

(Including Amendments to Resolve Conflicts)

B-Engrossed House Bill 2853

Ordered by the House June 24
Including House Amendments dated June 4 and June 24

Sponsored by Representative GALIZIO

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.

Requires specified state agencies and Psychiatric Security Review Board to provide Department of State Police with minimum information necessary to identify persons who are subject to certain court orders or about whom court has made certain findings for purpose of transmitting information to federal government.

Creates process by which specified persons who are barred from transporting, shipping, possessing or receiving firearm may petition for relief. Sunsets process on January 2, 2012.

A BILL FOR AN ACT

1
2 Relating to firearms; creating new provisions; and amending ORS 166.250, 166.274, 166.291, 166.412,
3 166.470, 426.160 and 427.293.

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

5 **SECTION 1. (1) The Department of Human Services, the Psychiatric Security Review**
6 **Board and the Judicial Department shall provide the Department of State Police with the**
7 **minimum information necessary to identify persons who:**

8 (a) **Have been committed by a court to the Department of Human Services under ORS**
9 **426.130, based on a finding that the person is dangerous to self or others;**

10 (b) **Are subject to a court order under ORS 426.130 prohibiting the person from pur-**
11 **chasing or possessing a firearm;**

12 (c) **Have been committed by a court to the Department of Human Services under ORS**
13 **427.290, based on a finding that the person is dangerous to self or others;**

14 (d) **Have been found by a court to lack fitness to proceed under ORS 161.370;**

15 (e) **Have been found guilty except for insanity of a crime under ORS 161.295 to 161.370;**

16 (f) **Have been found responsible except for insanity for an act under ORS 419C.411;**

17 (g) **Have been placed under the jurisdiction of the Psychiatric Security Review Board by**
18 **a court; or**

19 (h) **Have been committed to a state hospital or facility under ORS 161.327, 161.336 to**
20 **161.351 or 419C.529 to 419C.544.**

21 (2) **Upon receipt of the information described in this section, the Department of State**
22 **Police shall access and maintain the information and transmit the information to the federal**
23 **government as required under federal law.**

24 (3) **The Department of Human Services, the Psychiatric Security Review Board and the**
25 **Judicial Department shall enter into agreements with the Department of State Police de-**

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 **scribing the access to information provided under this section.**

2 **(4) The Department of State Police shall adopt rules:**

3 **(a) After consulting with the Department of Human Services, the Psychiatric Security**
4 **Review Board and the Judicial Department, describing the type of information provided to**
5 **the Department of State Police under this section; and**

6 **(b) Describing the method and manner of maintaining the information described in this**
7 **section and transmitting the information to the federal government.**

8 **(5) As used in this section, “minimum information necessary” means data elements or**
9 **nominal information that is necessary or required under federal law to accurately identify a**
10 **person described in this section and includes the person’s name, date of birth, gender and**
11 **reference information that identifies the originating agency or court and enables the origi-**
12 **inating agency or court to locate an underlying record or file of a person described in this**
13 **section. “Minimum information necessary” does not include any medical, psychiatric or**
14 **psychological information, case histories or files of a person described in this section or any**
15 **record or file of an originating agency or court.**

16 **SECTION 2.** ORS 426.160 is amended to read:

17 426.160. The judge shall cause to be recorded in the court records a full account of proceedings
18 had at all hearings and examinations conducted pursuant to ORS 426.005, 426.060 to 426.170, 426.217,
19 426.228, 426.255 to 426.292, 426.300 to 426.309, 426.335, 426.385 and 426.395, together with the judg-
20 ments and orders of the court and a copy of the orders issued. The account of the proceedings and
21 transcripts of testimony if taken thereat shall be delivered to the court clerk or court administrator
22 who shall cause it to be sealed and neither the account of the proceedings nor the transcript of
23 testimony if taken shall be disclosed to any person except:

24 **(1) The court shall, pursuant to rules adopted by the Department of State Police, trans-**
25 **mit the minimum information necessary, as defined in section 1 of this 2009 Act, to the De-**
26 **partment of State Police bureau of criminal identification for persons described in section 1**
27 **(1)(a) or (b) of this 2009 Act to enable the department to access and maintain the information**
28 **and transmit the information to the federal government as required under federal law;**

29 *[(1)]* **(2) As provided in ORS 426.070 (5)(c), 426.130 (3) or 426.170;**

30 *[(2)]* **(3) Upon request of the person subject to the proceedings, the legal representatives, or the**
31 **attorney of the person; or**

32 *[(3)]* **(4) Pursuant to court order.**

33 **SECTION 3.** ORS 427.293 is amended to read:

34 427.293. (1) The court shall cause to be recorded in the court records:

35 (a) A full account of all proceedings conducted under ORS 427.235 to 427.290;

36 (b) Reports submitted to the court under ORS 427.270;

37 (c) The judgments and orders of the court; and

38 (d) A copy of the judgments and orders issued.

39 (2) The account of the proceedings, including any transcript of testimony, and reports submitted
40 to the court under ORS 427.270 shall be delivered to the court clerk or court administrator who
41 shall cause them to be sealed. The account of the proceedings, the reports and any transcript of
42 testimony may not be disclosed to any person except *[upon]*:

43 **(a) The court shall, pursuant to rules adopted by the Department of State Police, trans-**
44 **mit the minimum information necessary, as defined in section 1 of this 2009 Act, to the De-**
45 **partment of State Police bureau of criminal identification for persons described in section 1**

1 **(1)(c) of this 2009 Act to enable the department to maintain the information and transmit the**
2 **information to the federal government as required under federal law;**

3 [(a)] **(b) Upon** request of the person subject to the proceedings or the legal representative or
4 attorney of the person; or

5 [(b)] **(c) Pursuant to an** order of the court.

6 **SECTION 4.** ORS 166.412 is amended to read:

7 166.412. (1) As used in this section:

8 (a) “Antique firearm” has the meaning given that term in 18 U.S.C. 921;

9 (b) “Department” means the Department of State Police;

10 (c) “Firearm” has the meaning given that term in ORS 166.210, except that it does not include
11 an antique firearm;

12 (d) “Firearms transaction record” means the firearms transaction record required by 18 U.S.C.
13 921 to 929;

14 (e) “Firearms transaction thumbprint form” means a form provided by the department under
15 subsection [(12)] **(11)** of this section;

16 (f) “Gun dealer” means a person engaged in the business, as defined in 18 U.S.C. 921, of selling,
17 leasing or otherwise transferring a firearm, whether the person is a retail dealer, pawnbroker or
18 otherwise;

19 (g) “Handgun” has the meaning given that term in ORS 166.210; and

20 (h) “Purchaser” means a person who buys, leases or otherwise receives a firearm from a gun
21 dealer.

22 (2) Except as provided in subsections (3)(c) and [(13)] **(12)** of this section, a gun dealer shall
23 comply with the following before a handgun is delivered to a purchaser:

24 (a) The purchaser shall present to the dealer current identification meeting the requirements
25 of subsection (4) of this section.

26 (b) The gun dealer shall complete the firearms transaction record and obtain the signature of
27 the purchaser on the record.

28 (c) The gun dealer shall obtain the thumbprints of the purchaser on the firearms transaction
29 thumbprint form and attach the form to the gun dealer’s copy of the firearms transaction record to
30 be filed with that copy.

31 (d) The gun dealer shall request by telephone that the department conduct a criminal history
32 record check on the purchaser and shall provide the following information to the department:

33 (A) The federal firearms license number of the gun dealer;

34 (B) The business name of the gun dealer;

35 (C) The place of transfer;

36 (D) The name of the person making the transfer;

37 (E) The make, model, caliber and manufacturer’s number of the handgun being transferred;

38 (F) The name and date of birth of the purchaser;

39 (G) The Social Security number of the purchaser if the purchaser voluntarily provides this
40 number to the gun dealer; and

41 (H) The type, issuer and identification number of the identification presented by the purchaser.

42 (e) The gun dealer shall receive a unique approval number for the transfer from the department
43 and record the approval number on the firearms transaction record and on the firearms transaction
44 thumbprint form.

45 (f) The gun dealer may destroy the firearms transaction thumbprint form five years after the

1 completion of the firearms transaction thumbprint form.

2 (3)(a) Upon receipt of a request of the gun dealer for a criminal history record check, the de-
3 partment shall immediately, during the gun dealer's telephone call or by return call:

4 (A) Determine, from criminal records and other information available to it, whether the pur-
5 chaser is disqualified under ORS 166.470 from completing the purchase; and

6 (B) Notify the dealer when a purchaser is disqualified from completing the transfer or provide
7 the dealer with a unique approval number indicating that the purchaser is qualified to complete the
8 transfer.

9 (b) If the department is unable to determine if the purchaser is qualified or disqualified from
10 completing the transfer within 30 minutes, the department shall notify the dealer and provide the
11 dealer with an estimate of the time when the department will provide the requested information.

12 (c) If the department fails to provide a unique approval number to a gun dealer or to notify the
13 gun dealer that the purchaser is disqualified under paragraph (a) of this subsection before the close
14 of the gun dealer's next business day following the request by the dealer for a criminal history re-
15 cord check, the dealer may deliver the handgun to the purchaser.

16 (4)(a) Identification required of the purchaser under subsection (2) of this section shall include
17 one piece of current identification bearing a photograph and the date of birth of the purchaser that:

18 (A) Is issued under the authority of the United States Government, a state, a political subdivi-
19 sion of a state, a foreign government, a political subdivision of a foreign government, an interna-
20 tional governmental organization or an international quasi-governmental organization; and

21 (B) Is intended to be used for identification of an individual or is commonly accepted for the
22 purpose of identification of an individual.

23 (b) If the identification presented by the purchaser under paragraph (a) of this subsection does
24 not include the current address of the purchaser, the purchaser shall present a second piece of
25 current identification that contains the current address of the purchaser. The Superintendent of
26 State Police may specify by rule the type of identification that may be presented under this para-
27 graph.

28 (c) The department may require that the dealer verify the identification of the purchaser if that
29 identity is in question by sending the thumbprints of the purchaser to the department.

30 (5) The department shall establish a telephone number that shall be operational seven days a
31 week between the hours of 8 a.m. and 10 p.m. for the purpose of responding to inquiries from
32 dealers for a criminal history record check under this section.

