



QUICK REFERENCE GUIDE TO FIREARMS RIGHTS RESTORATION & THE NORTH
CAROLINA FELONY FIREARMS ACT

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This quick reference guide summarizes the North Carolina Felony Firearms Act, its applicability, relevant exceptions, firearm restoration rights, and important court cases dealing with the Act's constitutionality. For more detail and discussion on this topic, see our white paper entitled Firearm Rights Restoration & the North Carolina Felony Firearms Act, available at www.ncicl.org/white-papers-and-policy-briefings.

The North Carolina Felony Firearms Act

In its current form, the Act generally bars persons convicted of felonies from owning or possessing firearms. G.S. § 14-415.1(a).

Exceptions

- Antique Firearms. G.S. § 14-415.1(a).
- Certain white-collar felonies. G.S. § 14-415.1(e).
- Felons who have been pardoned. G.S. § 14-415.1(d).

Firearm Rights Restoration

Under current statute, felons with a single nonviolent felony conviction in North Carolina or any other jurisdiction can petition the district court in their county of residence to have their firearms rights restored if they meet several requirements. G.S. § 14-415.4(b).

Requirements (ALL must be met to have rights restored)

- The felon's civil rights have been restored for 20 years;
- He has no misdemeanor convictions since the nonviolent felony conviction;
- He must submit to fingerprinting and a criminal background check by the Sheriff of his or her county of residence; *and*
- He must not be disqualified under G.S. § 14-415.4(e) (listed below).

G.S. § 14-415.4(e) Disqualifications

- The felon is prohibited from owning or possessing guns under another law;
- Is under indictment or a finding of probable cause for a felony;
- Is a fugitive from justice, an unlawful drug user, or has been dishonorably discharged from the military;
- Has a conviction or prayer for judgment continued for a violent misdemeanor or another nonviolent felony;

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- Is free on bond or on his own recognizance for a crime that would prohibit him from having his firearms rights restored; *or*
- Is subject to a Chapter 50B or Chapter 50C restraining order.

Important Legislative Changes to the Act

In the 1970s, 80s, and into the 90s, North Carolina statute allowed felons subject to the Act to nevertheless keep a firearm in their own home and further provided that the felon's firearms rights were restored five (5) years after the completion of his sentence or probation. N.C. Sess. Laws 1975-870, s. 1-2. But in 1995 the General Assembly eliminated the five-year automatic expiration of the firearm disability. N.C. Sess. Laws 1995-487, s. 3. Then, amendments made in 2004 deleted the exception that had previously allowed a felon to keep a firearm in his or her own home or business. N.C. Sess. Laws 2004-186, s. 14.1. Thus, possession of firearms by most felons was completely prohibited by 2004.

Important Cases Addressing the Act

Britt v. State

- The N.C. Supreme Court determined that the Felony Firearms Act was unconstitutional as applied to a man with a single nonviolent felony from the 1970s whose firearm rights had been restored in the 1980s and had kept a clean criminal record and responsibly and lawfully owned firearms until the 2004 amendments made it illegal.
- The Court said that the State can regulate the right to keep and bear arms, "but that any regulation must be at least 'reasonable and not prohibitive, and must bear a fair relation to the preservation of the public peace and safety.'" *Britt v. State*, 363 N.C. 546, 549 (2009).
- In response to *Britt*, the General Assembly amended the Act to provide for a firearms rights restoration procedure that applies to felons who, among other requirements, have a single nonviolent felony and who have had their citizenship rights restored for 20 years. N.C. Sess. Laws 2010-108, s. 1.

Baysden v. State

- In *Baysden*, ___ N.C. App. ___, 718 S.E.2d 699 (2011), the N.C. Court of Appeals, applied the analysis established in *Britt*. The court found the Felony Firearms Act unconstitutional as applied to another plaintiff, who had two prior felony convictions from the 1970s, but who had, like the plaintiff in *Britt*, had his firearms rights restored, kept a clean criminal record, and responsibly and lawfully owned firearms until the 2004 amendments.
- On appeal to the Supreme Court, the Justices were equally divided, with Justice Beasley taking no part in the case. This left the decision of the Court of Appeals undisturbed but without precedential value. *Baysden v. State*, 366 N.C. 370 (2013).