

Alaska State Legislature

SENATOR PETE KELLY

SESSION:
Alaska State Capitol
Juneau, AK 99801
Phone: (907) 465-3709
Fax: (907) 465-4714




INTERIM:
1292 Sadler Way Suite 308
Fairbanks, AK 99701
Phone: (907) 451-4347
Fax: (907) 451-4348

Memorandum

February 21, 2016

TO: Senator Mike Dunleavy, Chair
Senate Education Committee

FROM: Senator Pete Kelly 

RE: Questions raised during February 16, 2016 Hearing

Senator Gardner inquired whether a person charged multiple times of domestic violence, but not convicted, would be able to lawfully conceal carry a firearm.

According to the Alaska Department of Public Safety, a person charged with domestic violence, but not convicted, is not federally prohibited from possessing a firearm (assuming he or she is otherwise qualified to possess a firearm). A judge may require the forfeiture of a firearm as a condition of release. As a result of the ruling in *US v. Nobriga*, the Alaska Attorney General's Office has determined that Alaska's misdemeanor crimes of domestic violence do not qualify as prohibitors for possession or transfer of a firearm.

The State of Alaska does not expand upon Federal firearms laws for ownership or possession of firearms. Federal laws define people who are not allowed to possess or own firearms. United States Code Title 18, Part I, Chapter 44, Section 922: "Firearms, Unlawful Acts" is a summary of conditions that disqualify a person from firearm possession or ownership.

The person cannot be:

- Under indictment for or have been convicted of a felony. (see note 1)
- A fugitive from justice
- An unlawful user of or addicted to any controlled substance
- Adjudicated as a mental defective or has been committed to a mental institution
- An alien who is illegally or unlawfully in the United States (see note 2)
- Discharged from the Armed Forces under dishonorable conditions;
- Someone who has renounced his or her U.S. citizenship;

- Subject to a court order that restrains the person from harassing, stalking, or threatening an intimate partner of the person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child
- Convicted in any court of a misdemeanor crime of domestic violence,
 - Note 1: Felony conviction does not include any conviction which has been expunged or set aside, or for which a person has been pardoned, or has had civil rights restored, unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.
 - Felony convictions don't include convictions for crimes other than person crimes (violations of AS11.41) if more than ten years has elapsed since the person was unconditionally discharged from all aspects of the imposed sentence.
 - Civil rights are generally restored after the sentence is completed for felonies that are not crimes against persons.
 - Note 2: Legal immigrant aliens (“green card” or approved and pending green card) are not prohibited.

The Alaska Department of Public Safety has offered to answer further related questions should they be raised.