

## HOUSE AMENDMENTS TO SENATE BILL 1064

By COMMITTEE ON RULES

February 24

1 On page 1 of the printed bill, line 3, after “ORS” delete the rest of the line and insert “166.274;  
2 and declaring an emergency.”.

3 Delete lines 5 through 31 and delete pages 2 through 9 and insert:

4 “**SECTION 1.** ORS 166.274 is amended to read:

5 “166.274. (1) A person barred from possessing a firearm under ORS 166.250 (1)(c)(A) to (E) or  
6 166.270 or barred from purchasing a firearm under ORS 166.470 (1)(a) to (g) may file a petition for  
7 relief from the bar in[.]

8 “[*(a) A justice court in the petitioner’s county of residence that is reasonably accessible to the*  
9 *petitioner; or]*

10 “[*(b) If no justice court is reasonably accessible,*] the circuit court **in the petitioner’s county**  
11 **of residence.**

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

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

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

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

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

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

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

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

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

34 “(7) A person barred from possessing or purchasing a firearm because the person, while a minor,  
35 was found to be within the jurisdiction of the juvenile court for committing an act which, if com-

mitted by an adult, would have constituted a felony or a misdemeanor involving violence, is not eligible to petition for relief under this section until more than four years have passed since the person was discharged from the jurisdiction of the juvenile court.

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

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

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

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

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

“**SECTION 2.** ORS 166.274, as amended by section 19, chapter 826, Oregon Laws 2009, is amended to read:

“166.274. (1) A person barred from possessing or purchasing a firearm may file a petition for relief from the bar in accordance with subsection (2) of this section if:

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

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

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

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

“[(b) If no justice court is reasonably accessible,] the circuit court **in the petitioner’s county of residence.**

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

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

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

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

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

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

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

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

“(7) If the petitioner seeks relief from the bar on possessing or purchasing a firearm, relief shall

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

3 “(8) A person barred from possessing or purchasing a firearm because the person, while a minor,  
4 was found to be within the jurisdiction of the juvenile court for committing an act which, if com-  
5 mitted by an adult, would have constituted a felony or a misdemeanor involving violence, is not el-  
6 igible 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) Petitions filed under this section shall be heard and disposed of within 15 judicial days of  
9 filing or as soon as is practicable thereafter, but not more than 30 days thereafter. The judge shall  
10 then make findings and conclusions and issue a judgment based on the findings and conclusions in  
11 accordance with the requirements of law.

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

13 “(11)(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 3.** ORS 166.274, as amended by sections 19 and 20, chapter 826, Oregon Laws 2009,  
19 is amended to read:

20 “166.274. (1) A person barred from possessing a firearm under ORS 166.250 (1)(c)(A) to (E) or  
21 166.270 or barred from purchasing a firearm under ORS 166.470 (1)(a) to (g) may file a petition for  
22 relief from the bar 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 **in the petitioner’s county**  
26 **of residence.**

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

28 “(3)(a) A person petitioning for relief under this section shall serve a copy of the petition 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  
32 the petition is filed at the court.

33 “(4)(a) When a petition is denied, the judge shall cause that information to be entered into the  
34 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  
36 of the petitioner to be entered into the Department of State Police computerized criminal history  
37 files. If, after a petition is granted, the petitioner is arrested and convicted of a crime that would  
38 disqualify the petitioner from purchasing or possessing a firearm, the Department of State Police  
39 shall notify the court that granted relief under this section. The court shall review the order  
40 granting relief and determine whether to rescind the order. The Department of State Police may  
41 charge a reasonable fee, under ORS 192.440, for the entry and maintenance of information under this  
42 section.

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

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

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

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

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

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

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

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

19           “**SECTION 4. (1) The amendments to ORS 166.274 by section 2 of this 2010 Act become**  
20 **operative on the date the rule described in section 13 (1), chapter 826, Oregon Laws 2009, is**  
21 **adopted.**

22           “**(2) The amendments to ORS 166.274 by section 3 of this 2010 Act become operative on**  
23 **January 2, 2012.**

24           “**SECTION 5. This 2010 Act being necessary for the immediate preservation of the public**  
25 **peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect**  
26 **on its passage.”.**

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