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SENATE BILL NO. 379

BY SENATOR PEACOCK

2	To amend and reenact R.S. 14:95.1(A), relative to illegal carrying and discharge of
3	weapons; to prohibit possession of a firearm or carrying a concealed weapon by
4	persons convicted of certain felonies; to provide for consideration of certain juvenile
5	offenses; and to provide for related matters.
6	Be it enacted by the Legislature of Louisiana:
7	Section 1. R.S. 14:95.1(A) is hereby amended and reenacted to read as follows:
8	§95.1. Possession of firearm or carrying concealed weapon by a person convicted of
9	certain felonies
10	A.(1) It is unlawful for any person who has been convicted of, or has been
11	found not guilty by reason of insanity for, a crime of violence as defined in R.S.
12	14:2(B) which is a felony or simple burglary, burglary of a pharmacy, burglary of an
13	inhabited dwelling, unauthorized entry of an inhabited dwelling, felony illegal use
14	of weapons or dangerous instrumentalities, manufacture or possession of a delayed
15	action incendiary device, manufacture or possession of a bomb, or possession of a
16	firearm while in the possession of or during the sale or distribution of a controlled
17	dangerous substance, or any violation of the Uniform Controlled Dangerous
18	Substances Law which is a felony, or any crime which is defined as a sex offense in
19	R.S. 15:541, or any crime defined as an attempt to commit one of the above-
20	enumerated offenses under the laws of this state, or who has been convicted under
21	the laws of any other state or of the United States or of any foreign government or
22	country of a crime which, if committed in this state, would be one of the above-

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enumerated crimes, to possess a firearm or carry a concealed weapon.

1 (2) This Section shall also apply to any person who committed a
2 felony-grade delinquent act described in Paragraph (1) of this Subsection while
3 in possession of a firearm, if adjudicated when that person was sixteen or
4 seventeen years of age, and the person is under age twenty-four years at the
5 time of the violation of this Section.
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PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED:

ENROLLED

SB NO. 379

VETO MESSAGE:

"Please allow this letter to inform you that I have vetoed Senate Bill 379 of the 2022 Regular Session.

This bill would have allowed certain juvenile adjudications to be used as an element of the crime of possession of a firearm by a convicted felon for any person under the age of 24. The Louisiana Supreme Court has already weighed in on this matter as it relates to habitual offender laws in *State v. Brown*, when the court ruled that a juvenile offense cannot be used to enhance a penalty for an offense committed as an adult. What this bill would seek to do, however, is not just use a juvenile adjudication as an enhancement to a penalty provision. Instead, it seeks to establish the previous juvenile adjudication as an element of a new crime committed as an adult, requiring proof beyond a reasonable doubt.

There are serious constitutional issues surrounding using a juvenile's delinquent adjudication as a prior conviction, or 'predicate offense' for purposes of establishing an element of a new crime when the juvenile becomes an adult. As was questioned in the House floor debate, how would a prosecutor be able to use confidential records from the juvenile proceeding to prove the element of the 'predicate offense' in the adult proceeding beyond a reasonable doubt? Would 16 and 17 year olds now be entitled to a trial by jury for any of the qualifying offenses, notwithstanding the fact that Louisiana law specifically precludes access to a jury trial for these children adjudicated in juvenile court? Would they be advised, for that matter, that the juvenile adjudication can be used as an element of a crime they may commit as an adult? These are just some of the many questions that could not be answered in House floor debate. When coupled with the constitutional issues, these unanswered questions demonstrate the many reasons why this bill should not become law."