

# Committee Issue: NICS and Mental Health

## Legislation that Enacts Relief from Disabilities Provisions

- South Dakota
- North Dakota
- Idaho
- Oregon

# State of South Dakota

EIGHTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2014

931V0210

## HOUSE BILL NO. 1229

Introduced by: Representatives Johns, Bolin, Cronin, Erickson, Gibson, Gosch, Hoffman, Hunhoff (Bernie), Kopp, Parsley, and Wink and Senators Tieszen, Brown, Frerichs, Kirkeby, Otten (Ernie), and Vehle

1 FOR AN ACT ENTITLED, An Act to provide for the reporting of certain person's names to the  
2 National Instant Criminal Background Check System.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 27A-10 be amended by adding thereto a NEW SECTION to read  
5 as follows:

6 If the board of mental illness orders an involuntary commitment based on a finding pursuant  
7 to § 27A-10-9.1 that the person is a danger to self as defined in subdivision 27A-1-1(7)(a) or  
8 a danger to others as defined in subdivision 27A-1-1(6), the chair of the board shall report to the  
9 attorney general for reporting to the National Instant Criminal Background Check System the  
10 involuntarily committed person's name and other identifying information. The chair shall submit  
11 the report to the attorney general, in the manner and form prescribed by the attorney general,  
12 within seven working days after the date of the final order of involuntary commitment. The  
13 report may not include information relating to the person's diagnosis or treatment.

14 Section 2. That chapter 23-7 be amended by adding thereto a NEW SECTION to read as



1 follows:

2 The prosecuting attorney shall report to the attorney general for reporting to the National  
3 Instant Criminal Background Check System the name and other identifying information of any  
4 person who is acquitted of a crime by reason of insanity pursuant to § 23A-26-5 or who is  
5 determined to be incompetent to stand trial pursuant to § 23A-10A-4. The prosecuting attorney  
6 shall submit the report to the attorney general, in the manner and form prescribed by the attorney  
7 general, within seven working days after the date of the verdict acquitting for insanity or the  
8 adjudication of incompetency. The report may not include information relating to the person's  
9 diagnosis or treatment.

10 Section 3. That chapter 23-7 be amended by adding thereto a NEW SECTION to read as  
11 follows:

12 The attorney general shall transmit to the National Instant Criminal Background Check  
13 System administered by the Federal Bureau of Investigation the name and other identifying  
14 information of any person who is prohibited from possessing a firearm under  
15 18 U.S.C. 922(g)(4) because the person was acquitted of a crime by reason of insanity pursuant  
16 to § 23A-26-5, the person was determined to be incompetent to stand trial pursuant to  
17 § 23A-10A-4, or the person was involuntarily committed pursuant to chapter 27A-10 based on  
18 a finding that the person is a danger to self as defined in subdivision 27A-1-1(7)(a) or a danger  
19 to others as defined in subdivision 27A-1-1(6).

20 Section 4. That chapter 23-7 be amended by adding thereto a NEW SECTION to read as  
21 follows:

22 A person who is prohibited from possessing a firearm pursuant to the provisions of  
23 18 U.S.C. 922(g)(4) because of a commitment or adjudication that occurred in this state may  
24 petition the court of the county in which the person resides for the restoration of the right to

1 possess or receive a firearm. The petitioner shall serve a copy of the petition for restoration on  
2 the state's attorney of the county in which the petition is filed. The state's attorney shall represent  
3 the state at the hearing on the petition.

4 Section 5. That chapter 23-7 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Within sixty days after the date of filing the petition for restoration, the court shall conduct  
7 a hearing to determine whether the petitioner's right to possess a firearm should be restored. The  
8 record of the hearing is confidential and may only be disclosed to the parties and the Supreme  
9 Court in the event of an appeal. If the court finds, based on the preponderance of the evidence  
10 presented at the hearing, that the petitioner is not a danger to self as defined in subdivision 27A-  
11 1-1(7)(a) or a danger to others as defined in subdivision 27A-1-1(6), the court shall enter an  
12 order restoring the petitioner's right to possess a firearm and directing the attorney general to  
13 report to the National Instant Criminal Background Check System that the petitioner is no  
14 longer prohibited from possessing a firearm under 18 U.S.C. 922(g)(4).

15 Section 6. That chapter 23-7 be amended by adding thereto a NEW SECTION to read as  
16 follows:

17 If the court enters an order restoring the petitioner's right to possess a firearm, the state's  
18 attorney shall submit a copy of the order to the attorney general within seven working days after  
19 the order becomes final. The attorney general shall, within seven working days after receiving  
20 the order, report to the National Instant Criminal Background Check System that the petitioner  
21 is no longer prohibited from possessing a firearm under 18 U.S.C 922(g)(4).

**Sixty-second Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 4, 2011**

HOUSE BILL NO. 1269  
(Representatives Karls, Devlin, Klemin, Porter, Weisz)  
(Senator Lyson)

AN ACT to create and enact a new section to chapter 62.1-02 of the North Dakota Century Code, relating to mental disability and firearm possession; to amend and reenact sections 25-03.1-43 and 62.1-02-01 and subsection 3 of section 62.1-04-03 of the North Dakota Century Code, relating to possession of firearms in this state and confidential records; to provide an appropriation; to provide a contingent effective date; and to declare an emergency.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 25-03.1-43 of the North Dakota Century Code is amended and reenacted as follows:

**25-03.1-43. Confidential records.**

All information and records obtained in the course of an investigation, an evaluation, an examination, or treatment under this chapter and the presence or past presence of a patient in a treatment facility are confidential, but the information and records may be disclosed to and be used by a court as required to carry out the purposes of this chapter, and as authorized under title 45, Code of Federal Regulations, part 164. Courts also may release nonclinical identifying information of persons subject to proceedings under this chapter for the purposes of section 3 of this Act. Any information disclosed to a court remains confidential information, except as provided in section 3 of this Act.

**SECTION 2. AMENDMENT.** Section 62.1-02-01 of the North Dakota Century Code is amended and reenacted as follows:

**62.1-02-01. Persons who are not to possess firearms - Penalty.**

1. a. A person who has been convicted anywhere of a felony offense involving violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an equivalent felony offense of another state or the federal government is prohibited from owning a firearm or having one in possession or under control from the date of conviction and continuing for a period of ten years after the date of conviction or the date of release from incarceration, parole, or probation, whichever is latest.
- b. A person who has been convicted anywhere of a felony offense of this or another state or the federal government not provided for in subdivision a or who has been convicted of a class A misdemeanor offense involving violence or intimidation in violation of chapters 12.1-16 through 12.1-25 or an equivalent offense of another state or the federal government and the offense was committed while using or possessing a firearm, a dangerous weapon, or, as defined in subsections 7 and 8 of section 12.1-01-04, a destructive device or an explosive, is prohibited from owning a firearm or having one in possession or under control from the date of conviction and continuing for a period of five years after the date of conviction or the date of release from incarceration, parole, or probation, whichever is latest.
- c. A person who is or has ever been diagnosed and confined or committed to a hospital or other institution in this state or elsewhere by a court of competent jurisdiction, other than a person who has had the petition that provided the basis for the diagnosis, confinement, or commitment dismissed under section 25-03.1-17, 25-03.1-18, or 25-03.1-19, or equivalent statutes of another jurisdiction, as a ~~mentally ill~~ person requiring treatment as defined in section 25-03.1-02, or as a mentally deficient person as defined in section

25-01-01, is prohibited from purchasing a firearm or having one in possession or under control. This limitation does not apply to a person who has not suffered from the disability for the previous three years or who has successfully petitioned for relief under section 3 of this Act.

- d. A person under the age of eighteen years may not possess a handgun except that such a person, while under the direct supervision of an adult, may possess a handgun for the purposes of firearm safety training, target shooting, or hunting.

A person who violates subdivision a or b is guilty of a class C felony, and a person who violates subdivision c or d is guilty of a class A misdemeanor.

2. For the purposes of this section, "conviction" means a determination that the person committed one of the above-mentioned crimes upon a verdict of guilt, a plea of guilty, or a plea of nolo contendere even though:
  - a. The court suspended execution of sentence in accordance with subsection 3 of section 12.1-32-02;
  - b. The court deferred imposition of sentence in accordance with subsection 4 of section 12.1-32-02;
  - c. The court placed the person on probation;
  - d. The person's conviction has been reduced in accordance with subsection 9 of section 12.1-32-02 or section 12.1-32-07.1;
  - e. Sentence dispositions, sentence reductions, or offense determinations equivalent to this section were imposed or granted by a court, board, agency, or law of another state or the federal government; or
  - f. The person committed an offense equivalent to an offense described in subdivision a or b of subsection 1 when that person was subject to juvenile adjudication or proceedings and a determination of a court under chapter 27-20 or of a court of another state or the federal government was made that the person committed the delinquent act or offense.

**SECTION 3.** A new section to chapter 62.1-02 of the North Dakota Century Code is created and enacted as follows:

**Mental disability and the possession of firearms.**

1. A court shall make a finding as to whether the provisions of 18 U.S.C. 922(d)(4) and (g)(4) apply to the subject of a following proceeding in which the court:
  - a. Finds that a person, as a result of mental disease or defect, may not be held criminally responsible in any case pursuant to chapter 12.1-04 or 12.1-04.1;
  - b. Finds that a person is a "mentally deficient person", as defined in subsection 3 of section 25-01-01;
  - c. Orders involuntary hospitalization or commitment to a treatment facility or involuntary treatment pursuant to chapter 25-03.1;
  - d. Orders involuntary commitment or involuntary treatment under chapter 25-03.3;
  - e. Appoints a guardian ad litem under section 28-03-04;
  - f. Appoints a guardian under chapter 30.1-28; or
  - g. Appoints a conservator under chapter 30.1-29.