33 (6) No public employee, official or agency shall be held criminally or civilly liable for performing
34 the investigations required by this section provided the employee, official or agency acts in good
35 faith and without malice.

36 (7)(a) The department may retain a record of the information obtained during a request for a
37 criminal records check for no more than five years.

38 (b) The record of the information obtained during a request for a criminal records check by a
39 gun dealer is exempt from disclosure under public records law.

40 *[(8) The Department of Human Services shall provide the Department of State Police with direct*
41 *electronic access to information from the Department of Human Services' database of information*
42 *identifying persons meeting the criteria in ORS 166.470 (1)(e) and (f) who were committed or subject*
43 *to an order under ORS 426.130. The Department of State Police and the Department of Human Services*
44 *shall enter into an agreement describing the access to information under this subsection.]*

45 *[(9)]* (8) A law enforcement agency may inspect the records of a gun dealer relating to transfers

1 of handguns with the consent of a gun dealer in the course of a reasonable inquiry during a criminal
2 investigation or under the authority of a properly authorized subpoena or search warrant.

3 [(10)] (9) When a handgun is delivered, it shall be unloaded.

4 [(11)] (10) In accordance with applicable provisions of ORS chapter 183, the Superintendent of
5 State Police may adopt rules necessary for:

6 (a) The design of the firearms transaction thumbprint form;

7 (b) The maintenance of a procedure to correct errors in the criminal records of the department;

8 (c) The provision of a security system to identify dealers who request a criminal history record
9 check under subsection (2) of this section; and

10 (d) The creation and maintenance of a database of the business hours of gun dealers.

11 [(12)] (11) The department shall publish the firearms transaction thumbprint form and shall fur-
12 nish the form to gun dealers on application at cost.

13 [(13)] (12) This section does not apply to transactions between persons licensed as dealers under
14 18 U.S.C. 923.

15 **SECTION 5. (1) A person barred from transporting, shipping, possessing or receiving a**
16 **firearm may file a petition with the Psychiatric Security Review Board for relief from the**
17 **bar if:**

18 (a) **The person is barred from possessing a firearm under ORS 166.250 (1)(c)(D) or (E);**

19 (b) **The person is barred from receiving a firearm under:**

20 (A) **ORS 166.470 (1)(b) and the bar is the result of the person having been found guilty**
21 **except for insanity of a felony; or**

22 (B) **ORS 166.470 (1)(e) or (f); or**

23 (c) **The person is barred from possessing, receiving, shipping or transporting a firearm**
24 **under 18 U.S.C. 922(d)(4) or (g)(4) as the result of a state mental health determination.**

25 (2) **The petitioner shall serve a copy of the petition on:**

26 (a) **The Department of Human Services; and**

27 (b) **The district attorney in each county in which:**

28 (A) **The person was committed by a court to the Department of Human Services, or ad-**
29 **judicated by a court as mentally ill, under ORS 426.130;**

30 (B) **The person was committed by a court to the Department of Human Services, or ad-**
31 **judicated by a court as mentally retarded, under ORS 427.290;**

32 (C) **The person was found guilty except for insanity under ORS 161.295;**

33 (D) **The person was found responsible except for insanity under ORS 419C.411; or**

34 (E) **The person was found by a court to lack fitness to proceed under ORS 161.370.**

35 (3) **Following receipt of the petition, the board shall conduct a contested case hearing,**
36 **make written findings of fact and conclusions of law on the issues before the board and issue**
37 **a final order.**

38 (4) **The state and any person or entity described in subsection (2) of this section may**
39 **appear and object to and present evidence relevant to the relief sought by the petitioner.**

40 (5) **The board shall grant the relief requested in the petition if the petitioner demon-**
41 **strates, based on the petitioner's reputation, the petitioner's record, the circumstances**
42 **surrounding the firearm disability and any other evidence in the record, that the petitioner**
43 **will not be likely to act in a manner that is dangerous to public safety and that granting the**
44 **relief would not be contrary to the public interest.**

45 (6) **If the board grants the relief requested in the petition, the board shall provide to the**

1 Department of State Police the minimum information necessary, as defined in section 1 of
2 this 2009 Act, to enable the department to:

3 (a) Maintain the information and transmit the information to the federal government as
4 required under federal law; and

5 (b) Maintain a record of the person's relief from the disqualification to possess or receive
6 a firearm under ORS 166.250 (1)(c)(D) or (E) or 166.470 (1)(b), (e) or (f).

7 (7) The petitioner may petition for judicial review of a final order of the board. The pe-
8 tition shall be filed in the circuit court of a county described in subsection (2)(b) of this
9 section. The review shall be conducted de novo and without a jury.

10 (8) A petitioner may take an appeal from the circuit court to the Court of Appeals. Re-
11 view by the Court of Appeals shall be conducted in accordance with ORS 183.500.

12 (9) A person may file a petition for relief under this section no more than once every two
13 years.

14 (10) The board shall adopt procedural rules to carry out the provisions of this section.

15 (11) As used in this section, "state mental health determination" means:

16 (a) A finding by a court that a person lacks fitness to proceed under ORS 161.370;

17 (b) A finding that a person is guilty except for insanity of a crime under ORS 161.295 or
18 responsible except for insanity of an act under ORS 419C.411 or any determination by the
19 Psychiatric Security Review Board thereafter;

20 (c) A commitment by a court to the Department of Human Services, or an adjudication
21 by a court that a person is mentally ill, under ORS 426.130; or

22 (d) A commitment by a court to the Department of Human Services, or an adjudication
23 by a court that a person is mentally retarded, under ORS 427.290.

24 **SECTION 6.** ORS 166.274 is amended to read:

25 166.274. (1) A person barred from possessing [*a firearm under ORS 166.250 (1)(c)(A), (B), (D) or*
26 *(E) or barred from*] or purchasing a firearm [*under ORS 166.470*] may file a petition for relief from
27 the bar [*in:*] in accordance with subsection (2) of this section if:

28 (a) The person is barred from possessing a firearm under ORS 166.250 (1)(c)(A) or (B);
29 or

30 (b) The person is barred from purchasing a firearm under:

31 (A) ORS 166.470 (1)(a), (c), (d) or (g); or

32 (B) ORS 166.470 (1)(b) and the bar is the result of the person having been convicted of a
33 felony.

34 (2) A petition for relief described in this section must be filed in:

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

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

38 [(2)] (3) A person may apply once per calendar year for relief under the provisions of this sec-
39 tion.

40 [(3)(a)] (4)(a) A person petitioning for relief under this section shall serve a copy of the petition
41 on:

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

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

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

1 [(4)(a)] (5)(a) When a petition is denied, the judge shall cause that information to be entered into
2 the Department of State Police computerized criminal history files.

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

10 [(5)] (6) Notwithstanding the provisions of ORS 9.320, a corporation, the state or any city,
11 county, district or other political subdivision or public corporation in this state, without appearance
12 by attorney, may appear as a party to an action under this section.

13 [(6)] (7) If the petitioner seeks relief from the bar on possessing or purchasing a firearm, relief
14 shall be granted when the petitioner demonstrates, by clear and convincing evidence, that the
15 petitioner does not pose a threat to the safety of the public or the petitioner.

16 [(7)] (8) A person barred from possessing or purchasing a firearm because the person, while a
17 minor, was found to be within the jurisdiction of the juvenile court for committing an act which, if
18 committed by an adult, would have constituted a felony or a misdemeanor involving violence, is not
19 eligible to petition for relief under this section until more than four years have passed since the
20 person was discharged from the jurisdiction of the juvenile court.

21 [(8)] (9) Petitions filed under this section shall be heard and disposed of within 15 judicial days
22 of filing or as soon as is practicable thereafter, but not more than 30 days thereafter. The judge
23 shall then make findings and conclusions and issue a judgment based on the findings and conclusions
24 in accordance with the requirements of law.

25 [(9)] (10) Filing fees shall be as for any civil action filed in the court.

26 [(10)(a)] (11)(a) Initial appeals of petitions shall be heard de novo.

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

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

31 **SECTION 7.** ORS 166.291 is amended to read:

32 166.291. (1) The sheriff of a county, upon a person's application for an Oregon concealed
33 handgun license, upon receipt of the appropriate fees and after compliance with the procedures set
34 out in this section, shall issue the person a concealed handgun license if the person:

35 (a)(A) Is a citizen of the United States; or

36 (B) Is a legal resident alien who can document continuous residency in the county for at least
37 six months and has declared in writing to the United States Citizenship and Immigration Services
38 the intent to acquire citizenship status and can present proof of the written declaration to the
39 sheriff at the time of application for the license;

40 (b) Is at least 21 years of age;

41 (c) Is a resident of the county;

42 (d) Has no outstanding warrants for arrest;

43 (e) Is not free on any form of pretrial release;

44 (f) Demonstrates competence with a handgun by any one of the following:

45 (A) Completion of any hunter education or hunter safety course approved by the State Depart-

1 ment of Fish and Wildlife or a similar agency of another state if handgun safety was a component
2 of the course;

3 (B) Completion of any National Rifle Association firearms safety or training course if handgun
4 safety was a component of the course;

5 (C) Completion of any firearms safety or training course or class available to the general public
6 offered by law enforcement, community college, or private or public institution or organization or
7 firearms training school utilizing instructors certified by the National Rifle Association or a law
8 enforcement agency if handgun safety was a component of the course;

9 (D) Completion of any law enforcement firearms safety or training course or class offered for
10 security guards, investigators, reserve law enforcement officers or any other law enforcement offi-
11 cers if handgun safety was a component of the course;

12 (E) Presents evidence of equivalent experience with a handgun through participation in organ-
13 ized shooting competition or military service;

14 (F) Is licensed or has been licensed to carry a firearm in this state, unless the license has been
15 revoked; or

16 (G) Completion of any firearms training or safety course or class conducted by a firearms in-
17 structor certified by a law enforcement agency or the National Rifle Association if handgun safety
18 was a component of the course;

19 (g) Has never been convicted of a felony or found guilty, except for insanity under ORS 161.295,
20 of a felony;

21 (h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS
22 161.295, of a misdemeanor within the four years prior to the application;

23 (i) Has not been committed to the Department of Human Services under ORS 426.130;

24 (j) Has not been found to be mentally ill and is not subject to an order under ORS 426.130 that
25 the person be prohibited from purchasing or possessing a firearm as a result of that mental illness;

26 (k) Has been discharged from the jurisdiction of the juvenile court for more than four years if,
27 while a minor, the person was found to be within the jurisdiction of the juvenile court for having
28 committed an act that, if committed by an adult, would constitute a felony or a misdemeanor in-
29 volving violence, as defined in ORS 166.470;

30 (L) Has not been convicted of an offense involving controlled substances or participated in a
31 court-supervised drug diversion program, except this disability does not operate to exclude a person
32 if:

33 (A) The person has been convicted only once of violating ORS 475.864 (3) and has not completed
34 a court-supervised drug diversion program under ORS 135.907; or

35 (B) The person has completed a court-supervised drug diversion program under ORS 135.907 and
36 has not been convicted of violating ORS 475.864 (3);

37 (m) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866,
38 107.700 to 107.735 or 163.738;

39 (n) Has not received a dishonorable discharge from the Armed Forces of the United States; and

40 (o) Is not required to register as a sex offender in any state.

