

1 Article 54A.

2 The Felony Firearms Act.

3 **§ 14-415.1. Possession of firearms, etc., by felon prohibited.**

4 (a) It shall be unlawful for any person who has been convicted of a felony to purchase,
5 own, possess, or have in his custody, care, or control any firearm or any weapon of mass death
6 and destruction as defined in G.S. 14-288.8(c). For the purposes of this section, a firearm is (i)
7 any weapon, including a starter gun, which will or is designed to or may readily be converted to
8 expel a projectile by the action of an explosive, or its frame or receiver, or (ii) any firearm
9 muffler or firearm silencer. This section does not apply to an antique firearm, as defined in G.S.
10 14-409.11.

11 Every person violating the provisions of this section shall be punished as a Class G felon.

12 (b) Prior convictions which cause disenfranchisement under this section shall only include:

- 13 (1) Felony convictions in North Carolina that occur before, on, or after
14 December 1, 1995; and
15 (2) Repealed by Session Laws 1995, c. 487, s. 3, effective December 1, 1995.
16 (3) Violations of criminal laws of other states or of the United States that occur
17 before, on, or after December 1, 1995, and that are substantially similar to
18 the crimes covered in subdivision (1) which are punishable where committed
19 by imprisonment for a term exceeding one year.

20 When a person is charged under this section, records of prior convictions of any offense,
21 whether in the courts of this State, or in the courts of any other state or of the United States,
22 shall be admissible in evidence for the purpose of proving a violation of this section. The term
23 "conviction" is defined as a final judgment in any case in which felony punishment, or
24 imprisonment for a term exceeding one year, as the case may be, is authorized, without regard
25 to the plea entered or to the sentence imposed. A judgment of a conviction of the defendant or a
26 plea of guilty by the defendant to such an offense certified to a superior court of this State from
27 the custodian of records of any state or federal court shall be prima facie evidence of the facts
28 so certified.

29 (c) The indictment charging the defendant under the terms of this section shall be
30 separate from any indictment charging him with other offenses related to or giving rise to a
31 charge under this section. An indictment which charges the person with violation of this section
32 must set forth the date that the prior offense was committed, the type of offense and the penalty
33 therefor, and the date that the defendant was convicted or plead guilty to such offense, the
34 identity of the court in which the conviction or plea of guilty took place and the verdict and
35 judgment rendered therein.

36 (d) This section does not apply to a person who, pursuant to the law of the jurisdiction
37 in which the conviction occurred, has been pardoned or has had his or her firearms rights
38 restored if such restoration of rights could also be granted under North Carolina law.

39 (e) This section does not apply and there is no disenfranchisement under this section if the
40 felony conviction is a violation under the laws of North Carolina, another state, or the United
41 States that pertains to antitrust violations, unfair trade practices, or restraints of trade. (1971, c.
42 954, s. 1; 1973, c. 1196; 1975, c. 870, ss. 1, 2; 1977, c. 1105, ss. 1, 2; 1979, c. 760, s. 5; 1979,
43 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; 1989, c. 770, s. 3; 1993, c. 539, s. 1245;
44 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 487, s. 3; c. 507, s. 19.5(k); 2004-186, s. 14.1;
45 2006-259, s. 7(b); 2010-108, s. 3; 2011-2, s. 1; 2011-268, s. 13.)
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47 **§ 14-415.2: Repealed by Session Laws 1975, c. 870, s. 3.**

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49 **§ 14-415.3. Possession of a firearm or weapon of mass destruction by persons acquitted of
50 certain crimes by reason of insanity or persons determined to be incapable to
51 proceed prohibited.**

1 (a) It is unlawful for the following persons to purchase, own, possess, or have in the
2 person's custody, care, or control, any firearm or any weapon of mass death and destruction as
3 defined by G.S. 14-288.8(c):

4 (1) A person who has been acquitted by reason of insanity of any crime set out
5 in G.S. 14-415.1(b) or any violation of G.S. 14-33(b)(1), 14-33(b)(8), or
6 14-34.

7 (2) A person who has been determined to lack capacity to proceed as provided
8 in G.S. 15A-1002 for any crime set out in G.S. 14-415.1(b) or any violation
9 of G.S. 14-33(b)(1), 14-33(b)(8), or 14-34.

10 (b) A violation of this section is a Class H felony. Any firearm or weapon of mass
11 death and destruction lawfully seized for a violation of this section shall be forfeited to the
12 State and disposed of as provided in G.S. 15-11.1. (1994, Ex. Sess., c. 13.)
13

14 **§ 14-415.4. Restoration of firearms rights.**

15 (a) Definitions. – The following definitions apply in this section:

16 (1) Firearms rights. – The legal right in this State of a person to purchase, own,
17 possess, or have in the person's custody, care, or control any firearm or any
18 weapon of mass death and destruction as those terms are defined in G.S.
19 14-415.1 and G.S. 14-288.8(c). The term does not include any weapon
20 defined in G.S. 14-409(a).

