

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3031/3dn
CMH:sac:ph

September 11, 2013

Dave:

This bill removes all references in a person's record to a conviction if the person is pardoned for the conviction. Several statutes, however, assume that pardons still appear in the record. For instance, some pardons are contingent upon conditions (see s. 304.11). Also, a pardoned offense, unless the pardon is granted on the grounds of innocence, is counted as an offense when calculating offenses for an increased penalty for habitual criminality (see s. 939.62). Also, a person who has been pardoned for a felony is still prohibited from possessing a firearm unless he or she has been expressly authorized to possess a firearm under federal law, under a provision that Congress has invalidated (see s. 941.29 (5) (a); following the invalidation a subsequent attorney general opinion states that pardons granted will give recipients the right to possess a firearm unless the pardon expressly provides otherwise). This is not an exhaustive list of statutes that use pardoned offenses in some manner. Should s. 304.112, as created in this bill, contain a requirement that the court maintain a notation of a pardon in the person's record, along with any relevant information — conditional, on the grounds of innocence, expressly provides that the firearm prohibition continues?

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