41 (2) A person who has been granted relief under ORS 166.274 or 166.293 **or section 5 of this 2009**
42 **Act** or 18 U.S.C. 925(c) or has had the person's record expunged under the laws of this state or
43 equivalent laws of other jurisdictions is not subject to the disabilities in subsection (1)(g) to (L) of
44 this section.

45 (3) Before the sheriff may issue a license:

1 (a) The application must state the applicant’s legal name, current address and telephone number,
2 date and place of birth, hair and eye color and height and weight. The application must also list the
3 applicant’s residence address or addresses for the previous three years. The application must contain
4 a statement by the applicant that the applicant meets the requirements of subsection (1) of this
5 section. The application may include the Social Security number of the applicant if the applicant
6 voluntarily provides this number. The application must be signed by the applicant.

7 (b) The applicant must submit to fingerprinting and photographing by the sheriff. The sheriff
8 shall fingerprint and photograph the applicant and shall conduct any investigation necessary to
9 corroborate the requirements listed under subsection (1) of this section. If a nationwide criminal
10 records check is necessary, the sheriff shall request the Department of State Police to conduct the
11 check, including fingerprint identification, through the Federal Bureau of Investigation. The Federal
12 Bureau of Investigation shall return the fingerprint cards used to conduct the criminal records
13 check and may not keep any record of the fingerprints. The Department of State Police shall report
14 the results of the fingerprint-based criminal records check to the sheriff. The Department of State
15 Police shall also furnish the sheriff with any information about the applicant that the Department
16 of State Police may have in its possession from its central bureau of criminal identification includ-
17 ing, but not limited to, manual or computerized criminal offender information.

18 (4) Application forms for concealed handgun licenses shall be supplied by the sheriff upon re-
19 quest. The forms shall be uniform throughout the state in substantially the following form:
20

21
22 APPLICATION FOR LICENSE TO CARRY CONCEALED HANDGUN

23 Date_____

24 I hereby declare as follows:

25 I am a citizen of the United States or a legal resident alien who can document continuous res-
26 idency in the county for at least six months and have declared in writing to the United States Cit-
27 izenship and Immigration Services my intention to become a citizen and can present proof of the
28 written declaration to the sheriff at the time of this application. I am at least 21 years of age. I have
29 been discharged from the jurisdiction of the juvenile court for more than four years if, while a mi-
30 nor, I was found to be within the jurisdiction of the juvenile court for having committed an act that,
31 if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined
32 in ORS 166.470. I have never been convicted of a felony or found guilty, except for insanity under
33 ORS 161.295, of a felony in the State of Oregon or elsewhere. I have not, within the last four years,
34 been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a
35 misdemeanor. Except as provided in ORS 166.291 (1)(L), I have not been convicted of an offense in-
36 volving controlled substances or completed a court-supervised drug diversion program. There are
37 no outstanding warrants for my arrest and I am not free on any form of pretrial release. I have not
38 been committed to the Department of Human Services under ORS 426.130, nor have I been found
39 mentally ill and presently subject to an order prohibiting me from purchasing or possessing a
40 firearm because of mental illness. If any of the previous conditions do apply to me, I have been
41 granted relief or wish to petition for relief from the disability under ORS 166.274 or 166.293 **or**
42 **section 5 of this 2009 Act** or 18 U.S.C. 925(c) or have had the records expunged. I am not subject
43 to a citation issued under ORS 163.735 or an order issued under ORS 30.866, 107.700 to 107.735 or
44 163.738. I have never received a dishonorable discharge from the Armed Forces of the United States.
45 I am not required to register as a sex offender in any state. I understand I will be fingerprinted and

1 photographed.

2

3 Legal name _____

4 Age _____ Date of birth _____

5 Place of birth _____

6 Social Security number _____

7 (Disclosure of your Social Security account number is voluntary. Solicitation of the number is au-
8 thorized under ORS 166.291. It will be used only as a means of identification.)

9

10 Proof of identification (Two pieces of current identification are required, one of which must bear a
11 photograph of the applicant. The type of identification and the number on the identification are to
12 be filled in by the sheriff.):

13 1. _____

14 2. _____

15

16 Height _____ Weight _____

17 Hair color _____ Eye color _____

18

19 Current address _____

20

(List residence addresses for the
past three years on the back.)

21

22

23 City _____ County _____ Zip _____

24 Phone _____

25

26 I have read the entire text of this application, and the statements therein are correct and true.
27 (Making false statements on this application is a misdemeanor.)

28

(Signature of Applicant)

29

30

31 Character references.

32

33

Name Address

34

35

Name Address

36

37 Approved _____ Disapproved _____ by _____

38

39 Competence with handgun demonstrated by _____ (to be filled in by sheriff) Date _____ Fee
40 Paid _____

41

License No. _____

42

43

44 (5)(a) Fees for concealed handgun licenses are:

45 (A) \$15 to the Department of State Police for conducting the fingerprint check of the applicant.

1 (B) \$50 to the sheriff for the issuance or renewal of a concealed handgun license.

2 (C) \$15 to the sheriff for the duplication of a license because of loss or change of address.

3 (b) The sheriff may enter into an agreement with the Department of Transportation to produce
4 the concealed handgun license.

5 (6) No civil or criminal liability shall attach to the sheriff or any authorized representative en-
6 gaged in the receipt and review of, or an investigation connected with, any application for, or in the
7 issuance, denial or revocation of, any license under ORS 166.291 to 166.295 as a result of the lawful
8 performance of duties under those sections.

9 (7) Immediately upon acceptance of an application for a concealed handgun license, the sheriff
10 shall enter the applicant's name into the Law Enforcement Data System indicating that the person
11 is an applicant for a concealed handgun license or is a license holder.

12 (8) The county sheriff may waive the residency requirement in subsection (1)(c) of this section
13 for a resident of a contiguous state who has a compelling business interest or other legitimate
14 demonstrated need.

15 (9) For purposes of subsection (1)(c) of this section, a person is a resident of a county if the
16 person:

17 (a) Has a current Oregon driver license issued to the person showing a residence address in the
18 county;

19 (b) Is registered to vote in the county and has a memorandum card issued to the person under
20 ORS 247.181 showing a residence address in the county;

21 (c) Has documentation showing that the person currently leases or owns real property in the
22 county; or

23 (d) Has documentation showing that the person filed an Oregon tax return for the most recent
24 tax year showing a residence address in the county.

25 **SECTION 8.** ORS 166.470 is amended to read:

26 166.470. (1) Unless relief has been granted under ORS 166.274[,] **or section 5 of this 2009 Act**
27 **or** 18 U.S.C. 925(c) or the expunction laws of this state or an equivalent law of another jurisdiction,
28 a person may not intentionally sell, deliver or otherwise transfer any firearm when the transferor
29 knows or reasonably should know that the recipient:

30 (a) Is under 18 years of age;

31 (b) Has been convicted of a felony or found guilty, except for insanity under ORS 161.295, of a
32 felony;

33 (c) Has any outstanding felony warrants for arrest;

34 (d) Is free on any form of pretrial release for a felony;

35 (e) Was committed to the Department of Human Services under ORS 426.130;

36 (f) After January 1, 1990, was found to be mentally ill and subject to an order under ORS 426.130
37 that the person be prohibited from purchasing or possessing a firearm as a result of that mental
38 illness; or

39 (g) Has been convicted of a misdemeanor involving violence or found guilty, except for insanity
40 under ORS 161.295, of a misdemeanor involving violence within the previous four years. As used in
41 this paragraph, "misdemeanor involving violence" means a misdemeanor described in ORS 163.160,
42 163.187, 163.190, 163.195 or 166.155 (1)(b).

43 (2) A person may not sell, deliver or otherwise transfer any firearm that the person knows or
44 reasonably should know is stolen.

45 (3) Subsection (1)(a) of this section does not prohibit:

1 (a) The parent or guardian, or another person with the consent of the parent or guardian, of a
2 minor from transferring to the minor a firearm, other than a handgun; or

3 (b) The temporary transfer of any firearm to a minor for hunting, target practice or any other
4 lawful purpose.

5 (4) Violation of this section is a Class A misdemeanor.

6 **SECTION 8a.** ORS 166.250 is amended to read:

7 166.250. (1) Except as otherwise provided in this section or ORS 166.260, 166.270, 166.274,
8 166.291, 166.292 or 166.410 to 166.470 **or section 5 of this 2009 Act**, a person commits the crime
9 of unlawful possession of a firearm if the person knowingly:

10 (a) Carries any firearm concealed upon the person;

11 (b) Possesses a handgun that is concealed and readily accessible to the person within any vehi-
12 cle; or

13 (c) Possesses a firearm and:

14 (A) Is under 18 years of age;

15 (B)(i) While a minor, was found to be within the jurisdiction of the juvenile court for having
16 committed an act which, if committed by an adult, would constitute a felony or a misdemeanor in-
17 volving violence, as defined in ORS 166.470; and

18 (ii) Was discharged from the jurisdiction of the juvenile court within four years prior to being
19 charged under this section;

20 (C) Has been convicted of a felony or found guilty, except for insanity under ORS 161.295, of a
21 felony;

22 (D) Was committed to the Department of Human Services under ORS 426.130; or

23 (E) Was found to be mentally ill and subject to an order under ORS 426.130 that the person be
24 prohibited from purchasing or possessing a firearm as a result of that mental illness.

