

SUBJECT: Gun ownership by convicted felons

ISSUE: Whether a person convicted of a felony in state court and/or federal court can regain the right to legally own firearms.

CONCLUSION: Under both Louisiana and federal law, it is possible for a convicted felon to legally own a firearm. However, there are several important factors that should be considered – the type of crime for which a person was convicted, whether they completed their sentence/probation/parole, and whether the convicted felon has received a pardon of some kind effectively restoring his civil rights. An evaluation of these factors is necessary to determine when, or even if, a convicted felon may regain the right to own a firearm.

DISCUSSION: The state and federal approaches to firearm ownership by convicted felons differ greatly. While there are occasional intersections between the two, state and federal requirements are addressed separately.

Louisiana law: Under the Louisiana Constitution of 1974, gun ownership is one of the basic rights of citizenship. Article 1, Sec. 11 of the Louisiana Constitution of 1974 provides that the citizen’s right to keep and bear arms “shall not be abridged.”

However, as the Louisiana Supreme Court acknowledged in *State v. Amos*, “the right to keep and bear arms, like other rights guaranteed by our state constitution, is not absolute.” **State v. Amos, 343 So. 2d 166, 168 (1977)**. In order to protect the “public health, safety, morals and general warfare,” the Amos court wrote, such limitations are reasonable. *Id.*

There are two primary considerations in determining whether a previously convicted felon in Louisiana is subject to one of the limitations mentioned above. The first is the type of felony for which they were convicted; the second is determining whether the person has completed their sentence, probation, or parole and/or whether they have had their civil rights restored under some sort of pardon.

La. R.S. 14:95.1: The primary legal limitation on gun ownership in Louisiana is La. R.S. 14:95.1, which makes it illegal for a person convicted of certain felonies to legally own weapons. Thus, the first step in determining whether a person may possess a firearm is to find out whether the crime for which they were convicted is included in this statute.

La. R.S. 14:95.1 provides a virtual laundry list of crimes for which the conviction of makes the possession of firearms or the carrying of concealed weapons illegal. These include a felony conviction for any of the crimes defined as crimes of violence in La. R.S. 14:2(13), which includes the following:

- Solicitation of murder
- First degree murder
- Second degree murder
- Manslaughter
- Aggravated battery
- Second degree battery
- Aggravated assault
- Mingling harmful substances
- Aggravated rape

- Forcible rape
- Simple rape
- Sexual battery
- Aggravated sexual battery
- Oral sexual battery
- Aggravated oral sexual battery
- Intentional exposure to AIDS virus
- Aggravated kidnapping
- Second degree kidnapping
- Simple kidnapping
- Aggravated arson
- Aggravated criminal damage to property
- Aggravated burglary
- Armed robbery
- First degree robbery
- Simple robbery
- Purse snatching
- Extortion
- Assault by drive-by shooting
- Aggravated crime against nature
- Carjacking
- Illegal use of weapons or dangerous instrumentalities

Additionally, La. R.S. 14:95.1, lists several others crimes that make it illegal to possess a firearm or carry a concealed weapon. These include:

- Simple burglary
- Burglary of a pharmacy
- Burglary of an inhabited dwelling
- Unauthorized entry of an inhabited dwelling
- Felony illegal use of weapons or dangerous instrumentalities
- Manufacture or possession of a delayed action incendiary device
- Manufacture or possession of a bomb
- Any violation of the Uniform Controlled Dangerous Substances law which is a felony
- Any crime defined as an attempt to commit one of the above enumerated offenses
- A conviction under the laws of any other state, the United States, or of any foreign government or country of a crime which, if committed in Louisiana, would be one of the above enumerated crimes.

La. R.S. 14:95.1 thus create two different tracks for regaining gun ownership rights in Louisiana . one track for those convicted of a crime listed under 14:95.1, and another for those convicted of felonies not referenced in this statute.

1. 14:95.1-enumerated convictions: A person convicted of any of the crimes included under La. R.S. 14:95.1 is not barred *per se* from ever legally possessing a firearm again. However, there

are some legislatively mandated steps that they must follow before once again legally owning and carrying a firearm.

The first requirement to be met, under Art. 1, Sec. 20 of the Louisiana State Constitution, is that they must complete the mandated period of state or federal supervision before regaining the “full rights of citizenship.”

