

Requested by Representative WILLIAMSON

**PROPOSED AMENDMENTS TO
HOUSE BILL 2013**

1 On page 1 of the printed bill, delete lines 5 through 25 and delete pages
2 2 through 5 and insert:

3 **“SECTION 1.** ORS 166.255, as amended by section 1, chapter 5, Oregon
4 Laws 2018, is amended to read:

5 “166.255. (1) It is unlawful for a person to knowingly possess a firearm
6 or ammunition if:

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

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

11 **“(ii) Was issued, continued or remains in effect, by order or opera-**
12 **tion of law, after the person received notice of the opportunity to re-**
13 **quest a hearing in which to be heard on the order, and either**
14 **requested a hearing but did not attend the hearing or withdrew the**
15 **request before the hearing occurred, or did not request a hearing**
16 **during the time period in which the opportunity was available;**

17 “(B) Restrains the person from stalking, intimidating, molesting or men-
18 acing a family or household member of the person, a child of a family or
19 household member of the person or a child of the person; and

20 “(C) Includes a finding that the person represents a credible threat to the
21 physical safety of a family or household member of the person, a child of a

1 family or household member of the person or a child of the person;

2 “(b) The person has been convicted of a qualifying misdemeanor and, at
3 the time of the offense, the person was:

4 “(A) A family or household member of the victim of the offense; or

5 “(B) A parent or guardian of the victim of the offense; or

6 “(c) The person has been convicted of stalking under ORS 163.732.

7 “(2) The prohibition described in subsection (1)(a) of this section does not
8 apply with respect to the transportation, shipment, receipt, possession or
9 importation of any firearm or ammunition imported for, sold or shipped to
10 or issued for the use of the United States Government or any federal de-
11 partment or agency, or any state or department, agency or political subdivi-
12 sion of a state.

13 “(3) As used in this section:

14 “(a) ‘Convicted’ means:

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

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

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

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

23 “(c) ‘Family or household member’ has the meaning given that term in
24 ORS 135.230.

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

26 “(e) ‘Qualifying misdemeanor’ means a misdemeanor that has, as an ele-
27 ment of the offense, the use or attempted use of physical force or the
28 threatened use of a deadly weapon.

29 **“SECTION 2. Section 3 of this 2019 Act is added to and made a part**
30 **of ORS 166.250 to 166.270.**

1 **“SECTION 3. (1) When a person is convicted of an offense described**
2 **in ORS 166.255 (1)(b) or (c), the court shall, at the time of conviction:**

3 **“(a) Indicate in the judgment of conviction that the person is pro-**
4 **hibited from possessing firearms and ammunition under ORS 166.250**
5 **and 166.255;**

6 **“(b) Inform the person, orally and in writing, that the person is**
7 **prohibited from possessing firearms and ammunition;**

8 **“(c) Order in writing that the person transfer all firearms and am-**
9 **munition in the person’s possession in accordance with subsection (3)**
10 **of this section; and**

11 **“(d) Order that the person file a declaration as described in sub-**
12 **section (5) of this section.**

13 **“(2)(a) Within 24 hours of the court’s order under subsection (1) of**
14 **this section, the person shall transfer all firearms and ammunition in**
15 **the person’s possession to a local law enforcement agency, to a gun**
16 **dealer as defined in ORS 166.412 or to a third party who does not reside**
17 **with the person, and shall obtain a proof of transfer under paragraph**
18 **(b) of this subsection. A transfer to a third party under this subsection**
19 **must be in accordance with ORS 166.435, except that the criminal**
20 **background check exceptions in ORS 166.435 (4) do not apply.**

21 **“(b) A law enforcement agency, gun dealer or third party receiving**
22 **a firearm or ammunition pursuant to this subsection shall issue to the**
23 **person a written proof of transfer. The proof of transfer must include**
24 **the person’s name, the date of transfer and the serial number, make**
25 **and model of each transferred firearm. A proof of transfer issued by**
26 **a third party must also include the unique approval number from the**
27 **Department of State Police from the criminal background check con-**
28 **ducted under ORS 166.435.**

29 **“(c) A person transferring a firearm or ammunition to a third party**
30 **under this subsection shall additionally obtain from the third party a**

1 **declaration under penalty of perjury confirming receipt of the firearm**
2 **or ammunition and attesting that:**

3 **“(A) The third party understands that the person is prohibited from**
4 **possessing firearms and ammunition; and**

5 **“(B) The third party is subject to criminal penalties if the third**
6 **party allows the person access to the firearm or ammunition during**
7 **the prohibition.**