2. If the court finds that the provisions apply, the clerk of the court shall forward the individual's name and nonclinical identifying information to the bureau of criminal investigation, which shall forward the information to the federal bureau of investigation, or its successor agency, for inclusion in the national instant criminal background check system database. The court also shall notify the individual of the prohibitions of 18 U.S.C. 922(d)(4) and (g)(4), and, if relevant, of subdivision c of subsection 1 of section 62.1-02-01.
3. If a court of this state has found an individual under subsection 1 to be subject to the provisions of 18 U.S.C. 922(d)(4) and (g)(4), that individual may petition the court that issued the finding or the district court of the county where the individual resides to remove that individual's firearms-related disabilities, as provided in Public Law 110-180, section 105(a). A copy of the petition for relief must be served on the director of the treatment facility that treated the individual pursuant to court order and the prosecuting attorney of the county in which the original finding, order, or appointment occurred. The director of the treatment facility that treated the individual pursuant to court order and the prosecuting attorney may appear, support, object to, and present evidence relevant to the relief sought by the petitioner. The court shall receive and consider evidence in a closed proceeding, including evidence offered by the petitioner, concerning:
  - a. The circumstances of the original order, appointment, or finding;
  - b. The petitioner's mental health and criminal history records, if any;
  - c. The petitioner's reputation; and
  - d. Changes in the petitioner's condition or circumstances relevant to the relief sought.
4. The court shall grant the petition for relief if the court finds by a preponderance of the evidence that the petitioner likely will not act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest. A record must be kept of the proceedings. The record is confidential and may be disclosed only to a court in the event of an appeal. An individual may file a petition for relief under this section no more than once every two years.
5. When a magistrate or court issues an order granting a petition for relief under subsection 3, the clerk of the court immediately shall forward a copy of the order to the bureau of criminal investigation in the format and medium specified by the bureau after consultation with the state court administrator. The bureau immediately shall forward a copy to the federal bureau of investigation, or its successor agency, for updating of the national instant criminal background check system database.

**SECTION 4. AMENDMENT.** Subsection 3 of section 62.1-04-03 of the North Dakota Century Code is amended and reenacted as follows:

3. The sheriff is required to process the application within thirty days after the completion of the testing portion unless the application is for renewal of a license and in such case the application must be processed within thirty days after its receipt by the sheriff, the chief of police is required to process the application within ten working days of receipt by the agency, and the bureau of criminal investigation is required to process the application and make a determination within ~~thirty~~forty-five days of receipt from the forwarding agency.

**SECTION 5. APPROPRIATION.** There is appropriated the sum of \$585,859, or so much of the sum as may become available from a grant under the Act of Congress entitled NICS Improvement Act of 2007 [Pub. L. 110-180; 121 Stat. 2559] or other funds, to the attorney general for the purpose of implementing software and administering the system, for the biennium beginning July 1, 2011, and ending June 30, 2013. This appropriation includes funding for one and one-half full-time equivalent positions to administer the provisions of the Act, which must be terminated when grant funding is no longer available.

**SECTION 6. CONTINGENT EFFECTIVE DATE.** Subsections 2 and 5 of section 3 of this Act become effective when the attorney general certifies to the secretary of state, the office of management and budget, and the legislative council that the state has received the grant under section 5 of this Act and has implemented the software and system to carry out the provisions of subsections 2 and 5 of section 3 of this Act.

**SECTION 7. EMERGENCY.** Section 4 of this Act is declared to be an emergency measure.



\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Chief Clerk of the House

\_\_\_\_\_  
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-second Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1269 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote:      Yeas 93                      Nays 0                      Absent 1

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote:      Yeas 47                      Nays 0                      Absent 0

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2011.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2011.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2011,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 631

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO FIREARMS; AMENDING CHAPTER 3, TITLE 66, IDAHO CODE, BY  
2 THE ADDITION OF A NEW SECTION 66-356, IDAHO CODE, TO PROVIDE THAT  
3 COURTS SHALL MAKE A FINDING AS TO WHETHER CERTAIN FEDERAL LAW  
4 APPLIES TO PERSONS IN SPECIFIED CASES, TO PROVIDE REQUIREMENTS IN  
5 THE EVENT SPECIFIED FEDERAL LAW IS FOUND BY THE COURT TO APPLY, TO  
6 PROVIDE FOR ACTION BY SHERIFFS IN CERTAIN CASES, TO PROVIDE FOR  
7 DISSEMINATION OF ORDERS, TO PROVIDE FOR PETITIONS FOR RELIEF AND TO  
8 REMOVE FIREARMS-RELATED DISABILITIES, TO PROVIDE FOR PARTICIPATION  
9 IN THE PROCEEDINGS BY THE DEPARTMENT OF HEALTH AND WELFARE AND THE  
10 PROSECUTING ATTORNEY, TO PROVIDE FOR CONSIDERATION OF CERTAIN EVIDENCE  
11 BY THE COURT, TO PROVIDE A STANDARD OF PROOF, TO PROVIDE FOR APPEAL, TO  
12 PROVIDE A LIMITATION REGARDING FILING PETITIONS FOR RELIEF, TO PROVIDE  
13 FOR DISSEMINATION OF ORDERS GRANTING PETITIONS FOR RELIEF; AND AMENDING  
14 SECTION 67-3003, IDAHO CODE, TO PROVIDE THAT THE BUREAU OF CRIMINAL  
15 IDENTIFICATION OF THE IDAHO STATE POLICE SHALL OBTAIN AND TRANSMIT  
16 SPECIFIED INFORMATION TO THE NATIONAL INSTANT CRIMINAL BACKGROUND  
17 CHECK SYSTEM (NICS) IN ACCORDANCE WITH FEDERAL LAW, TO PROVIDE FOR  
18 NOTIFICATION OF CHANGES REGARDING THE INFORMATION AND TO PROVIDE FOR  
19 THE UPDATE, CORRECTION, MODIFICATION OR REMOVAL OF THE INFORMATION FROM  
20 THE NICS DATABASE.  
21

22 Be It Enacted by the Legislature of the State of Idaho:

23 SECTION 1. That Chapter 3, Title 66, Idaho Code, be, and the same is  
24 hereby amended by the addition thereto of a NEW SECTION, to be known and  
25 designated as Section 66-356, Idaho Code, and to read as follows:

26 66-356. RELIEF FROM FIREARMS DISABILITIES. (1) A court that:  
27 (a) Orders commitment pursuant to section 66-329, Idaho Code;  
28 (b) Orders commitment or treatment pursuant to section 66-406, Idaho  
29 Code;  
30 (c) Appoints a guardian pursuant to section 66-322, Idaho Code, or  
31 section 15-5-304, Idaho Code;  
32 (d) Appoints a conservator pursuant to section 15-5-407(b), Idaho  
33 Code;  
34 (e) Appoints a guardian or conservator pursuant to section 66-404,  
35 Idaho Code; or  
36 (f) Finds a defendant incompetent to stand trial pursuant to section  
37 18-212, Idaho Code, shall make a finding as to whether the subject of  
38 the proceeding is a person to whom the provisions of 18 U.S.C. 922(d)(4)  
39 and (g)(4) apply, and if so, shall inform the person of the applicable  
40 prohibitions and shall order the person not to ship, transport,  
41 possess or receive any firearms or ammunition and to make immediate  
42 arrangements for the disposition of any firearms or ammunition owned

1 or possessed by the individual. If the person is unable to make lawful  
2 disposition by other means, the sheriff of the person's county of  
3 residence may take custody of any firearms or ammunition owned or  
4 possessed by the person for such time as the order issued under this  
5 subsection remains in effect. The clerk of the court shall forward a  
6 copy of the order to the Idaho state police, which in turn shall forward  
7 a copy to the federal bureau of investigation, or its successor agency,  
8 for inclusion in the national instant criminal background check system  
9 database.

10 (2) A person who is subject to an order, including an appointment  
11 or finding described in subsection (1) of this section, may petition the  
12 court that issued such order, or the district court of the county where the  
13 individual resides, for relief from the order and to remove the person's  
14 firearms-related disabilities. A copy of the petition for relief shall  
15 also be served on the director of the department of health and welfare  
16 and the prosecuting attorney of the county in which the original order,  
17 appointment or finding occurred, and such department and office may, as it  
18 deems appropriate, appear, support, object to and present evidence relevant  
19 to the relief sought by the petitioner. The court shall receive and consider  
20 evidence, including evidence offered by the petitioner, concerning:

- 21 (a) The circumstances of the original order, appointment or finding;  
22 (b) The petitioner's mental health and criminal history records, if  
23 any;  
24 (c) The petitioner's reputation; and  
25 (d) Changes in the petitioner's condition or circumstances relevant to  
26 the relief sought.

27 The court shall grant the petition for relief if it finds by a preponderance  
28 of the evidence that the petitioner will not be likely to act in a manner  
29 dangerous to public safety and that the granting of the relief would not be  
30 contrary to the public interest. The petitioner may appeal a denial of the  
31 requested relief, and review on appeal shall be de novo. A person may file a  
32 petition for relief under this section no more than once every two (2) years.

33 (3) When a court issues an order granting a petition for relief under  
34 subsection (2) of this section, the clerk of the court shall immediately  
35 forward a copy of the order to the Idaho state police, which in turn shall  
36 immediately forward a copy to the federal bureau of investigation, or its  
37 successor agency, for inclusion in the national instant criminal background  
38 check system database.