25 (2) This section does not prohibit:

26 (a) A minor, who is not otherwise prohibited under subsection (1)(c) of this section, from pos-
27 sessed a firearm:

28 (A) Other than a handgun, if the firearm was transferred to the minor by the minor's parent or
29 guardian or by another person with the consent of the minor's parent or guardian; or

30 (B) Temporarily for hunting, target practice or any other lawful purpose; or

31 (b) Any citizen of the United States over the age of 18 years who resides in or is temporarily
32 sojourning within this state, and who is not within the excepted classes prescribed by ORS 166.270
33 and subsection (1) of this section, from owning, possessing or keeping within the person's place of
34 residence or place of business any handgun, and no permit or license to purchase, own, possess or
35 keep any such firearm at the person's place of residence or place of business is required of any such
36 citizen. As used in this subsection, "residence" includes a recreational vessel or recreational vehicle
37 while used, for whatever period of time, as residential quarters.

38 (3) Firearms carried openly in belt holsters are not concealed within the meaning of this section.

39 (4) Unlawful possession of a firearm is a Class A misdemeanor.

40 **SECTION 9.** ORS 166.274, as amended by section 6 of this 2009 Act, is amended to read:

41 166.274. (1) A person barred from possessing **a firearm under ORS 166.250 (1)(c)(A), (B), (D)**
42 **or (E) or barred from purchasing a firearm under ORS 166.470** may file a petition for relief from
43 the bar in: [*accordance with subsection (2) of this section if:*]

44 [*(a) The person is barred from possessing a firearm under ORS 166.250 (1)(c)(A) or (B); or*]

45 [*(b) The person is barred from purchasing a firearm under:*]

1 [(A) ORS 166.470 (1)(a), (c), (d) or (g); or]

2 [(B) ORS 166.470 (1)(b) and the bar is the result of the person having been convicted of a felony.]

3 [(2) A petition for relief described in this section must be filed in:]

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

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

7 [(3)] (2) A person may apply once per calendar year for relief under the provisions of this sec-
8 tion.

9 [(4)(a)] (3)(a) A person petitioning for relief under this section shall serve a copy of the petition
10 on:

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

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

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

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

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

24 [(6)] (5) Notwithstanding the provisions of ORS 9.320, a corporation, the state or any city,
25 county, district or other political subdivision or public corporation in this state, without appearance
26 by attorney, may appear as a party to an action under this section.

27 [(7)] (6) If the petitioner seeks relief from the bar on possessing or purchasing a firearm, relief
28 shall be granted when the petitioner demonstrates, by clear and convincing evidence, that the
29 petitioner does not pose a threat to the safety of the public or the petitioner.

30 [(8)] (7) A person barred from possessing or purchasing a firearm because the person, while a
31 minor, was found to be within the jurisdiction of the juvenile court for committing an act which, if
32 committed by an adult, would have constituted a felony or a misdemeanor involving violence, is not
33 eligible to petition for relief under this section until more than four years have passed since the
34 person was discharged from the jurisdiction of the juvenile court.

35 [(9)] (8) Petitions filed under this section shall be heard and disposed of within 15 judicial days
36 of filing or as soon as is practicable thereafter, but not more than 30 days thereafter. The judge
37 shall then make findings and conclusions and issue a judgment based on the findings and conclusions
38 in accordance with the requirements of law.

39 [(10)] (9) Filing fees shall be as for any civil action filed in the court.

40 [(11)(a)] (10)(a) Initial appeals of petitions shall be heard de novo.

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

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

45 **SECTION 10.** ORS 166.291, as amended by section 7 of this 2009 Act, is amended to read:

1 166.291. (1) The sheriff of a county, upon a person's application for an Oregon concealed
2 handgun license, upon receipt of the appropriate fees and after compliance with the procedures set
3 out in this section, shall issue the person a concealed handgun license if the person:

4 (a)(A) Is a citizen of the United States; or

5 (B) Is a legal resident alien who can document continuous residency in the county for at least
6 six months and has declared in writing to the United States Citizenship and Immigration Services
7 the intent to acquire citizenship status and can present proof of the written declaration to the
8 sheriff at the time of application for the license;

9 (b) Is at least 21 years of age;

10 (c) Is a resident of the county;

11 (d) Has no outstanding warrants for arrest;

12 (e) Is not free on any form of pretrial release;

13 (f) Demonstrates competence with a handgun by any one of the following:

14 (A) Completion of any hunter education or hunter safety course approved by the State Depart-
15 ment of Fish and Wildlife or a similar agency of another state if handgun safety was a component
16 of the course;

17 (B) Completion of any National Rifle Association firearms safety or training course if handgun
18 safety was a component of the course;

19 (C) Completion of any firearms safety or training course or class available to the general public
20 offered by law enforcement, community college, or private or public institution or organization or
21 firearms training school utilizing instructors certified by the National Rifle Association or a law
22 enforcement agency if handgun safety was a component of the course;

23 (D) Completion of any law enforcement firearms safety or training course or class offered for
24 security guards, investigators, reserve law enforcement officers or any other law enforcement offi-
25 cers if handgun safety was a component of the course;

26 (E) Presents evidence of equivalent experience with a handgun through participation in organ-
27 ized shooting competition or military service;

28 (F) Is licensed or has been licensed to carry a firearm in this state, unless the license has been
29 revoked; or

30 (G) Completion of any firearms training or safety course or class conducted by a firearms in-
31 structor certified by a law enforcement agency or the National Rifle Association if handgun safety
32 was a component of the course;

33 (g) Has never been convicted of a felony or found guilty, except for insanity under ORS 161.295,
34 of a felony;

35 (h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS
36 161.295, of a misdemeanor within the four years prior to the application;

37 (i) Has not been committed to the Department of Human Services under ORS 426.130;

38 (j) Has not been found to be mentally ill and is not subject to an order under ORS 426.130 that
39 the person be prohibited from purchasing or possessing a firearm as a result of that mental illness;

40 (k) Has been discharged from the jurisdiction of the juvenile court for more than four years if,
41 while a minor, the person was found to be within the jurisdiction of the juvenile court for having
42 committed an act that, if committed by an adult, would constitute a felony or a misdemeanor in-
43 volving violence, as defined in ORS 166.470;

44 (L) Has not been convicted of an offense involving controlled substances or participated in a
45 court-supervised drug diversion program, except this disability does not operate to exclude a person

1 if:

2 (A) The person has been convicted only once of violating ORS 475.864 (3) and has not completed
3 a court-supervised drug diversion program under ORS 135.907; or

4 (B) The person has completed a court-supervised drug diversion program under ORS 135.907 and
5 has not been convicted of violating ORS 475.864 (3);

6 (m) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866,
7 107.700 to 107.735 or 163.738;

8 (n) Has not received a dishonorable discharge from the Armed Forces of the United States; and

9 (o) Is not required to register as a sex offender in any state.

10 (2) A person who has been granted relief under ORS 166.274 or 166.293 [*or section 5 of this 2009*
11 *Act*] or 18 U.S.C. 925(c) or has had the person’s record expunged under the laws of this state or
12 equivalent laws of other jurisdictions is not subject to the disabilities in subsection (1)(g) to (L) of
13 this section.

14 (3) Before the sheriff may issue a license:

15 (a) The application must state the applicant’s legal name, current address and telephone number,
16 date and place of birth, hair and eye color and height and weight. The application must also list the
17 applicant’s residence address or addresses for the previous three years. The application must contain
18 a statement by the applicant that the applicant meets the requirements of subsection (1) of this
19 section. The application may include the Social Security number of the applicant if the applicant
20 voluntarily provides this number. The application must be signed by the applicant.

21 (b) The applicant must submit to fingerprinting and photographing by the sheriff. The sheriff
22 shall fingerprint and photograph the applicant and shall conduct any investigation necessary to
23 corroborate the requirements listed under subsection (1) of this section. If a nationwide criminal
24 records check is necessary, the sheriff shall request the Department of State Police to conduct the
25 check, including fingerprint identification, through the Federal Bureau of Investigation. The Federal
26 Bureau of Investigation shall return the fingerprint cards used to conduct the criminal records
27 check and may not keep any record of the fingerprints. The Department of State Police shall report
28 the results of the fingerprint-based criminal records check to the sheriff. The Department of State
29 Police shall also furnish the sheriff with any information about the applicant that the Department
30 of State Police may have in its possession from its central bureau of criminal identification includ-
31 ing, but not limited to, manual or computerized criminal offender information.

32 (4) Application forms for concealed handgun licenses shall be supplied by the sheriff upon re-
33 quest. The forms shall be uniform throughout the state in substantially the following form:

34 _____

35

36

APPLICATION FOR LICENSE TO CARRY CONCEALED HANDGUN

37

Date_____

38

I hereby declare as follows:

39

I am a citizen of the United States or a legal resident alien who can document continuous resi-
40 dency in the county for at least six months and have declared in writing to the United States Cit-
41 izenship and Immigration Services my intention to become a citizen and can present proof of the
42 written declaration to the sheriff at the time of this application. I am at least 21 years of age. I have
43 been discharged from the jurisdiction of the juvenile court for more than four years if, while a mi-
44 nor, I was found to be within the jurisdiction of the juvenile court for having committed an act that,
45 if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined

1 in ORS 166.470. I have never been convicted of a felony or found guilty, except for insanity under
2 ORS 161.295, of a felony in the State of Oregon or elsewhere. I have not, within the last four years,
3 been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a
4 misdemeanor. Except as provided in ORS 166.291 (1)(L), I have not been convicted of an offense in-
5 volving controlled substances or completed a court-supervised drug diversion program. There are
6 no outstanding warrants for my arrest and I am not free on any form of pretrial release. I have not
7 been committed to the Department of Human Services under ORS 426.130, nor have I been found
8 mentally ill and presently subject to an order prohibiting me from purchasing or possessing a
9 firearm because of mental illness. If any of the previous conditions do apply to me, I have been
10 granted relief or wish to petition for relief from the disability under ORS 166.274 or 166.293 [*or*
11 *section 5 of this 2009 Act*] or 18 U.S.C. 925(c) or have had the records expunged. I am not subject
12 to a citation issued under ORS 163.735 or an order issued under ORS 30.866, 107.700 to 107.735 or
13 163.738. I have never received a dishonorable discharge from the Armed Forces of the United States.
14 I am not required to register as a sex offender in any state. I understand I will be fingerprinted and
15 photographed.