8 **“(3)(a) A law enforcement agency may accept a firearm or ammu-**
9 **nition transferred under this section.**

10 **“(b) A gun dealer may purchase or may accept for storage a firearm**
11 **or ammunition transferred under this section.**

12 **“(4)(a) Within two judicial days of the court’s order under sub-**
13 **section (1) of this section, the person shall file with the court a dec-**
14 **laration under penalty of perjury attesting that:**

15 **“(A) All firearms and ammunition in the person’s possession have**
16 **been transferred under subsection (2) of this section to:**

17 **“(i) A law enforcement agency;**

18 **“(ii) A gun dealer; or**

19 **“(iii) A third party;**

20 **“(B) The person was not in possession of any firearms at the time**
21 **of the court’s order and continues to not possess any firearms; or**

22 **“(C) The person is asserting the person’s constitutional right**
23 **against self-incrimination.**

24 **“(b) The person shall file with the declaration a copy of the proof**
25 **of transfer, if applicable, and a copy of the third party declaration, if**
26 **applicable.**

27 **“(5) The person shall concurrently file with the district attorney**
28 **copies of the declaration, proof of transfer and third party declaration**
29 **filed with the court under subsection (4) of this section.**

30 **“(6) A person in possession of a firearm or ammunition in violation**

1 of ORS 166.255 (1)(b) or (c) may not be prosecuted under ORS 166.250
2 if:

3 “(a) The person is in possession of a court order described in sub-
4 section (1) of this section issued within the previous 24 hours;

5 “(b) The firearm is unloaded; and

6 “(c) The person is transporting the firearm or ammunition to a law
7 enforcement agency, gun dealer or third party for transfer in accord-
8 ance with subsection (2) of this section.

9 “(7) If the person does not file the declaration required under sub-
10 section (4) of this section, the district attorney may commence con-
11 tempt proceedings under ORS 33.015 to 33.155.

12 **“SECTION 4. (1)(a) When a respondent becomes subject to an order**
13 **described in ORS 166.255 (1)(a) prohibiting the respondent from pos-**
14 **sessing firearms or ammunition, the court shall:**

15 “(A) Indicate in the order that the respondent is prohibited from
16 possessing firearms and ammunition under ORS 166.250 and 166.255
17 while the order is in effect.

18 “(B) Ensure that the respondent is subject to an additional order:

19 “(i) Requiring the respondent to transfer all firearms and ammuni-
20 tion in the respondent’s possession in accordance with subsection (2)
21 of this section; and

22 “(ii) Requiring the respondent to file a declaration as described in
23 subsection (4) of this section.

24 “(b) If the respondent becomes subject to the order while the re-
25 spondent is present in court, the court shall:

26 “(A) Inform the respondent, orally and in writing, that the re-
27 spondent is prohibited from possessing firearms and ammunition;

28 “(B) Order in writing that the respondent transfer all firearms and
29 ammunition in the respondent’s possession in accordance with sub-
30 section (2) of this section; and

1 **“(C) Order that the respondent file a declaration as described in**
2 **subsection (4) of this section.**

3 **“(2)(a) Within 24 hours of becoming subject to the court order under**
4 **subsection (1)(a)(B) of this section or receiving the court order under**
5 **subsection (1)(b)(B) of this section, the respondent shall transfer all**
6 **firearms and ammunition in the respondent’s possession to a local law**
7 **enforcement agency, to a gun dealer as defined in ORS 166.412 or to a**
8 **third party who does not reside with the respondent, and shall obtain**
9 **a proof of transfer under paragraph (b) of this subsection. A transfer**
10 **to a third party under this subsection must be in accordance with ORS**
11 **166.435, except that the criminal background check exceptions in ORS**
12 **166.435 (4) do not apply.**

13 **“(b) A law enforcement agency, gun dealer or third party receiving**
14 **a firearm or ammunition pursuant to this subsection shall issue to the**
15 **respondent a written proof of transfer. The proof of transfer must in-**
16 **clude the respondent’s name, the date of transfer and the serial num-**
17 **ber, make and model of each transferred firearm. A proof of transfer**
18 **issued by a third party must also include the unique approval number**
19 **from the Department of State Police from the criminal background**
20 **check conducted under ORS 166.435.**

21 **“(c) A respondent transferring a firearm or ammunition to a third**
22 **party under this subsection shall additionally obtain from the third**
23 **party a declaration under penalty of perjury confirming receipt of the**
24 **firearm or ammunition and attesting that:**

