

# ONE HUNDRED FIFTH LEGISLATURE - SECOND SESSION - 2018

## COMMITTEE STATEMENT

### LB990

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**Hearing Date:** Thursday February 08, 2018  
**Committee On:** Judiciary  
**Introducer:** Wayne  
**One Liner:** Create the offense of possession of a firearm by a prohibited juvenile offender

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**Roll Call Vote - Final Committee Action:**

Advanced to General File with amendment(s)

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**Vote Results:**

**Aye:** 7 Senators Baker, Ebke, Halloran, Hansen, Krist, Morfeld, Pansing Brooks  
**Nay:**  
**Absent:** 1 Senator Chambers  
**Present Not Voting:**

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**Verbal Testimony:**

**Proponents:**

Senator Justin Wayne  
Aaron Hanson  
Jim Masteller

Anthony Conner  
Jim Maguire  
Greg Gonzalez

**Opponents:**

Spike Eickholt  
Christine Henningsen  
Juliet Summers

**Neutral:**

**Representing:**

Introducer  
Omaha Police Officers Association  
Nebraska County Attorneys Association & Douglas County Attorney  
Omaha Police Officers Association  
Nebraska Fraternal Order of Police  
Omaha Police Department

**Representing:**

Nebraska Criminal Defense Attorneys Association  
self  
Voices for Children

**Representing:**

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**Summary of purpose and/or changes:**

LB 990 would create the offense of possession of a firearm by a prohibited juvenile offender. The bill would establish that a person under the age of 25 who knowingly possesses a firearm commits the offense if the person was adjudicated a juvenile offender for an act that would constitute a felony or misdemeanor crime of domestic violence, is a fugitive from justice, or is the subject of a current and valid domestic violence protection order, harassment protection order, or sexual assault protection order and knowingly violated that order. Commission of the offense constituted a Class IIIA felony under the bill for a first offense, and a Class III felony for a second or subsequent offense. The bill would exempt from this offense possession of a firearm for those juveniles serving as members of the armed forces of the United States, the National Guard of Nebraska, or Reserve Officers Training Corps or peace officers or other duly authorized law enforcement officers when on duty or training.

The bill would allow a person to petition for exemption from commission of the offense before reaching the age of 25 to allow them to restore their right to possess a firearm. In considering such a petition, the Court would consider the behavior of the person after adjudication, the likelihood that the person will engage in further criminal activity, and any

other information the court considers relevant. The Court may grant the petition when the court determines that the order will be in the best interest of the person and consistent with the public welfare.

The bill clarifies that simply because a person reaches the age of 25 does not mean that the person's prior adjudication as a juvenile has been set aside.

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**Explanation of amendments:**

AM 2209 to LB 990 makes a few adjustments to the bill as introduced.

First, the amendment changes the circumstance under which a person can commit the offense of possession of a firearm by a prohibited juvenile offender to apply only when the juvenile has been previously adjudicated an offender in juvenile court for an act which would constitute a felony or an act which would constitute a misdemeanor crime of domestic violence.

Second, it reduces the penalty for commission of the offense of possession of a firearm by a prohibited juvenile offender from a Class IIIA felony, to a Class IV felony for a first offense. The penalty for a subsequent offense would be reduced from a Class III felony to a Class IIIA felony.

Finally, the amendment requires that when a petition filed in juvenile court alleges that a juvenile committed an act which would constitute a felony or an act which would constitute a misdemeanor crime of domestic violent, the juvenile court must inform the juvenile that adjudication for such an act will have a specific legal impact on the juvenile's right to possess a firearm.

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Laura Ebke, Chairperson