16

17 Legal name _____
18 Age _____ Date of birth _____
19 Place of birth _____
20 Social Security number _____

21 (Disclosure of your Social Security account number is voluntary. Solicitation of the number is au-
22 thorized under ORS 166.291. It will be used only as a means of identification.)

23

24 Proof of identification (Two pieces of current identification are required, one of which must bear a
25 photograph of the applicant. The type of identification and the number on the identification are to
26 be filled in by the sheriff.):

- 27 1. _____
- 28 2. _____

29

30 Height _____ Weight _____
31 Hair color _____ Eye color _____

32

33 Current address _____

34

(List residence addresses for the
past three years on the back.)

35

36

37 City _____ County _____ Zip _____

38

Phone _____

39

40 I have read the entire text of this application, and the statements therein are correct and true.
41 (Making false statements on this application is a misdemeanor.)

42

43

(Signature of Applicant)

44

45 Character references.

1 _____
2 Name Address
3 _____

4 Name Address

5
6 Approved _____ Disapproved _____ by _____

7
8 Competence with handgun demonstrated by _____ (to be filled in by sheriff) Date _____ Fee
9 Paid _____
10 License No. _____

11 _____

- 13 (5)(a) Fees for concealed handgun licenses are:
- 14 (A) \$15 to the Department of State Police for conducting the fingerprint check of the applicant.
- 15 (B) \$50 to the sheriff for the issuance or renewal of a concealed handgun license.
- 16 (C) \$15 to the sheriff for the duplication of a license because of loss or change of address.

17 (b) The sheriff may enter into an agreement with the Department of Transportation to produce
18 the concealed handgun license.

19 (6) No civil or criminal liability shall attach to the sheriff or any authorized representative en-
20 gaged in the receipt and review of, or an investigation connected with, any application for, or in the
21 issuance, denial or revocation of, any license under ORS 166.291 to 166.295 as a result of the lawful
22 performance of duties under those sections.

23 (7) Immediately upon acceptance of an application for a concealed handgun license, the sheriff
24 shall enter the applicant's name into the Law Enforcement Data System indicating that the person
25 is an applicant for a concealed handgun license or is a license holder.

26 (8) The county sheriff may waive the residency requirement in subsection (1)(c) of this section
27 for a resident of a contiguous state who has a compelling business interest or other legitimate
28 demonstrated need.

29 (9) For purposes of subsection (1)(c) of this section, a person is a resident of a county if the
30 person:

- 31 (a) Has a current Oregon driver license issued to the person showing a residence address in the
32 county;
- 33 (b) Is registered to vote in the county and has a memorandum card issued to the person under
34 ORS 247.181 showing a residence address in the county;
- 35 (c) Has documentation showing that the person currently leases or owns real property in the
36 county; or
- 37 (d) Has documentation showing that the person filed an Oregon tax return for the most recent
38 tax year showing a residence address in the county.

39 **SECTION 11.** ORS 166.470, as amended by section 8 of this 2009 Act, is amended to read:

40 166.470. (1) Unless relief has been granted under ORS 166.274 or [section 5 of this 2009 Act or]
41 18 U.S.C. 925(c) or the expunction laws of this state or an equivalent law of another jurisdiction, a
42 person may not intentionally sell, deliver or otherwise transfer any firearm when the transferor
43 knows or reasonably should know that the recipient:

- 44 (a) Is under 18 years of age;
- 45 (b) Has been convicted of a felony or found guilty, except for insanity under ORS 161.295, of a

1 felony;

2 (c) Has any outstanding felony warrants for arrest;

3 (d) Is free on any form of pretrial release for a felony;

4 (e) Was committed to the Department of Human Services under ORS 426.130;

5 (f) After January 1, 1990, was found to be mentally ill and subject to an order under ORS 426.130
6 that the person be prohibited from purchasing or possessing a firearm as a result of that mental
7 illness; or

8 (g) Has been convicted of a misdemeanor involving violence or found guilty, except for insanity
9 under ORS 161.295, of a misdemeanor involving violence within the previous four years. As used in
10 this paragraph, "misdemeanor involving violence" means a misdemeanor described in ORS 163.160,
11 163.187, 163.190, 163.195 or 166.155 (1)(b).

12 (2) A person may not sell, deliver or otherwise transfer any firearm that the person knows or
13 reasonably should know is stolen.

14 (3) Subsection (1)(a) of this section does not prohibit:

15 (a) The parent or guardian, or another person with the consent of the parent or guardian, of a
16 minor from transferring to the minor a firearm, other than a handgun; or

17 (b) The temporary transfer of any firearm to a minor for hunting, target practice or any other
18 lawful purpose.

19 (4) Violation of this section is a Class A misdemeanor.

20 **SECTION 11a.** ORS 166.250, as amended by section 8a of this 2009 Act, is amended to read:

21 166.250. (1) Except as otherwise provided in this section or ORS 166.260, 166.270, 166.274,
22 166.291, 166.292 or 166.410 to 166.470 [*or section 5 of this 2009 Act*], a person commits the crime of
23 unlawful possession of a firearm if the person knowingly:

24 (a) Carries any firearm concealed upon the person;

25 (b) Possesses a handgun that is concealed and readily accessible to the person within any vehi-
26 cle; or

27 (c) Possesses a firearm and:

28 (A) Is under 18 years of age;

29 (B)(i) While a minor, was found to be within the jurisdiction of the juvenile court for having
30 committed an act which, if committed by an adult, would constitute a felony or a misdemeanor in-
31 volving violence, as defined in ORS 166.470; and

32 (ii) Was discharged from the jurisdiction of the juvenile court within four years prior to being
33 charged under this section;

34 (C) Has been convicted of a felony or found guilty, except for insanity under ORS 161.295, of a
35 felony;

36 (D) Was committed to the Department of Human Services under ORS 426.130; or

37 (E) Was found to be mentally ill and subject to an order under ORS 426.130 that the person be
38 prohibited from purchasing or possessing a firearm as a result of that mental illness.

39 (2) This section does not prohibit:

40 (a) A minor, who is not otherwise prohibited under subsection (1)(c) of this section, from pos-
41 sessed a firearm:

42 (A) Other than a handgun, if the firearm was transferred to the minor by the minor's parent or
43 guardian or by another person with the consent of the minor's parent or guardian; or

44 (B) Temporarily for hunting, target practice or any other lawful purpose; or

45 (b) Any citizen of the United States over the age of 18 years who resides in or is temporarily

1 sojourning within this state, and who is not within the excepted classes prescribed by ORS 166.270
2 and subsection (1) of this section, from owning, possessing or keeping within the person's place of
3 residence or place of business any handgun, and no permit or license to purchase, own, possess or
4 keep any such firearm at the person's place of residence or place of business is required of any such
5 citizen. As used in this subsection, "residence" includes a recreational vessel or recreational vehicle
6 while used, for whatever period of time, as residential quarters.

7 (3) Firearms carried openly in belt holsters are not concealed within the meaning of this section.

8 (4) Unlawful possession of a firearm is a Class A misdemeanor.

9 **SECTION 12.** (1) **Section 1 of this 2009 Act applies to records and information in the**
10 **possession of the Department of Human Services, the Psychiatric Security Review Board or**
11 **the Judicial Department on or after the effective date of this 2009 Act, irrespective of when**
12 **the record or information was created.**

13 (2)(a) **When the Department of Human Services determines that the department has re-**
14 **ceived a sufficient legislative appropriation or federal funding to carry out the provisions of**
15 **section 1 of this 2009 Act, the department shall adopt a rule so indicating. The department**
16 **shall notify Legislative Counsel when the rule is adopted.**

17 (b) **When the Chief Justice of the Supreme Court determines that the Judicial Depart-**
18 **ment has received a sufficient legislative appropriation or federal funding to carry out the**
19 **provisions of section 1 of this 2009 Act, the Chief Justice shall issue an order so indicating.**
20 **The Chief Justice shall notify Legislative Counsel when the order is issued.**

21 (c) **When the Psychiatric Security Review Board determines that the board has received**
22 **a sufficient legislative appropriation or federal funding to carry out the provisions of section**
23 **1 of this 2009 Act, the board shall adopt a rule so indicating. The board shall notify Legisla-**
24 **tive Counsel when the rule is adopted.**

25 (3)(a)(A) **The Department of Human Services may not comply with section 1 of this 2009**
26 **Act or the amendments to ORS 166.412 by section 4 of this 2009 Act until the department**
27 **adopts the rule described in subsection (2)(a) of this section; and**

28 (B) **If the Department of Human Services adopts the rule described in subsection (2)(a)**
29 **of this section before January 2, 2012, the department may not comply with section 1 of this**
30 **2009 Act or the amendments to ORS 166.412 by section 4 of this 2009 Act until the later of:**

31 (i) **The date the Psychiatric Security Review Board adopts the rule described in section**
32 **13 of this 2009 Act; or**

33 (ii) **January 2, 2012.**

34 (b)(A) **The Judicial Department may not comply with section 1 of this 2009 Act until the**
35 **Chief Justice issues the order described in subsection (2)(b) of this section; and**

36 (B) **If the Chief Justice issues the order described in subsection (2)(b) of this section be-**
37 **fore January 2, 2012, the Judicial Department may not comply with section 1 of this 2009 Act**
38 **until the later of:**

39 (i) **The date the Psychiatric Security Review Board adopts the rule described in section**
40 **13 of this 2009 Act; or**

41 (ii) **January 2, 2012.**

42 (c)(A) **The Psychiatric Security Review Board may not comply with section 1 of this 2009**
43 **Act until the board adopts the rule described in subsection (2)(c) of this section; and**

44 (B) **If the board adopts the rule described in subsection (2)(c) of this section before Jan-**
45 **uary 2, 2012, the board may not comply with section 1 of this 2009 Act until the later of:**

1 (i) The date the board adopts the rule described in section 13 of this 2009 Act; or

2 (ii) January 2, 2012.

