

**HOUSE AMENDMENTS TO
A-ENGROSSED HOUSE BILL 2853
(INCLUDING AMENDMENTS TO RESOLVE CONFLICTS)**

By JOINT COMMITTEE ON WAYS AND MEANS

June 24

1 On page 1 of the printed A-engrossed bill, line 2, after “ORS” insert “166.250,”.
2 On page 12, after line 5, insert:
3 “**SECTION 8a.** ORS 166.250 is amended to read:
4 “166.250. (1) Except as otherwise provided in this section or ORS 166.260, 166.270, 166.274,
5 166.291, 166.292 or 166.410 to 166.470 **or section 5 of this 2009 Act**, a person commits the crime
6 of unlawful possession of a firearm if the person knowingly:
7 “(a) Carries any firearm concealed upon the person;
8 “(b) Possesses a handgun that is concealed and readily accessible to the person within any ve-
9 hicle; or
10 “(c) Possesses a firearm and:
11 “(A) Is under 18 years of age;
12 “(B)(i) While a minor, was found to be within the jurisdiction of the juvenile court for having
13 committed an act which, if committed by an adult, would constitute a felony or a misdemeanor in-
14 volving violence, as defined in ORS 166.470; and
15 “(ii) Was discharged from the jurisdiction of the juvenile court within four years prior to being
16 charged under this section;
17 “(C) Has been convicted of a felony or found guilty, except for insanity under ORS 161.295, of
18 a felony;
19 “(D) Was committed to the Department of Human Services under ORS 426.130; or
20 “(E) Was found to be mentally ill and subject to an order under ORS 426.130 that the person
21 be prohibited from purchasing or possessing a firearm as a result of that mental illness.
22 “(2) This section does not prohibit:
23 “(a) A minor, who is not otherwise prohibited under subsection (1)(c) of this section, from pos-
24 sessed a firearm:
25 “(A) Other than a handgun, if the firearm was transferred to the minor by the minor’s parent
26 or guardian or by another person with the consent of the minor’s parent or guardian; or
27 “(B) Temporarily for hunting, target practice or any other lawful purpose; or
28 “(b) Any citizen of the United States over the age of 18 years who resides in or is temporarily
29 sojourning within this state, and who is not within the excepted classes prescribed by ORS 166.270
30 and subsection (1) of this section, from owning, possessing or keeping within the person’s place of
31 residence or place of business any handgun, and no permit or license to purchase, own, possess or
32 keep any such firearm at the person’s place of residence or place of business is required of any such
33 citizen. As used in this subsection, ‘residence’ includes a recreational vessel or recreational vehicle
34 while used, for whatever period of time, as residential quarters.

1 “(3) Firearms carried openly in belt holsters are not concealed within the meaning of this sec-
2 tion.

3 “(4) Unlawful possession of a firearm is a Class A misdemeanor.”.

4 On page 17, after line 30, insert:

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

6 “166.250. (1) Except as otherwise provided in this section or ORS 166.260, 166.270, 166.274,
7 166.291, 166.292 or 166.410 to 166.470 [*or section 5 of this 2009 Act*], a person commits the crime of
8 unlawful possession of a firearm if the person knowingly:

9 “(a) Carries any firearm concealed upon the person;

10 “(b) Possesses a handgun that is concealed and readily accessible to the person within any ve-
11 hicle; or

12 “(c) Possesses a firearm and:

13 “(A) Is under 18 years of age;

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

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

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

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

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

24 “(2) This section does not prohibit:

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

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

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

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

37 “(3) Firearms carried openly in belt holsters are not concealed within the meaning of this sec-
38 tion.

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

40 On page 18, delete lines 2 through 8 and insert:

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

44 “(B) If the Department of Human Services adopts the rule described in subsection (2)(a) of this
45 section before January 2, 2012, the department may not comply with section 1 of this 2009 Act or

1 the amendments to ORS 166.412 by section 4 of this 2009 Act until the later of:

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

4 “(ii) January 2, 2012.

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

7 “(B) If the Chief Justice issues the order described in subsection (2)(b) of this section before
8 January 2, 2012, the Judicial Department may not comply with section 1 of this 2009 Act until the
9 later of:

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

12 “(ii) January 2, 2012.

