

Requested by HOUSE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
A-ENGROSSED SENATE BILL 1543**

1 On page 1 of the printed A-engrossed bill, line 2, after “137.225,” insert
2 “137.372.”

3 In line 3, after “162.375,” insert “166.412, 166.436,” and after the semicolon
4 delete the rest of the line and line 4 and insert “and declaring an
5 emergency.”.

6 Delete lines 6 through 11.

7 On page 2, delete lines 1 through 22 and insert:

8 **“SECTION 1.** ORS 180.700 is amended to read:

9 “180.700. (1) The Attorney General shall appoint an advisory committee
10 composed [*at least*] of:

11 **“(a)** Representatives from local supervisory authorities, batterers’ inter-
12 vention programs and domestic violence victims’ advocacy groups; **and**

13 **“(b) Persons who:**

14 **“(A) Are experienced with evidence-based practices specific to re-**
15 **ducing recidivism that take into account risk factors, needs and re-**
16 **sponsiveness to treatment; and**

17 **“(B) Represent the diverse groups that interact with violence pre-**
18 **vention and batterers’ intervention programs.**

19 **“(2)** The Attorney General, in consultation with the advisory committee,
20 shall adopt rules that establish standards for batterers’ intervention pro-
21 grams. The rules adopted must include, but are not limited to:

1 “[1] (a) Standards for contacts between the defendant and the victim;

2 “[2] (b) Standards for the dissemination of otherwise confidential med-
3 ical, mental health and treatment records;

4 “[3] (c) Standards that protect to the greatest extent practicable the
5 confidentiality of defendants who are participating in domestic violence de-
6 ferred sentencing agreements;

7 “[4] (d) A requirement that the designated batterers’ intervention pro-
8 gram must report to the defendant’s local supervisory authority any criminal
9 assaults, threats to harm the victim or any substantial violation of the
10 program’s rules by the defendant; and

11 “[5] (e) Standards for batterers’ intervention programs that are most
12 likely to end domestic violence and increase victims’ safety.

13 **“(3) The standards established by the rules described in subsection
14 (2) of this section must:**

15 **“(a) Consist of separate standards for batterers’ intervention pro-
16 grams that address male defendants, female defendants, defendants
17 offending against same-sex victims and circumstances in which the
18 defendant or victim is gender nonconforming; and**

19 **“(b) Be based on scientific research and direct practice both with
20 persons who have perpetrated domestic violence and with persons who
21 have survived domestic violence.**

22 **“(4) As used in this section, ‘supervisory authority’ has the meaning
23 given that term in ORS 144.087.”.**

24 On page 4, delete lines 29 through 45 and delete page 5.

25 On page 6, delete lines 1 through 35 and insert:

26 **“SECTION 5.** ORS 161.336 is amended to read:

27 **“161.336. (1)(a) When a person is conditionally released under ORS 161.315
28 to 161.351, the person is subject to those supervisory orders of the Psychiat-
29 ric Security Review Board as are in the best interests of justice, the pro-
30 tection of society and the welfare of the person.**

1 “(b) An order of conditional release entered by the board may designate
2 any person or state, county or local agency capable of supervising the person
3 upon release, subject to the conditions described in the order of conditional
4 release.

5 “(c) Prior to the designation, the board shall notify the person or state,
6 county or local agency to whom conditional release is contemplated and
7 provide the person or state, county or local agency an opportunity to be
8 heard.

9 “(d) After receiving an order entered under this section, the person or
10 state, county or local agency designated in the order shall assume super-
11 vision of the person in accordance with the conditions described in the order
12 and any modifications of the conditions ordered by the board.

13 “(2) Conditions of release contained in orders entered under this section
14 may be modified from time to time and conditional releases may be termi-
15 nated as provided in ORS 161.351.

16 “(3)(a) As a condition of release, the person may be required to report to
17 any state or local mental health facility for evaluation. Whenever medical,
18 psychiatric or psychological treatment is recommended, the order may re-
19 quire the person, as a condition of release, to cooperate with and accept the
20 treatment from the facility.