3 (4)(a) When the Chief Justice of the Supreme Court determines that the Judicial De-
4 partment has received a sufficient legislative appropriation or federal funding to carry out
5 the provisions of the amendments to ORS 426.160 and 427.293 by sections 2 and 3 of this 2009
6 Act, the Chief Justice shall issue an order so indicating. The Chief Justice shall notify Leg-
7 islative Counsel when the order is issued.

8 (b)(A) Except as provided in subparagraph (B) of this paragraph, the amendments to ORS
9 426.160 and 427.293 by sections 2 and 3 of this 2009 Act become operative on the date the Chief
10 Justice issues the order described in paragraph (a) of this subsection.

11 (B) If the Chief Justice issues the order described in paragraph (a) of this subsection
12 before January 2, 2012, the amendments to ORS 426.160 and 427.293 by sections 2 and 3 of this
13 2009 Act become operative on the later of:

14 (i) The date the Psychiatric Security Review Board adopts the rule described in section
15 13 of this 2009 Act; or

16 (ii) January 2, 2012.

17 **SECTION 13.** (1) When the Psychiatric Security Review Board determines that the board
18 has received a sufficient legislative appropriation or federal funding to carry out the pro-
19 visions of section 5 of this 2009 Act, the board shall adopt a rule so indicating. The board
20 shall notify Legislative Counsel upon adoption of the rule.

21 (2) Section 5 of this 2009 Act and the amendments to ORS 166.250, 166.274, 166.291 and
22 166.470 by sections 6 to 8a of this 2009 Act become operative on the date the rule described
23 in subsection (1) of this section is adopted.

24 **SECTION 14.** (1) Sections 5 and 13 of this 2009 Act are repealed on January 2, 2012.

25 (2) The amendments to ORS 166.250, 166.274, 166.291 and 166.470 by sections 9 to 11a of
26 this 2009 Act become operative on January 2, 2012.

27 **SECTION 15.** (1) The repeal of section 5 of this 2009 Act by section 14 of this 2009 Act
28 does not affect any petition for relief filed pursuant to section 5 of this 2009 Act with the
29 Psychiatric Security Review Board before January 2, 2012. Any proceeding commenced under
30 section 5 of this 2009 Act before January 2, 2012, shall continue to be governed by the pro-
31 visions of section 5 of this 2009 Act.

32 (2) Nothing in the repeal of section 5 of this 2009 Act by section 14 of this 2009 Act or the
33 amendments to ORS 166.250, 166.274, 166.291 and 166.470 by sections 9 to 11a of this 2009 Act
34 affects the relief granted to a person under section 5 of this 2009 Act.

35 **SECTION 16.** If House Bill 2009 becomes law, section 1 of this 2009 Act is amended to read:

36 **Sec. 1.** (1) The Department of Human Services, **the Oregon Health Authority**, the Psychiatric
37 Security Review Board and the Judicial Department shall provide the Department of State Police
38 with the minimum information necessary to identify persons who:

39 (a) Have been committed by a court to the [*Department of Human Services*] **Oregon Health**
40 **Authority** under ORS 426.130, based on a finding that the person is dangerous to self or others;

41 (b) Are subject to a court order under ORS 426.130 prohibiting the person from purchasing or
42 possessing a firearm;

43 (c) Have been committed by a court to the Department of Human Services under ORS 427.290,
44 based on a finding that the person is dangerous to self or others;

45 (d) Have been found by a court to lack fitness to proceed under ORS 161.370;

- 1 (e) Have been found guilty except for insanity of a crime under ORS 161.295 to 161.370;
- 2 (f) Have been found responsible except for insanity for an act under ORS 419C.411;
- 3 (g) Have been placed under the jurisdiction of the Psychiatric Security Review Board by a court;

4 or

5 (h) Have been committed to a state hospital or facility under ORS 161.327, 161.336 to 161.351
6 or 419C.529 to 419C.544.

7 (2) Upon receipt of the information described in this section, the Department of State Police
8 shall access and maintain the information and transmit the information to the federal government
9 as required under federal law.

10 (3) The Department of Human Services, **the Oregon Health Authority**, the Psychiatric Security
11 Review Board and the Judicial Department shall enter into agreements with the Department of State
12 Police describing the access to information provided under this section.

13 (4) The Department of State Police shall adopt rules:

14 (a) After consulting with the Department of Human Services, **the Oregon Health Authority**,
15 the Psychiatric Security Review Board and the Judicial Department, describing the type of infor-
16 mation provided to the Department of State Police under this section; and

17 (b) Describing the method and manner of maintaining the information described in this section
18 and transmitting the information to the federal government.

19 (5) As used in this section, “minimum information necessary” means data elements or nominal
20 information that is necessary or required under federal law to accurately identify a person described
21 in this section and includes the person’s name, date of birth, gender and reference information that
22 identifies the originating agency or court and enables the originating agency or court to locate an
23 underlying record or file of a person described in this section. “Minimum information necessary”
24 does not include any medical, psychiatric or psychological information, case histories or files of a
25 person described in this section or any record or file of an originating agency or court.

26 **SECTION 17. If House Bill 2009 becomes law, section 4 of this 2009 Act (amending ORS**
27 **166.412) is repealed and ORS 166.412, as amended by section 114, chapter __, Oregon Laws**
28 **2009 (Enrolled House Bill 2009), is amended to read:**

29 166.412. (1) As used in this section:

30 (a) “Antique firearm” has the meaning given that term in 18 U.S.C. 921;

31 (b) “Department” means the Department of State Police;

32 (c) “Firearm” has the meaning given that term in ORS 166.210, except that it does not include
33 an antique firearm;

34 (d) “Firearms transaction record” means the firearms transaction record required by 18 U.S.C.
35 921 to 929;

36 (e) “Firearms transaction thumbprint form” means a form provided by the department under
37 subsection [(12)] (11) of this section;

38 (f) “Gun dealer” means a person engaged in the business, as defined in 18 U.S.C. 921, of selling,
39 leasing or otherwise transferring a firearm, whether the person is a retail dealer, pawnbroker or
40 otherwise;

41 (g) “Handgun” has the meaning given that term in ORS 166.210; and

42 (h) “Purchaser” means a person who buys, leases or otherwise receives a firearm from a gun
43 dealer.

44 (2) Except as provided in subsections (3)(c) and [(13)] (12) of this section, a gun dealer shall
45 comply with the following before a handgun is delivered to a purchaser:

1 (a) The purchaser shall present to the dealer current identification meeting the requirements
2 of subsection (4) of this section.

3 (b) The gun dealer shall complete the firearms transaction record and obtain the signature of
4 the purchaser on the record.

5 (c) The gun dealer shall obtain the thumbprints of the purchaser on the firearms transaction
6 thumbprint form and attach the form to the gun dealer's copy of the firearms transaction record to
7 be filed with that copy.

8 (d) The gun dealer shall request by telephone that the department conduct a criminal history
9 record check on the purchaser and shall provide the following information to the department:

10 (A) The federal firearms license number of the gun dealer;

11 (B) The business name of the gun dealer;

12 (C) The place of transfer;

13 (D) The name of the person making the transfer;

14 (E) The make, model, caliber and manufacturer's number of the handgun being transferred;

15 (F) The name and date of birth of the purchaser;

16 (G) The Social Security number of the purchaser if the purchaser voluntarily provides this
17 number to the gun dealer; and

18 (H) The type, issuer and identification number of the identification presented by the purchaser.

19 (e) The gun dealer shall receive a unique approval number for the transfer from the department
20 and record the approval number on the firearms transaction record and on the firearms transaction
21 thumbprint form.

22 (f) The gun dealer may destroy the firearms transaction thumbprint form five years after the
23 completion of the firearms transaction thumbprint form.

24 (3)(a) Upon receipt of a request of the gun dealer for a criminal history record check, the de-
25 partment shall immediately, during the gun dealer's telephone call or by return call:

26 (A) Determine, from criminal records and other information available to it, whether the pur-
27 chaser is disqualified under ORS 166.470 from completing the purchase; and

28 (B) Notify the dealer when a purchaser is disqualified from completing the transfer or provide
29 the dealer with a unique approval number indicating that the purchaser is qualified to complete the
30 transfer.

31 (b) If the department is unable to determine if the purchaser is qualified or disqualified from
32 completing the transfer within 30 minutes, the department shall notify the dealer and provide the
33 dealer with an estimate of the time when the department will provide the requested information.

34 (c) If the department fails to provide a unique approval number to a gun dealer or to notify the
35 gun dealer that the purchaser is disqualified under paragraph (a) of this subsection before the close
36 of the gun dealer's next business day following the request by the dealer for a criminal history re-
37 cord check, the dealer may deliver the handgun to the purchaser.

38 (4)(a) Identification required of the purchaser under subsection (2) of this section shall include
39 one piece of current identification bearing a photograph and the date of birth of the purchaser that:

40 (A) Is issued under the authority of the United States Government, a state, a political subdivi-
41 sion of a state, a foreign government, a political subdivision of a foreign government, an interna-
42 tional governmental organization or an international quasi-governmental organization; and

43 (B) Is intended to be used for identification of an individual or is commonly accepted for the
44 purpose of identification of an individual.

45 (b) If the identification presented by the purchaser under paragraph (a) of this subsection does

1 not include the current address of the purchaser, the purchaser shall present a second piece of
2 current identification that contains the current address of the purchaser. The Superintendent of
3 State Police may specify by rule the type of identification that may be presented under this para-
4 graph.

5 (c) The department may require that the dealer verify the identification of the purchaser if that
6 identity is in question by sending the thumbprints of the purchaser to the department.

7 (5) The department shall establish a telephone number that shall be operational seven days a
8 week between the hours of 8 a.m. and 10 p.m. for the purpose of responding to inquiries from
9 dealers for a criminal history record check under this section.

10 (6) No public employee, official or agency shall be held criminally or civilly liable for performing
11 the investigations required by this section provided the employee, official or agency acts in good
12 faith and without malice.

13 (7)(a) The department may retain a record of the information obtained during a request for a
14 criminal records check for no more than five years.

15 (b) The record of the information obtained during a request for a criminal records check by a
16 gun dealer is exempt from disclosure under public records law.