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

15 “(B) If the board adopts the rule described in subsection (2)(c) of this section before January 2,
16 2012, the board may not comply with section 1 of this 2009 Act until the later of:

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

18 “(ii) January 2, 2012.”.

19 Delete lines 14 and 15 and insert:

20 “(b)(A) Except as provided in subparagraph (B) of this paragraph, the amendments to ORS
21 426.160 and 427.293 by sections 2 and 3 of this 2009 Act become operative on the date the Chief
22 Justice issues the order described in paragraph (a) of this subsection.

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

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

28 “(ii) January 2, 2012.”.

29 In line 20, after “ORS” insert “166.250,”.

30 In line 21, delete “8” and insert “8a”.

31 In line 24, after “ORS” insert “166.250,” and delete “11” and insert “11a”.

32 In line 32, after “ORS” insert “166.250,” and delete “11” and insert “11a”.

33 After line 33, insert:

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

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

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

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

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

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

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

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

2 “(g) Have been placed under the jurisdiction of the Psychiatric Security Review Board by a

3 court; or

4 “(h) Have been committed to a state hospital or facility under ORS 161.327, 161.336 to 161.351

5 or 419C.529 to 419C.544.

6 “(2) Upon receipt of the information described in this section, the Department of State Police

7 shall access and maintain the information and transmit the information to the federal government

8 as required under federal law.

9 “(3) The Department of Human Services, **the Oregon Health Authority**, the Psychiatric Secu-

10 rity Review Board and the Judicial Department shall enter into agreements with the Department

11 of State Police describing the access to information provided under this section.

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

13 “(a) After consulting with the Department of Human Services, **the Oregon Health Authority**,

14 the Psychiatric Security Review Board and the Judicial Department, describing the type of infor-

15 mation provided to the Department of State Police under this section; and

16 “(b) Describing the method and manner of maintaining the information described in this section

17 and transmitting the information to the federal government.

18 “(5) As used in this section, ‘minimum information necessary’ means data elements or nominal

19 information that is necessary or required under federal law to accurately identify a person described

20 in this section and includes the person’s name, date of birth, gender and reference information that

21 identifies the originating agency or court and enables the originating agency or court to locate an

22 underlying record or file of a person described in this section. ‘Minimum information necessary’ does

23 not include any medical, psychiatric or psychological information, case histories or files of a person

24 described in this section or any record or file of an originating agency or court.

25 **“SECTION 17. If House Bill 2009 becomes law, section 4 of this 2009 Act (amending ORS**

26 **166.412) is repealed and ORS 166.412, as amended by section 114, chapter __, Oregon Laws**

27 **2009 (Enrolled House Bill 2009), is amended to read:**

28 “166.412. (1) As used in this section:

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

30 “(b) ‘Department’ means the Department of State Police;

31 “(c) ‘Firearm’ has the meaning given that term in ORS 166.210, except that it does not include

32 an antique firearm;

33 “(d) ‘Firearms transaction record’ means the firearms transaction record required by 18 U.S.C.

34 921 to 929;

35 “(e) ‘Firearms transaction thumbprint form’ means a form provided by the department under

36 subsection [(12)] (11) of this section;

37 “(f) ‘Gun dealer’ means a person engaged in the business, as defined in 18 U.S.C. 921, of selling,

38 leasing or otherwise transferring a firearm, whether the person is a retail dealer, pawnbroker or

39 otherwise;

40 “(g) ‘Handgun’ has the meaning given that term in ORS 166.210; and

41 “(h) ‘Purchaser’ means a person who buys, leases or otherwise receives a firearm from a gun

42 dealer.

43 “(2) Except as provided in subsections (3)(c) and [(13)] (12) of this section, a gun dealer shall

44 comply with the following before a handgun is delivered to a purchaser:

45 “(a) The purchaser shall present to the dealer current identification meeting the requirements

1 of subsection (4) of this section.

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

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

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

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

10 “(B) The business name of the gun dealer;

11 “(C) The place of transfer;

12 “(D) The name of the person making the transfer;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 “(b) If the identification presented by the purchaser under paragraph (a) of this subsection does
45 not include the current address of the purchaser, the purchaser shall present a second piece of

1 current identification that contains the current address of the purchaser. The Superintendent of
2 State Police may specify by rule the type of identification that may be presented under this para-
3 graph.

