

SB123 L.013

## HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.SB13-123 be amended as follows:

1 Amend reengrossed bill, page 30, after line 6 insert:

2 "SECTION 15. 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.

14 (3) A person commits the crime of possession of a weapon by a  
15 previous offender if the person knowingly possesses, uses, or carries upon  
16 his or her person a firearm as described in section 18-1-901 (3) (h) or any  
17 other weapon that is subject to the provisions of this article subsequent to  
18 the person's adjudication for an act which, if committed by an adult,  
19 would constitute a felony, or subsequent to the person's adjudication for  
20 attempt or conspiracy to commit a felony, under Colorado or any other  
21 state's law or under federal law, UNLESS THE PERSON'S RIGHT TO POSSESS  
22 A FIREARM OR ANY OTHER WEAPON HAS BEEN RESTORED AS PROVIDED IN  
23 SECTION 18-12-108.1.

24 (6) (a) Upon the discharge of any inmate from the custody of the  
25 department of corrections OR RELEASE FROM SUPERVISION FROM  
26 PROBATION OR OTHER COMMUNITY SERVICE, the department shall provide  
27 a written advisement to such inmate of the prohibited acts and penalties  
28 specified in this section. The written advisement, at a minimum, shall  
29 include the written statement specified in paragraph (c) of this subsection  
30 (6).

31 (c) The written statement shall provide that:

32 (III) RESTORATION OF THE RIGHT TO POSSESS A FIREARM AS  
33 DESCRIBED IN SECTION 18-1-901 (3) (h) OR OTHER WEAPON MAY BE  
34 RESTORED BY COURT ORDER PURSUANT TO THE PROVISIONS OF SECTION  
35 18-12-108.1 FOR CERTAIN NONVIOLENT OFFENSES AFTER A FIVE-YEAR  
36 WAITING PERIOD IF THE RESTORATION IS FOR A LAWFUL PURPOSE OR  
37 PURPOSES.



1           **SECTION 16.** In Colorado Revised Statutes, **add** 18-12-108.1 as  
2 follows:

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

14           (b) THE COURT MAY DENY THE PETITION ON ITS FACE IF IT DOES  
15 NOT MEET THE CRITERIA IN PARAGRAPH (c) OF THIS SUBSECTION (1).

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

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

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

30           (III) THE PERSON HAS PRESENTED, IN THE PETITION, LAWFUL AND  
31 SUBSTANTIAL REASONS FOR RESTORATION OF THE RIGHT TO POSSESS A  
32 FIREARM OR OTHER WEAPON; AND

33           (IV) GRANTING THE PETITION WOULD NOT IMPOSE AN  
34 UNREASONABLE RISK TO THE SAFETY OR WELFARE OF THE PUBLIC OR ANY  
35 INDIVIDUAL.

36           (d) THE COURT, IN ITS DISCRETION AND AFTER REVIEW OF ALL  
37 PLEADINGS FILED WITH THE COURT, MAY CONDUCT A HEARING TO  
38 DETERMINE IF THE PETITIONER HAS ESTABLISHED BY A PREPONDERANCE  
39 OF THE EVIDENCE THE FACTORS AS OUTLINED IN PARAGRAPH (b) OF THIS  
40 SUBSECTION (1). IF THE COURT CONDUCTS A HEARING, THE COURT SHALL  
41 PERMIT A VICTIM WHO RECEIVED NOTICE UNDER PARAGRAPH (a) OF THIS



1 SUBSECTION (1) AN OPPORTUNITY TO MAKE A STATEMENT AT THE  
2 HEARING.

3 (2) A PERSON WHO HAS BEEN CONVICTED OF ONE OF THE  
4 FOLLOWING FELONY OFFENSES SHALL BE ELIGIBLE TO PETITION FOR  
5 RESTORATION OF THE RIGHT TO POSSESS A FIREARM AS DESCRIBED IN  
6 SECTION 18-1-901 (3) (h) OR ANY OTHER WEAPON:

7 (a) AN PROPERTY CRIME OFFENSE IN ARTICLE 4 OF THIS TITLE,  
8 EXCEPT FOR AN ARSON OFFENSE IN PART 1 OF ARTICLE 4 OF THIS TITLE; A  
9 BURGLARY OFFENSE IN SECTIONS 18-4-202, 18-4- 202.1, 18-4-203, AND  
10 18-4-205; AND A ROBBERY OFFENSE IN PART 3 OF ARTICLE 4 OF THIS TITLE;

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

12 (c) A GOVERNMENTAL OPERATIONS OFFENSE IN ARTICLE 8 OF THIS  
13 TITLE 18, EXCEPT FOR AN OFFENSE IN SECTION 18-8-206, 18-8-608, OR  
14 18-8-615; AND AN OFFENSE IN PART 7 OF ARTICLE 8 OF THIS TITLE (VICTIM  
15 AND WITNESS PROTECTION);