21 (2) Nonviolent felony. – The term nonviolent felony does not include any felony
22 that is a Class A, Class B1, or Class B2 felony. Also, the term nonviolent
23 felony does not include any Class C through Class I felony that is one of the
24 following:

25 a. An offense that includes assault as an essential element of the
26 offense.

27 b. An offense that includes the possession or use of a firearm or other
28 deadly weapon as an essential or nonessential element of the offense,
29 or the offender was in possession of a firearm or other deadly
30 weapon at the time of the commission of the offense.

31 c. An offense for which the offender was armed with or used a firearm
32 or other deadly weapon.

33 d. An offense for which the offender must register under Article 27A of
34 Chapter 14 of the General Statutes.

35 (b) Purpose. – It is the purpose of this section to establish a procedure that allows a
36 North Carolina resident who was convicted of a single nonviolent felony and whose citizenship
37 rights have been restored pursuant to Chapter 13 of the General Statutes to petition the court to
38 remove the petitioner's disenfranchisement under G.S. 14-415.1 and to restore the person's firearms
39 rights in this State. If the single nonviolent felony conviction was an out-of-state conviction or
40 a federal conviction, then the North Carolina resident shall show proof of the restoration of his
41 or her civil rights and the right to possess a firearm in the jurisdiction where the conviction
42 occurred. Restoration of a person's firearms rights under this section means that the person may
43 purchase, own, possess, or have in the person's custody, care, or control any firearm or any
44 weapon of mass death and destruction as those terms are defined in G.S. 14-415.1 and G.S.
45 14-288.8(c) without being in violation of G.S. 14-415.1, if otherwise qualified.

46 (c) Petition for Restoration of Firearms Rights. – A person who was convicted of a
47 nonviolent felony in North Carolina but whose civil rights have been restored pursuant to
48 Chapter 13 of the General Statutes for a period of at least 20 years may petition the district
49 court in the district where the person resides to restore the person's firearms rights pursuant to
50 this section. A person who was convicted of a nonviolent felony in a jurisdiction other than
51 North Carolina may petition the district court in the district where the person resides to restore

1 the person's firearms rights pursuant to this section only if the person's civil rights, including
2 the right to possess a firearm, have been restored, pursuant to the law of the jurisdiction where
3 the conviction occurred, for a period of at least 20 years. The court may restore a petitioner's
4 firearms rights after a hearing in court if the court determines that the petitioner meets the
5 criteria set out in this section and is not otherwise disqualified to have that right restored.

6 (d) Criteria. – The court may grant a petition to restore a person's firearms rights under
7 this section if the petitioner satisfies all of the following criteria and is not otherwise
8 disqualified to have that right restored:

- 9 (1) The petitioner is a resident of North Carolina and has been a resident of the
10 State for one year or longer immediately preceding the filing of the petition.
- 11 (2) The petitioner has only one felony conviction and that conviction is for a
12 nonviolent felony. For purposes of this subdivision, multiple felony
13 convictions arising out of the same event and consolidated for sentencing
14 shall count as one felony only.
- 15 (3) The petitioner's rights of citizenship have been restored pursuant to Chapter
16 13 of the General Statutes or, if the conviction was in a jurisdiction other
17 than North Carolina, have been restored, pursuant to the laws of the
18 jurisdiction where the conviction occurred, for a period of at least 20 years
19 before the date of the filing of the petition.
- 20 (4) The petitioner has not been convicted under the laws of the United States,
21 the laws of this State, or the laws of any other state of any misdemeanor as
22 described in subdivision (6) of subsection (e) of this section since the
23 conviction of the nonviolent felony.
- 24 (5) The petitioner submits his or her fingerprints to the sheriff of the county in
25 which the petitioner resides for a criminal background check pursuant to
26 G.S. 114-19.28.
- 27 (6) The petitioner is not disqualified under subsection (e) of this section.