After that, there are several options found both within the Louisiana state constitution and in state law. However, some of these options impose stringent requirements that must be met before firearm ownership becomes a legal possibility. Each option will be examined individually in the following paragraphs.

Gubernatorial pardon: Article 4, Sec. 5(E)(1) of the Louisiana State Constitution creates the possibility of a gubernatorial pardon for a crime. This provision says that the “governor may grant reprieves to persons convicted of offenses against the state and, upon favorable recommendation of the Board of Pardons, may commute sentences, pardon those convicted of offenses against the state, and remit fines and forfeitures imposed for such offenses.”

This concept has been codified (and basically parroted) in **La. R.S. 15:572(A)**, which states that “the governor may grant reprieves to persons convicted of offenses against the state and, upon recommendation of the Board of Pardons as hereinafter provided for by this Part, may commute sentences, pardon those convicted of offenses against the state, and remit fines and forfeitures imposed for such offenses.”

The gubernatorial pardon is considered the most powerful type of pardon available to a convicted felon under state law. Unlike the automatic pardon provision found in the state constitution and in state law (which we will discuss later), the gubernatorial pardon returns a person to a “state of innocence,” as if they had never committed the crime. **Gordon v. State Board of Nursing, 804 So. 2d 34, 38 (2001)**.

Under Louisiana law, this type of pardon restores more than just the “full rights of citizenship” discussed in Art. 1, Sec. 20 of the state constitution (such as the right to vote, work or hold public office, or possess firearms). This type of pardon restores privileges as well as rights, “such as the privilege of holding a liquor license.” **State v. Adams, 355 So.2d 917, n3 922 (1978)**. Thus, a person seeking to completely expunge their record of a previous felony conviction, as well as regaining both the rights *and* privileges of citizenship, would be advised to seek out this type of pardon. However, given its nature, this pardon is neither freely nor regularly bestowed. Therefore, there are several other options a person convicted under one of the crimes enumerated in La. R.S. 14:95.1 can explore.

“Automatic” first-offender pardon: Both the Louisiana Constitution of 1974 and the state’s criminal code recognize a second type of pardon for some convicted felons .the so-called “automatic” first-offender pardon.

The second sentence of Article 4, Section 5(E)(1) of the constitution states that a “first offender convicted of a non-violent crime, or convicted of aggravated battery, second degree battery, aggravated assault, mingling harmful substances, aggravated criminal damage to property, purse snatching, extortion or illegal use of weapons or dangerous instrumentalities never previously convicted of a felony shall be pardoned automatically upon completion of his sentence, without a recommendation of the Board of Pardons and without action by the governor.”

The statutory equivalent of this provision is La. R.S. 15:572(B), which states that “a first

offender never previously convicted of a felony shall be pardoned automatically upon completion of his sentence without a recommendation of the Board of Pardons and without action by the governor.”

In this instance, “first offender” is defined in 15:572 (c) as meaning anyone convicted in Louisiana of a felony, “but never previously convicted of a felony within this state or convicted under the laws of any other state or of the United States or of any foreign government or country of a crime which, if committed in this state, would have been a felony, regardless of any previous conviction for any misdemeanors.”

This type of pardon has been recognized by Louisiana courts as restoring the basic rights of citizenship discussed in Art. 1, Sec. 20 of the state constitution. These include the right to vote, the right to work, the right to hold public office, and the right to possess firearms (subject, of course, to 14:95.1 restrictions). However, the “automatic” type of pardon does not restore the status of innocence conferred by a gubernatorial pardon. **State v. Adams, 355 So. 2d 917, n3 922 (1978).**

At its most basic level, this type of pardon appears to be almost administrative in function. La. R.S. 15:572(D) states that, upon the day an individual completes his sentence, “the Division of Probation and Parole of the Department of Corrections, after satisfying itself that (1) the individual is a first offender as defined herein and (2) the individual has completed his sentence shall issue a certificate recognizing and proclaiming that the petitioner is fully pardoned for the offense and that he has all the rights of citizenship and franchise, and shall transmit a copy of the certificate to the individual and to the clerk of court in and for the parish where the conviction occurred.”

