

B-Engrossed
House Bill 4045

Ordered by the Senate February 29
Including House Amendments dated February 13 and Senate Amendments
dated February 29

Sponsored by Representatives THATCHER, BARKER, HOYLE, KRIEGER; Representatives CLEM, FREEMAN, HUFFMAN, MATTHEWS, MCLANE, SCHAUFLEER, G SMITH, WHISNANT, Senator PROZANSKI (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Prohibits public body from disclosing records or information that identifies person as applicant for, or holder of, concealed handgun license. Makes exceptions. **Exempts Judicial Department.**
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the public disclosure of concealed handgun license information; and declaring an emer-
3 gency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Section 2 of this 2012 Act is added to and made a part of ORS 192.410 to**
6 **192.505.**

7 **SECTION 2. (1) A public body may not disclose records or information that identifies a**
8 **person as a current or former holder of, or applicant for, a concealed handgun license, un-**
9 **less:**

10 (a) **The disclosure is made to another public body and is necessary for criminal justice**
11 **purposes;**

12 (b) **A court enters an order in a criminal or civil case directing the public body to disclose**
13 **the records or information;**

14 (c) **The holder of, or applicant for, the concealed handgun license consents to the disclo-**
15 **sure in writing;**

16 (d) **The public body determines that a compelling public interest requires disclosure in**
17 **the particular instance and the disclosure is limited to the name, age and county of residence**
18 **of the holder or applicant;**

19 (e)(A) **The disclosure is limited to confirming or denying that a person convicted of a**
20 **person crime, or restrained by a protective order, is a current holder of a concealed handgun**
21 **license; and**

22 (B) **The disclosure is made to a victim of the person crime or to a person who is pro-**
23 **TECTED by the protective order, in response to a request for disclosure that provides the**
24 **public body with the name and age of the person convicted of the person crime or restrained**
25 **by the protective order;**

26 (f)(A) **The disclosure is limited to confirming or denying that a person convicted of a**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 crime involving the use or possession of a firearm is a current holder of a concealed handgun
2 license; and

3 (B) The disclosure is made to a bona fide representative of the news media in response
4 to a request for disclosure that provides the name and age of the person convicted of the
5 crime involving the use or possession of a firearm; or

6 (g) The disclosure is made by the Department of State Police and results from access to
7 the Law Enforcement Data System, or to other similar databases, that the department pro-
8 vides to other public bodies.

9 (2) A public body may not confirm or deny that a person described in subsection (1)(e)(A)
10 or (f)(A) of this section is a current holder of a concealed handgun license unless the person
11 seeking disclosure:

12 (a) Under subsection (1)(e) of this section provides the public body with written proof
13 that the person is a victim of the person crime or is protected by the protective order.

14 (b) Under subsection (1)(f) of this section provides the public body with written proof that
15 the person is a bona fide representative of the news media.

16 (3) Notwithstanding any other provision of law, a public body that receives a request for
17 disclosure under subsection (1)(e) or (f) of this section may conduct an investigation, in-
18 cluding a criminal records check, to determine whether a person described in subsection
19 (1)(e)(A) or (f)(A) of this section has been convicted of a person crime or a crime involving
20 the use or possession of a firearm or is restrained by a protective order.

21 (4) The Attorney General shall adopt rules to carry out the provisions of this section.
22 The rules must include a description of:

23 (a) The procedures for submitting the written request described in subsection (1)(d) of
24 this section; and

25 (b) The materials an individual must provide to the public body to establish a compelling
26 public interest that supports the disclosure of the name, age and county of residence of the
27 holder or applicant.

28 (5) The prohibition described in subsection (1) of this section does not apply to the Judi-
29 cial Department.

30 (6) As used in this section:

31 (a) "Convicted" does not include a conviction that has been reversed, vacated or set aside
32 or a conviction for which the person has been pardoned.

33 (b) "Person crime" means a person felony or person Class A misdemeanor, as those
34 terms are defined in the rules of the Oregon Criminal Justice Commission, or any other
35 crime constituting domestic violence, as defined in ORS 135.230.

36 (c) "Protective order" has the meaning given that term in ORS 135.886.