17 *[(8) The Oregon Health Authority shall provide the Department of State Police with direct elec-
18 tronic access to information from the authority's database of information identifying persons meeting
19 the criteria in ORS 166.470 (1)(e) and (f) who were committed or subject to an order under ORS
20 426.130. The department and the authority shall enter into an agreement describing the access to in-
21 formation under this subsection.]*

22 *[(9)]* (8) A law enforcement agency may inspect the records of a gun dealer relating to transfers
23 of handguns with the consent of a gun dealer in the course of a reasonable inquiry during a criminal
24 investigation or under the authority of a properly authorized subpoena or search warrant.

25 *[(10)]* (9) When a handgun is delivered, it shall be unloaded.

26 *[(11)]* (10) In accordance with applicable provisions of ORS chapter 183, the Superintendent of
27 State Police may adopt rules necessary for:

28 (a) The design of the firearms transaction thumbprint form;

29 (b) The maintenance of a procedure to correct errors in the criminal records of the department;

30 (c) The provision of a security system to identify dealers who request a criminal history record
31 check under subsection (2) of this section; and

32 (d) The creation and maintenance of a database of the business hours of gun dealers.

33 *[(12)]* (11) The department shall publish the firearms transaction thumbprint form and shall fur-
34 nish the form to gun dealers on application at cost.

35 *[(13)]* (12) This section does not apply to transactions between persons licensed as dealers under
36 18 U.S.C. 923.

37 **SECTION 18.** If House Bill 2009 becomes law, section 5 of this 2009 Act is amended to read:

38 **Sec. 5.** (1) A person barred from transporting, shipping, possessing or receiving a firearm may
39 file a petition with the Psychiatric Security Review Board for relief from the bar if:

40 (a) The person is barred from possessing a firearm under ORS 166.250 (1)(c)(D) or (E);

41 (b) The person is barred from receiving a firearm under:

42 (A) ORS 166.470 (1)(b) and the bar is the result of the person having been found guilty except
43 for insanity of a felony; or

44 (B) ORS 166.470 (1)(e) or (f); or

45 (c) The person is barred from possessing, receiving, shipping or transporting a firearm under 18

1 U.S.C. 922(d)(4) or (g)(4) as the result of a state mental health determination.

2 (2) The petitioner shall serve a copy of the petition on:

3 (a) The Department of Human Services **and the Oregon Health Authority**; and

4 (b) The district attorney in each county in which:

5 (A) The person was committed by a court to the [*Department of Human Services*] **Oregon Health**
6 **Authority**, or adjudicated by a court as mentally ill, under ORS 426.130;

7 (B) The person was committed by a court to the Department of Human Services, or adjudicated
8 by a court as mentally retarded, under ORS 427.290;

9 (C) The person was found guilty except for insanity under ORS 161.295;

10 (D) The person was found responsible except for insanity under ORS 419C.411; or

11 (E) The person was found by a court to lack fitness to proceed under ORS 161.370.

12 (3) Following receipt of the petition, the board shall conduct a contested case hearing, make
13 written findings of fact and conclusions of law on the issues before the board and issue a final order.

14 (4) The state and any person or entity described in subsection (2) of this section may appear and
15 object to and present evidence relevant to the relief sought by the petitioner.

16 (5) The board shall grant the relief requested in the petition if the petitioner demonstrates,
17 based on the petitioner's reputation, the petitioner's record, the circumstances surrounding the
18 firearm disability and any other evidence in the record, that the petitioner will not be likely to act
19 in a manner that is dangerous to public safety and that granting the relief would not be contrary
20 to the public interest.

21 (6) If the board grants the relief requested in the petition, the board shall provide to the De-
22 partment of State Police the minimum information necessary, as defined in section 1 of this 2009
23 Act, to enable the department to:

24 (a) Maintain the information and transmit the information to the federal government as required
25 under federal law; and

26 (b) Maintain a record of the person's relief from the disqualification to possess or receive a
27 firearm under ORS 166.250 (1)(c)(D) or (E) or 166.470 (1)(b), (e) or (f).

28 (7) The petitioner may petition for judicial review of a final order of the board. The petition
29 shall be filed in the circuit court of a county described in subsection (2)(b) of this section. The re-
30 view shall be conducted de novo and without a jury.

31 (8) A petitioner may take an appeal from the circuit court to the Court of Appeals. Review by
32 the Court of Appeals shall be conducted in accordance with ORS 183.500.

33 (9) A person may file a petition for relief under this section no more than once every two years.

34 (10) The board shall adopt procedural rules to carry out the provisions of this section.

35 (11) As used in this section, "state mental health determination" means:

36 (a) A finding by a court that a person lacks fitness to proceed under ORS 161.370;

37 (b) A finding that a person is guilty except for insanity of a crime under ORS 161.295 or re-
38 sponsible except for insanity of an act under ORS 419C.411 or any determination by the Psychiatric
39 Security Review Board thereafter;

40 (c) A commitment by a court to the [*Department of Human Services*] **Oregon Health**
41 **Authority**, or an adjudication by a court that a person is mentally ill, under ORS 426.130; or

42 (d) A commitment by a court to the Department of Human Services, or an adjudication by a
43 court that a person is mentally retarded, under ORS 427.290.

44 **SECTION 18a.** If Senate Bill 603 becomes law, section 5 of this 2009 Act is amended to read:

45 **Sec. 5.** (1) A person barred from transporting, shipping, possessing or receiving a firearm may

1 file a petition with the Psychiatric Security Review Board for relief from the bar if:

2 (a) The person is barred from possessing a firearm under ORS 166.250 (1)(c)(D) or (E);

3 (b) The person is barred from receiving a firearm under[:]

4 [(A) *ORS 166.470 (1)(b) and the bar is the result of the person having been found guilty except for*
5 *insanity of a felony; or*]

6 [(B)] ORS 166.470 (1)(e) or (f); or

7 (c) The person is barred from possessing, receiving, shipping or transporting a firearm under 18
8 U.S.C. 922(d)(4) or (g)(4) as the result of a state mental health determination.

9 (2) The petitioner shall serve a copy of the petition on:

10 (a) The Department of Human Services; and

11 (b) The district attorney in each county in which:

12 (A) The person was committed by a court to the Department of Human Services, or adjudicated
13 by a court as mentally ill, under ORS 426.130;

14 (B) The person was committed by a court to the Department of Human Services, or adjudicated
15 by a court as mentally retarded, under ORS 427.290;

16 (C) The person was found guilty except for insanity under ORS 161.295;

17 (D) The person was found responsible except for insanity under ORS 419C.411; or

18 (E) The person was found by a court to lack fitness to proceed under ORS 161.370.

19 (3) Following receipt of the petition, the board shall conduct a contested case hearing, make
20 written findings of fact and conclusions of law on the issues before the board and issue a final order.

21 (4) The state and any person or entity described in subsection (2) of this section may appear and
22 object to and present evidence relevant to the relief sought by the petitioner.

23 (5) The board shall grant the relief requested in the petition if the petitioner demonstrates,
24 based on the petitioner's reputation, the petitioner's record, the circumstances surrounding the
25 firearm disability and any other evidence in the record, that the petitioner will not be likely to act
26 in a manner that is dangerous to public safety and that granting the relief would not be contrary
27 to the public interest.

28 (6) If the board grants the relief requested in the petition, the board shall provide to the De-
29 partment of State Police the minimum information necessary, as defined in section 1 of this 2009
30 Act, to enable the department to:

31 (a) Maintain the information and transmit the information to the federal government as required
32 under federal law; and

33 (b) Maintain a record of the person's relief from the disqualification to possess or receive a
34 firearm under ORS 166.250 (1)(c)(D) or (E) or 166.470 [(1)(b), (e) or (f)] **(1)(e) or (f)**.

35 (7) The petitioner may petition for judicial review of a final order of the board. The petition
36 shall be filed in the circuit court of a county described in subsection (2)(b) of this section. The re-
37 view shall be conducted de novo and without a jury.

38 (8) A petitioner may take an appeal from the circuit court to the Court of Appeals. Review by
39 the Court of Appeals shall be conducted in accordance with ORS 183.500.

40 (9) A person may file a petition for relief under this section no more than once every two years.

41 (10) The board shall adopt procedural rules to carry out the provisions of this section.

42 (11) As used in this section, "state mental health determination" means:

43 (a) A finding by a court that a person lacks fitness to proceed under ORS 161.370;

44 (b) A finding that a person is guilty except for insanity of a crime under ORS 161.295 or re-
45 sponsible except for insanity of an act under ORS 419C.411 or any determination by the Psychiatric

1 Security Review Board thereafter;

2 (c) A commitment by a court to the Department of Human Services, or an adjudication by a
3 court that a person is mentally ill, under ORS 426.130; or

4 (d) A commitment by a court to the Department of Human Services, or an adjudication by a
5 court that a person is mentally retarded, under ORS 427.290.

6 **SECTION 19. If Senate Bill 603 becomes law, section 6 of this 2009 Act (amending ORS**
7 **166.274) is repealed and ORS 166.274, as amended by section 2, chapter __, Oregon Laws 2009**
8 **(Enrolled Senate Bill 603), is amended to read:**

9 166.274. (1) A person barred from possessing [*a firearm under ORS 166.250 (1)(c)(A) to (E) or*
10 *166.270 or barred from*] **or** purchasing a firearm [*under ORS 166.470 (1)(a) to (g)*] may file a petition
11 for relief from the bar [*in:*] **in accordance with subsection (2) of this section if:**

12 (a) **The person is barred from possessing a firearm under ORS 166.250 (1)(c)(A) to (C) or**
13 **166.270; or**

14 (b) **The person is barred from purchasing a firearm under ORS 166.470 (1)(a) to (d) or (g).**

15 **(2) A petition for relief described in this section must be filed in:**

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

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

19 [(2)] (3) A person may apply once per calendar year for relief under the provisions of this sec-
20 tion.

21 [(3)(a)] (4)(a) A person petitioning for relief under this section shall serve a copy of the petition
22 on:

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

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

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

27 [(4)(a)] (5)(a) When a petition is denied, the judge shall cause that information to be entered into
28 the Department of State Police computerized criminal history files.

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

36 [(5)] (6) Notwithstanding the provisions of ORS 9.320, a corporation, the state or any city,
37 county, district or other political subdivision or public corporation in this state, without appearance
38 by attorney, may appear as a party to an action under this section.