There are several considerations that go along with this type of pardon. Besides restoring just the rights (and not the privileges) of citizenship, it is also a one-time-only affair. **La. R.S. 15:572(D).**

In addition, this type of pardon does not wipe the slate clean, as would a gubernatorial pardon; the status of “innocence,” thus, is not restored. **State v. Adams, 355 So.2d 917, n3 922 (1978).** In the event of a future conviction, a person pardoned under Art. 1, Sec. 20 of the Constitution, as well as under La. R.S. 15:572(B), could have the previously pardoned conviction considered in adjudicating the person as a multiple offender.

A review of the language of both the constitutional provisions and state law regarding “automatic” first-offender pardons suggests that a person convicted of a non-violent crime (which really doesn’t include many 14:95:1 offenses) or of one of the 14:95.1 crimes mentioned in the second sentence of Art. 4 Sec. 5(E)(1) of the state constitution – aggravated battery, second degree battery, aggravated assault, mingling harmful substances, aggravated criminal damage to property, purse snatching, extortion, or illegal use of weapons or dangerous instrumentalities may avail themselves of this type of pardon, which would restore the right to legally own a gun. Those convicted of the majority of crimes listed in La. R.S. 14:95.1, however, would probably have little luck availing themselves of this type of pardon as a means of restoring gun ownership rights.

Indeed, the state Supreme Court, in **State v. Wiggins, 432 So.2d 234 (1983)**, ruled that La. R.S. 14:95.1 does not exist in opposition to the first-offender pardon provision, and that it may still preclude someone who receives an “automatic” first-offender pardon from legally owning a weapon. In this case, the Supreme Court said that it is within the state’s right to use its police power to limit the “rights of citizenship” normally restored by an “automatic pardon.” In *Wiggins*, the Louisiana Supreme Court held that the prohibitions contained in La. R.S. 14:95.1

still applied to a person who received an automatic pardon. Their reasoning was simple: the “automatic pardon” did not erase the fact that the defendant had been convicted of a serious crime, nor did it change his status as a convicted felon.

Therefore, while it does restore the basic rights of citizenship, this type of pardon might not be very helpful to a person convicted of an offense enumerated under La. R. S. 14:95.1. However, there are still a few other options available under La. R. S. 14:95.1 for those convicted of a crime enumerated under that statute.

Other 14:95:1 remedies: Paragraph C of La. R.S. 14:95.1 provides two other possibilities under which a person convicted of a 14:95.1 felony may regain their right to possess a firearm.

1. **10-year cleansing:** Under La. R.S. 14:95.1(C)(1), the provisions of this statute regarding the possession of firearms and the carrying of concealed weapons by persons convicted of certain enumerated felonies do not apply to a person who has not been convicted of *any* felony “for a period of 10 years from the date of completion of sentence, probation, parole, or suspension of sentence.”

Thus, if a person allows 10 felony-free years to elapse after the completion of their state or federal supervision, then, according to the language of 14:95.1, they should regain the right to possess a firearm.

2. **Sheriffs permits:** A second option available under 14:95.1(C) revolves around the discretion of the sheriff of the parish in which the person resides. Under 14:95.1(C)(2), upon completion of their state or federal supervision, a convicted felon has the right to apply to the sheriff of his home parish (or the superintendent of police, if he resides in Orleans Parish) for the right to possess firearms.

If this permit is granted, the felon has the right to possess firearms within boundaries set by that sheriff (such as only allowing the convicted felon to carry a long gun during deer season, for example). The sheriff or other chief law enforcement officer of a parish has substantial discretion under this statute, allowing him to narrowly define the circumstances, if any, under which a convicted felon may possess a firearm within that parish.

State law does require any sheriff or superintendent of police who decides to issue such a permit to notify, in writing, the Department of Public Safety. Officials within the Department of Public Safety say that the ability to carry a firearm under this subsection of the law is restricted to just the convicted felon’s home parish.

Also, should the existence of such a permit ever come into question, the burden of proof may very well fall on the shoulders of the convicted felon claiming to possess it. **State v. Augillard, 371 So.2d 798, 800 (La. 3-2-1979).**

Conclusion: A person convicted of one of the crimes enumerated under La. R.S. 14:95.1 has several options as far as regaining the right to legally possess a firearm.

