### 2022 Regular Session

HOUSE BILL NO. 365

## BY REPRESENTATIVES SEABAUGH, ADAMS, BACALA, BRYANT, CARRIER, CORMIER, CREWS, EDMONDS, EDMONSTON, FIRMENT, FONTENOT, GADBERRY, GAROFALO, HORTON, TRAVIS JOHNSON, CHARLES OWEN, PRESSLY, SCHAMERHORN, AND VILLIO

WEAPONS/FIREARMS: Designates the crime of possession of a firearm by a felon as a crime of violence

1	AN ACT
2	To amend and reenact R.S. 14:95.1(D) and to enact R.S. 14:2(B)(29) and 95.1(E), relative
3	to crimes of violence; to create the crime of possession of firearm or carrying
4	concealed weapon by a person convicted of certain felonies a crime of violence; to
5	provide for an effective date; and to provide for related matters.
6	Be it enacted by the Legislature of Louisiana:
7	Section 1. R.S. 14:95.1(D) is hereby amended and reenacted and R.S. 14:2(B)(29)
8	and 95.1(E) are hereby enacted to read as follows:
9	§2. Definitions
10	* * *
11	B. In this Code, "crime of violence" means an offense that has, as an
12	element, the use, attempted use, or threatened use of physical force against the
13	person or property of another, and that, by its very nature, involves a substantial risk
14	that physical force against the person or property of another may be used in the
15	course of committing the offense or an offense that involves the possession or use
16	of a dangerous weapon. The following enumerated offenses and attempts to commit
17	any of them are included as "crimes of violence":
18	* * *

#### Page 1 of 3

CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	(29) Possession of firearm or carrying concealed weapon by a person
2	convicted of certain felonies in violation of R.S. 14:95.1(D).
3	* * *
4	§95.1. Possession of firearm or carrying concealed weapon by a person convicted
5	of certain felonies
6	* * *
7	D. If any crime used as a predicate offense under this Section is a crime of
8	violence as defined by R.S. 14:2(B) and the offender uses, possesses, or has under
9	his immediate control any firearm while committing another offense as defined in
10	R.S. 14:2(B), a conviction under this Subsection shall be designated as a crime of
11	violence.
12	$\underline{E}$ . For the purposes of this Section, "firearm" means any pistol, revolver,
13	rifle, shotgun, machine gun, submachine gun, black powder weapon, or assault rifle
14	which is designed to fire or is capable of firing fixed cartridge ammunition or from
15	which a shot or projectile is discharged by an explosive.
16	Section 2. This Act shall become effective upon signature by the governor or, if not
17	signed by the governor, upon expiration of the time for bills to become law without signature
18	by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
19	vetoed by the governor and subsequently approved by the legislature, this Act shall become
20	effective on the day following such approval.

# DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 365 Reengrossed 2022 Regular Session Seabaugh

Abstract: Designates the crime of possession of a firearm by a felon as a crime of violence.

Present law (R.S. 14:95.1) provides relative to the crime of possession of a firearm or carrying concealed weapon by a person convicted of certain felonies. Present law further provides that it is unlawful for any person who has been convicted of a "crime of violence," as defined in present law, when that crime is a felony, to possess a firearm or carry a concealed weapon.

Proposed law retains present law.

CODING: Words in struck through type are deletions from existing law; words underscored are additions.

<u>Present law</u> (R.S. 14:2(B)) provides that a "crime of violence" is an offense that has, as an element, the use, attempted use, or threatened use of physical force against the person or property of another, and that, by its very nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense, or an offense that involves the possession or use of a dangerous weapon. <u>Present law</u> further designates certain <u>present law</u> offenses and attempts to commit any of those offenses as "crimes of violence".

<u>Proposed law</u> retains <u>present law</u> and adds the <u>present law</u> crime of possession of a firearm or carrying a concealed weapon by a person convicted of certain felonies in violation of <u>proposed law</u> (R.S. 14:95.1(D)) to the list of crimes of violence.

<u>Proposed law</u> provides that if any crime used as a predicate offense under <u>proposed law</u> is a crime of violence as defined by <u>present law</u> (R.S. 14:2(B)) and the offender uses, possesses, or has under his immediate control any firearm while committing another offense as defined in <u>present law</u>, a conviction under <u>proposed law</u> shall be designated as a crime of violence.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 14:95.1(D); Adds R.S. 14:2(B)(29) and 95.1(E))

Summary of Amendments Adopted by House

- The Committee Amendments Proposed by <u>House Committee on Administration of</u> <u>Criminal Justice to the original bill:</u>
- 1. Remove the reference to drug offenses that violate the Uniform Controlled Dangerous Substance Law.
- 2. Add language that provides for the designation of a conviction in scenarios where the predicate offense is a crime of violence.

## The House Floor Amendments to the engrossed bill:

1. Add language that clarifies that the possession of a firearm or carrying of a concealed weapon by a person convicted of certain felonies is an enumerated crime of violence.