

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 3093**

1 On page 1 of the printed A-engrossed bill, line 2, after “166.173,” insert
2 “166.250,” and after “166.262,” insert “166.274.”

3 On page 5, after line 43, insert:

4 **“SECTION 10. Section 11 of this 2015 Act is added to and made a
5 part of ORS 166.250 to 166.270.**

6 **“SECTION 11. (1) It is unlawful for a person to knowingly possess
7 a firearm or ammunition if:**

8 **“(a) The person is the subject of a court order that:**

9 **“(A) Was issued or continued after a hearing for which the person
10 had actual notice and during the course of which the person had an
11 opportunity to be heard;**

12 **“(B) Restrains the person from stalking, intimidating, molesting or
13 menacing an intimate partner, a child of an intimate partner or a
14 child of the person; and**

15 **“(C) Includes a finding that the person represents a credible threat
16 to the physical safety of an intimate partner, a child of an intimate
17 partner or a child of the person; or**

18 **“(b) The person has been convicted of a qualifying misdemeanor
19 and, at the time of the offense, the person was a family member of the
20 victim of the offense.**

21 **“(2) The prohibition described in subsection (1)(a) of this section
22 does not apply with respect to the transportation, shipment, receipt,**

1 possession or importation of any firearm or ammunition imported for,
2 sold or shipped to or issued for the use of the United States Govern-
3 ment or any federal department or agency, or any state or department,
4 agency or political subdivision of a state.

5 “(3) As used in this section:

6 “(a) ‘Convicted’ means:

7 “(A) The person was represented by counsel or knowingly and
8 intelligently waived the right to counsel;

9 “(B) The case was tried to a jury, if the crime was one for which
10 the person was entitled to a jury trial, or the person knowingly and
11 intelligently waived the person’s right to a jury trial; and

12 “(C) The conviction has not been set aside or expunged, and the
13 person has not been pardoned.

14 “(b) ‘Deadly weapon’ has the meaning given that term in ORS
15 161.015.

16 “(c) ‘Family member’ means, with respect to the victim, the
17 victim’s spouse, the victim’s former spouse, a person with whom the
18 victim shares a child in common, the victim’s parent or guardian, a
19 person cohabiting with or who has cohabited with the victim as a
20 spouse, parent or guardian or a person similarly situated to a spouse,
21 parent or guardian of the victim.

22 “(d) ‘Intimate partner’ means, with respect to a person, the
23 person’s spouse, the person’s former spouse, a parent of the person’s
24 child or another person who has cohabited or is cohabiting with the
25 person in a relationship akin to a spouse.

26 “(e) ‘Possess’ has the meaning given that term in ORS 161.015.

27 “(f) ‘Qualifying misdemeanor’ means a misdemeanor that has, as
28 an element of the offense, the use or attempted use of physical force
29 or the threatened use of a deadly weapon.

30 “SECTION 12. ORS 166.250 is amended to read:

1 “166.250. (1) Except as otherwise provided in this section or ORS 166.260,
2 166.270, 166.274, 166.291, 166.292 or 166.410 to 166.470 or section 5, chapter
3 826, Oregon Laws 2009, a person commits the crime of unlawful possession
4 of a firearm if the person knowingly:

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

6 “(b) Possesses a handgun that is concealed and readily accessible to the
7 person within any vehicle; or

8 “(c) Possesses a firearm and:

9 “(A) Is under 18 years of age;

10 “(B)(i) While a minor, was found to be within the jurisdiction of the ju-
11 venile court for having committed an act which, if committed by an adult,
12 would constitute a felony or a misdemeanor involving violence, as defined
13 in ORS 166.470; and

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

16 “(C) Has been convicted of a felony;

17 “(D) Was committed to the Oregon Health Authority under ORS 426.130;

18 “(E) Was found to be a person with mental illness and subject to an order
19 under ORS 426.130 that the person be prohibited from purchasing or pos-
20 sessing a firearm as a result of that mental illness; [or]

21 “(F) Has been found guilty except for insanity under ORS 161.295 of a
22 felony[.]; **or**

23 **“(G) The possession of the firearm by the person is prohibited under**
24 **section 11 of this 2015 Act.**

25 “(2) This section does not prohibit:

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

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

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

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

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

14 “(4)(a) Except as provided in paragraphs (b) and (c) of this subsection, a
15 handgun is readily accessible within the meaning of this section if the
16 handgun is within the passenger compartment of the vehicle.

17 “(b) If a vehicle, other than a vehicle described in paragraph (c) of this
18 subsection, has no storage location that is outside the passenger compart-
19 ment of the vehicle, a handgun is not readily accessible within the meaning
20 of this section if:

21 “(A) The handgun is stored in a closed and locked glove compartment,
22 center console or other container; and

23 “(B) The key is not inserted into the lock, if the glove compartment,
24 center console or other container unlocks with a key.

25 “(c) If a vehicle is a motorcycle, an all-terrain vehicle or a snowmobile,
26 a handgun is not readily accessible within the meaning of this section if:

27 “(A) The handgun is in a locked container within or affixed to the vehi-
28 cle; or

29 “(B) The handgun is equipped with a trigger lock or other locking mech-
30 anism that prevents the discharge of the firearm.

1 “(5) Unlawful possession of a firearm is a Class A misdemeanor.