He may hope for a gubernatorial pardon, which would restore not only the basic rights of citizenship, but the privileges as well.

For a few of the crimes enumerated under 14:95.1 (see the second sentence of Art. 4, Sec. 5(E)(1) of the State Constitution of 1974), a convicted felon who is also a first offender under state law may serve out his required period of state and federal supervision, at which point he would receive the so-called “automatic” pardon restoring the basic rights of citizenship. (Bear in

mind that this second option applies only to first offenders who were convicted of either non-violent crimes or the few 14:95.1 exceptions mentioned in Art. 4, Sec. 5(E)(1) of the state constitution).

Third, a felon convicted of a 14:95.1 can fulfill his requirements to the state or federal government and then allow 10 years to elapse without a felony conviction, at which point they would regain the right to possess firearms.

And finally, a person convicted of a felony under 14:95.1 can serve out his sentence/probation/parole, and then apply with the sheriff of his home parish for a firearm permit, a request the sheriff may or may not grant and which would, according to the Department of Public Safety, apply only to his home parish.

Non-14:95.1-enumerated felonies: A person convicted of a felony not enumerated in La. R.S. 14:95.1 also has several options in regard to regaining the right to legally possess a firearm. The primary difference between them and someone convicted of a 14:95.1 offense is that upon receiving the automatic first-offender pardon, this person has less likelihood of experiencing the further restrictions on firearm ownership found in 14:95.1.

First-offender pardon: As discussed earlier, the so-called “automatic” first-offender pardon will restore the rights of citizenship (including gun ownership) to a person who has completed their sentence. If a person meets the definition of “first offender” found in La. R.S. 15:572(C), then, upon the completion of their sentence, they shall regain the “rights of citizenship and franchise” without having to get a recommendation from the Board of Pardons and without having to seek gubernatorial action.

Factoring in the provisions found in Art. 4, Sec. 5(E)(1) of the state constitution, a first offender convicted of a non-violent crime should little difficulty regaining the right to legally possess firearms upon the completion of their sentence.

Completion of sentence: A second option available to non-violent offenders, one related to the first-offender pardon provision, is found in Art. 1, Sec. 20 of the Louisiana State Constitution, which, in its second sentence, proclaims that “full rights of citizenship shall be restored upon termination of state and federal supervision following conviction for any offense.”

Of course, as discussed earlier, the state Supreme Court has ruled that La. R.S. 14:95.1 can serve as a restriction on this right without offending the constitution. Therefore, a person convicted of one of the crimes enumerated in that statute would not automatically be able to possess a firearm upon completion of their sentence; instead, they would have to meet the requirements of 14:95.1 (10 years without a felony conviction, applying with their parish’s sheriff, etc.). However, for non-violent, non- 14:95.1 offenders, simply serving out one’s sentence will, in most cases, restore the right of gun ownership.

Gubernatorial pardon: In some instances, someone convicted of a non-14:95.1 felony may have to seek out a pardon from the governor, which, as mentioned earlier, would restore not only the full rights, but also the privileges, of citizenship.

10-year waiting period: A final option is found in Paragraph (C)(1) of La. R.S. 14:95.1, which states that this statute’s provisions against the possession of firearms by convicted felons do not apply to a person “who has not been convicted of any felony for a period of 10 years from the date of completion of sentence, probation, parole, or suspension of sentence.”

As this provision specifically mentions “any” felony, not just those described in 14:95.1, then one can assume that someone convicted of a non-14:95.1 felony as well would be able to

legally own a gun 10 years after completing their sentence. However, given other state provisions regarding the restoration of civil rights upon the completion of one's sentence, then there really isn't any need to wait that long in most cases.

Overall, it is not impossible for a person convicted of a felony under either state or federal law to regain the right to legally possess a gun in Louisiana. The first step is to ascertain the nature of their conviction. After that, it is necessary for the convicted felon to complete their sentence/probation/parole, etc., at which point (barring a gubernatorial pardon) they have several options available to them. Someone convicted of a 14:95.1 felony can either seek out a gubernatorial pardon, or else complete their sentence and wait 10 years (or maybe even apply with the sheriff of their home parish). A person convicted of a non- 14:95.1 felony can regain the right to possess and carry firearms upon the completion of their sentence, either through a first-offender pardon or through constitutional provisions regarding the restoration of the rights of citizenship.