21 “(b) The facility to which the person has been referred for evaluation
22 shall perform the evaluation and submit a written report of its findings to
23 the board. If the facility finds that treatment of the person is appropriate,
24 it shall include its recommendations for treatment in the report to the board.

25 “(c) Whenever treatment is provided by the facility, it shall furnish re-
26 ports to the board on a regular basis concerning the progress of the person.

27 “(d) Copies of all reports submitted to the board pursuant to this section
28 shall be furnished to the person and the person’s counsel. The confidentiality
29 of these reports is determined pursuant to ORS 192.338, 192.345 and 192.355.

30 “(e) The facility shall comply with the conditional release order and any

1 modifications of the conditions ordered by the board.

2 “[(4)(a) *If at any time while the person is under the jurisdiction of the*
3 *board it appears to the board or its chairperson that the person has violated*
4 *the terms of the conditional release or that the mental health of the individual*
5 *has changed, the board or its chairperson may order the person returned for*
6 *evaluation or treatment to a state hospital or, if the person is under 18 years*
7 *of age, to a secure intensive community inpatient facility. A written order of*
8 *the board, or its chairperson on behalf of the board, is sufficient warrant for*
9 *any law enforcement officer to take into custody such person and transport the*
10 *person accordingly. A sheriff, municipal police officer, constable, parole and*
11 *probation officer, prison official or other peace officer shall execute the order,*
12 *and the person shall be returned as soon as practicable to the state hospital*
13 *or secure intensive community inpatient facility designated in the order.]*

14 “(4)(a)(A) **A written or electronic order for the return of a person**
15 **on conditional release to a state hospital or other facility designated**
16 **by the supervising entity or, if the person is under 18 years of age, to**
17 **a secure intensive community inpatient facility or other facility des-**
18 **ignated by the supervising entity, may be issued by:**

19 “(i) **The supervising entity;**

20 “(ii) **A person designated by the supervising entity, if the desig-**
21 **nation is made as part of a written policy; or**

22 “(iii) **The community mental health program director, if the person**
23 **has absconded from conditional release.**

24 “(B) **An order described in this paragraph may be issued when the**
25 **supervising entity, the authorized designee or, if the person has**
26 **absconded, the community mental health program director, has de-**
27 **termined that:**

28 “(i) **The person has violated the terms of conditional release; or**

29 “(ii) **The mental health of the person has changed such that the**
30 **supervising entity, or, if applicable, the authorized designee or the**

1 **community mental health program director, reasonably believes that**
2 **the person may no longer be fit for conditional release.**

3 **“(C) A written order under this paragraph is sufficient warrant for**
4 **any law enforcement officer to take into custody and transport the**
5 **person named in the order. A peace officer shall execute the order and**
6 **the person shall be transported as described in paragraph (c) of this**
7 **subsection.**

8 *“(b) [The community mental health program director] A peace officer, the*
9 *director of the facility providing treatment to a person on conditional*
10 *release[, any peace officer] or any person responsible for the supervision of*
11 *a person on conditional release may take a person on conditional release into*
12 *custody, or request that the person be taken into custody, if there is rea-*
13 *sonable cause to believe the person is a substantial danger to others because*
14 *of a [qualifying] mental disorder and that the person is in need of immediate*
15 *care, custody or treatment. [Any person taken into custody pursuant to this*
16 *subsection shall be transported as soon as practicable to a state hospital or,*
17 *if the person is under 18 years of age, to a secure intensive community inpa-*
18 *tient facility.]*

19 **“(c) When a person is taken into custody by a peace officer under**
20 **this subsection, the agency employing the peace officer shall cause the**
21 **person, as soon as practicable, to be transported to a state hospital**
22 **or other facility designated by the supervising entity. If the person**
23 **was taken into custody pursuant to an order described in paragraph**
24 **(a) of this subsection, the supervising entity shall facilitate the re-**
25 **imbursement of reasonable costs of the transport to the agency em-**
26 **ploying the peace officer.**

27 *“[(c)] (d) Within 20 days following the return of the person to a state*
28 *hospital or secure intensive community inpatient facility under this sub-*
29 *section, the board shall conduct a hearing. The board shall provide notice*
30 *of the hearing to the person, the attorney representing the person and the*

1 Attorney General. The state must prove by a preponderance of the evidence
2 the person's unfitness for conditional release. The hearing shall be conducted
3 in accordance with ORS 161.346.

