

HB 86 Juvenile Provisions Gun Specifications: Fact Sheet

On September 30, 2011, the provisions of HB 86 go into effect. This fact sheet covers the provisions in the law regarding changes in the gun specifications law.

What was the old law on gun specifications?

Under prior law, a youth adjudicated delinquent of an act that would be a felony if committed by an adult could receive extra time on their minimum sentence if they had a gun-related specification.

Prior law also allowed gun-related specification time for any youth who was an *accomplice* to offenses with a:

- 2941.141 - Firearm on or about offender's person or under the offender's control
- 2941.144 - Firearm on or about offender's person or under the offender's control that is an automatic firearm or has a firearm muffler or silencer
- 2941.145 - Firearm that is displayed, brandished, indicated that offender possessed, or used in facilitation of offense
- 2941.146 - Firearm discharged from motor vehicle
- 2941.1412 - Firearm discharged at peace officer or corrections officer

How Does the New Law Change the Gun Specifications?:

The provisions in HB 86 are designed to reduce the minimum sentence of youth who are *only accomplices* in certain gun related offenses. For youth who meet the criteria below, they can receive *no* gun specification time or their minimum sentence can only be increased by the juvenile court judge for *a maximum of one year* for the gun specification.

These new caps to gun specification dispositions apply to youth who:

1. Are adjudicated delinquent for committing an act (other than a violation of conceal and carry under section 2923.12) that would be a felony if committed by an adult;
2. Are complicit in another person's conduct when the other person, if they were an adult, would be guilty of committing an offense with a:
 - 2941.141 - Firearm on or about offender's person or under the offender's control
 - 2941.144 - Firearm on about offender's person or under the offender's control that is an automatic firearm or has a firearm muffler or silencer
 - 2941.145 - Firearm that is displayed, brandished, indicated that offender possessed, or used in facilitation of offense
 - 2941.146 - Firearm discharged from motor vehicle; and
3. Did not furnish, use or dispose of any firearm involved with the underlying delinquent act or the other person's specification-related conduct

What Specifications Are Not Covered By These Provisions?:

It is important to note that youth are not eligible for the one-year cap on specification dispositions – meaning the youth can receive more than a one year specification sentence – if they are an accomplice to:

- The firearm-related offense of **discharging a firearm at peace officer or corrections officer** (2941.1412); or
- An offense with **any non-gun related specification** as listed in ORC 2152.17 (e.g. gang participation, use of body armor, multiple OVI offenses, or aggravated vehicular homicide with a police officer victim).

HB 86 Juvenile Provisions Gun Specifications: Case Examples

Case Examples:

Case #1: *Facts:* Four youth are charged with aggravated robbery with a gun, but only one youth actually brought a gun to the scene. The youth are all charged with aggravated robbery with a one to three year firearm specification.

Specification under prior law: All four youth can receive a one to three year specification.

Specification under HB 86: The youth who actually brought the gun can receive a one to three year specification, but the other three youth can get no specification or a specification of up to one year.

Case #2: *Facts:* Four 13-year-old youth are charged with aggravated robbery with a gun, but only one youth actually brought a gun to the scene. During the commission of the offense, a police officer confronts the youth and the youth with a gun shoots at the officer while the youth all run away. While the youth are running away, a second youth takes the gun and throws it into some bushes.

The youth are all charged with aggravated robbery with a one to three year firearm specification for possession of a gun and a one to five year firearm specification discharging a firearm at a police officer.

Specification under prior law: All four youth can receive a one to three year specification for possession and a one to five year specification for discharging a firearm at a police officer.

Specification under HB 86: The youth who carried the gun and the youth who disposes of the gun can receive a one to three year specification for possession and a one to five year specification for shooting at the police. The other two youth can receive a one to five year specification for shooting at the police, but can get no specification or a specification of up to one year for possession of a gun.

Case #3: *Facts:* Four youth are charged with an aggravated robbery and the youth who initiated the robbery belonged in a gang and initiated it for gang-related motives. All four youth are eligible for a one to three year gang-related specification.

Specification under prior law: All four youth are eligible for a one to five year specification.

Specification under HB 86: Same result – all four youth are eligible for a one to five year specification because the specification is gang-related, not fire-arm related.