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

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

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

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

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

16 “[8] *The Oregon Health Authority shall provide the Department of State Police with direct elec-*
17 *tronic access to information from the authority's database of information identifying persons meeting*
18 *the criteria in ORS 166.470 (1)(e) and (f) who were committed or subject to an order under ORS*
19 *426.130. The department and the authority shall enter into an agreement describing the access to in-*
20 *formation under this subsection.]*

21 “[9] (8) A law enforcement agency may inspect the records of a gun dealer relating to transfers
22 of handguns with the consent of a gun dealer in the course of a reasonable inquiry during a criminal
23 investigation or under the authority of a properly authorized subpoena or search warrant.

24 “[10] (9) When a handgun is delivered, it shall be unloaded.

25 “[11] (10) In accordance with applicable provisions of ORS chapter 183, the Superintendent of
26 State Police may adopt rules necessary for:

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

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

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

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

32 “[12] (11) The department shall publish the firearms transaction thumbprint form and shall
33 furnish the form to gun dealers on application at cost.

34 “[13] (12) This section does not apply to transactions between persons licensed as dealers un-
35 der 18 U.S.C. 923.

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

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

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

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

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

43 “(B) ORS 166.470 (1)(e) or (f); or

44 “(c) The person is barred from possessing, receiving, shipping or transporting a firearm under
45 18 U.S.C. 922(d)(4) or (g)(4) as the result of a state mental health determination.

1 “(2) The petitioner shall serve a copy of the petition on:
2 “(a) The Department of Human Services **and the Oregon Health Authority**; and
3 “(b) The district attorney in each county in which:
4 “(A) The person was committed by a court to the [*Department of Human Services*] **Oregon**
5 **Health Authority**, or adjudicated by a court as mentally ill, under ORS 426.130;
6 “(B) The person was committed by a court to the Department of Human Services, or adjudicated
7 by a court as mentally retarded, under ORS 427.290;
8 “(C) The person was found guilty except for insanity under ORS 161.295;
9 “(D) The person was found responsible except for insanity under ORS 419C.411; or
10 “(E) The person was found by a court to lack fitness to proceed under ORS 161.370.
11 “(3) Following receipt of the petition, the board shall conduct a contested case hearing, make
12 written findings of fact and conclusions of law on the issues before the board and issue a final order.
13 “(4) The state and any person or entity described in subsection (2) of this section may appear
14 and object to and present evidence relevant to the relief sought by the petitioner.
15 “(5) The board shall grant the relief requested in the petition if the petitioner demonstrates,
16 based on the petitioner’s reputation, the petitioner’s record, the circumstances surrounding the
17 firearm disability and any other evidence in the record, that the petitioner will not be likely to act
18 in a manner that is dangerous to public safety and that granting the relief would not be contrary
19 to the public interest.
20 “(6) If the board grants the relief requested in the petition, the board shall provide to the De-
21 partment of State Police the minimum information necessary, as defined in section 1 of this 2009
22 Act, to enable the department to:
23 “(a) Maintain the information and transmit the information to the federal government as re-
24 quired under federal law; and
25 “(b) Maintain a record of the person’s relief from the disqualification to possess or receive a
26 firearm under ORS 166.250 (1)(c)(D) or (E) or 166.470 (1)(b), (e) or (f).
27 “(7) The petitioner may petition for judicial review of a final order of the board. The petition
28 shall be filed in the circuit court of a county described in subsection (2)(b) of this section. The re-
29 view shall be conducted de novo and without a jury.
30 “(8) A petitioner may take an appeal from the circuit court to the Court of Appeals. Review by
31 the Court of Appeals shall be conducted in accordance with ORS 183.500.
32 “(9) A person may file a petition for relief under this section no more than once every two years.
33 “(10) The board shall adopt procedural rules to carry out the provisions of this section.
34 “(11) As used in this section, ‘state mental health determination’ means:
35 “(a) A finding by a court that a person lacks fitness to proceed under ORS 161.370;
36 “(b) A finding that a person is guilty except for insanity of a crime under ORS 161.295 or re-
37 sponsible except for insanity of an act under ORS 419C.411 or any determination by the Psychiatric
38 Security Review Board thereafter;
39 “(c) A commitment by a court to the [*Department of Human Services*] **Oregon Health**
40 **Authority**, or an adjudication by a court that a person is mentally ill, under ORS 426.130; or
41 “(d) A commitment by a court to the Department of Human Services, or an adjudication by a
42 court that a person is mentally retarded, under ORS 427.290.
43 “**SECTION 18a.** If Senate Bill 603 becomes law, section 5 of this 2009 Act is amended to read:
44 “**Sec. 5.** (1) A person barred from transporting, shipping, possessing or receiving a firearm may
45 file a petition with the Psychiatric Security Review Board for relief from the bar if:

1 “(a) The person is barred from possessing a firearm under ORS 166.250 (1)(c)(D) or (E);
2 “(b) The person is barred from receiving a firearm under[.];
3 “[*(A) ORS 166.470 (1)(b) and the bar is the result of the person having been found guilty except*
4 *for insanity of a felony; or*]
5 “[*(B)*] ORS 166.470 (1)(e) or (f); or
6 “(c) The person is barred from possessing, receiving, shipping or transporting a firearm under
7 18 U.S.C. 922(d)(4) or (g)(4) as the result of a state mental health determination.
8 “(2) The petitioner shall serve a copy of the petition on:
9 “(a) The Department of Human Services; and
10 “(b) The district attorney in each county in which:
11 “(A) The person was committed by a court to the Department of Human Services, or adjudicated
12 by a court as mentally ill, under ORS 426.130;
13 “(B) The person was committed by a court to the Department of Human Services, or adjudicated
14 by a court as mentally retarded, under ORS 427.290;
15 “(C) The person was found guilty except for insanity under ORS 161.295;
16 “(D) The person was found responsible except for insanity under ORS 419C.411; or
17 “(E) The person was found by a court to lack fitness to proceed under ORS 161.370.
18 “(3) Following receipt of the petition, the board shall conduct a contested case hearing, make
19 written findings of fact and conclusions of law on the issues before the board and issue a final order.
20 “(4) The state and any person or entity described in subsection (2) of this section may appear
21 and object to and present evidence relevant to the relief sought by the petitioner.
22 “(5) The board shall grant the relief requested in the petition if the petitioner demonstrates,
23 based on the petitioner’s reputation, the petitioner’s record, the circumstances surrounding the
24 firearm disability and any other evidence in the record, that the petitioner will not be likely to act
25 in a manner that is dangerous to public safety and that granting the relief would not be contrary
26 to the public interest.
27 “(6) If the board grants the relief requested in the petition, the board shall provide to the De-
28 partment of State Police the minimum information necessary, as defined in section 1 of this 2009
29 Act, to enable the department to:
30 “(a) Maintain the information and transmit the information to the federal government as re-
31 quired under federal law; and
32 “(b) Maintain a record of the person’s relief from the disqualification to possess or receive a
33 firearm under ORS 166.250 (1)(c)(D) or (E) or 166.470 [*(1)(b), (e) or (f)*] **(1)(e) or (f)**.
34 “(7) The petitioner may petition for judicial review of a final order of the board. The petition
35 shall be filed in the circuit court of a county described in subsection (2)(b) of this section. The re-
36 view shall be conducted de novo and without a jury.
37 “(8) A petitioner may take an appeal from the circuit court to the Court of Appeals. Review by
38 the Court of Appeals shall be conducted in accordance with ORS 183.500.
39 “(9) A person may file a petition for relief under this section no more than once every two years.
40 “(10) The board shall adopt procedural rules to carry out the provisions of this section.
41 “(11) As used in this section, ‘state mental health determination’ means:
42 “(a) A finding by a court that a person lacks fitness to proceed under ORS 161.370;
43 “(b) A finding that a person is guilty except for insanity of a crime under ORS 161.295 or re-
44 sponsible except for insanity of an act under ORS 419C.411 or any determination by the Psychiatric
45 Security Review Board thereafter;

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

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

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

8 “166.274. (1) A person barred from possessing [*a firearm under ORS 166.250 (1)(c)(A) to (E) or*
9 *166.270 or barred from*] **or** purchasing a firearm [*under ORS 166.470 (1)(a) to (g)*] may file a petition
10 for relief from the bar [*in:*] **in accordance with subsection (2) of this section if:**

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

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

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
26 the 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
28 into 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
30 of the petitioner to be entered into the Department of State Police computerized criminal history
31 files. If, after a petition is granted, the petitioner is arrested and convicted of a crime that would
32 disqualify the petitioner from purchasing or possessing a firearm, the Department of State Police
33 shall notify the court that granted relief under this section. The court shall review the order
34 granting relief and determine whether to rescind the order. The Department of State Police may
35 charge a reasonable fee, under ORS 192.440, for the entry and maintenance of information under this
36 section.