4 **“(e) As used in this subsection, ‘supervising entity’ means the board
5 or the chairperson or executive director of the board.**

6 “(5)(a) Any person conditionally released under this section may apply to
7 the board for discharge from or modification of an order of conditional re-
8 lease on the ground that the person is no longer affected by a qualifying
9 mental disorder or, if still so affected, no longer presents a substantial dan-
10 ger to others and no longer requires supervision, medication, care or treat-
11 ment. Notice of the hearing on an application for discharge or modification
12 of an order of conditional release shall be made to the Attorney General.
13 The applicant, at the hearing pursuant to this subsection, must prove by a
14 preponderance of the evidence the applicant's fitness for discharge or mod-
15 ification of the order of conditional release. Applications by the person for
16 discharge or modification of conditional release may not be filed more often
17 than once every six months.

18 “(b) Upon application by any person or agency responsible for supervision
19 or treatment pursuant to an order of conditional release, the board shall
20 conduct a hearing to determine if the conditions of release shall be contin-
21 ued, modified or terminated. The application shall be accompanied by a re-
22 port setting forth the facts supporting the application.

23 “(6) A person who has spent five years on conditional release shall be
24 brought before the board for hearing within 30 days before the expiration
25 of the five-year period. The board shall review the person's status and de-
26 termine whether the person should be discharged from the jurisdiction of the
27 board.”.

28 On page 18, delete lines 30 through 32 and insert:

29 **“SECTION 13.** ORS 137.372 is amended to read:

30 “137.372. (1)(a) Notwithstanding the provisions of ORS 137.370 (2), an

1 offender who has been revoked from a probationary sentence for a felony
2 committed on or after November 1, 1989, and whose sentence was imposed
3 as a downward dispositional departure under the rules of the Oregon Crimi-
4 nal Justice Commission, shall receive credit for the time served in jail after
5 arrest and before commencement of the probationary sentence and for the
6 time served in jail as part of the probationary sentence. However, if the
7 credit for the time served in jail as described in this paragraph is greater
8 than 90 days, the sentencing judge may limit or deny credit for any of that
9 time that exceeds 90 days.

10 “(b) Notwithstanding the provisions of ORS 137.370 (2), an offender who
11 has been revoked from a probationary sentence for a felony committed on
12 or after November 1, 1989, and whose sentence was imposed as a presumptive
13 **or optional** probationary sentence under the rules of the Oregon Criminal
14 Justice Commission, shall receive credit for the time served in jail after ar-
15 rest and before commencement of the probationary sentence and for the time
16 served in jail as part of the probationary sentence, unless the sentencing
17 judge orders otherwise.

18 “(2) Notwithstanding the provisions of ORS 137.370 (2), an offender who
19 is sentenced to imprisonment in the custody of the Department of Cor-
20 rections following the failure to complete a diversion program described in
21 ORS 430.450 to 430.555 or a specialty court program in which the offender
22 was not on probation shall receive credit for the time served in jail after
23 arrest and before commencement of the program and for the time served in
24 jail as a sanction for violating the terms of the program, unless the sen-
25 tencing judge orders otherwise.

26 “(3) Notwithstanding the provisions of ORS 137.320 (4), an offender who
27 has been ordered confined as part of a probationary sentence for a felony
28 committed on or after July 18, 1995, shall receive credit for the time served
29 in jail after arrest and before commencement of the term unless the sen-
30 tencing judge orders otherwise.

1 “(4) As used in this section, ‘specialty court’ has the meaning given that
2 term in ORS 137.680.