28 (e) Disqualifiers Requiring Denial of Petition. – The court shall deny the petition to
29 restore the firearms rights of any petitioner if the court finds any of the following:

- 30 (1) The petitioner is ineligible to purchase, own, possess, or have in the person's
31 custody, care, or control a firearm under the provisions of any law in North
32 Carolina other than G.S. 14-415.1.
- 33 (2) The petitioner is under indictment for a felony or a finding of probable cause
34 exists against the petitioner for a felony.
- 35 (3) The petitioner is a fugitive from justice.
- 36 (4) The petitioner is an unlawful user of, or addicted to, marijuana, alcohol, or
37 any depressant, stimulant, or narcotic drug, or any other controlled substance
38 as defined in 21 U.S.C. § 802.
- 39 (5) The petitioner is or has been dishonorably discharged from the Armed
40 Forces of the United States.
- 41 (6) The petitioner is or has been adjudicated guilty of or received a prayer for
42 judgment continued or suspended sentence for one or more crimes of
43 violence constituting a misdemeanor, including a misdemeanor under Article
44 8 of Chapter 14 of the General Statutes, or a misdemeanor under G.S.
45 14-225.2, 14-226.1, 14-258.1, 14-269.2, 14-269.3, 14-269.4, 14-269.6,
46 14-276.1, 14-277, 14-277.1, 14-277.2, 14-277.3, 14-281.1, 14-283,
47 14-288.2, 14-288.4(a)(1) or (2), 14-288.6, 14-288.9, 14-288.12, 14-288.13,
48 14-288.14, 14-318.2, 14-415.21(b), or 14-415.26(d), or a substantially
49 similar out-of-state or federal offense.
- 50 (7) The petitioner has had entry of a prayer for judgment continued for a felony,
51 in addition to the nonviolent felony conviction.

- 1 (8) The petitioner is free on bond or personal recognizance pending trial, appeal,
2 or sentencing for a crime which would prohibit the person from having his
3 or her firearms rights restored under this section.
- 4 (9) An emergency order, ex parte order, or protective order has been issued
5 pursuant to Chapter 50B of the General Statutes or a similar out-of-state or
6 federal order has been issued against the petitioner and the court order issued
7 is still in effect.
- 8 (10) A civil no-contact order has been issued pursuant to Chapter 50C of the
9 General Statutes or a similar out-of-state or federal order has been issued
10 against the petitioner and the court order issued is still in effect.

11 (f) Notice of Hearing and Hearing Procedure. – The clerk of court shall provide notice
12 of the hearing to the district attorney in the district in which the petition is filed at least four
13 weeks before the hearing on the matter. The petitioner may present evidence in support of the
14 petition, and the district attorney may present evidence in opposition to the requested
15 restoration of firearms rights or may otherwise demonstrate the reasons why the petition should
16 be denied. The burden is on the petitioner to establish by a preponderance of the evidence that
17 the petitioner is qualified to receive the restoration under subsection (d) of this section and that
18 the petitioner is not disqualified under subsection (e) of this section.

19 (g) Right to Petition Again Upon Denial of Petition. – If the court denies the petition,
20 the person may again petition the court for restoration of his or her firearms rights in
21 accordance with this section one year from the date of the denial of the original petition.
22 However, if the sole basis for the denial of the petition are the grounds set out under G.S.
23 14-415.4(e)(9) or (10), then the person does not have to wait for one year from the date of
24 denial of the original petition but may petition again upon the expiration of the order.

25 (h) Certified Copies of Order Granting Petition to Sheriff, Department of Justice, and
26 National Instant Background Check System Index. – If the court grants the petition to restore
27 the petitioner's firearms rights, the clerk of court shall forward within 10 days of the entry of
28 the order a certified copy of the order to the sheriff of the county in which the petitioner
29 resides, the North Carolina Department of Justice, and the denied person's file of the national
30 instant criminal background check system index.

31 (i) Restoration is Not an Expunction or Pardon. – A restoration of firearms rights under
32 this section does not result in the expunction of any criminal history record information nor
33 does it constitute a pardon.

34 (j) Automatic Revocation Upon Conviction of a Subsequent Felony. – If a person's
35 firearms rights are restored under this section and the person is convicted of a second or
36 subsequent felony, then the person's firearms rights are automatically revoked and shall not be
37 restored under this section.

38 (k) Fee. – A person who files a petition for restoration of firearms rights under this
39 section shall pay the clerk of court a fee of two hundred dollars (\$200.00) at the time the
40 petition is filed. Fees collected under this subsection shall be deposited in the General Fund.
41 This subsection does not apply to petitions filed by an indigent.

42 (l) Criminal Offense to Submit False Information. – A person who knowingly and
43 willfully submits false information under this section is guilty of a Class 1 misdemeanor. In
44 addition, a person who is convicted of an offense under this subsection is permanently
45 prohibited from petitioning to restore his or her firearms rights under this section. (2010-108, s.
46 1; 2011-2, s. 1; 2011-183, s. 14.)

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48 **§ 14-415.5. Reserved for future codification purposes.**

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50 **§ 14-415.6. Reserved for future codification purposes.**

- 1 § 14-415.7. Reserved for future codification purposes.
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- 3 § 14-415.8. Reserved for future codification purposes.
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- 5 § 14-415.9. Reserved for future codification purposes.