39 SECTION 2. That Section 67-3003, Idaho Code, be, and the same is hereby  
40 amended to read as follows:

41 67-3003. DUTIES OF THE DEPARTMENT. (1) The department shall establish  
42 a bureau of criminal identification to:

- 43 (a) Serve as the state's central repository of criminal history  
44 records;  
45 (b) Conduct criminal background checks as authorized by law or rule and  
46 provide fingerprint identification services;  
47 (c) Obtain and electronically file information relating to in-state  
48 stolen vehicles and in-state wanted persons;

1 (d) Establish and maintain an automated fingerprint identification  
2 system;

3 (e) Establish a uniform crime reporting system for the periodic  
4 collection and reporting of crimes, and compile and publish statistics  
5 and other information on the nature and extent of crime in the state;

6 (f) Maintain, pursuant to department rule, other identification  
7 information, which may include, but is not limited to, palm prints and  
8 photographs;

9 (g) Cooperate with other criminal justice agencies of the state, state  
10 and federal courts, the criminal records repositories of other states,  
11 the federal bureau of investigation criminal justice information  
12 services, the national law enforcement telecommunications system,  
13 and other appropriate agencies and systems, in the operation of an  
14 effective interstate and national system of criminal identification,  
15 records and statistics; ~~and~~

16 (h) Develop and implement a training program to assist criminal justice  
17 agencies with the recordkeeping and reporting requirements of this  
18 chapter; and

19 (i) Obtain and electronically transmit to the national instant  
20 criminal background check system (NICS), in accordance with federal  
21 law, information relating to eligibility to receive or possess a  
22 firearm pursuant to state or federal law. Upon notification to the  
23 department that the basis for which any such information previously  
24 transmitted to the NICS does not apply or no longer applies, the  
25 department shall, as soon as practicable, notify the NICS of such change  
26 and shall update, correct, modify or remove such information from the  
27 NICS database.

28 (2) In accordance with chapter 52, title 67, Idaho Code, the department  
29 may adopt rules necessary to implement the provisions of this chapter. Rules  
30 relating to information maintained and reported by the court shall be made  
31 after consultation with and approval by the Idaho supreme court.

**Enrolled  
House Bill 2853**

Sponsored by Representative GALIZIO

CHAPTER .....

AN ACT

Relating to firearms; creating new provisions; and amending ORS 166.250, 166.274, 166.291, 166.412, 166.470, 426.160 and 427.293.

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

**SECTION 1.** (1) The Department of Human Services, the Psychiatric Security Review Board and the Judicial Department shall provide the Department of State Police with the minimum information necessary to identify persons who:

(a) Have been committed by a court to the Department of Human Services under ORS 426.130, based on a finding that the person is dangerous to self or others;

(b) Are subject to a court order under ORS 426.130 prohibiting the person from purchasing or possessing a firearm;

(c) Have been committed by a court to the Department of Human Services under ORS 427.290, based on a finding that the person is dangerous to self or others;

(d) Have been found by a court to lack fitness to proceed under ORS 161.370;

(e) Have been found guilty except for insanity of a crime under ORS 161.295 to 161.370;

(f) Have been found responsible except for insanity for an act under ORS 419C.411;

(g) Have been placed under the jurisdiction of the Psychiatric Security Review Board by a court; or

(h) Have been committed to a state hospital or facility under ORS 161.327, 161.336 to 161.351 or 419C.529 to 419C.544.

(2) Upon receipt of the information described in this section, the Department of State Police shall access and maintain the information and transmit the information to the federal government as required under federal law.

(3) The Department of Human Services, the Psychiatric Security Review Board and the Judicial Department shall enter into agreements with the Department of State Police describing the access to information provided under this section.

(4) The Department of State Police shall adopt rules:

(a) After consulting with the Department of Human Services, the Psychiatric Security Review Board and the Judicial Department, describing the type of information provided to the Department of State Police under this section; and

(b) Describing the method and manner of maintaining the information described in this section and transmitting the information to the federal government.

(5) As used in this section, "minimum information necessary" means data elements or nominal information that is necessary or required under federal law to accurately identify a person described in this section and includes the person's name, date of birth, gender and

reference information that identifies the originating agency or court and enables the originating agency or court to locate an underlying record or file of a person described in this section. "Minimum information necessary" does not include any medical, psychiatric or psychological information, case histories or files of a person described in this section or any record or file of an originating agency or court.

**SECTION 2.** ORS 426.160 is amended to read:

426.160. The judge shall cause to be recorded in the court records a full account of proceedings had at all hearings and examinations conducted pursuant to ORS 426.005, 426.060 to 426.170, 426.217, 426.228, 426.255 to 426.292, 426.300 to 426.309, 426.335, 426.385 and 426.395, together with the judgments and orders of the court and a copy of the orders issued. The account of the proceedings and transcripts of testimony if taken thereat shall be delivered to the court clerk or court administrator who shall cause it to be sealed and neither the account of the proceedings nor the transcript of testimony if taken shall be disclosed to any person except:

(1) **The court shall, pursuant to rules adopted by the Department of State Police, transmit the minimum information necessary, as defined in section 1 of this 2009 Act, to the Department of State Police bureau of criminal identification for persons described in section 1 (1)(a) or (b) of this 2009 Act to enable the department to access and maintain the information and transmit the information to the federal government as required under federal law;**

[(1)] (2) As provided in ORS 426.070 (5)(c), 426.130 (3) or 426.170;

[(2)] (3) Upon request of the person subject to the proceedings, the legal representatives, or the attorney of the person; or

[(3)] (4) Pursuant to court order.

**SECTION 3.** ORS 427.293 is amended to read:

427.293. (1) The court shall cause to be recorded in the court records:

(a) A full account of all proceedings conducted under ORS 427.235 to 427.290;

(b) Reports submitted to the court under ORS 427.270;

(c) The judgments and orders of the court; and

(d) A copy of the judgments and orders issued.

(2) The account of the proceedings, including any transcript of testimony, and reports submitted to the court under ORS 427.270 shall be delivered to the court clerk or court administrator who shall cause them to be sealed. The account of the proceedings, the reports and any transcript of testimony may not be disclosed to any person except *[upon]*:

(a) **The court shall, pursuant to rules adopted by the Department of State Police, transmit the minimum information necessary, as defined in section 1 of this 2009 Act, to the Department of State Police bureau of criminal identification for persons described in section 1 (1)(c) of this 2009 Act to enable the department to maintain the information and transmit the information to the federal government as required under federal law;**

[(a)] (b) Upon request of the person subject to the proceedings or the legal representative or attorney of the person; or

[(b)] (c) Pursuant to an order of the court.

**SECTION 4.** ORS 166.412 is amended to read:

166.412. (1) As used in this section:

(a) "Antique firearm" has the meaning given that term in 18 U.S.C. 921;

(b) "Department" means the Department of State Police;

(c) "Firearm" has the meaning given that term in ORS 166.210, except that it does not include an antique firearm;

(d) "Firearms transaction record" means the firearms transaction record required by 18 U.S.C. 921 to 929;

(e) "Firearms transaction thumbprint form" means a form provided by the department under subsection [(12)] (11) of this section;

(f) "Gun dealer" means a person engaged in the business, as defined in 18 U.S.C. 921, of selling, leasing or otherwise transferring a firearm, whether the person is a retail dealer, pawnbroker or otherwise;

(g) "Handgun" has the meaning given that term in ORS 166.210; and

(h) "Purchaser" means a person who buys, leases or otherwise receives a firearm from a gun dealer.

(2) Except as provided in subsections (3)(c) and [(13)] (12) of this section, a gun dealer shall comply with the following before a handgun is delivered to a purchaser:

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

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

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

(d) The gun dealer shall request by telephone that the department conduct a criminal history record check on the purchaser and shall provide the following information to the department:

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

(B) The business name of the gun dealer;

(C) The place of transfer;

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

(E) The make, model, caliber and manufacturer's number of the handgun being transferred;

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

(G) The Social Security number of the purchaser if the purchaser voluntarily provides this number to the gun dealer; and

(H) The type, issuer and identification number of the identification presented by the purchaser.

(e) The gun dealer shall receive a unique approval number for the transfer from the department and record the approval number on the firearms transaction record and on the firearms transaction thumbprint form.

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

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

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

(B) Notify the dealer when a purchaser is disqualified from completing the transfer or provide the dealer with a unique approval number indicating that the purchaser is qualified to complete the transfer.

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

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

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

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

(B) Is intended to be used for identification of an individual or is commonly accepted for the purpose of identification of an individual.

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

(c) The department may require that the dealer verify the identification of the purchaser if that identity is in question by sending the thumbprints of the purchaser to the department.

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

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

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

(b) The record of the information obtained during a request for a criminal records check by a gun dealer is exempt from disclosure under public records law.

*[(8) The Department of Human Services shall provide the Department of State Police with direct electronic access to information from the Department of Human Services' database of information identifying persons meeting the criteria in ORS 166.470 (1)(e) and (f) who were committed or subject to an order under ORS 426.130. The Department of State Police and the Department of Human Services shall enter into an agreement describing the access to information under this subsection.]*

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

[(10)] (9) When a handgun is delivered, it shall be unloaded.

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

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

(b) The maintenance of a procedure to correct errors in the criminal records of the department;

(c) The provision of a security system to identify dealers who request a criminal history record check under subsection (2) of this section; and

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

[(12)] (11) The department shall publish the firearms transaction thumbprint form and shall furnish the form to gun dealers on application at cost.

[(13)] (12) This section does not apply to transactions between persons licensed as dealers under 18 U.S.C. 923.

**SECTION 5. (1) A person barred from transporting, shipping, possessing or receiving a firearm may file a petition with the Psychiatric Security Review Board for relief from the bar if:**

**(a) The person is barred from possessing a firearm under ORS 166.250 (1)(c)(D) or (E);**

**(b) The person is barred from receiving a firearm under:**

**(A) ORS 166.470 (1)(b) and the bar is the result of the person having been found guilty except for insanity of a felony; or**

**(B) ORS 166.470 (1)(e) or (f); or**

**(c) The person is barred from possessing, receiving, shipping or transporting a firearm under 18 U.S.C. 922(d)(4) or (g)(4) as the result of a state mental health determination.**

**(2) The petitioner shall serve a copy of the petition on:**

**(a) The Department of Human Services; and**

**(b) The district attorney in each county in which:**

**(A) The person was committed by a court to the Department of Human Services, or adjudicated by a court as mentally ill, under ORS 426.130;**



(B) The person was committed by a court to the Department of Human Services, or adjudicated by a court as mentally retarded, under ORS 427.290;

(C) The person was found guilty except for insanity under ORS 161.295;

(D) The person was found responsible except for insanity under ORS 419C.411; or

(E) The person was found by a court to lack fitness to proceed under ORS 161.370.