3 **“SECTION 14. (1) Jurisdiction is conferred upon the Supreme Court**
4 **to determine whether chapter 673, Oregon Laws 2017, violates any**
5 **provision of the Oregon Constitution, for the following appeals:**

6 **“(a) In a civil action, any appeal in which the notice of appeal was**
7 **filed after January 1, 2018, and before April 1, 2018; or**

8 **“(b) In an appeal by a criminal defendant, any appeal in which:**

9 **“(A) The only assignment of error relates to the constitutionality**
10 **of a section of chapter 673, Oregon Laws 2017;**

11 **“(B) A notice of appeal was filed after January 1, 2018, and before**
12 **April 1, 2018; and**

13 **“(C) The defendant requests in writing, no later than April 13, 2018,**
14 **that the appeal be decided by the Supreme Court.**

15 **“(2) The Supreme Court shall, to the extent practicable, expedite its**
16 **disposition of appeals under subsection (1)(a) of this section as pro-**
17 **vided in the rules of appellate procedure.**

18 **“SECTION 15. If House Bill 4145 becomes law, ORS 166.412, as amended**
19 **by section 4, chapter _____, Oregon Laws 2018 (Enrolled House Bill 4145),**
20 **is amended to read:**

21 **“166.412. (1) As used in this section:**

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

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

24 **“(c) ‘Firearm’ has the meaning given that term in ORS 166.210, except**
25 **that it does not include an antique firearm;**

26 **“(d) ‘Firearms transaction record’ means the firearms transaction record**
27 **required by 18 U.S.C. 921 to 929;**

28 **“(e) ‘Firearms transaction thumbprint form’ means a form provided by the**
29 **department under subsection (11) of this section;**

30 **“(f) ‘Gun dealer’ means a person engaged in the business, as defined in**

1 18 U.S.C. 921, of selling, leasing or otherwise transferring a firearm, whether
2 the person is a retail dealer, pawnbroker or otherwise; and

3 “(g) ‘Purchaser’ means a person who buys, leases or otherwise receives a
4 firearm from a gun dealer.

5 “(2) Except as provided in subsections (3)(c) and (12) of this section, a gun
6 dealer shall comply with the following before a firearm is delivered to a
7 purchaser:

8 “(a) The purchaser shall present to the gun dealer current identification
9 meeting the requirements of subsection (4) of this section.

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

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

15 “(d) The gun dealer shall request by telephone that the department con-
16 duct a criminal history record check on the purchaser and shall provide the
17 following information to the department:

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

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

20 “(C) The place of transfer;

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

22 “(E) The make, model, caliber and manufacturer’s number of the firearm
23 being transferred;

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

25 “(G) The Social Security number of the purchaser if the purchaser vol-
26 untarily provides this number to the gun dealer; and

27 “(H) The type, issuer and identification number of the identification pre-
28 sented by the purchaser.

29 “(e) The gun dealer shall receive a unique approval number for the
30 transfer from the department and record the approval number on the firearms

1 transaction record and on the firearms transaction thumbprint form.

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

4 “(3)(a) Upon receipt of a request of the gun dealer for a criminal history
5 record check, the department shall immediately, during the gun dealer’s
6 telephone call or by return call:

7 “(A) Determine, from criminal records and other information available to
8 it, whether the purchaser is disqualified under ORS 166.470 from completing
9 the purchase; and

10 “(B) Notify the gun dealer when a purchaser is disqualified from com-
11 pleting the transfer or provide the gun dealer with a unique approval number
12 indicating that the purchaser is qualified to complete the transfer.

13 “(b) If the department is unable to determine if the purchaser is qualified
14 or disqualified from completing the transfer within 30 minutes, the depart-
15 ment shall notify the gun dealer and provide the gun dealer with an estimate
16 of the time when the department will provide the requested information.

17 “(c) If the department fails to provide a unique approval number to a gun
18 dealer or to notify the gun dealer that the purchaser is disqualified under
19 paragraph (a) of this subsection before the close of the gun dealer’s next
20 business day following the request by the gun dealer for a criminal history
21 record check, the gun dealer may deliver the firearm to the purchaser.