FEDERAL LAW

The Gun Control Act of 1968 makes it illegal for any person convicted of a crime punishable by imprisonment for a year or more “to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition.” **18 U.S.C. Sec. 922(g)(1)**.

The text of 18 U.S.C. 922(g) places several restrictions on firearm possession. It is unlawful for the following groups of people to ship or transport in interstate or foreign commerce or possess in or affecting commerce firearms or ammunition that has also been shipped or transported in interstate or foreign commerce:

- A person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;
- A person who is a fugitive from justice;
- A person who is an unlawful user of, or addicted to any controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802);
- A person who has been adjudicated as a mental defective or who has been committed to a mental institution;
- Someone who is either an illegal alien or is otherwise illegally in the United States, or someone admitted to the United States under a non-immigrant visa;
- A person who has been dishonorably discharged from the Armed Forces;
- A person who, having once been a citizen of the United States, has renounced that citizenship;
- A person subject to a court order that (a) was issued after a hearing of which that person received actual notice and was able to participate, and (b) restrains that person from harassing, stalking, or threatening an intimate partner or child of that intimate partner, or engaging in any other conduct that would place an intimate partner in reasonable fear of bodily injury, and (c) includes a finding that such person represents a credible threat to the physical safety of such an intimate partner or child, and by its terms specifically prohibits the use, attempted use, or threatened use of physical force against such an

intimate partner or child;

- A person who has been convicted in any court of a misdemeanor crime of domestic violence.

However, as the U.S. District Court for the District of Columbia wrote in the 2003 case of **Black v. Snow (272 F. Supp. 2d 21)**, this does not mean that a convicted felon “is forever barred from possessing firearms.” *Id* at 24. Indeed, there are a few options available under federal law that might allow a convicted felon to once again possess a firearm. However, at least in comparison to state laws, the federal restrictions on the possession of firearms by a previously convicted felon are more restrictive. In fact, one option that was available for convicted felons up until 1992 is no longer a possibility due to congressional inaction.

Option 1 – Certain categories of felonies excluded: While 922(g) does state that no one convicted of a “crime punishable by imprisonment for a term exceeding one year” may legally possess a firearm, this is qualified somewhat by the definition of this phrase, which is found in 18 U.S.C. 921 (20). Paragraphs A and B of this provision specifically enumerate several felonies that are not included under the umbrella of crimes “punishable by imprisonment for a term exceeding one year.”

These are any federal or state offenses “pertaining to antitrust violations, unfair trade practices, restraint of trade, or other similar offenses relating to the regulation of business practices” and “any state offenses classified by the laws of the state as a misdemeanor and punishable by a term of imprisonment of two years or less.”

Therefore, a person convicted in federal or state court of a felony related to regulatory business practices may legally possess a firearm once they’ve completed the terms of their sentence or probation.

Option 2 – Pardons: As with some provisions of state law, federal law acknowledges that a person who has received a pardon restoring their civil rights, is also excluded from 922(g)’s restrictions on firearm possession, unless “such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.” 18 U.S.C. 921(a)(20)(B). Pardons (and the subsequent restoration of civil rights) may come in two varieties: federal or state. For a person convicted of a crime under Louisiana law, this would include the gubernatorial pardon, discussed earlier, as well as the first-offender pardon discussed in 15:572(B) and the restoration of civil rights upon completion of one’s sentence contemplated in Sec. 1, Article 20 of the Louisiana State Constitution of 1974.

The U.S. Court of Appeals for the Fifth Circuit provided a test for determining whether a person convicted of a federal crime predicated on a state offense has had their rights restored in **U.S. v. Dupaquier, 74 F.3d 615 (1996)**. In that case, a man who had been convicted under various drug-related state offenses was later arrested and charged with being a convicted felon in possession of a firearm. The defendant argued that since more than 10 years had elapsed since his last conviction, his civil rights had been restored and thus, under federal law, he was no longer considered a convicted felon. The court ultimately agreed with the defendant’s position, and put forth a two-part test to help determine whether, for the purposes of federal law, a person’s civil rights had been restored under state law.

