



BILL SUMMARY: HB 1587 (Rep. Amen Brown, D-190) Mandatory Minimum Sentences for Gun Possession

Background: Under Pennsylvania law, people with prior convictions for certain felony offenses are prohibited from possessing a gun – regardless of where, when, or how the prior offense was committed, and regardless of the sentence for that prior conviction. State *and* federal convictions disqualify people from gun possession.¹ Possessing a gun with a prior felony record is currently a first degree felony and carries a sentence enhancement under the state’s sentencing guidelines.

The prior felony offenses that trigger this enhanced sentence are listed in Pa.C.S. § 6105(b).² These offenses include violent and sex offenses but also include:

- A second felony offense for theft or receiving stolen property
- A third or subsequent DWI conviction, if all the convictions occurred within a 5-year period.

Position: FAMM opposes HB 1587 in its entirety.

What the bill would do: HB 1587 would create mandatory minimum prison sentences for people who are convicted of possessing a gun with a prior felony record as follows:

¹ Pa.C.S. § 6105.

² Section 908 (relating to prohibited offensive weapons); Section 911 (relating to corrupt organizations); Section 912 (relating to possession of weapon on school property); Section 2502 (relating to murder); Section 2503 (relating to voluntary manslaughter); Section 2504 (relating to involuntary manslaughter) if the offense is based on the reckless use of a firearm; Section 2702 (relating to aggravated assault); Section 2703 (relating to assault by prisoner); Section 2704 (relating to assault by life prisoner); Section 2709.1 (relating to stalking); Section 2716 (relating to weapons of mass destruction); Section 2901 (relating to kidnapping); Section 2902 (relating to unlawful restraint); Section 2910 (relating to luring a child into a motor vehicle or structure); Section 3121 (relating to rape); Section 3123 (relating to involuntary deviate sexual intercourse); Section 3125 (relating to aggravated indecent assault); Section 3301 (relating to arson and related offenses); Section 3302 (relating to causing or risking catastrophe); Section 3502 (relating to burglary); Section 3503 (relating to criminal trespass) if the offense is graded a felony of the second degree or higher; Section 3701 (relating to robbery); Section 3702 (relating to robbery of motor vehicle); Section 3921 (relating to theft by unlawful taking or disposition) upon conviction of the second felony offense; Section 3923 (relating to theft by extortion) when the offense is accompanied by threats of violence; Section 3925 (relating to receiving stolen property) upon conviction of the second felony offense; Section 4906 (relating to false reports to law enforcement authorities) if the fictitious report involved the theft of a firearm as provided in section 4906(c)(2); Section 4912 (relating to impersonating a public servant) if the person is impersonating a law enforcement officer; Section 4952 (relating to intimidation of witnesses or victims); Section 4953 (relating to retaliation against witness, victim or party); Section 5121 (relating to escape); Section 5122 (relating to weapons or implements for escape); Section 5501(3) (relating to riot); Section 5515 (relating to prohibiting of paramilitary training); Section 5516 (relating to facsimile weapons of mass destruction); Section 6110.1 (relating to possession of firearm by minor); Section 6301 (relating to corruption of minors); Section 6302 (relating to sale or lease of weapons and explosives); and any offense equivalent to any of the above-enumerated offenses under the prior laws of this Commonwealth or any offense equivalent to any of the above-enumerated offenses under the statutes of any other state or of the United States.



| If the person is convicted for possessing a gun with a prior felony record AND | Mandatory minimum sentence |
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| Has 1 prior conviction for possessing a gun with a prior felony record within the last 5 years, excluding any time the person spent in prison | 2 years |
| Has 2 or more prior convictions for possessing a gun with a prior felony record within the last 5 years, excluding any time the person spent in prison | 5 years |
| Has 1 prior conviction for an offense listed in § 6105(b) within the last 5 years, excluding any time the person spent in prison | 5 years |
| Has 1 prior conviction for possessing a gun with a prior felony record AND 1 prior conviction for a felony listed in § 6105(b) within the last 5 years, excluding any time the person spent in prison | 10 years |
| Has 2 or more prior convictions for possessing a gun with a prior felony record AND 1 prior conviction for a felony listed in § 6105(b) within the last 5 years, excluding any time the person spent in prison | 10 years |

| If the person knowingly and physically possessed a gun, whether concealed or visible, AND | Mandatory minimum sentence |
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| Is convicted for a crime of violence, simple assault, or certain offenses involving intimidation of or retaliation against witnesses or public officials, ³ AND <ul style="list-style-type: none"> - Has a prior conviction for an offense listed in § 6105 within the last 5 years, excluding any time spent in prison, OR - Was on probation, parole, or bail when the current offense was committed | 10 years |

³ These include crimes of violence listed in § 9714(g); §§ 2701(a)(2) (simple assault); 4952 (intimidation of witnesses or victims); 4953 (retaliation against witnesses or victims); 4953.1 (retaliation against prosecutors or judges); 4958 (retaliation, intimidation, or obstruction in child abuse cases). Crimes of violence listed in § 9714(g) include “murder of the third degree, voluntary manslaughter, manslaughter of a law enforcement officer as defined in 18 Pa.C.S. § 2507(c) or (d) (relating to criminal homicide of law enforcement officer), murder of the third degree involving an unborn child as defined in 18 Pa.C.S. § 2604(c) (relating to murder of unborn child), aggravated assault of an unborn child as defined in 18 Pa.C.S. § 2606 (relating to aggravated assault of unborn child), aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) or (2) (relating to aggravated assault), assault of law enforcement officer as defined in 18 Pa.C.S. § 2702.1 (relating to assault of law enforcement officer), use of weapons of mass destruction as defined in 18 Pa.C.S. § 2716(b) (relating to weapons of mass destruction), terrorism as defined in 18 Pa.C.S. § 2717(b)(2) (relating to terrorism), trafficking of persons when the offense is graded as a felony of the first degree as provided in 18 Pa.C.S. § 3002 (relating to trafficking of persons), rape, involuntary deviate sexual intercourse, aggravated indecent assault, incest, sexual assault, arson as defined in 18 Pa.C.S. § 3301(a) (relating to arson and related offenses), ecoterrorism as classified in 18 Pa.C.S. § 3311(b)(3) (relating to ecoterrorism), kidnapping, burglary as defined in 18 Pa.C.S. § 3502(a)(1) (relating to burglary), robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to robbery), or robbery of a motor vehicle, drug delivery resulting in death as defined in 18 Pa.C.S. § 2506(a) (relating to drug delivery resulting in death), or criminal attempt, criminal conspiracy or criminal solicitation to commit murder or any of the offenses listed above, or an equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense or an equivalent crime in another jurisdiction.”

| If the person knowingly and physically possessed a gun, whether concealed or visible, AND | Mandatory minimum sentence |
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| Is convicted for <i>any</i> crime resulting in death or serious bodily injury, ⁴ AND <ul style="list-style-type: none"> - Has a prior conviction for an offense listed in § 6105 within the last 5 years, excluding any time spent in prison, OR - Was on probation, parole, or bail when the current offense was committed | 2 years or half of the statutory maximum, <i>whichever is greater</i> |

HB 1587 would take effect immediately upon signing by the governor and would sunset (go out of effect) after four years.

⁴ Serious bodily injury is defined in Title 18, section 2301 as “[b]odily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.”