

2C: 58-6.1

LEGISLATIVE HISTORY CHECKLIST

(Firearms--illegal possession by
minors--punishable as act of
delinquency)

WISA 2C:58-6.1

LAWS OF 1980

CHAPTER 52

Bill No. A720

Sponsor(s) Dowd and others

Date Introduced Jan. 21, 1980

Committee: Assembly Judiciary, Law, Public Safety and Defense

Senate Labor, Industry and Professions

Amended during passage Yes Amendments during passage
denoted by asterisks

Date of Passage: Assembly April 14, 1980

Senate May 19, 1980

Date of approval June 27, 1980

Following statements are attached if available:

Sponsor statement Yes

Committee Statement: Assembly Yes

Senate No

Fiscal Note No

Veto message No

Message on signing No

Following were printed:

Reports No

Hearings No

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[OFFICIAL COPY REPRINT]
ASSEMBLY, No. 720

STATE OF NEW JERSEY

INTRODUCED JANUARY 21, 1980

By Assemblyman DOWD, Assemblywomen MUHLER, GLUCK,
Assemblymen OLSZOWY, PAOLELLA, KERN, KOSCO, MAR-
KERT, IMPERIALE, EDWARDS, FRANKS, Assemblywoman
BURGIO and Assemblyman ALBANESE

Referred to Committee on Judiciary, Law, Public Safety
and Defense

AN ACT concerning the illegal possession of firearms by minors,
and amending P. L. 1979, c. 179.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 14 of P. L. 1979, c. 179 (C. 2C:58-6.1) is amended to
2 read as follows:

3 14. Possession of Firearms by Minors; Exceptions. a. No person
4 under the age of 18 years shall purchase, barter or otherwise
5 acquire a firearm.

6 b. No person under the age of 18 years shall possess, carry, fire
7 or use a firearm except under the following circumstances:

8 (1) In the actual presence or under the direct supervision of his
9 father, mother or guardian, or some other person who holds a
10 permit to carry a handgun or a firearms purchaser identification
11 card, as the case may be; or

12 (2) For the purpose of military drill under the auspices of a
13 legally recognized military organization and under competent
14 supervision; or

15 (3) For the purpose of competition or target practice in and
16 upon a firing range approved by the governing body of the munici-
17 pality in which the range is located or the National Rifle Association
18 and which is under competent supervision at the time of such
19 supervision or target practice; or

20 (4) For the purpose of hunting during the regularly designated
21 hunting season, provided that he possesses a valid hunting license

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.**

22 and has successfully completed a hunter's safety course taught
23 by a qualified instructor or conservation officer and possesses a
24 certificate indicating the successful completion of such a course.

25 c. ***[Any]*** **Notwithstanding any other provisions of law, any**
26 person under the age of 18 years who violates any provision of
27 this section **[shall be deemed a juvenile in need of supervision as**
28 **defined in P. L. 1973, c. 306, s. 4 (C. 2A:4-45)]** **[is guilty of a*
29 *crime of the third degree or]* ***** *shall be adjudged delinquent.*

1 2. This act shall take effect immediately.

22 and has successfully completed a hunter's safety course taught
 23 by a qualified instructor or conservation officer and possesses a
 24 certificate indicating the successful completion of such a course.

25 c. Any person under the age of 18 years who violates any pro-
 26 vision of this section [shall be deemed a juvenile in need of super-
 27 vision as defined in P. L. 1973, c. 306, s. 4 (C. 2A:4-45)] *is guilty*
 28 *of a crime of the third degree or shall be adjudged delinquent.*

1 2. This act shall take effect immediately.

STATEMENT

This bill would make illegal possession of firearms by persons under 18 years of age punishable as either a third degree crime or an act of delinquency, instead of as a juvenile in need of supervision violation, provided by the current law. Under the previous criminal law, 2A:151-11, such offense was punishable as either a misdemeanor or an act of delinquency, but this was changed under the new Penal Code, 2C:58-6.1. Given the current statutes on juvenile offenders, 2A:4-42 et seq., the effect of the bill would be, like 2A:151-11, to make this offense an act of delinquency.

An act of delinquency, under 2A:4-61, is subject to possible incarceration, which underlines the gravity of the offense and makes more effective the other possible penalties short of incarceration. A JINS offense is not subject to incarceration, under 2A:4-62.

The bill makes the offense either an act of delinquency or a third degree crime. This is done for three reasons.

First, while the offense is by definition limited to juveniles, who will be dealt with as delinquents, the designation of third degree crime is added as an indication to the criminal justice system of the gravity of the offense. Illegal possession of firearms by adults is a third degree crime under 2C:39-5.

Second, while juvenile is currently defined in the delinquency statutes as anyone under 18 years of age, 2A:4-43, this is subject to change. If the age limit for juvenile were lowered, the adult violators of 2C:58-6.1 would be subject to a third degree crime.

Third, 2A:4-44 defines delinquency as an act by a juvenile which would be a crime or other offense if done by an adult. This bill in effect comports with this definition by designating the offense as a third degree crime if committed by an adult, while giving clear direction that the offense should be dealt with as an act of delinquency if done by a juvenile. This extra care in drafting is necessitated by the fact that the offense is limited to persons under 18, and this is the same format used by the old law, 2A:151-11.

A720(1980)

ASSEMBLY JUDICIARY, LAW, PUBLIC SAFETY AND
DEFENSE COMMITTEE

STATEMENT TO
ASSEMBLY, No. 720
with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 6, 1980

This bill would make illegal possession of firearms by persons under 18 years of age punishable as an act of delinquency, instead of, as in current law, as a juvenile in need of supervision violation. Under the previous criminal law, 2A:151-11, this offense was punishable as either a misdemeanor or an act of delinquency.

An act of delinquency, as delineated in 2A:4-61, is subject to possible incarceration, which underlines the gravity of the offense and makes more effective the other possible penalties short of incarceration. A JINS offense, as delineated in 2A:4-62, is not subject to incarceration.

This bill would also bring the provisions of 2C:58-6.1 more in line with those of 2C:39-5, where a minor could be charged with illegal possession of firearms and punished as a delinquent.

The Assembly Judiciary, Law, Public Safety and Defense Committee amendments are designed to ensure that the offense will in fact be treated as an act of delinquency.

Under the juvenile justice code, 2A:4-42 et seq., a violation of a statute which is applicable only to juveniles is defined as a JINS offense. 2C:58-6.1, as to possession of firearms by minors, would normally fall into the category of a JINS offense, even without reference to the JINS law, because this section applies only to juveniles. However, it is felt that the carrying of guns is too serious and dangerous a violation to be dealt with as a JINS offense. For purposes of this section of law, as to possession of firearms by minors, the definitions in 2A:4-44 and 2A:4-45, as to delinquency and juveniles in need of supervision, do not apply.

Committee amendment eliminates the reference to a crime of the third degree, as an unnecessary guide to the criminal justice system regarding the gravity of the act of delinquency. Committee amendment also adds, for purposes of emphasis, the notation that "notwithstanding any other provision of law" a violation of this section of law as an act of delinquency. A violation will therefore be disposed of in accord with the provisions of 2A:4-61 (Disposition of Delinquency Cases).