

2020 Regular Session

SENATE BILL NO. 188

BY SENATOR WHITE

CRIME/PUNISHMENT. Designates the crime of possession of a firearm by a felon as a "crime of violence". (gov sig)

1 AN ACT

2 To amend and reenact R.S. 14:95.1(D) and to enact R.S. 14:2(B)(29) and 95.1(E), relative  
3 to crimes of violence; to make the crime of possession of firearm or carrying  
4 concealed weapon by a person convicted of certain felonies a crime of violence; and  
5 to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 14:95.1(D) is hereby amended and reenacted and R.S. 14:2(B)(29)  
8 and 95.1(E) are hereby enacted to read as follows:

9 §2. Definitions

10 \* \* \*

11 B. In this Code, "crime of violence" means an offense that has, as an element,  
12 the use, attempted use, or threatened use of physical force against the person or  
13 property of another, and that, by its very nature, involves a substantial risk that  
14 physical force against the person or property of another may be used in the course  
15 of committing the offense or an offense that involves the possession or use of a  
16 dangerous weapon. The following enumerated offenses and attempts to commit any  
17 of them are included as "crimes of violence":

\* \* \*

(29) ~~Repealed by Acts 2017, No. 281, §3, eff. August 1, 2017.~~ **Possession of firearm or carrying concealed weapon by a person convicted of certain felonies, when the predicate felony offense is enumerated in R.S. 14:95.1(D). The provisions of this Paragraph shall be void on June 30, 2022, unless extended by legislative Act.**

\* \* \*

§95.1. Possession of firearm or carrying concealed weapon by a person convicted of certain felonies

\* \* \*

**D. Except for drug offenses in violation of the Uniform Controlled Dangerous Substance Law that are punishable by a sentence of imprisonment at hard labor for ten years or less, if any offense listed in Subsection A of this Section is a predicate offense for a prosecution under this Section and the offender uses, possesses, or has under his immediate control any firearm while having been convicted of a prior felony, then the conviction shall be designated as a crime of violence.**

**E.** For the purposes of this Section, "firearm" means any pistol, revolver, rifle, shotgun, machine gun, submachine gun, black powder weapon, or assault rifle which is designed to fire or is capable of firing fixed cartridge ammunition or from which a shot or projectile is discharged by an explosive.

Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

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The original instrument was prepared by Alden A. Clement, Jr. The following digest, which does not constitute a part of the legislative instrument, was prepared by Cathy R. Wells.

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## DIGEST

SB 188 Reengrossed

2020 Regular Session

White

Present law provides relative to the crime of possession of firearm or carrying concealed weapon by a person convicted of certain felonies. Present law further provides that it is unlawful for any person who has been convicted of a "crime of violence," as defined in present law, when that crime is a felony, to possess a firearm or carry a concealed weapon.

Proposed law retains present law.

Present law provides that a "crime of violence" is an offense that has, as an element, the use, attempted use, or threatened use of physical force against the person or property of another, and that, by its very nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense, or an offense that involves the possession or use of a dangerous weapon. Present law further designates certain present law offenses and attempts to commit any of those offenses as "crimes of violence".

Proposed law retains present law and adds the present law crime of possession of firearm or carrying concealed weapon by a person convicted of certain felonies to the list of crimes of violence, reversing the removal of this crime from the list of crimes of violence by Acts 2017, No. 281, §3, eff. 8/1/17. Proposed law sunsets on June 30, 2022, unless extended by legislative Act.

Proposed law provides that except for drug offenses in violation of the Uniform Controlled Dangerous Substance Law that are punishable by a sentence of imprisonment at hard labor for ten years or less, if any offense listed in present law is a predicate offense for a prosecution under present law and the offender uses, possesses, or has under his immediate control any firearm while having been convicted of a prior felony, then the conviction shall be designated as a crime of violence.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 14:95.1(D); adds R.S. 14:2(B)(29) and 95.1(E))

Summary of Amendments Adopted by SenateSenate Floor Amendments to engrossed bill

1. Sunsets certain provisions on June 30, 2022.
2. Provides an exception for certain drug offense convictions.
3. Designates certain gun possessions as a crime of violence.