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

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

43 “[7] (8) A person barred from possessing or purchasing a firearm because the person, while a
44 minor, was found to be within the jurisdiction of the juvenile court for committing an act which, if
45 committed by an adult, would have constituted a felony or a misdemeanor involving violence, is not

1 eligible to petition for relief under this section until more than four years have passed since the
2 person was discharged from the jurisdiction of the juvenile court.

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

7 “[9] (10) Filing fees shall be as for any civil action filed in the court.

8 “[10](a) (11)(a) Initial appeals of petitions shall be heard de novo.

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

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

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

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

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

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

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

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

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

26 “[3] (2) A person may apply once per calendar year for relief under the provisions of this
27 section.

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

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

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

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

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

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

44 “[6] (5) Notwithstanding the provisions of ORS 9.320, a corporation, the state or any city,
45 county, district or other political subdivision or public corporation in this state, without appearance

1 by attorney, may appear as a party to an action under this section.

2 “[(7)] (6) If the petitioner seeks relief from the bar on possessing or purchasing a firearm, relief
3 shall be granted when the petitioner demonstrates, by clear and convincing evidence, that the
4 petitioner does not pose a threat to the safety of the public or the petitioner.

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

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

14 “[(10)] (9) Filing fees shall be as for any civil action filed in the court.

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

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

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

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

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

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

29 “**(b) When the Oregon Health Authority determines that the authority has received a**
30 **sufficient legislative appropriation or federal funding to carry out the provisions of section**
31 **1 of this 2009 Act, the authority shall adopt a rule so indicating. The authority shall notify**
32 **Legislative Counsel when the rule is adopted.**

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

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

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

44 “(B) If the Department of Human Services adopts the rule described in subsection (2)(a) of this
45 section before January 2, 2012, the department may not comply with section 1 of this 2009 Act [or

1 *the amendments to ORS 166.412 by section 4 of this 2009 Act*] until the later of:

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

4 “(ii) January 2, 2012.

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

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

11 “(i) **The date the Psychiatric Security Review Board adopts the rule described in section**
12 **13 of this 2009 Act; or**

13 “(ii) **January 2, 2012.**

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

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

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

21 “(ii) January 2, 2012.

22 “[*(c)(A)*] (d)(A) The Psychiatric Security Review Board may not comply with section 1 of this
23 2009 Act until the board adopts the rule described in subsection [*(2)(c)*] (2)(d) of this section; and

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

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

27 “(ii) January 2, 2012.

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

33 “(b)(A) Except as provided in subparagraph (B) of this paragraph, the amendments to ORS
34 426.160 and 427.293 by sections 2 and 3 of this 2009 Act become operative on the date the Chief
35 Justice issues the order described in paragraph (a) of this subsection.

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

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

41 “(ii) January 2, 2012.

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

43 “**Sec. 13.** (1) When the Psychiatric Security Review Board determines that the board has re-
44 ceived a sufficient legislative appropriation or federal funding to carry out the provisions of section
45 5 of this 2009 Act, the board shall adopt a rule so indicating. The board shall notify Legislative

1 Counsel upon adoption of the rule.

2 “(2) Section 5 of this 2009 Act and the amendments to ORS 166.250, 166.274, 166.291 and 166.470
3 by sections [6 to 8a] **7, 8, 8a and 19** of this 2009 Act become operative on the date the rule described
4 in subsection (1) of this section is adopted.

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

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

7 “(2) The amendments to ORS 166.250, 166.274, 166.291 and 166.470 by sections [9 to 11a] **10, 11,**
8 **11a and 20** of this 2009 Act become operative on January 2, 2012.

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

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

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

17
