

Senate Bill 762

Sponsored by COMMITTEE ON JUDICIARY

SUMMARY

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

Allows persons convicted of felony to petition for restoration of firearm rights not sooner than 10 years after date of conviction or date person completes sentence, whichever is later.

Becomes operative only if amendment to Oregon Constitution by Senate Joint Resolution 31 (2011) is approved by people at next regular general election.

A BILL FOR AN ACT

1
2 Relating to firearms; creating new provisions; and amending ORS 166.274.

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

4 **SECTION 1.** ORS 166.274, as amended by sections 19 and 20, chapter 826, Oregon Laws 2009,
5 and section 3, chapter 86, Oregon Laws 2010, is amended to read:

6 166.274. (1)(a) A person barred from possessing a firearm under ORS 166.250 (1)(c)(A) to (E) or
7 166.270 or barred from purchasing a firearm under ORS 166.470 (1)(a) to (g) may file a petition for
8 relief from the bar in the circuit court in the petitioner's county of residence.

9 **(b) If a person is barred from possessing or purchasing a firearm as the result of a felony**
10 **conviction, the person may file a petition for relief under this section no sooner than 10**
11 **years after the date the person is convicted of the felony or the date the person completes**
12 **servng the sentence imposed, whichever is later.**

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

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

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

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

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

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

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

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 (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 2. This 2011 Act does not become operative unless the amendment to the**
20 **Oregon Constitution proposed by Senate Joint Resolution 31 (2011) is approved by the people**
21 **at the next regular general election. If Senate Joint Resolution 31 (2011) is approved by the**
22 **people, this 2011 Act becomes operative on January 1, 2013.**

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