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

25 “(A) Is issued under the authority of the United States Government, a
26 state, a political subdivision of a state, a foreign government, a political
27 subdivision of a foreign government, an international governmental organ-
28 ization or an international quasi-governmental organization; and

29 “(B) Is intended to be used for identification of an individual or is com-
30 monly accepted for the purpose of identification of an individual.

1 “(b) If the identification presented by the purchaser under paragraph (a)
2 of this subsection does not include the current address of the purchaser, the
3 purchaser shall present a second piece of current identification that contains
4 the current address of the purchaser. The Superintendent of State Police may
5 specify by rule the type of identification that may be presented under this
6 paragraph.

7 “(c) The department may require that the gun dealer verify the identifi-
8 cation of the purchaser if that identity is in question by sending the
9 thumbprints of the purchaser to the department.

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

14 “(6) No public employee, official or agency shall be held criminally or
15 civilly liable for performing the investigations required by this section pro-
16 vided the employee, official or agency acts in good faith and without malice.

17 “(7)(a) The department may retain a record of the information obtained
18 during a request for a criminal history record check for no more than five
19 years.

20 “(b) The record of the information obtained during a request for a crimi-
21 nal history record check by a gun dealer is exempt from disclosure under
22 public records law.

23 “(c) If the department determines that a purchaser is prohibited from
24 possessing a firearm under ORS 166.250 (1)(c), the department shall report
25 the attempted transfer, the purchaser’s name and any other personally iden-
26 tifiable information to all federal, state and local law enforcement agencies
27 and district attorneys that have jurisdiction over the location or locations
28 where the attempted transfer was made and where the purchaser resides.

29 “(d) If the department determines that, based on the judgment of con-
30 viction, the purchaser is prohibited from possessing a firearm as a condition

1 of probation or that the purchaser is currently on post-prison supervision or
2 parole, the department shall report the attempted transfer to the purchaser's
3 supervising officer and the district attorney of the county in which the con-
4 viction occurred.

5 “(e) If the department determines that the purchaser is prohibited from
6 possessing a firearm due to a court order described in ORS 166.255 (1)(a), the
7 department shall report the attempted transfer to the court that issued the
8 order.

9 “(f) If the department determines that the purchaser is under the jurisdic-
10 tion of the Psychiatric Security Review Board, the department shall re-
11 port the attempted transfer to the board.

12 “(g) Reports required by paragraphs (c) to (f) of this subsection shall be
13 made within 24 hours after the determination is made, unless a report would
14 compromise an ongoing investigation, in which case the report may be de-
15 layed as long as necessary to avoid compromising the investigation.

16 “(h) On or before January 31 of each year, a law enforcement agency or
17 a prosecuting attorney's office that received a report pursuant to paragraph
18 (c) of this subsection during the previous calendar year shall inform the de-
19 partment of [*the*] **any** action that was taken concerning [*each attempted*
20 *transfer*] **the report** and the outcome of the action.

21 “(i) The department shall annually publish a written report, based on any
22 information received under paragraph (h) of this subsection, detailing the
23 following information for the previous year:

24 “(A) The number of purchasers whom the department determined were
25 prohibited from possessing a firearm under ORS 166.250 (1)(c), arranged by
26 category of prohibition;

27 “(B) The number of reports made pursuant to paragraph (c) of this sub-
28 section;

29 “(C) The number of investigations arising from the reports made pursuant
30 to paragraph (c) of this subsection, the number of investigations concluded

1 and the number of investigations referred for prosecution, all arranged by
2 category of prohibition; and

3 “(D) The number of criminal charges arising from the reports made pur-
4 suant to paragraph (c) of this subsection and the disposition of the charges,
5 both arranged by category of prohibition.

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

10 “(9) When a firearm is delivered, it shall be unloaded.