First, the court advises, one should determine whether the state which obtained the underlying conviction revives essentially all of the civil rights of convicted felons, whether individually or through an automatic pardon program of some sort. *Id* at 617. If so, you must

then determine whether the defendant is nonetheless barred from possessing a firearm by some provision of the restoration law or through some other state procedure. *Id.* An example would be Louisiana's 14:95.1 restrictions on firearms possession by convicted felons.

Federal law also provides another option, the presidential pardon. Article II, Sec. 2 of the United States Constitution places no limitations on the power of the president to grant or deny pardons. Requests for such pardons are submitted to the Justice Department's U.S. Pardon Attorney, who prepares a recommendation for the president on each application for presidential clemency, including pardons, the commutation of sentences, the remission of fines, and reprieves. The guidelines the Pardon Attorney uses in reaching his decision are found in Title 28, Chapter 1, Part 1 of the Code of Federal Regulations. These guidelines can be accessed via the Internet at www.usdoj.gov/pardon/petition.html.

Information concerning the procedures for obtaining a presidential pardon may be obtained by contacting the Pardon Attorney's Office at the U.S. Department of Justice, 500 First Street, NW, Washington, DC 20530. The Pardon Attorney's home on the Internet can be reached at www.usdoj.gov/pardon/index.html.

The presidential pardon, much like the gubernatorial pardon, has powerful effects. In the 1987 case of **Bradford v. Cardoza (195 Cal. App. 3d 361, 364)**, the First Appellate District Court of Appeals of California stated that "a full and unconditional presidential pardon thus restores an individual's state as well as federal civil rights." While it does not erase the fact of conviction (thereby returning one to the "state of innocence" associated with Louisiana's gubernatorial pardon), it does eliminate the punishment and disabilities related to the commission of an offense. *Id.*

Option 3 – The 925(c) option: Up until 1992, there was a third option available to convicted felons seeking to have their rights of gun ownership restored. Under 18 U.S.C. Sec. 925(c), a person legally prohibited from possessing, shipping, transporting or receiving firearms or ammunition could apply to the Secretary for relief from the disabilities related to firearm ownership imposed by federal law. According to this provision, if the Secretary established to his satisfaction that the "circumstances regarding the disability, and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety" and that the granting of relief would not be contrary to the public interest, he could restore a person's right to possess a firearm.

However, since 1992, Congress has not provided funding for the ATF to use in investigating applications for relief from firearm disability under 18 U.S.C. 925(c). **Black v. Snow, 272 F.Supp. 2d 21, 24 (2003)**. Since that time, this federal provision has been, for all practical purposes, disabled, thus making this avenue of relief unavailable to convicted felons until funding is restored.

As is the case under state law, it is possible for someone convicted in a federal court to legally possess a firearm again. This largely depends upon the type of crime for which a person was committed, whether they have completed their sentence, whether that person's civil rights have been restored under some sort of pardon, etc., and whether there are other laws that might forbid them from possessing a weapon (La. R.S. 14:95.1, for example).

SUMMARY: The following, which incorporates much of the material discussed earlier, is intended as a step-by-step guide to helping determine whether someone convicted under either state or federal law can legally possess a weapon.

Louisiana law:

Step 1: What is the nature of the conviction? If a person was convicted of any of the following felonies, then La. R.S. 14:95.1 restrictions are applicable. If not, go to Step 2.

14:95.1 felonies:

- Solicitation of murder
- First degree murder
- Second degree murder
- Manslaughter
- Aggravated battery*
- Second degree battery*
- Aggravated assault*
- Mingling harmful substances*
- Aggravated rape
- Forcible rape
- Simple rape
- Sexual battery
- Aggravated sexual battery
- Oral sexual battery
- Aggravated oral sexual battery
- Intentional exposure to AIDS virus
- Aggravated kidnapping
- Second degree kidnapping
- Simple kidnapping
- Aggravated arson
- Aggravated criminal damage to property*
- Aggravated burglary
- Armed robbery
- First degree robbery
- Simple robbery
- Purse snatching*
- Extortion*
- Assault by drive-by shooting
- Aggravated crime against nature
- Carjacking
- Illegal use of weapons or dangerous instrumentalities*
- Simple burglary
- Burglary of a pharmacy
- Burglary of an inhabited dwelling
- Unauthorized entry of an inhabited dwelling
- Felony illegal use of weapons or dangerous instrumentalities

- Manufacture or possession of a delayed action incendiary device
- Manufacture or possession of a bomb
- Any violation of the Uniform Controlled Dangerous Substances law which is a felony
- Any crime defined as an attempt to commit one of the above- enumerated offenses
- A conviction under the laws of any other state, the United States, or of any foreign government or country of a crime which, if committed in Louisiana, would be one of the above enumerated crimes.