(3) Following receipt of the petition, the board shall conduct a contested case hearing, make written findings of fact and conclusions of law on the issues before the board and issue a final order.

(4) The state and any person or entity described in subsection (2) of this section may appear and object to and present evidence relevant to the relief sought by the petitioner.

(5) The board shall grant the relief requested in the petition if the petitioner demonstrates, based on the petitioner's reputation, the petitioner's record, the circumstances surrounding the firearm disability and any other evidence in the record, that the petitioner will not be likely to act in a manner that is dangerous to public safety and that granting the relief would not be contrary to the public interest.

(6) If the board grants the relief requested in the petition, the board shall provide to the Department of State Police the minimum information necessary, as defined in section 1 of this 2009 Act, to enable the department to:

(a) Maintain the information and transmit the information to the federal government as required under federal law; and

(b) Maintain a record of the person's relief from the disqualification to possess or receive a firearm under ORS 166.250 (1)(c)(D) or (E) or 166.470 (1)(b), (e) or (f).

(7) The petitioner may petition for judicial review of a final order of the board. The petition shall be filed in the circuit court of a county described in subsection (2)(b) of this section. The review shall be conducted de novo and without a jury.

(8) A petitioner may take an appeal from the circuit court to the Court of Appeals. Review by the Court of Appeals shall be conducted in accordance with ORS 183.500.

(9) A person may file a petition for relief under this section no more than once every two years.

(10) The board shall adopt procedural rules to carry out the provisions of this section.

(11) As used in this section, "state mental health determination" means:

(a) A finding by a court that a person lacks fitness to proceed under ORS 161.370;

(b) A finding that a person is guilty except for insanity of a crime under ORS 161.295 or responsible except for insanity of an act under ORS 419C.411 or any determination by the Psychiatric Security Review Board thereafter;

(c) A commitment by a court to the Department of Human Services, or an adjudication by a court that a person is mentally ill, under ORS 426.130; or

(d) A commitment by a court to the Department of Human Services, or an adjudication by a court that a person is mentally retarded, under ORS 427.290.

**SECTION 6.** ORS 166.274 is amended to read:

166.274. (1) A person barred from possessing [a firearm under ORS 166.250 (1)(c)(A), (B), (D) or (E) or barred from] or purchasing a firearm [under ORS 166.470] may file a petition for relief from the bar [in:] 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) or (B); or

(b) The person is barred from purchasing a firearm under:

(A) ORS 166.470 (1)(a), (c), (d) or (g); or

(B) ORS 166.470 (1)(b) and the bar is the result of the person having been convicted of a felony.

(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.

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

[(3)(a)] (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.

[(4)(a)] (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.

[(5)] (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.

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

[(7)] (8) A person barred from possessing or purchasing a firearm because the person, while a minor, was found to be within the jurisdiction of the juvenile court for committing an act which, if committed 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)] (9) 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)] (10) Filing fees shall be as for any civil action filed in the court.

[(10)(a)] (11)(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 7.** ORS 166.291 is amended to read:

166.291. (1) The sheriff of a county, upon a person's application for an Oregon concealed handgun license, upon receipt of the appropriate fees and after compliance with the procedures set out in this section, shall issue the person a concealed handgun license if the person:

(a)(A) Is a citizen of the United States; or

(B) Is a legal resident alien who can document continuous residency in the county for at least six months and has declared in writing to the United States Citizenship and Immigration Services the intent to acquire citizenship status and can present proof of the written declaration to the sheriff at the time of application for the license;

(b) Is at least 21 years of age;

(c) Is a resident of the county;

(d) Has no outstanding warrants for arrest;

(e) Is not free on any form of pretrial release;

- (f) Demonstrates competence with a handgun by any one of the following:
- (A) Completion of any hunter education or hunter safety course approved by the State Department of Fish and Wildlife or a similar agency of another state if handgun safety was a component of the course;
  - (B) Completion of any National Rifle Association firearms safety or training course if handgun safety was a component of the course;
  - (C) Completion of any firearms safety or training course or class available to the general public offered by law enforcement, community college, or private or public institution or organization or firearms training school utilizing instructors certified by the National Rifle Association or a law enforcement agency if handgun safety was a component of the course;
  - (D) Completion of any law enforcement firearms safety or training course or class offered for security guards, investigators, reserve law enforcement officers or any other law enforcement officers if handgun safety was a component of the course;
  - (E) Presents evidence of equivalent experience with a handgun through participation in organized shooting competition or military service;
  - (F) Is licensed or has been licensed to carry a firearm in this state, unless the license has been revoked; or
  - (G) Completion of any firearms training or safety course or class conducted by a firearms instructor certified by a law enforcement agency or the National Rifle Association if handgun safety was a component of the course;
- (g) Has never been convicted of a felony or found guilty, except for insanity under ORS 161.295, of a felony;
- (h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a misdemeanor within the four years prior to the application;
- (i) Has not been committed to the Department of Human Services under ORS 426.130;
- (j) Has not been found to be mentally ill and is not subject to an order under ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of that mental illness;
- (k) Has been discharged from the jurisdiction of the juvenile court for more than four years if, while a minor, the person was found to be within the jurisdiction of the juvenile court for having committed an act that, if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined in ORS 166.470;
- (L) Has not been convicted of an offense involving controlled substances or participated in a court-supervised drug diversion program, except this disability does not operate to exclude a person if:
- (A) The person has been convicted only once of violating ORS 475.864 (3) and has not completed a court-supervised drug diversion program under ORS 135.907; or
  - (B) The person has completed a court-supervised drug diversion program under ORS 135.907 and has not been convicted of violating ORS 475.864 (3);
- (m) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866, 107.700 to 107.735 or 163.738;
- (n) Has not received a dishonorable discharge from the Armed Forces of the United States; and
- (o) Is not required to register as a sex offender in any state.
- (2) A person who has been granted relief under ORS 166.274 or 166.293 **or section 5 of this 2009 Act** or 18 U.S.C. 925(c) or has had the person's record expunged under the laws of this state or equivalent laws of other jurisdictions is not subject to the disabilities in subsection (1)(g) to (L) of this section.

(3) Before the sheriff may issue a license:

(a) The application must state the applicant's legal name, current address and telephone number, date and place of birth, hair and eye color and height and weight. The application must also list the applicant's residence address or addresses for the previous three years. The application must contain a statement by the applicant that the applicant meets the requirements of subsection (1) of this

section. The application may include the Social Security number of the applicant if the applicant voluntarily provides this number. The application must be signed by the applicant.

(b) The applicant must submit to fingerprinting and photographing by the sheriff. The sheriff shall fingerprint and photograph the applicant and shall conduct any investigation necessary to corroborate the requirements listed under subsection (1) of this section. If a nationwide criminal records check is necessary, the sheriff shall request the Department of State Police to conduct the check, including fingerprint identification, through the Federal Bureau of Investigation. The Federal Bureau of Investigation shall return the fingerprint cards used to conduct the criminal records check and may not keep any record of the fingerprints. The Department of State Police shall report the results of the fingerprint-based criminal records check to the sheriff. The Department of State Police shall also furnish the sheriff with any information about the applicant that the Department of State Police may have in its possession from its central bureau of criminal identification including, but not limited to, manual or computerized criminal offender information.

(4) Application forms for concealed handgun licenses shall be supplied by the sheriff upon request. The forms shall be uniform throughout the state in substantially the following form:

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APPLICATION FOR LICENSE TO CARRY CONCEALED HANDGUN

Date \_\_\_\_\_

I hereby declare as follows:

I am a citizen of the United States or a legal resident alien who can document continuous residency in the county for at least six months and have declared in writing to the United States Citizenship and Immigration Services my intention to become a citizen and can present proof of the written declaration to the sheriff at the time of this application. I am at least 21 years of age. I have been discharged from the jurisdiction of the juvenile court for more than four years if, while a minor, I was found to be within the jurisdiction of the juvenile court for having committed an act that, if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined in ORS 166.470. I have never been convicted of a felony or found guilty, except for insanity under ORS 161.295, of a felony in the State of Oregon or elsewhere. I have not, within the last four years, been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a misdemeanor. Except as provided in ORS 166.291 (1)(L), I have not been convicted of an offense involving controlled substances or completed a court-supervised drug diversion program. There are no outstanding warrants for my arrest and I am not free on any form of pretrial release. I have not been committed to the Department of Human Services under ORS 426.130, nor have I been found mentally ill and presently subject to an order prohibiting me from purchasing or possessing a firearm because of mental illness. If any of the previous conditions do apply to me, I have been granted relief or wish to petition for relief from the disability under ORS 166.274 or 166.293 **or section 5 of this 2009 Act** or 18 U.S.C. 925(c) or have had the records expunged. I am not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866, 107.700 to 107.735 or 163.738. I have never received a dishonorable discharge from the Armed Forces of the United States. I am not required to register as a sex offender in any state. I understand I will be fingerprinted and photographed.

Legal name \_\_\_\_\_

Age \_\_\_\_\_ Date of birth \_\_\_\_\_

Place of birth \_\_\_\_\_

Social Security number \_\_\_\_\_

(Disclosure of your Social Security account number is voluntary. Solicitation of the number is authorized under ORS 166.291. It will be used only as a means of identification.)