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

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

14 “(b) The maintenance of a procedure to correct errors in the criminal re-
15 cords of the department;

16 “(c) The provision of a security system to identify gun dealers that re-
17 quest a criminal history record check under subsection (2) of this section;
18 and

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

21 “(11) The department shall publish the firearms transaction thumbprint
22 form and shall furnish the form to gun dealers on application at cost.

23 “(12) This section does not apply to transactions between persons licensed
24 as dealers under 18 U.S.C. 923.

25 “(13)(a) If requested by a transferor who is not a gun dealer, a gun dealer
26 may request a criminal background check pursuant to ORS 166.435 or 166.438
27 and may charge a reasonable fee for providing the service.

28 “(b) A gun dealer that requests a criminal background check under this
29 subsection is immune from civil liability for any use of the firearm by the
30 recipient or transferee, provided that the gun dealer requests the criminal

1 background check as described in this section.

2 **“SECTION 16.** If House Bill 4145 becomes law, ORS 166.436, as amended
3 by section 5, chapter _____, Oregon Laws 2018 (Enrolled House Bill 4145),
4 is amended to read:

5 “166.436. (1) The Department of State Police shall make the telephone
6 number established under ORS 166.412 (5) available for requests for criminal
7 background checks under this section from persons who are not gun dealers
8 and who are transferring firearms at gun shows.

9 “(2) Prior to transferring a firearm at a gun show, a transferor who is
10 not a gun dealer may request by telephone that the department conduct a
11 criminal background check on the recipient and shall provide the following
12 information to the department:

13 “(a) The name, address and telephone number of the transferor;

14 “(b) The make, model, caliber and manufacturer’s number of the firearm
15 being transferred;

16 “(c) The name, date of birth, race, sex and address of the recipient;

17 “(d) The Social Security number of the recipient if the recipient volun-
18 tarily provides that number;

19 “(e) The address of the place where the transfer is occurring; and

20 “(f) The type, issuer and identification number of a current piece of
21 identification bearing a recent photograph of the recipient presented by the
22 recipient. The identification presented by the recipient must meet the re-
23 quirements of ORS 166.412 (4)(a).

24 “(3)(a) Upon receipt of a request for a criminal background check under
25 this section, the department shall immediately, during the telephone call or
26 by return call:

27 “(A) Determine from criminal records and other information available to
28 it whether the recipient is disqualified under ORS 166.470 from completing
29 the transfer or is otherwise prohibited by state or federal law from possess-
30 ing a firearm; and

1 “(B) Notify the transferor when a recipient is disqualified from complet-
2 ing the transfer or provide the transferor with a unique approval number
3 indicating that the recipient is qualified to complete the transfer. The unique
4 approval number is a permit valid for 24 hours for the requested transfer. If
5 the firearm is not transferred from the transferor to the recipient within 24
6 hours after receipt of the unique approval number, a new request must be
7 made by the transferor.

8 “(b) If the department is unable to determine whether the recipient is
9 qualified for or disqualified from completing the transfer within 30 minutes
10 of receiving the request, the department shall notify the transferor and pro-
11 vide the transferor with an estimate of the time when the department will
12 provide the requested information.

13 “(4) A public employee or public agency incurs no criminal or civil li-
14 ability for performing the criminal background checks required by this sec-
15 tion, provided the employee or agency acts in good faith and without malice.

16 “(5)(a) The department may retain a record of the information obtained
17 during a request for a criminal background check under this section for the
18 period of time provided in ORS 166.412 (7).

19 “(b) The record of the information obtained during a request for a crimi-
20 nal background check under this section is exempt from disclosure under
21 public records law.

22 “(c) If the department determines that a recipient is prohibited from pos-
23 sessing a firearm under ORS 166.250 (1)(c), the department shall report the
24 attempted transfer, the recipient’s name and any other personally identifiable
25 information to all federal, state and local law enforcement agencies and
26 district attorneys that have jurisdiction over the location or locations where
27 the attempted transfer was made and where the recipient resides.

