

House Bill 2304

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Judiciary)

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 **as introduced**.

Provides that person barred from purchasing firearm by reason of felony conviction or finding of guilty except for insanity of felony may not apply for relief from bar.

A BILL FOR AN ACT

1
2 Relating to the ability to petition for relief from prohibited conduct relating to firearms; amending
3 ORS 166.274.

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

5 **SECTION 1.** ORS 166.274 is amended to read:

6 166.274. (1) **Except as otherwise provided in subsection (11) of this section**, a person barred
7 from possessing a firearm under ORS 166.250 (1)(c)[(A), (B), (D) or (E)] or barred from purchasing
8 a firearm under ORS 166.470 may file a petition for relief from the bar in:

9 (a) A justice court in the petitioner's county of residence that is reasonably accessible to the
10 petitioner; or

11 (b) If no justice court is reasonably accessible, the circuit court.

12 (2) A person may apply once per calendar year for relief under the provisions of this section.

13 (3)(a) A person petitioning for relief under this section shall serve a copy of the petition on:

14 (A) The city chief of police if the court in which the petition is filed is located in a city; or

15 (B) The sheriff of the county in which the court is located.

16 (b) The copy of the petition shall be served on the chief of police or sheriff at the same time the
17 petition is filed at the court.

18 (4)(a) When a petition is denied, the judge shall cause that information to be entered into the
19 Department of State Police computerized criminal history files.

20 (b) When a petition is granted, the judge shall cause that information and a fingerprint card of
21 the petitioner to be entered into the Department of State Police computerized criminal history files.
22 If, after a petition is granted, the petitioner is arrested and convicted of a crime that would dis-
23 qualify the petitioner from purchasing or possessing a firearm, the Department of State Police shall
24 notify the court that granted relief under this section. The court shall review the order granting
25 relief and determine whether to rescind the order. The Department of State Police may charge a
26 reasonable fee, under ORS 192.440, for the entry and maintenance of information under this section.

27 (5) Notwithstanding the provisions of ORS 9.320, a corporation, the state or any city, county,
28 district or other political subdivision or public corporation in this state, without appearance by at-
29 torney, may appear as a party to an action under this section.

30 (6) If the petitioner seeks relief from the bar on possessing or purchasing a firearm, relief shall
31 be granted when the petitioner demonstrates, by clear and convincing evidence, that the petitioner

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 does not pose a threat to the safety of the public or the petitioner.

2 (7) A person barred from possessing or purchasing a firearm because the person, while a minor,
3 was found to be within the jurisdiction of the juvenile court for committing an act which, if com-
4 mitted by an adult, would have constituted a felony or a misdemeanor involving violence, is not el-
5 igible to petition for relief under this section until more than four years have passed since the
6 person was discharged from the jurisdiction of the juvenile court.

7 (8) Petitions filed under this section shall be heard and disposed of within 15 judicial days of
8 filing or as soon as is practicable thereafter, but not more than 30 days thereafter. The judge shall
9 then make findings and conclusions and issue a judgment based on the findings and conclusions in
10 accordance with the requirements of law.

11 (9) Filing fees shall be as for any civil action filed in the court.

12 (10)(a) Initial appeals of petitions shall be heard de novo.

13 (b) Any party to a judgment under this subsection may appeal to the Court of Appeals in the
14 same manner as for any other civil action.

15 (c) If the governmental entity files an appeal under this subsection and does not prevail, it shall
16 be ordered to pay the attorney fees for the prevailing party.

17 **(11) A person barred from possessing a firearm under ORS 166.250 (1)(c)(C) or barred**
18 **from purchasing a firearm under ORS 166.470 (1)(b) may not file a petition for relief from the**
19 **bar.**

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