

## **FIREARMS**

Firearms and “deadly weapons” are a deeply historical, heavily regulated, politically lobbied, and misunderstood area of law. Most of Washington’s laws are contained in RCW 9.41. Many of these laws reflect principles laid out in our Second Amendment and an independent, rural society that formed and maintained them. By the same measure, our growing urban society struggles against these concepts, can remove these rights and adds strict, severe punishment for crimes involving a variety of weapons.

### **Deadly Weapon Enhancements**

Being armed with a weapon, whether you use it or not, whether its involved at all, whether you have the “right” to carry it or not, always bumps the crime up significantly. This is the ever present battle between the second amendment and criminal law. Criminal law usually wins. Think of it as a law that punishes the risk not the result. There are plenty of criminal examples. DUI is probably the most common. DUI carries mandatory jail and a small driver can commit it with two generous drinks. Punching a family member carries no minimum jail.

### **Deadly Weapon Enhancement**

The best example of this risk principle is the Deadly Weapon Enhancement itself. This applies to most crimes that do not have “firearms” in the element of the crime. If convicted of the separate crime(s), an individual serves significant additional time, with no “good time off” for the enhancement. RCW 9.94A.533. For a:

Class A Felony: 5 additional years for a firearm, 2 for any other deadly weapon

Class B Felony: 3 for the firearm, 1 for any other

Class C Felony 1.5 for the firearm, 6 months for any other

This enhancement can be powerful leverage for the prosecutor in plea negotiations. For example, if convicted of Assault Two with no prior record, a person would serve much more time on the enhancement than the underlying crime.

## **Reinstating the Right to Possess Firearms**

**The Law Office of David C. Mason offers affordable, efficient and successful assistance reinstating your right to possess firearms.**

While this involves strict background checks and a careful review of the court records, under many circumstances, the law actually requires the court to reinstate this right.

Among other things, an individual is eligible if they:

have more than five years without the being charged with any felony or misdemeanor;

have no prior felony convictions that currently count as part of their “offender’s score [RCW 9.94A.360] that prohibit possession of a firearm (all priors have washed out);

have not previously been convicted of a “Serious Offense”, any crime of violence, any “Class A” felony, any felony with a deadly weapon verdict, any sex offense or, any drug offense with a maximum sentence of 10 years;

are not prohibited from possessing a firearm by reason of having been voluntarily committed for mental health treatment;

and are not currently charged with a felony, gross misdemeanor, or misdemeanor crime. **CALL OUR OFFICE FOR A FREE CONSULTATION.**

### **Legal Definitions**

A **firearm** is loosely defined and includes much more than the typical gun. A firearm is “a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder.” RCW 9.41.010(7).

A **pistol** is “any firearm with a barrel less than sixteen inches in length, or is designed to be held and fired by the use of a single hand.” RCW 9.41.010(13)

### **Unlawful Possession of Firearms RCW 9.41.040**

Many people forget that the default rule, based on the Second Amendment, is that it is both lawful and a citizen’s “right” to possess firearms. Over time, the exceptions have been carved out. Some of these exceptions depend on the type of firearm or how the citizen carries it. For instance, a citizen must obtain a permit to carry a “concealed weapon” but normally does not need a permit to carry one if it is not concealed. The biggest restrictions come from criminal convictions. Violating these exceptions can carry significant consequences, often a felony.

### **Unlawful Possession of Firearms First Degree**

A person commits this crime when he “owns, has in his or her possession, or has in his or her control any firearm after having previously been convicted or found not guilty by reason of insanity of certain crimes:

**any felony**

**domestic violence** (including **misdemeanors**) committed on or after July 1, 1993 including assault in the fourth degree, coercion, stalking, reckless endangerment, criminal trespass in the first degree, or protection order or no-contact order violatons.

It is a class B felony.

**Serious prison time.** Unlike many felonies, a first offender still serves a minimum of fifteen months.

### **Unlawful Possession of Firearms Second Degree**

A person is guilty if they do not qualify under First Degree and

After having previously been **involuntarily committed** for mental health treatment

Are under the age of eighteen except if they are hunting, at an approved practice range and other exceptions under RCW [9.41.042](#);

If they are free on bond or personal recognizance pending trial, appeal, or sentencing for a **serious offense** as defined in RCW [9.41.010](#).

It is a class C felony with significantly less jail time but still a minimum of one month

Our office has over twenty-two years of experience investigating, prosecuting and defending these crimes. We are also in consultation with law enforcement officers with over thirty years of experience with these crimes. **CALL OUR OFFICE FOR A FREE CONSULTATION.**