Proof of identification (Two pieces of current identification are required, one of which must bear a photograph of the applicant. The type of identification and the number on the identification are to be filled in by the sheriff.):

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_

Height \_\_\_\_\_ Weight \_\_\_\_\_  
Hair color \_\_\_\_\_ Eye color \_\_\_\_\_

Current address \_\_\_\_\_

(List residence addresses for the past three years on the back.)

City \_\_\_\_\_ County \_\_\_\_\_ Zip \_\_\_\_\_  
Phone \_\_\_\_\_

I have read the entire text of this application, and the statements therein are correct and true. (Making false statements on this application is a misdemeanor.)

\_\_\_\_\_  
(Signature of Applicant)

Character references.

Name	Address
Name	Address

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ by \_\_\_\_\_

Competence with handgun demonstrated by \_\_\_\_\_ (to be filled in by sheriff) Date \_\_\_\_\_ Fee Paid \_\_\_\_\_  
License No. \_\_\_\_\_

- (5)(a) Fees for concealed handgun licenses are:
  - (A) \$15 to the Department of State Police for conducting the fingerprint check of the applicant.
  - (B) \$50 to the sheriff for the issuance or renewal of a concealed handgun license.
  - (C) \$15 to the sheriff for the duplication of a license because of loss or change of address.
- (b) The sheriff may enter into an agreement with the Department of Transportation to produce the concealed handgun license.
- (6) No civil or criminal liability shall attach to the sheriff or any authorized representative engaged in the receipt and review of, or an investigation connected with, any application for, or in the issuance, denial or revocation of, any license under ORS 166.291 to 166.295 as a result of the lawful performance of duties under those sections.
- (7) Immediately upon acceptance of an application for a concealed handgun license, the sheriff shall enter the applicant's name into the Law Enforcement Data System indicating that the person is an applicant for a concealed handgun license or is a license holder.
- (8) The county sheriff may waive the residency requirement in subsection (1)(c) of this section for a resident of a contiguous state who has a compelling business interest or other legitimate demonstrated need.
- (9) For purposes of subsection (1)(c) of this section, a person is a resident of a county if the person:

(a) Has a current Oregon driver license issued to the person showing a residence address in the county;

(b) Is registered to vote in the county and has a memorandum card issued to the person under ORS 247.181 showing a residence address in the county;

(c) Has documentation showing that the person currently leases or owns real property in the county; or

(d) Has documentation showing that the person filed an Oregon tax return for the most recent tax year showing a residence address in the county.

**SECTION 8.** ORS 166.470 is amended to read:

166.470. (1) Unless relief has been granted under ORS 166.274[,] or **section 5 of this 2009 Act** or 18 U.S.C. 925(c) or the expunction laws of this state or an equivalent law of another jurisdiction, a person may not intentionally sell, deliver or otherwise transfer any firearm when the transferor knows or reasonably should know that the recipient:

(a) Is under 18 years of age;

(b) Has been convicted of a felony or found guilty, except for insanity under ORS 161.295, of a felony;

(c) Has any outstanding felony warrants for arrest;

(d) Is free on any form of pretrial release for a felony;

(e) Was committed to the Department of Human Services under ORS 426.130;

(f) After January 1, 1990, was found to be mentally ill and subject to an order under ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of that mental illness; or

(g) Has been convicted of a misdemeanor involving violence or found guilty, except for insanity under ORS 161.295, of a misdemeanor involving violence within the previous four years. As used in this paragraph, "misdemeanor involving violence" means a misdemeanor described in ORS 163.160, 163.187, 163.190, 163.195 or 166.155 (1)(b).

(2) A person may not sell, deliver or otherwise transfer any firearm that the person knows or reasonably should know is stolen.

(3) Subsection (1)(a) of this section does not prohibit:

(a) The parent or guardian, or another person with the consent of the parent or guardian, of a minor from transferring to the minor a firearm, other than a handgun; or

(b) The temporary transfer of any firearm to a minor for hunting, target practice or any other lawful purpose.

(4) Violation of this section is a Class A misdemeanor.

**SECTION 8a.** ORS 166.250 is amended to read:

166.250. (1) Except as otherwise provided in this section or ORS 166.260, 166.270, 166.274, 166.291, 166.292 or 166.410 to 166.470 or **section 5 of this 2009 Act**, a person commits the crime of unlawful possession of a firearm if the person knowingly:

(a) Carries any firearm concealed upon the person;

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

(c) Possesses a firearm and:

(A) Is under 18 years of age;

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

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

(C) Has been convicted of a felony or found guilty, except for insanity under ORS 161.295, of a felony;

(D) Was committed to the Department of Human Services under ORS 426.130; or

(E) Was found to be mentally ill and subject to an order under ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of that mental illness.

(2) This section does not prohibit:

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

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

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

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

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

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

**SECTION 9.** ORS 166.274, as amended by section 6 of this 2009 Act, is amended to read:

166.274. (1) A person barred from possessing a **firearm under ORS 166.250 (1)(c)(A), (B), (D) or (E) or barred from purchasing a firearm under ORS 166.470** 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) or (B); or]*

*[(b) The person is barred from purchasing a firearm under:]*

*[(A) ORS 166.470 (1)(a), (c), (d) or (g); or]*

*[(B) ORS 166.470 (1)(b) and the bar is the result of the person having been convicted of a felony.]*

*[(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.

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

*[(4)(a)] (3)(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)] (4)(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)] (5)* 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)] (6)* If the petitioner seeks relief from the bar on possessing or purchasing a firearm, relief shall be granted when the petitioner demonstrates, by clear and convincing evidence, that the petitioner does not pose a threat to the safety of the public or the petitioner.

[(8)] (7) A person barred from possessing or purchasing a firearm because the person, while a minor, was found to be within the jurisdiction of the juvenile court for committing an act which, if committed 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.

[(9)] (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.

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

[(11)(a)] (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 10.** ORS 166.291, as amended by section 7 of this 2009 Act, is amended to read:

166.291. (1) The sheriff of a county, upon a person's application for an Oregon concealed handgun license, upon receipt of the appropriate fees and after compliance with the procedures set out in this section, shall issue the person a concealed handgun license if the person:

(a)(A) Is a citizen of the United States; or

(B) Is a legal resident alien who can document continuous residency in the county for at least six months and has declared in writing to the United States Citizenship and Immigration Services the intent to acquire citizenship status and can present proof of the written declaration to the sheriff at the time of application for the license;

(b) Is at least 21 years of age;

(c) Is a resident of the county;

(d) Has no outstanding warrants for arrest;

(e) Is not free on any form of pretrial release;

(f) Demonstrates competence with a handgun by any one of the following:

(A) Completion of any hunter education or hunter safety course approved by the State Department of Fish and Wildlife or a similar agency of another state if handgun safety was a component of the course;

(B) Completion of any National Rifle Association firearms safety or training course if handgun safety was a component of the course;

(C) Completion of any firearms safety or training course or class available to the general public offered by law enforcement, community college, or private or public institution or organization or firearms training school utilizing instructors certified by the National Rifle Association or a law enforcement agency if handgun safety was a component of the course;

(D) Completion of any law enforcement firearms safety or training course or class offered for security guards, investigators, reserve law enforcement officers or any other law enforcement officers if handgun safety was a component of the course;

(E) Presents evidence of equivalent experience with a handgun through participation in organized shooting competition or military service;

(F) Is licensed or has been licensed to carry a firearm in this state, unless the license has been revoked; or

(G) Completion of any firearms training or safety course or class conducted by a firearms instructor certified by a law enforcement agency or the National Rifle Association if handgun safety was a component of the course;

(g) Has never been convicted of a felony or found guilty, except for insanity under ORS 161.295, of a felony;

(h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a misdemeanor within the four years prior to the application;



- (i) Has not been committed to the Department of Human Services under ORS 426.130;
- (j) Has not been found to be mentally ill and is not subject to an order under ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of that mental illness;
- (k) Has been discharged from the jurisdiction of the juvenile court for more than four years if, while a minor, the person was found to be within the jurisdiction of the juvenile court for having committed an act that, if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined in ORS 166.470;
- (L) Has not been convicted of an offense involving controlled substances or participated in a court-supervised drug diversion program, except this disability does not operate to exclude a person if:
  - (A) The person has been convicted only once of violating ORS 475.864 (3) and has not completed a court-supervised drug diversion program under ORS 135.907; or
  - (B) The person has completed a court-supervised drug diversion program under ORS 135.907 and has not been convicted of violating ORS 475.864 (3);
  - (m) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866, 107.700 to 107.735 or 163.738;
  - (n) Has not received a dishonorable discharge from the Armed Forces of the United States; and
  - (o) Is not required to register as a sex offender in any state.
- (2) A person who has been granted relief under ORS 166.274 or 166.293 [*or section 5 of this 2009 Act*] or 18 U.S.C. 925(c) or has had the person's record expunged under the laws of this state or equivalent laws of other jurisdictions is not subject to the disabilities in subsection (1)(g) to (L) of this section.
- (3) Before the sheriff may issue a license:
  - (a) The application must state the applicant's legal name, current address and telephone number, date and place of birth, hair and eye color and height and weight. The application must also list the applicant's residence address or addresses for the previous three years. The application must contain a statement by the applicant that the applicant meets the requirements of subsection (1) of this section. The application may include the Social Security number of the applicant if the applicant voluntarily provides this number. The application must be signed by the applicant.
  - (b) The applicant must submit to fingerprinting and photographing by the sheriff. The sheriff shall fingerprint and photograph the applicant and shall conduct any investigation necessary to corroborate the requirements listed under subsection (1) of this section. If a nationwide criminal records check is necessary, the sheriff shall request the Department of State Police to conduct the check, including fingerprint identification, through the Federal Bureau of Investigation. The Federal Bureau of Investigation shall return the fingerprint cards used to conduct the criminal records check and may not keep any record of the fingerprints. The Department of State Police shall report the results of the fingerprint-based criminal records check to the sheriff. The Department of State Police shall also furnish the sheriff with any information about the applicant that the Department of State Police may have in its possession from its central bureau of criminal identification including, but not limited to, manual or computerized criminal offender information.
- (4) Application forms for concealed handgun licenses shall be supplied by the sheriff upon request. The forms shall be uniform throughout the state in substantially the following form:

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APPLICATION FOR LICENSE TO CARRY CONCEALED HANDGUN

Date \_\_\_\_\_

I hereby declare as follows:

I am a citizen of the United States or a legal resident alien who can document continuous residency in the county for at least six months and have declared in writing to the United States Citizenship and Immigration Services my intention to become a citizen and can present proof of the written declaration to the sheriff at the time of this application. I am at least 21 years of age. I have been discharged from the jurisdiction of the juvenile court for more than four years if, while a mi-

nor, I was found to be within the jurisdiction of the juvenile court for having committed an act that, if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined in ORS 166.470. I have never been convicted of a felony or found guilty, except for insanity under ORS 161.295, of a felony in the State of Oregon or elsewhere. I have not, within the last four years, been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a misdemeanor. Except as provided in ORS 166.291 (1)(L), I have not been convicted of an offense involving controlled substances or completed a court-supervised drug diversion program. There are no outstanding warrants for my arrest and I am not free on any form of pretrial release. I have not been committed to the Department of Human Services under ORS 426.130, nor have I been found mentally ill and presently subject to an order prohibiting me from purchasing or possessing a firearm because of mental illness. If any of the previous conditions do apply to me, I have been granted relief or wish to petition for relief from the disability under ORS 166.274 or 166.293 [or section 5 of this 2009 Act] or 18 U.S.C. 925(c) or have had the records expunged. I am not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866, 107.700 to 107.735 or 163.738. I have never received a dishonorable discharge from the Armed Forces of the United States. I am not required to register as a sex offender in any state. I understand I will be fingerprinted and photographed.

Legal name \_\_\_\_\_  
Age \_\_\_\_\_ Date of birth \_\_\_\_\_  
Place of birth \_\_\_\_\_  
Social Security number \_\_\_\_\_

(Disclosure of your Social Security account number is voluntary. Solicitation of the number is authorized under ORS 166.291. It will be used only as a means of identification.)

Proof of identification (Two pieces of current identification are required, one of which must bear a photograph of the applicant. The type of identification and the number on the identification are to be filled in by the sheriff.):

1. \_\_\_\_\_
2. \_\_\_\_\_

Height \_\_\_\_\_ Weight \_\_\_\_\_  
Hair color \_\_\_\_\_ Eye color \_\_\_\_\_

Current address \_\_\_\_\_

(List residence addresses for the past three years on the back.)

City \_\_\_\_\_ County \_\_\_\_\_ Zip \_\_\_\_\_  
Phone \_\_\_\_\_

I have read the entire text of this application, and the statements therein are correct and true. (Making false statements on this application is a misdemeanor.)

\_\_\_\_\_  
(Signature of Applicant)

Character references.

Name	Address
Name	Address

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ by \_\_\_\_\_

Competence with handgun demonstrated by \_\_\_\_\_ (to be filled in by sheriff) Date \_\_\_\_\_ Fee Paid \_\_\_\_\_  
License No. \_\_\_\_\_

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(5)(a) Fees for concealed handgun licenses are:

- (A) \$15 to the Department of State Police for conducting the fingerprint check of the applicant.
- (B) \$50 to the sheriff for the issuance or renewal of a concealed handgun license.
- (C) \$15 to the sheriff for the duplication of a license because of loss or change of address.

(b) The sheriff may enter into an agreement with the Department of Transportation to produce the concealed handgun license.

(6) No civil or criminal liability shall attach to the sheriff or any authorized representative engaged in the receipt and review of, or an investigation connected with, any application for, or in the issuance, denial or revocation of, any license under ORS 166.291 to 166.295 as a result of the lawful performance of duties under those sections.

(7) Immediately upon acceptance of an application for a concealed handgun license, the sheriff shall enter the applicant's name into the Law Enforcement Data System indicating that the person is an applicant for a concealed handgun license or is a license holder.

(8) The county sheriff may waive the residency requirement in subsection (1)(c) of this section for a resident of a contiguous state who has a compelling business interest or other legitimate demonstrated need.

(9) For purposes of subsection (1)(c) of this section, a person is a resident of a county if the person:

(a) Has a current Oregon driver license issued to the person showing a residence address in the county;

(b) Is registered to vote in the county and has a memorandum card issued to the person under ORS 247.181 showing a residence address in the county;

(c) Has documentation showing that the person currently leases or owns real property in the county; or

(d) Has documentation showing that the person filed an Oregon tax return for the most recent tax year showing a residence address in the county.

**SECTION 11.** ORS 166.470, as amended by section 8 of this 2009 Act, is amended to read:

166.470. (1) Unless relief has been granted under ORS 166.274 or [section 5 of this 2009 Act or] 18 U.S.C. 925(c) or the expunction laws of this state or an equivalent law of another jurisdiction, a person may not intentionally sell, deliver or otherwise transfer any firearm when the transferor knows or reasonably should know that the recipient:

(a) Is under 18 years of age;

(b) Has been convicted of a felony or found guilty, except for insanity under ORS 161.295, of a felony;

(c) Has any outstanding felony warrants for arrest;

(d) Is free on any form of pretrial release for a felony;

(e) Was committed to the Department of Human Services under ORS 426.130;

(f) After January 1, 1990, was found to be mentally ill and subject to an order under ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of that mental illness; or

(g) Has been convicted of a misdemeanor involving violence or found guilty, except for insanity under ORS 161.295, of a misdemeanor involving violence within the previous four years. As used in this paragraph, "misdemeanor involving violence" means a misdemeanor described in ORS 163.160, 163.187, 163.190, 163.195 or 166.155 (1)(b).

(2) A person may not sell, deliver or otherwise transfer any firearm that the person knows or reasonably should know is stolen.

(3) Subsection (1)(a) of this section does not prohibit:

(a) The parent or guardian, or another person with the consent of the parent or guardian, of a minor from transferring to the minor a firearm, other than a handgun; or

(b) The temporary transfer of any firearm to a minor for hunting, target practice or any other lawful purpose.

(4) Violation of this section is a Class A misdemeanor.

**SECTION 11a.** ORS 166.250, as amended by section 8a of this 2009 Act, is amended to read:

166.250. (1) Except as otherwise provided in this section or ORS 166.260, 166.270, 166.274, 166.291, 166.292 or 166.410 to 166.470 [or section 5 of this 2009 Act], a person commits the crime of unlawful possession of a firearm if the person knowingly:

(a) Carries any firearm concealed upon the person;

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

(c) Possesses a firearm and:

(A) Is under 18 years of age;

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

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

(C) Has been convicted of a felony or found guilty, except for insanity under ORS 161.295, of a felony;

(D) Was committed to the Department of Human Services under ORS 426.130; or

(E) Was found to be mentally ill and subject to an order under ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of that mental illness.

(2) This section does not prohibit:

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

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

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

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

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

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

**SECTION 12.** (1) **Section 1 of this 2009 Act applies to records and information in the possession of the Department of Human Services, the Psychiatric Security Review Board or the Judicial Department on or after the effective date of this 2009 Act, irrespective of when the record or information was created.**

(2)(a) **When the Department of Human Services determines that the department has received a sufficient legislative appropriation or federal funding to carry out the provisions of section 1 of this 2009 Act, the department shall adopt a rule so indicating. The department shall notify Legislative Counsel when the rule is adopted.**

(b) **When the Chief Justice of the Supreme Court determines that the Judicial Department has received a sufficient legislative appropriation or federal funding to carry out the**

provisions of section 1 of this 2009 Act, the Chief Justice shall issue an order so indicating. The Chief Justice shall notify Legislative Counsel when the order is issued.

(c) When the Psychiatric Security Review Board determines that the board has received a sufficient legislative appropriation or federal funding to carry out the provisions of section 1 of this 2009 Act, the board shall adopt a rule so indicating. The board shall notify Legislative Counsel when the rule is adopted.

(3)(a)(A) The Department of Human Services may not comply with section 1 of this 2009 Act or the amendments to ORS 166.412 by section 4 of this 2009 Act until the department adopts the rule described in subsection (2)(a) of this section; and

(B) If the Department of Human Services adopts the rule described in subsection (2)(a) of this section before January 2, 2012, the department may not comply with section 1 of this 2009 Act or the amendments to ORS 166.412 by section 4 of this 2009 Act until the later of:

(i) The date the Psychiatric Security Review Board adopts the rule described in section 13 of this 2009 Act; or

(ii) January 2, 2012.

(b)(A) The Judicial Department may not comply with section 1 of this 2009 Act until the Chief Justice issues the order described in subsection (2)(b) of this section; and

(B) If the Chief Justice issues the order described in subsection (2)(b) of this section before January 2, 2012, the Judicial Department may not comply with section 1 of this 2009 Act until the later of:

(i) The date the Psychiatric Security Review Board adopts the rule described in section 13 of this 2009 Act; or

(ii) January 2, 2012.

(c)(A) The Psychiatric Security Review Board may not comply with section 1 of this 2009 Act until the board adopts the rule described in subsection (2)(c) of this section; and

(B) If the board adopts the rule described in subsection (2)(c) of this section before January 2, 2012, the board may not comply with section 1 of this 2009 Act until the later of:

(i) The date the board adopts the rule described in section 13 of this 2009 Act; or

(ii) January 2, 2012.

(4)(a) When the Chief Justice of the Supreme Court determines that the Judicial Department has received a sufficient legislative appropriation or federal funding to carry out the provisions of the amendments to ORS 426.160 and 427.293 by sections 2 and 3 of this 2009 Act, the Chief Justice shall issue an order so indicating. The Chief Justice shall notify Legislative Counsel when the order is issued.

