



Iowa General Assembly

2003 Legal Updates

Legislative Services Agency – Legal Services Division

<http://www.legis.state.ia.us>

Purpose. *Legal update briefings are prepared by the nonpartisan Legal Services Division of the Legislative Services Agency. A legal update briefing is intended to inform legislators, legislative staff, and other persons interested in legislative matters of recent court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic. Although a briefing may identify issues for consideration by the General Assembly, a briefing should not be interpreted as advocating any particular course of action.*

Attorney General Opinions and Letters of Informal Advice. *Attorney General Opinions and Letters answer questions of a public nature that relate to a public official's duties. The Iowa courts give respectful consideration to Iowa Attorney General Opinions but are not bound by them. A letter of informal advice represents the position of an individual attorney and is not considered binding.*

WEAPONS: POSSESSION OF FIREARM BY FELON FOLLOWING RESTORATION OF CITIZENSHIP RIGHTS

Attorney General Opinion #03-9-3(L) Requested by Representative Richard Arnold
September 17, 2003

www.state.ia.us/government/ag

Issue. Whether an executive order restoring citizenship rights to a person convicted of a felony authorizes the person to possess a firearm pursuant to Iowa Code section 724.27.

Facts. This issue is based upon a 1971 Governor's order restoring citizenship rights to a person who was convicted of a felony in 1966. The order did not expressly restore the person's right to possess firearms.

Analysis. Iowa Code section 724.26 restricts the possession of a firearm by a person convicted of a felony in state or federal court, and criminalizes such possession as a class "D" felony. Iowa Code section 724.27, enacted in conjunction with section 724.26 in 1976, originally read as follows: "[t]he provisions of section 724.26 shall not apply to a person who is pardoned or has had his or her civil rights restored by...the chief executive of a state who is expressly authorized by...such chief executive to receive, transport, or possess firearms or destructive devices." In 1994, the Iowa Legislature amended this section to read as follows: "The provisions of section...724.26 shall not apply to a person who is eligible to have the person's civil rights regarding firearms restored under section 914.7 and who is pardoned or has had the person's civil rights restored by...the chief executive of a state and who is expressly authorized by...such chief executive to receive, transport, or possess firearms or destructive devices." (emphasis added)

The opinion notes that the Iowa Supreme Court has repeatedly interpreted the provisions of Iowa Code section 724.27 to mean that the restoration of citizenship rights is "immaterial" to the right to possess firearms, unless expressly authorized. The opinion further distinguishes a 1992 United States Eighth Circuit Court case interpreting a federal sentencing enhancement statute with language similar but not identical to that of section 724.27 as being inapposite to the facts of the present case.

Conclusion. An executive order restoring citizenship rights to a felon does not authorize the felon to possess a firearm under Iowa law, unless the order explicitly states the person is authorized to do so.