16 (d) AN OFFENSE IN ARTICLE 10 OF THIS TITLE (GAMBLING); ARTICLE  
17 13 OF THIS TITLE (MISCELLANEOUS OFFENSES); ARTICLE 15 OF THIS TITLE  
18 (MAKING, FINANCING, OR COLLECTION OF LOANS); ARTICLE 16 OF THIS  
19 TITLE (PURCHASE OF VALUABLE ARTICLES); ARTICLE 18 OF THIS TITLE  
20 (CONTROLLED SUBSTANCES), EXCEPT FOR AN OFFENSE IN SECTION  
21 18-18-407; OR ARTICLE 20 OF THIS TITLE (LIMITED GAMING);

22 (e) AN OFFENSE IN VIOLATION OF TITLE 1 (ELECTIONS); TITLE 6  
23 (CONSUMER AND COMMERCIAL AFFAIRS); TITLE 8 (LABOR AND INDUSTRY);  
24 TITLE 9 (SAFETY - INDUSTRIAL AND COMMERCIAL); TITLE 11 (FINANCIAL  
25 INSTITUTIONS); TITLE 12 (PROFESSIONS AND OCCUPATIONS), EXCEPT FOR  
26 SECTION 12-29.5-108 (3), C.R.S.; TITLE 13 (COURTS AND COURT  
27 PROCEDURE); TITLE 14 (DOMESTIC MATTERS); TITLE 15 (PROBATE, TRUSTS,  
28 AND FIDUCIARIES); TITLE 22 (EDUCATION); TITLE 24  
29 (GOVERNMENT-STATE); TITLE 25 (HEALTH); TITLE 26 (HUMAN SERVICES);  
30 TITLE 28 (MILITARY AND VETERANS); TITLE 29 (GOVERNMENT - LOCAL);  
31 TITLE 33 (PARKS AND WILDLIFE); TITLE 34 (MINERAL RESOURCES); TITLE  
32 35 (AGRICULTURE); TITLE 36 (NATURAL RESOURCES - GENERAL); TITLE 37  
33 (WATER AND IRRIGATION); TITLE 38 (PROPERTY); TITLE 39 (TAXATION);  
34 TITLE 40 (UTILITIES); AND TITLE 42 (VEHICLES AND TRAFFIC), C.R.S.

35 (3) IF A PERSON IS CONVICTED OF A FELONY UNDER THE LAWS OF  
36 ANOTHER STATE OR UNDER FEDERAL LAW AND THE PERSON HAS HAD HIS  
37 OR HER RIGHT RESTORED TO POSSESS A FIREARM AS DESCRIBED IN SECTION  
38 18-1-901 (3) (h) OR ANY OTHER WEAPON PURSUANT TO THE LAW OF THAT  
39 JURISDICTION, THE PERSON SHALL NOT BE GUILTY OF AN OFFENSE  
40 PURSUANT TO SECTION 18-12-108.

41 (4) IF THE COURT DENIES THE PETITION FOR RESTORATION OF

1 RIGHTS, THE PETITIONER SHALL NOT FILE A SUBSEQUENT PETITION UNTIL  
2 AT LEAST ONE YEAR AFTER THE DENIAL OF THE PETITION.

3 **SECTION 17.** In Colorado Revised Statutes, 24-4.1-302.5,  
4 **amend** (1) (d) (VI) and (1) (d) (VII); and **add** (1) (d) (VIII) as follows:

5 **24-4.1-302.5. Rights afforded to victims.** (1) In order to  
6 preserve and protect a victim's rights to justice and due process, each  
7 victim of a crime shall have the following rights:

8 (d) The right to be heard at any court proceeding:

9 (VI) At which the defendant requests a modification of the no  
10 contact provision of the mandatory criminal protection order under  
11 section 18-1-1001, C.R.S., or section 19-2-707, C.R.S.; or

12 (VII) Involving a subpoena for records concerning the victim's  
13 medical history, mental health, education, or victim compensation, or any  
14 other records that are privileged pursuant to section 13-90-107, C.R.S.;

15 OR

16 (VIII) AT WHICH THE DEFENDANT REQUESTS RESTORATION OF  
17 FIREARM OWNERSHIP RIGHTS PURSUANT TO SECTION 18-12-108.1.

18 **SECTION 18.** In Colorado Revised Statutes, 24-4.1-303, **add**  
19 (13.3) as follows:

20 **24-4.1-303. Procedures for ensuring rights of victims of**  
21 **crimes.** (13.3) PURSUANT TO SECTION 18-12-108.1 (1), C.R.S., THE  
22 DISTRICT ATTORNEY SHALL NOTIFY THE VICTIM THAT THE DEFENDANT HAS  
23 PETITIONED THE COURT FOR A CERTIFICATE OF RESTORATION OF HIS OR  
24 HER RIGHT TO POSSESS A FIREARM AS DESCRIBED IN SECTION 18-1-901 (3)  
25 (h), C.R.S., OR ANY OTHER WEAPON."

26 Renumber succeeding sections accordingly.

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