(b)(A) Except as provided in subparagraph (B) of this paragraph, the amendments to ORS 426.160 and 427.293 by sections 2 and 3 of this 2009 Act become operative on the date the Chief Justice issues the order described in paragraph (a) of this subsection.

(B) If the Chief Justice issues the order described in paragraph (a) of this subsection before January 2, 2012, the amendments to ORS 426.160 and 427.293 by sections 2 and 3 of this 2009 Act become operative on the later of:

(i) The date the Psychiatric Security Review Board adopts the rule described in section 13 of this 2009 Act; or

(ii) January 2, 2012.

**SECTION 13.** (1) When the Psychiatric Security Review Board determines that the board has received a sufficient legislative appropriation or federal funding to carry out the provisions of section 5 of this 2009 Act, the board shall adopt a rule so indicating. The board shall notify Legislative Counsel upon adoption of the rule.

(2) Section 5 of this 2009 Act and the amendments to ORS 166.250, 166.274, 166.291 and 166.470 by sections 6 to 8a of this 2009 Act become operative on the date the rule described in subsection (1) of this section is adopted.

**SECTION 14.** (1) Sections 5 and 13 of this 2009 Act are repealed on January 2, 2012.

(2) The amendments to ORS 166.250, 166.274, 166.291 and 166.470 by sections 9 to 11a of this 2009 Act become operative on January 2, 2012.

**SECTION 15.** (1) The repeal of section 5 of this 2009 Act by section 14 of this 2009 Act does not affect any petition for relief filed pursuant to section 5 of this 2009 Act with the Psychiatric Security Review Board before January 2, 2012. Any proceeding commenced under section 5 of this 2009 Act before January 2, 2012, shall continue to be governed by the provisions of section 5 of this 2009 Act.

(2) Nothing in the repeal of section 5 of this 2009 Act by section 14 of this 2009 Act or the amendments to ORS 166.250, 166.274, 166.291 and 166.470 by sections 9 to 11a of this 2009 Act affects the relief granted to a person under section 5 of this 2009 Act.

**SECTION 16.** If House Bill 2009 becomes law, section 1 of this 2009 Act is amended to read:

**Sec. 1.** (1) The Department of Human Services, the **Oregon Health Authority**, the Psychiatric Security Review Board and the Judicial Department shall provide the Department of State Police with the minimum information necessary to identify persons who:

(a) Have been committed by a court to the [*Department of Human Services*] **Oregon Health Authority** under ORS 426.130, based on a finding that the person is dangerous to self or others;

(b) Are subject to a court order under ORS 426.130 prohibiting the person from purchasing or possessing a firearm;

(c) Have been committed by a court to the Department of Human Services under ORS 427.290, based on a finding that the person is dangerous to self or others;

(d) Have been found by a court to lack fitness to proceed under ORS 161.370;

(e) Have been found guilty except for insanity of a crime under ORS 161.295 to 161.370;

(f) Have been found responsible except for insanity for an act under ORS 419C.411;

(g) Have been placed under the jurisdiction of the Psychiatric Security Review Board by a court;

or

(h) Have been committed to a state hospital or facility under ORS 161.327, 161.336 to 161.351 or 419C.529 to 419C.544.

(2) Upon receipt of the information described in this section, the Department of State Police shall access and maintain the information and transmit the information to the federal government as required under federal law.

(3) The Department of Human Services, the **Oregon Health Authority**, the Psychiatric Security Review Board and the Judicial Department shall enter into agreements with the Department of State Police describing the access to information provided under this section.

(4) The Department of State Police shall adopt rules:

(a) After consulting with the Department of Human Services, the **Oregon Health Authority**, the Psychiatric Security Review Board and the Judicial Department, describing the type of information provided to the Department of State Police under this section; and

(b) Describing the method and manner of maintaining the information described in this section and transmitting the information to the federal government.

(5) As used in this section, "minimum information necessary" means data elements or nominal information that is necessary or required under federal law to accurately identify a person described in this section and includes the person's name, date of birth, gender and reference information that identifies the originating agency or court and enables the originating agency or court to locate an underlying record or file of a person described in this section. "Minimum information necessary" does not include any medical, psychiatric or psychological information, case histories or files of a person described in this section or any record or file of an originating agency or court.

**SECTION 17.** If House Bill 2009 becomes law, section 4 of this 2009 Act (amending ORS 166.412) is repealed and ORS 166.412, as amended by section 114, chapter \_\_, Oregon Laws 2009 (Enrolled House Bill 2009), is amended to read:

166.412. (1) As used in this section:

(a) "Antique firearm" has the meaning given that term in 18 U.S.C. 921;

(b) "Department" means the Department of State Police;

(c) "Firearm" has the meaning given that term in ORS 166.210, except that it does not include an antique firearm;

(d) "Firearms transaction record" means the firearms transaction record required by 18 U.S.C. 921 to 929;

(e) "Firearms transaction thumbprint form" means a form provided by the department under subsection [(12)] (11) of this section;

(f) "Gun dealer" means a person engaged in the business, as defined in 18 U.S.C. 921, of selling, leasing or otherwise transferring a firearm, whether the person is a retail dealer, pawnbroker or otherwise;

(g) "Handgun" has the meaning given that term in ORS 166.210; and

(h) "Purchaser" means a person who buys, leases or otherwise receives a firearm from a gun dealer.

(2) Except as provided in subsections (3)(c) and [(13)] (12) of this section, a gun dealer shall comply with the following before a handgun is delivered to a purchaser:

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

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

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

(d) The gun dealer shall request by telephone that the department conduct a criminal history record check on the purchaser and shall provide the following information to the department:

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

(B) The business name of the gun dealer;

(C) The place of transfer;

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

(E) The make, model, caliber and manufacturer's number of the handgun being transferred;

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

(G) The Social Security number of the purchaser if the purchaser voluntarily provides this number to the gun dealer; and

(H) The type, issuer and identification number of the identification presented by the purchaser.

(e) The gun dealer shall receive a unique approval number for the transfer from the department and record the approval number on the firearms transaction record and on the firearms transaction thumbprint form.

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

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

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

(B) Notify the dealer when a purchaser is disqualified from completing the transfer or provide the dealer with a unique approval number indicating that the purchaser is qualified to complete the transfer.

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

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

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

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

(B) Is intended to be used for identification of an individual or is commonly accepted for the purpose of identification of an individual.

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

(c) The department may require that the dealer verify the identification of the purchaser if that identity is in question by sending the thumbprints of the purchaser to the department.

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

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

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

(b) The record of the information obtained during a request for a criminal records check by a gun dealer is exempt from disclosure under public records law.

*[(8) The Oregon Health Authority shall provide the Department of State Police with direct electronic access to information from the authority's database of information identifying persons meeting the criteria in ORS 166.470 (1)(e) and (f) who were committed or subject to an order under ORS 426.130. The department and the authority shall enter into an agreement describing the access to information under this subsection.]*

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

*[(10)] (9)* When a handgun is delivered, it shall be unloaded.

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

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

(b) The maintenance of a procedure to correct errors in the criminal records of the department;

(c) The provision of a security system to identify dealers who request a criminal history record check under subsection (2) of this section; and

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

*[(12)] (11)* The department shall publish the firearms transaction thumbprint form and shall furnish the form to gun dealers on application at cost.

*[(13)] (12)* This section does not apply to transactions between persons licensed as dealers under 18 U.S.C. 923.

**SECTION 18.** If House Bill 2009 becomes law, section 5 of this 2009 Act is amended to read:

**Sec. 5.** (1) A person barred from transporting, shipping, possessing or receiving a firearm may file a petition with the Psychiatric Security Review Board for relief from the bar if:

(a) The person is barred from possessing a firearm under ORS 166.250 (1)(c)(D) or (E);

(b) The person is barred from receiving a firearm under:

(A) ORS 166.470 (1)(b) and the bar is the result of the person having been found guilty except for insanity of a felony; or

(B) ORS 166.470 (1)(e) or (f); or



(c) The person is barred from possessing, receiving, shipping or transporting a firearm under 18 U.S.C. 922(d)(4) or (g)(4) as the result of a state mental health determination.

(2) The petitioner shall serve a copy of the petition on:

(a) The Department of Human Services **and the Oregon Health Authority**; and

(b) The district attorney in each county in which:

(A) The person was committed by a court to the [*Department of Human Services*] **Oregon Health Authority**, or adjudicated by a court as mentally ill, under ORS 426.130;

(B) The person was committed by a court to the Department of Human Services, or adjudicated by a court as mentally retarded, under ORS 427.290;

(C) The person was found guilty except for insanity under ORS 161.295;

(D) The person was found responsible except for insanity under ORS 419C.411; or

(E) The person was found by a court to lack fitness to proceed under ORS 161.370.

(3) Following receipt of the petition, the board shall conduct a contested case hearing, make written findings of fact and conclusions of law on the issues before the board and issue a final order.

(4) The state and any person or entity described in subsection (2) of this section may appear and object to and present evidence relevant to the relief sought by the petitioner.

(5) The board shall grant the relief requested in the petition if the petitioner demonstrates, based on the petitioner's reputation, the petitioner's record, the circumstances surrounding the firearm disability and any other evidence in the record, that the petitioner will not be likely to act in a manner that is dangerous to public safety and that granting the relief would not be contrary to the public interest.

(6) If the board grants the relief requested in the petition, the board shall provide to the Department of State Police the minimum information necessary, as defined in section 1 of this 2009 Act, to enable the department to:

(a) Maintain the information and transmit the information to the federal government as required under federal law; and

(b) Maintain a record of the person's relief from the disqualification to possess or receive a firearm under ORS 166.250 (1)(c)(D) or (E) or 166.470 (1)(b), (e) or (f).

(7) The petitioner may petition for judicial review of a final order of the board. The petition shall be filed in the circuit court of a county described in subsection (2)(b) of this section. The review shall be conducted de novo and without a jury.