2 **“SECTION 13.** ORS 166.250, as amended by section 11a, chapter 826,
3 Oregon Laws 2009, section 2, chapter 662, Oregon Laws 2011, and section 7,
4 chapter 360, Oregon Laws 2013, is amended to read:

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

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

9 “(b) Possesses a handgun that is concealed and readily accessible to the
10 person within any vehicle; or

11 “(c) Possesses a firearm and:

12 “(A) Is under 18 years of age;

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

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

19 “(C) Has been convicted of a felony;

20 “(D) Was committed to the Oregon Health Authority under ORS 426.130;

21 “(E) Was found to be a person with mental illness and subject to an order
22 under ORS 426.130 that the person be prohibited from purchasing or pos-
23 sessed a firearm as a result of that mental illness; *[or]*

24 “(F) Has been found guilty except for insanity under ORS 161.295 of a
25 felony[.]; **or**

26 **“(G) The possession of the firearm by the person is prohibited under**
27 **section 11 of this 2015 Act.**

28 “(2) This section does not prohibit:

29 “(a) A minor, who is not otherwise prohibited under subsection (1)(c) of
30 this section, from possessing a firearm:

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

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

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

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

17 “(4)(a) Except as provided in paragraphs (b) and (c) of this subsection, a
18 handgun is readily accessible within the meaning of this section if the
19 handgun is within the passenger compartment of the vehicle.

20 “(b) If a vehicle, other than a vehicle described in paragraph (c) of this
21 subsection, has no storage location that is outside the passenger compart-
22 ment of the vehicle, a handgun is not readily accessible within the meaning
23 of this section if:

24 “(A) The handgun is stored in a closed and locked glove compartment,
25 center console or other container; and

26 “(B) The key is not inserted into the lock, if the glove compartment,
27 center console or other container unlocks with a key.

28 “(c) If the vehicle is a motorcycle, an all-terrain vehicle or a snowmobile,
29 a handgun is not readily accessible within the meaning of this section if:

30 “(A) The handgun is in a locked container within or affixed to the vehi-

1 cle; or

2 “(B) The handgun is equipped with a trigger lock or other locking mech-
3 anism that prevents the discharge of the firearm.

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

5 **“SECTION 14.** ORS 166.274 is amended to read:

6 “166.274. (1) Except as provided in subsection (11) of this section, a person
7 barred from possessing or purchasing a firearm may file a petition for relief
8 from the bar in accordance with subsection (2) of this section if:

9 “(a) The person is barred from possessing a firearm under ORS 166.250
10 (1)(c)(A), [or] (C) **or (G)** or 166.270; or

11 “(b) The person is barred from purchasing a firearm under ORS 166.470
12 (1)(a), (b) or (g).

13 “(2) A petition for relief described in this section must be filed in the
14 circuit court in the petitioner’s county of residence.

15 “(3) A person may apply once per calendar year for relief under the pro-
16 visions of this section.

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

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

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

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

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

27 “(b) When a petition is granted, the judge shall cause that information
28 and a fingerprint card of the petitioner to be entered into the Department
29 of State Police computerized criminal history files. If, after a petition is
30 granted, the petitioner is arrested and convicted of a crime that would dis-

1 qualify the petitioner from purchasing or possessing a firearm, the Depart-
2 ment of State Police shall notify the court that granted relief under this
3 section. The court shall review the order granting relief and determine
4 whether to rescind the order. The Department of State Police may charge a
5 reasonable fee, under ORS 192.440, for the entry and maintenance of infor-
6 mation under this section.

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

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

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

20 “(9) A person filing a petition under this section must pay the filing fee
21 established under ORS 21.135.

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

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

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

28 “(11) The court may not grant relief under this section to a person who:

29 “(a) Has been convicted of a person felony, as that term is defined in the
30 rules of the Oregon Criminal Justice Commission, or the statutory counter-

1 part to a person felony in any other jurisdiction, if the offense involved the
2 use of a firearm or a deadly weapon as defined in ORS 161.015;

3 “(b) Has been convicted of an offense listed in ORS 137.700 or the statu-
4 tory counterpart to an offense listed in ORS 137.700 in any other jurisdiction;
5 or

6 “(c) Is currently serving a felony sentence as defined in ORS 10.030 or
7 has served a felony sentence in the one-year period preceding the filing of
8 the petition.

9 **“SECTION 15.** ORS 166.274, as amended by section 20, chapter 826,
10 Oregon Laws 2009, section 3, chapter 86, Oregon Laws 2010, section 60,
11 chapter 595, Oregon Laws 2011, and section 4, chapter 662, Oregon Laws 2011,
12 is amended to read:

13 “166.274. (1) Except as provided in subsection (10) of this section, a person
14 barred from possessing a firearm under ORS 166.250 (1)(c)(A), [*or*] (C) to (E)
15 **or (G)** or 166.270 or barred from purchasing a firearm under ORS 166.470
16 (1)(a), (b) or (e) to (g) may file a petition for relief from the bar in the circuit
17 court in the petitioner’s county of residence.

18 “(2) A person may apply once per calendar year for relief under the pro-
19 visions of this section.

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

22 “(A) The city chief of police if the court in which the petition is filed is
23 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
26 sheriff at the same time the petition is filed at the court.

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

30 “(b) When a petition is granted, the judge shall cause that information

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

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

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

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

23 “(8) A person filing a petition under this section must pay the filing fee
24 established under ORS 21.135.

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

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

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

1 “(10) The court may not grant relief under this section to a person who:

2 “(a) Has been convicted of a person felony, as that term is defined in the
3 rules of the Oregon Criminal Justice Commission, or the statutory counter-
4 part to a person felony in any other jurisdiction, if the offense involved the
5 use of a firearm or a deadly weapon as defined in ORS 161.015;

6 “(b) Has been convicted of an offense listed in ORS 137.700 or the statu-
7 tory counterpart to an offense listed in ORS 137.700 in any other jurisdiction;

8 or

9 “(c) Is currently serving a felony sentence as defined in ORS 10.030 or
10 has served a felony sentence in the one-year period preceding the filing of
11 the petition.”.

12
