and upon notice to the applicant;

(4) Is automatically void upon commission by the applicant of any offense set forth in division (A) (2) or (3) of section 2923.13 of the Revised Code, or upon the applicant's becoming

one of the class of persons named in division (A) (1), (4), or	102
(5), <u>or</u> (6) of that section.	103
(G) As used in this section:	104
(1) "Community control sanction" has the same meaning as	105
in section 2929.01 of the Revised Code.	106
(2) "Post-release control" and "post-release control	107
sanction" have the same meanings as in section 2967.01 of the	108
Revised Code.	109
Section 2. That existing sections 2923.13 and 2923.14 of	110
the Revised Code are hereby repealed.	111