28 “(d) If the department determines that, based on the judgment of con-
29 viction, the recipient is prohibited from possessing a firearm as a condition
30 of probation or that the recipient is currently on post-prison supervision or

1 parole, the department shall report the attempted transfer to the recipient's
2 supervising officer and the district attorney of the county in which the con-
3 viction occurred.

4 “(e) If the department determines that the recipient is prohibited from
5 possessing a firearm due to a court order described in ORS 166.255 (1)(a), the
6 department shall report the attempted transfer to the court that issued the
7 order.

8 “(f) If the department determines that the recipient is under the jurisdic-
9 tion of the Psychiatric Security Review Board, the department shall report
10 the attempted transfer to the board.

11 “(g) Reports required by paragraphs (c) to (f) of this subsection shall be
12 made within 24 hours after the determination is made, unless a report would
13 compromise an ongoing investigation, in which case the report may be de-
14 layed as long as necessary to avoid compromising the investigation.

15 “(h) On or before January 31 of each year, a law enforcement agency or
16 a prosecuting attorney's office that received a report pursuant to paragraph
17 (c) of this subsection during the previous calendar year shall inform the de-
18 partment of [*the*] **any** action that was taken concerning [*each attempted*
19 *transfer*] **the report** and the outcome of the action.

20 “(i) The department shall annually publish a written report, based on any
21 information received under paragraph (h) of this subsection, detailing the
22 following information for the previous year:

23 “(A) The number of recipients whom the department determined were
24 prohibited from possessing a firearm under ORS 166.250 (1)(c), arranged by
25 category of prohibition;

26 “(B) The number of reports made pursuant to paragraph (c) of this sub-
27 section;

28 “(C) The number of investigations arising from the reports made pursuant
29 to paragraph (c) of this subsection, the number of investigations concluded
30 and the number of investigations referred for prosecution, all arranged by

1 category of prohibition; and

2 “(D) The number of criminal charges arising from the reports made pur-
3 suant to paragraph (c) of this subsection and the disposition of the charges,
4 both arranged by category of prohibition.

5 “(6) The recipient of the firearm must be present when the transferor re-
6 quests a criminal background check under this section.

7 “(7)(a) Except as otherwise provided in paragraph (b) of this subsection,
8 a transferor who receives notification under this section that the recipient
9 is qualified to complete the transfer of a firearm, has the recipient fill out
10 the form required by ORS 166.438 (1)(a) and retains the form as required by
11 ORS 166.438 (2) is immune from civil liability for any use of the firearm from
12 the time of the transfer unless the transferor knows, or reasonably should
13 know, that the recipient is likely to commit an unlawful act involving the
14 firearm.

15 “(b) The immunity provided by paragraph (a) of this subsection does not
16 apply:

17 “(A) If the transferor knows, or reasonably should know, that the recipi-
18 ent of the firearm intends to deliver the firearm to a third person who the
19 transferor knows, or reasonably should know, may not lawfully possess the
20 firearm; or

21 “(B) In any product liability civil action under ORS 30.900 to 30.920.

22 **“SECTION 17. Section 14 of this 2018 Act is repealed on July 1, 2023.**

23 **“SECTION 18. (1) The amendments to ORS 423.105 by section 8 of**
24 **this 2018 Act become operative on June 30, 2018.**

25 **“(2) The amendments to ORS 166.412 and 166.436 by sections 15 and**
26 **16 of this 2018 Act become operative on January 1, 2019.**

27 **“SECTION 19. (1) The amendments to ORS 137.540, 162.375 and**
28 **837.365 by sections 6, 9 and 10 of this 2018 Act apply to offenses com-**
29 **mitted on or after the effective date of this 2018 Act.**

30 **“(2) The amendments to ORS 137.372 by section 13 of this 2018 Act**

1 apply to sentences imposed on or after the effective date of this 2018
2 Act.

3 **“SECTION 20. This 2018 Act being necessary for the immediate
4 preservation of the public peace, health and safety, an emergency is
5 declared to exist, and this 2018 Act takes effect on its passage.”.**

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