

UNICAMERAL YOUTH LEGISLATURE OF NEBRASKA
EIGHTEENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 990

Introduced by: [TBD]
Read first time June 11, 2018
Committee: Judiciary

A BILL

FOR AN ACT relating to crimes and offenses; to create the offense of possession of a firearm
by a prohibited juvenile offender and provide a process to reinstate the right to possess a
firearm by such an offender.

Be it enacted by the people of the State of Nebraska,

Section 1. (1) Except as provided in subsections (3) and (4) of this section, a person under the age of 25 who knowingly possesses a firearm commits the offense of possession of a firearm by a prohibited juvenile offender if he or she:

(a) Has previously been adjudicated an offender in juvenile court for an act which would constitute a felony or a misdemeanor crime of domestic violence;

(b) Is a fugitive from justice; or

(c) Is the subject of a current and validly issued domestic violence protection order, harassment protection order or sexual assault protection order and is knowingly violating such order.

(2) Possession of a firearm by a prohibited juvenile offender is a Class IIIA felony for a first offense and a Class III felony for a second or subsequent offense.

(3) Subsection (1) of this section does not apply to the possession of firearms by members of the armed forces of the United States, active or reserve, National Guard of this state, or Reserve Officers Training Corps or peace officers or other duly authorized law enforcement officers when on duty or training.

(4)(a) Prior to reaching the age of 25, a person subject to the prohibition of subsection (1) of this section may file a petition for exemption from such prohibition and thereby have his or her right to possess a firearm reinstated. A petitioner who is younger than 19 years of age shall petition the juvenile court in which he or she was adjudicated for the underlying offense. A petitioner who is 19 years of age or older shall petition the district court in the county in which he or she resides.

(b) In determining whether to grant a petition filed under subdivision (4)(a) of this section, the court shall consider:

(i) The behavior of the person after the underlying adjudication;

(ii) The likelihood that the person will engage in further criminal activity; and

(iii) Any other information the court considers relevant.

(c) The court may grant a petition filed under subdivision (4)(a) of this section and issue an order exempting the person from the prohibition of subsection (1) of this section when in the

best interest of the person and consistent with the public welfare.

(5) The fact that a person subject to the prohibition under subsection (1) of this section has reached the age of 25 or that a court has granted a petition under subdivision (4)(a) of this section shall not be construed to mean that such adjudication has been set aside. Nothing in this section shall be construed to authorize the setting aside of such an adjudication or conviction except as otherwise provided by law.

(6) For purposes of this section:

(a) Domestic violence protection order has the same meaning as in section 28-1206;

(b) Harassment protection order has the same meaning as in section 28-1206;

(c) Misdemeanor crime of domestic violence has the same meaning as in section 28-1206; and

(d) Sexual assault protection order has the same meaning as in section 28-1206.

Statement of Intent

LB990 prohibits juveniles who have been adjudicated of certain serious crimes in juvenile court from possessing firearms until age 25, or earlier, upon a determination of rehabilitation or military service.

Fiscal Note

	FY2018-19		FY2019-20	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS	\$10,000			
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$10,000			

This bill would create the offense of possession of a firearm by a prohibited juvenile offender. Violation of the provisions of this bill is a Class IIIA felony for a first offense and a Class III felony for a second or subsequent offense.

The Supreme Court estimates a one-time cost of \$10,000 in Cash Funds to make changes in the judicial branch case management system as well as educational updates.

This bill could potentially increase the prison population. As of October-December 2017, the prison population was 156.74% of design capacity. Additionally, NDCS contracts with some counties to temporarily house prison inmates. If those inmates are included in the prison population numbers, then the prison population would be 159% of design capacity.

For informational purposes, the Department of Correctional Services (NDCS) estimates the cost per offender (All facilities including Parole) at \$31,271 for FY16. This cost represents an average cost of all General, Cash, and Federal expenditures excluding aid, depreciation, and Capital Construction expenditures.