25 **“(A) The third party understands that the respondent is prohibited**
26 **from possessing firearms and ammunition; and**

27 **“(B) The third party is subject to criminal penalties if the third**
28 **party allows the respondent access to the firearm or ammunition**
29 **during the prohibition.**

30 **“(3)(a) A law enforcement agency may accept a firearm or ammu-**

1 **dition transferred under this section.**

2 **“(b) A gun dealer may purchase or may accept for storage a firearm**
3 **or ammunition transferred under this section.**

4 **“(4)(a) Within two judicial days of becoming subject to the court**
5 **order under subsection (1)(a)(B) of this section or receiving the court**
6 **order under subsection (1)(b)(B) of this section, the respondent shall**
7 **file with the court a declaration under penalty of perjury attesting**
8 **that:**

9 **“(A) All firearms and ammunition in the respondent’s possession**
10 **have been transferred under subsection (2) of this section to:**

11 **“(i) A law enforcement agency;**

12 **“(ii) A gun dealer; or**

13 **“(iii) A third party;**

14 **“(B) The respondent was not in possession of any firearms at the**
15 **time of the court’s order and continues to not possess any firearms;**
16 **or**

17 **“(C) The respondent is asserting the respondent’s constitutional**
18 **right against self-incrimination.**

19 **“(b) The respondent shall file with the declaration a copy of the**
20 **proof of transfer, if applicable, and a copy of the third party declara-**
21 **tion, if applicable.**

22 **“(5) The respondent shall concurrently file with the district attor-**
23 **ney copies of the declaration, proof of transfer and third party decla-**
24 **ration filed with the court under subsection (4) of this section.**

25 **“(6) A respondent in possession of a firearm or ammunition in vio-**
26 **lation of ORS 166.255 (1)(a) may not be prosecuted under ORS 166.250**
27 **if:**

28 **“(a) The respondent is in possession of a court order described in**
29 **subsection (1)(a)(B) or (1)(b)(B) of this section that went into effect**
30 **or was issued within the previous 24 hours;**

1 **“(b) The firearm is unloaded; and**

2 **“(c) The respondent is transporting the firearm or ammunition to**
3 **a law enforcement agency, gun dealer or third party for transfer in**
4 **accordance with subsection (2) of this section.**

5 **“(7) Upon the expiration or termination of the order described in**
6 **ORS 166.255 (1)(a), at the request of the respondent:**

7 **“(a) A law enforcement agency shall return any stored firearms and**
8 **ammunition to the respondent in accordance with section 5 of this 2019**
9 **Act.**

10 **“(b) A gun dealer shall return any stored firearms and ammunition**
11 **to the respondent after performing a criminal background check as**
12 **defined in ORS 166.432 to confirm that the respondent is not prohibited**
13 **from possessing a firearm or ammunition under state or federal law.**

14 **“(c) A third party shall return any stored firearms and ammunition**
15 **to the respondent only after requesting a criminal background check**
16 **in accordance with ORS 166.435, except that the criminal background**
17 **check exceptions in ORS 166.435 (4) do not apply.**

18 **“(8) If the respondent does not file a declaration described in sub-**
19 **section (4) of this section, the district attorney may commence con-**
20 **tempt proceedings under ORS 33.015 to 33.155.**

21 **“SECTION 5. (1) Upon receiving a request to return a firearm or**
22 **ammunition relinquished to a law enforcement agency pursuant to**
23 **section 4 of this 2019 Act, the law enforcement agency shall:**

24 **“(a) Notify the Department of Justice of the return request for the**
25 **purposes of notifying the petitioner of the order; and**

26 **“(b) Hold the firearm or ammunition for 72 hours after receiving**
27 **the request.**

28 **“(2) Prior to returning the firearm or ammunition, the law**
29 **enforcement agency shall:**

30 **“(a) Confirm that the person to whom the law enforcement agency**

1 will return the firearm or ammunition is the lawful owner of the
2 firearm or ammunition, or a person with a possessory right to the
3 firearm or ammunition; and

4 “(b) Perform a criminal background check as defined in ORS 166.432
5 to confirm that the person is not prohibited from possessing a firearm
6 or ammunition under state or federal law.

7 “SECTION 6. Sections 2, 3, 4 and 5 of this 2019 Act become operative
8 on January 1, 2020.

9 “SECTION 7. This 2019 Act being necessary for the immediate
10 preservation of the public peace, health and safety, an emergency is
11 declared to exist, and this 2019 Act takes effect on its passage.”.

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