39 [(6)] (7) If the petitioner seeks relief from the bar on possessing or purchasing a firearm, relief
40 shall be granted when the petitioner demonstrates, by clear and convincing evidence, that the
41 petitioner does not pose a threat to the safety of the public or the petitioner.

42 [(7)] (8) A person barred from possessing or purchasing a firearm because the person, while a
43 minor, was found to be within the jurisdiction of the juvenile court for committing an act which, if
44 committed by an adult, would have constituted a felony or a misdemeanor involving violence, is not
45 eligible to petition for relief under this section until more than four years have passed since the

1 person was discharged from the jurisdiction of the juvenile court.

2 [(8)] (9) Petitions filed under this section shall be heard and disposed of within 15 judicial days
3 of filing or as soon as is practicable thereafter, but not more than 30 days thereafter. The judge
4 shall then make findings and conclusions and issue a judgment based on the findings and conclusions
5 in accordance with the requirements of law.

6 [(9)] (10) Filing fees shall be as for any civil action filed in the court.

7 [(10)(a)] (11)(a) Initial appeals of petitions shall be heard de novo.

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

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

12 **SECTION 20. If Senate Bill 603 becomes law, section 9 of this 2009 Act (amending ORS**
13 **166.274) is repealed and ORS 166.274, as amended by section 2, chapter __, Oregon Laws 2009**
14 **(Enrolled Senate Bill 603), and section 19 of this 2009 Act, is amended to read:**

15 166.274. (1) A person barred from possessing a **firearm under ORS 166.250 (1)(c)(A) to (E) or**
16 **166.270 or barred from** [or] purchasing a firearm **under ORS 166.470 (1)(a) to (g)** may file a peti-
17 tion for relief from the bar in [*accordance with subsection (2) of this section if*]:

18 [(a) *The person is barred from possessing a firearm under ORS 166.250 (1)(c)(A) to (C) or 166.270;*
19 *or*]

20 [(b) *The person is barred from purchasing a firearm under ORS 166.470 (1)(a) to (d) or (g).*]

21 [(2) *A petition for relief described in this section must be filed in:*]

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

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

25 [(3)] (2) A person may apply once per calendar year for relief under the provisions of this sec-
26 tion.

27 [(4)(a)] (3)(a) A person petitioning for relief under this section shall serve a copy of the petition
28 on:

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

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

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

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

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

42 [(6)] (5) Notwithstanding the provisions of ORS 9.320, a corporation, the state or any city,
43 county, district or other political subdivision or public corporation in this state, without appearance
44 by attorney, may appear as a party to an action under this section.

45 [(7)] (6) If the petitioner seeks relief from the bar on possessing or purchasing a firearm, relief

1 shall be granted when the petitioner demonstrates, by clear and convincing evidence, that the
2 petitioner does not pose a threat to the safety of the public or the petitioner.

3 [(8)] (7) A person barred from possessing or purchasing a firearm because the person, while a
4 minor, was found to be within the jurisdiction of the juvenile court for committing an act which, if
5 committed by an adult, would have constituted a felony or a misdemeanor involving violence, is not
6 eligible to petition for relief under this section until more than four years have passed since the
7 person was discharged from the jurisdiction of the juvenile court.

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

12 [(10)] (9) Filing fees shall be as for any civil action filed in the court.

13 [(11)(a)] (10)(a) Initial appeals of petitions shall be heard de novo.

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

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

18 **SECTION 21.** If House Bill 2009 becomes law, section 12 of this 2009 Act is amended to read:

19 **Sec. 12.** (1) Section 1 of this 2009 Act applies to records and information in the possession of
20 the Department of Human Services, **the Oregon Health Authority**, the Psychiatric Security Review
21 Board or the Judicial Department on or after the effective date of this 2009 Act, irrespective of
22 when the record or information was created.

23 (2)(a) When the Department of Human Services determines that the department has received a
24 sufficient legislative appropriation or federal funding to carry out the provisions of section 1 of this
25 2009 Act, the department shall adopt a rule so indicating. The department shall notify Legislative
26 Counsel when the rule is adopted.

27 **(b) When the Oregon Health Authority determines that the authority has received a**
28 **sufficient legislative appropriation or federal funding to carry out the provisions of section**
29 **1 of this 2009 Act, the authority shall adopt a rule so indicating. The authority shall notify**
30 **Legislative Counsel when the rule is adopted.**

31 [(b)] (c) When the Chief Justice of the Supreme Court determines that the Judicial Department
32 has received a sufficient legislative appropriation or federal funding to carry out the provisions of
33 section 1 of this 2009 Act, the Chief Justice shall issue an order so indicating. The Chief Justice
34 shall notify Legislative Counsel when the order is issued.

35 [(c)] (d) When the Psychiatric Security Review Board determines that the board has received a
36 sufficient legislative appropriation or federal funding to carry out the provisions of section 1 of this
37 2009 Act, the board shall adopt a rule so indicating. The board shall notify Legislative Counsel when
38 the rule is adopted.

39 (3)(a)(A) The Department of Human Services may not comply with section 1 of this 2009 Act
40 [or the amendments to ORS 166.412 by section 4 of this 2009 Act] until the department adopts the rule
41 described in subsection (2)(a) of this section; and

42 (B) If the Department of Human Services adopts the rule described in subsection (2)(a) of this
43 section before January 2, 2012, the department may not comply with section 1 of this 2009 Act [or
44 the amendments to ORS 166.412 by section 4 of this 2009 Act] until the later of:

45 (i) The date the Psychiatric Security Review Board adopts the rule described in section 13 of

1 this 2009 Act; or

2 (ii) January 2, 2012.

3 **(b)(A) The Oregon Health Authority may not comply with section 1 of this 2009 Act or**
4 **the amendments to ORS 166.412 by section 17 of this 2009 Act until the authority adopts the**
5 **rule described in subsection (2)(b) of this section; and**

6 **(B) If the Oregon Health Authority adopts the rule described in subsection (2)(b) of this**
7 **section before January 2, 2012, the authority may not comply with section 1 of this 2009 Act**
8 **or the amendments to ORS 166.412 by section 17 of this 2009 Act until the later of:**

9 **(i) The date the Psychiatric Security Review Board adopts the rule described in section**
10 **13 of this 2009 Act; or**

11 **(ii) January 2, 2012.**

12 [(b)(A)] (c)(A) The Judicial Department may not comply with section 1 of this 2009 Act until the
13 Chief Justice issues the order described in subsection [(2)(b)] (2)(c) of this section; and

14 (B) If the Chief Justice issues the order described in subsection [(2)(b)] (2)(c) of this section
15 before January 2, 2012, the Judicial Department may not comply with section 1 of this 2009 Act until
16 the later of:

17 (i) The date the Psychiatric Security Review Board adopts the rule described in section 13 of
18 this 2009 Act; or

19 (ii) January 2, 2012.

20 [(c)(A)] (d)(A) The Psychiatric Security Review Board may not comply with section 1 of this
21 2009 Act until the board adopts the rule described in subsection [(2)(c)] (2)(d) of this section; and

22 (B) If the board adopts the rule described in subsection [(2)(c)] (2)(d) of this section before
23 January 2, 2012, the board may not comply with section 1 of this 2009 Act until the later of:

24 (i) The date the board adopts the rule described in section 13 of this 2009 Act; or

25 (ii) January 2, 2012.

26 (4)(a) When the Chief Justice of the Supreme Court determines that the Judicial Department has
27 received a sufficient legislative appropriation or federal funding to carry out the provisions of the
28 amendments to ORS 426.160 and 427.293 by sections 2 and 3 of this 2009 Act, the Chief Justice shall
29 issue an order so indicating. The Chief Justice shall notify Legislative Counsel when the order is
30 issued.

31 (b)(A) Except as provided in subparagraph (B) of this paragraph, the amendments to ORS 426.160
32 and 427.293 by sections 2 and 3 of this 2009 Act become operative on the date the Chief Justice is-
33 sues the order described in paragraph (a) of this subsection.

34 (B) If the Chief Justice issues the order described in paragraph (a) of this subsection before
35 January 2, 2012, the amendments to ORS 426.160 and 427.293 by sections 2 and 3 of this 2009 Act
36 become operative on the later of:

37 (i) The date the Psychiatric Security Review Board adopts the rule described in section 13 of
38 this 2009 Act; or

39 (ii) January 2, 2012.

40 **SECTION 22.** If Senate Bill 603 becomes law, section 13 of this 2009 Act is amended to read:

41 **Sec. 13.** (1) When the Psychiatric Security Review Board determines that the board has received
42 a sufficient legislative appropriation or federal funding to carry out the provisions of section 5 of
43 this 2009 Act, the board shall adopt a rule so indicating. The board shall notify Legislative Counsel
44 upon adoption of the rule.

45 (2) Section 5 of this 2009 Act and the amendments to ORS 166.250, 166.274, 166.291 and 166.470

1 by sections [6 to 8a] **7, 8, 8a and 19** of this 2009 Act become operative on the date the rule described
2 in subsection (1) of this section is adopted.

3 **SECTION 23.** If Senate Bill 603 becomes law, section 14 of this 2009 Act is amended to read:

4 **Sec. 14.** (1) Sections 5 and 13 of this 2009 Act are repealed on January 2, 2012.

5 (2) The amendments to ORS 166.250, 166.274, 166.291 and 166.470 by sections [9 to 11a] **10, 11,**
6 **11a and 20** of this 2009 Act become operative on January 2, 2012.

7 **SECTION 24.** If Senate Bill 603 becomes law, section 15 of this 2009 Act is amended to read:

8 **Sec. 15.** (1) The repeal of section 5 of this 2009 Act by section 14 of this 2009 Act does not affect
9 any petition for relief filed pursuant to section 5 of this 2009 Act with the Psychiatric Security Re-
10 view Board before January 2, 2012. Any proceeding commenced under section 5 of this 2009 Act
11 before January 2, 2012, shall continue to be governed by the provisions of section 5 of this 2009 Act.

12 (2) Nothing in the repeal of section 5 of this 2009 Act by section 14 of this 2009 Act or the
13 amendments to ORS 166.250, 166.274, 166.291 and 166.470 by sections [9 to 11a] **10, 11, 11a and 20**
14 of this 2009 Act affects the relief granted to a person under section 5 of this 2009 Act.

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