37 (d) "Victim" has the meaning given that term in ORS 131.007.

38 **SECTION 3.** Section 2 of this 2012 Act applies to public records requests made:

39 (1) Before the effective date of this 2012 Act, if the public body has not responded to the
40 request as of the effective date of this 2012 Act; and

41 (2) On or after the effective date of this 2012 Act.

42 **SECTION 4.** The amendments to section 2 of this 2012 Act by section 5 of this 2012 Act
43 become operative on January 1, 2013.

44 **SECTION 5.** Section 2 of this 2012 Act is amended to read:

45 **Sec. 2.** (1) A public body may not disclose records or information that identifies a person as a

1 current or former holder of, or applicant for, a concealed handgun license, unless:

2 (a) The disclosure is made to another public body and is necessary for criminal justice purposes;

3 (b) A court enters an order in a criminal or civil case directing the public body to disclose the
4 records or information;

5 (c) The holder of, or applicant for, the concealed handgun license consents to the disclosure in
6 writing;

7 (d) The public body determines that a compelling public interest requires disclosure in the par-
8 ticular instance and the disclosure is limited to the name, age and county of residence of the holder
9 or applicant;

10 (e)(A) The disclosure is limited to confirming or denying that a person convicted of a person
11 crime, or restrained by a protective order, is a current holder of a concealed handgun license; and

12 (B) The disclosure is made to a victim of the person crime or to a person who is protected by
13 the protective order, in response to a request for disclosure that provides the public body with the
14 name and age of the person convicted of the person crime or restrained by the protective order; **or**

15 (f)(A) The disclosure is limited to confirming or denying that a person convicted of a crime in-
16 volving the use or possession of a firearm is a current holder of a concealed handgun license; and

17 (B) The disclosure is made to a bona fide representative of the news media in response to a
18 request for disclosure that provides the name and age of the person convicted of the crime involving
19 the use or possession of a firearm.[: or]

20 [(g) *The disclosure is made by the Department of State Police and results from access to the Law*
21 *Enforcement Data System, or to other similar databases, that the department provides to other public*
22 *bodies.*]

23 (2) A public body may not confirm or deny that a person described in subsection (1)(e)(A) or
24 (f)(A) of this section is a current holder of a concealed handgun license unless the person seeking
25 disclosure:

26 (a) Under subsection (1)(e) of this section provides the public body with written proof that the
27 person is a victim of the person crime or is protected by the protective order.

28 (b) Under subsection (1)(f) of this section provides the public body with written proof that the
29 person is a bona fide representative of the news media.

30 (3) Notwithstanding any other provision of law, a public body that receives a request for dis-
31 closure under subsection (1)(e) or (f) of this section may conduct an investigation, including a crim-
32 inal records check, to determine whether a person described in subsection (1)(e)(A) or (f)(A) of this
33 section has been convicted of a person crime or a crime involving the use or possession of a firearm
34 or is restrained by a protective order.

35 (4) The Attorney General shall adopt rules to carry out the provisions of this section. The rules
36 must include a description of:

37 (a) The procedures for submitting the written request described in subsection (1)(d) of this sec-
38 tion; and

39 (b) The materials an individual must provide to the public body to establish a compelling public
40 interest that supports the disclosure of the name, age and county of residence of the holder or ap-
41 plicant.

42 (5) The prohibition described in subsection (1) of this section does not apply to the Judicial
43 Department.

44 (6) As used in this section:

45 (a) "Convicted" does not include a conviction that has been reversed, vacated or set aside or a

1 conviction for which the person has been pardoned.

2 (b) "Person crime" means a person felony or person Class A misdemeanor, as those terms are
3 defined in the rules of the Oregon Criminal Justice Commission, or any other crime constituting
4 domestic violence, as defined in ORS 135.230.

5 (c) "Protective order" has the meaning given that term in ORS 135.886.

6 (d) "Victim" has the meaning given that term in ORS 131.007.

7 **SECTION 6. This 2012 Act being necessary for the immediate preservation of the public**
8 **peace, health and safety, an emergency is declared to exist, and this 2012 Act takes effect**
9 **on its passage.**

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