

## 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.