* - First offenders convicted of these crimes may be eligible for a first-offender pardon. See No. 2 below.

1. If someone was convicted of these crimes, then the following options are available to them:
2. A gubernatorial pardon
3. A first-offender pardon, for those convicted of aggravated battery, second degree battery, aggravated assault, mingling harmful substances, aggravated criminal damage to property, purse snatching, extortion or illegal use of weapons or dangerous instrumentalities (according to the Constitution, as long as they meet the first-offender requirements and have completed their period of state or federal supervision.
4. Go 10 years from the date of the completion of one's sentence without being convicted of any felony.
5. Apply with the sheriff of one's home parish for a permit to possess a weapon.

Step 2: Non-14:95.1 felonies

A person convicted of a non-violent felony not enumerated under *14:95.1* has several options.

1. **Automatic first-offender** pardon – under La. R.S. 15:572, a non-violent offender who has completed his sentence will automatically have the rights of citizenship restored without any further action by state officials.
2. According to **Art. 1, Sec. 20 of the State Constitution**, someone who has completed their required period of state or federal supervision will automatically regain their rights of citizenship and franchise (subject, of course, to limitations such as 14:95.1).
3. A **gubernatorial pardon** may be sought, in some instances.
4. As in Step 1, Louisiana's restrictions against gun ownership do not apply to a person who has not been convicted of any felony for at least **10 years from the date of completion of a previous felony sentence**, although the other options available to such a person would make this last step an avenue of last resort in most cases.

Federal Law:

Step 1: U.S.C. 18:922(g) forbids the following classes of convicted felons from possessing weapons:

1. A person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;
2. A person who is a fugitive from justice;
3. A person who is an unlawful user of, or addicted to any controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802;

4. A person who has been adjudicated as a mental defective or who has been committed to a mental institution;
5. Someone who is either an illegal alien or is otherwise illegally in the United States, or someone admitted to the United States under a non-immigrant visa;
6. A person who has been dishonorably discharged from the Armed Forces;
7. A person who, having once been a citizen of the United States, has renounced that citizenship;
8. A person subject to a court order that (a) was issued after a hearing of which that person received actual notice and was able to participate, and (b) restrains that person from harassing, stalking, or threatening an intimate partner or child of that intimate partner, or engaging in any other conduct that would place an intimate partner in reasonable fear of bodily injury, and (c) includes a finding that such person represents a credible threat to the physical safety of such an intimate partner or child, and by its terms specifically prohibits the use, attempted use, or threatened use of physical force against such an intimate partner or child;
9. A person who has been convicted in any court of a misdemeanor crime of domestic violence.

Step 2: However, these restrictions do not apply in all cases.

1. **Exceptions:** The federal restrictions on weapons possession do not apply to felony convictions for any federal or state offenses “pertaining to antitrust violations, unfair trade practices, restraint of trade, or other similar offenses relating to the regulation of business practices” and “any state offenses classified by the laws of the state as a misdemeanor and punishable by a term of imprisonment of two years or less.”
2. **Pardons:** According to 18 U.S.C. 921(a)(20), a person who has received a pardon, expungement, etc. that effectively restores their civil rights does not fall under the sway of 18: 922(g)’s restrictions, at least as far as using state convictions to deem a person a “felon.” This can include presidential pardons, gubernatorial pardons, or the automatic first-offender pardon found in Louisiana. Bear in mind, however, that this is qualified somewhat by any other restrictions that may be placed upon a person’s rights to legally possess weapons.
3. **U.S.C. 18:925(c)** – At one time, federal law allowed the ATF to permit a convicted felon to possess a weapon if certain stringent requirements were met. However, since 1992, Congress has not funded this program. For all practical purposes, this option will only be available when and if Congress restores funding for this program.