(8) A petitioner may take an appeal from the circuit court to the Court of Appeals. Review by the Court of Appeals shall be conducted in accordance with ORS 183.500.

(9) A person may file a petition for relief under this section no more than once every two years.

(10) The board shall adopt procedural rules to carry out the provisions of this section.

(11) As used in this section, "state mental health determination" means:

(a) A finding by a court that a person lacks fitness to proceed under ORS 161.370;

(b) A finding that a person is guilty except for insanity of a crime under ORS 161.295 or responsible except for insanity of an act under ORS 419C.411 or any determination by the Psychiatric Security Review Board thereafter;

(c) A commitment by a court to the [*Department of Human Services*] **Oregon Health Authority**, or an adjudication by a court that a person is mentally ill, under ORS 426.130; or

(d) A commitment by a court to the Department of Human Services, or an adjudication by a court that a person is mentally retarded, under ORS 427.290.

**SECTION 18a.** If Senate Bill 603 becomes law, section 5 of this 2009 Act is amended to read:

**Sec. 5.** (1) A person barred from transporting, shipping, possessing or receiving a firearm may file a petition with the Psychiatric Security Review Board for relief from the bar if:

(a) The person is barred from possessing a firearm under ORS 166.250 (1)(c)(D) or (E);

(b) The person is barred from receiving a firearm under[:]

[(A) ORS 166.470 (1)(b) and the bar is the result of the person having been found guilty except for insanity of a felony; or]

[(B)] ORS 166.470 (1)(e) or (f); or

(c) The person is barred from possessing, receiving, shipping or transporting a firearm under 18 U.S.C. 922(d)(4) or (g)(4) as the result of a state mental health determination.

(2) The petitioner shall serve a copy of the petition on:

(a) The Department of Human Services; and

(b) The district attorney in each county in which:

(A) The person was committed by a court to the Department of Human Services, or adjudicated by a court as mentally ill, under ORS 426.130;

(B) The person was committed by a court to the Department of Human Services, or adjudicated by a court as mentally retarded, under ORS 427.290;

(C) The person was found guilty except for insanity under ORS 161.295;

(D) The person was found responsible except for insanity under ORS 419C.411; or

(E) The person was found by a court to lack fitness to proceed under ORS 161.370.

(3) Following receipt of the petition, the board shall conduct a contested case hearing, make written findings of fact and conclusions of law on the issues before the board and issue a final order.

(4) The state and any person or entity described in subsection (2) of this section may appear and object to and present evidence relevant to the relief sought by the petitioner.

(5) The board shall grant the relief requested in the petition if the petitioner demonstrates, based on the petitioner's reputation, the petitioner's record, the circumstances surrounding the firearm disability and any other evidence in the record, that the petitioner will not be likely to act in a manner that is dangerous to public safety and that granting the relief would not be contrary to the public interest.

(6) If the board grants the relief requested in the petition, the board shall provide to the Department of State Police the minimum information necessary, as defined in section 1 of this 2009 Act, to enable the department to:

(a) Maintain the information and transmit the information to the federal government as required under federal law; and

(b) Maintain a record of the person's relief from the disqualification to possess or receive a firearm under ORS 166.250 (1)(c)(D) or (E) or 166.470 [(1)(b), (e) or (f)] (1)(e) or (f).

(7) The petitioner may petition for judicial review of a final order of the board. The petition shall be filed in the circuit court of a county described in subsection (2)(b) of this section. The review shall be conducted de novo and without a jury.

(8) A petitioner may take an appeal from the circuit court to the Court of Appeals. Review by the Court of Appeals shall be conducted in accordance with ORS 183.500.

(9) A person may file a petition for relief under this section no more than once every two years.

(10) The board shall adopt procedural rules to carry out the provisions of this section.

(11) As used in this section, "state mental health determination" means:

(a) A finding by a court that a person lacks fitness to proceed under ORS 161.370;

(b) A finding that a person is guilty except for insanity of a crime under ORS 161.295 or responsible except for insanity of an act under ORS 419C.411 or any determination by the Psychiatric Security Review Board thereafter;

(c) A commitment by a court to the Department of Human Services, or an adjudication by a court that a person is mentally ill, under ORS 426.130; or

(d) A commitment by a court to the Department of Human Services, or an adjudication by a court that a person is mentally retarded, under ORS 427.290.

**SECTION 19. If Senate Bill 603 becomes law, section 6 of this 2009 Act (amending ORS 166.274) is repealed and ORS 166.274, as amended by section 2, chapter \_\_, Oregon Laws 2009 (Enrolled Senate Bill 603), is amended to read:**

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

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

[(3)(a)] **(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.

[(4)(a)] **(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.

[(5)] **(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.

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

[(7)] **(8)** A person barred from possessing or purchasing a firearm because the person, while a minor, was found to be within the jurisdiction of the juvenile court for committing an act which, if committed 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)] **(9)** 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)] **(10)** Filing fees shall be as for any civil action filed in the court.

[(10)(a)] **(11)(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 20. If Senate Bill 603 becomes law, section 9 of this 2009 Act (amending ORS 166.274) is repealed and ORS 166.274, as amended by section 2, chapter \_\_, Oregon Laws 2009 (Enrolled Senate Bill 603), and section 19 of this 2009 Act, is amended to read:**

166.274. (1) A person barred from possessing a **firearm under ORS 166.250 (1)(c)(A) to (E) or 166.270 or barred from** [or] purchasing a firearm **under ORS 166.470 (1)(a) to (g)** 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.

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

[(4)(a)] (3)(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)] (4)(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)] (5) 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)] (6) If the petitioner seeks relief from the bar on possessing or purchasing a firearm, relief shall be granted when the petitioner demonstrates, by clear and convincing evidence, that the petitioner does not pose a threat to the safety of the public or the petitioner.

[(8)] (7) A person barred from possessing or purchasing a firearm because the person, while a minor, was found to be within the jurisdiction of the juvenile court for committing an act which, if committed 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.

[(9)] (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.

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

[(11)(a)] (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 21.** If House Bill 2009 becomes law, section 12 of this 2009 Act is amended to read:

**Sec. 12.** (1) Section 1 of this 2009 Act applies to records and information in the possession of the Department of Human Services, **the Oregon Health Authority**, the Psychiatric Security Review Board or the Judicial Department on or after the effective date of this 2009 Act, irrespective of when the record or information was created.

(2)(a) When the Department of Human Services determines that the department has received a sufficient legislative appropriation or federal funding to carry out the provisions of section 1 of this 2009 Act, the department shall adopt a rule so indicating. The department shall notify Legislative Counsel when the rule is adopted.

**(b) When the Oregon Health Authority determines that the authority has received a sufficient legislative appropriation or federal funding to carry out the provisions of section 1 of this 2009 Act, the authority shall adopt a rule so indicating. The authority shall notify Legislative Counsel when the rule is adopted.**

**[(b)] (c)** When the Chief Justice of the Supreme Court determines that the Judicial Department has received a sufficient legislative appropriation or federal funding to carry out the provisions of section 1 of this 2009 Act, the Chief Justice shall issue an order so indicating. The Chief Justice shall notify Legislative Counsel when the order is issued.

**[(c)] (d)** When the Psychiatric Security Review Board determines that the board has received a sufficient legislative appropriation or federal funding to carry out the provisions of section 1 of this 2009 Act, the board shall adopt a rule so indicating. The board shall notify Legislative Counsel when the rule is adopted.

**(3)(a)(A)** The Department of Human Services may not comply with section 1 of this 2009 Act *[or the amendments to ORS 166.412 by section 4 of this 2009 Act]* until the department adopts the rule described in subsection (2)(a) of this section; and

**(B)** If the Department of Human Services adopts the rule described in subsection (2)(a) of this section before January 2, 2012, the department may not comply with section 1 of this 2009 Act *[or the amendments to ORS 166.412 by section 4 of this 2009 Act]* until the later of:

**(i)** The date the Psychiatric Security Review Board adopts the rule described in section 13 of this 2009 Act; or

**(ii)** January 2, 2012.

**(b)(A) The Oregon Health Authority may not comply with section 1 of this 2009 Act or the amendments to ORS 166.412 by section 17 of this 2009 Act until the authority adopts the rule described in subsection (2)(b) of this section; and**

**(B) If the Oregon Health Authority adopts the rule described in subsection (2)(b) of this section before January 2, 2012, the authority may not comply with section 1 of this 2009 Act or the amendments to ORS 166.412 by section 17 of this 2009 Act until the later of:**

**(i) The date the Psychiatric Security Review Board adopts the rule described in section 13 of this 2009 Act; or**

**(ii) January 2, 2012.**

**[(b)(A)] (c)(A)** The Judicial Department may not comply with section 1 of this 2009 Act until the Chief Justice issues the order described in subsection **[(2)(b)] (2)(c)** of this section; and

**(B)** If the Chief Justice issues the order described in subsection **[(2)(b)] (2)(c)** of this section before January 2, 2012, the Judicial Department may not comply with section 1 of this 2009 Act until the later of:

**(i)** The date the Psychiatric Security Review Board adopts the rule described in section 13 of this 2009 Act; or

**(ii)** January 2, 2012.

**[(c)(A)] (d)(A)** The Psychiatric Security Review Board may not comply with section 1 of this 2009 Act until the board adopts the rule described in subsection **[(2)(c)] (2)(d)** of this section; and

**(B)** If the board adopts the rule described in subsection **[(2)(c)] (2)(d)** of this section before January 2, 2012, the board may not comply with section 1 of this 2009 Act until the later of:

**(i)** The date the board adopts the rule described in section 13 of this 2009 Act; or

**(ii)** January 2, 2012.

**(4)(a)** When the Chief Justice of the Supreme Court determines that the Judicial Department has received a sufficient legislative appropriation or federal funding to carry out the provisions of the amendments to ORS 426.160 and 427.293 by sections 2 and 3 of this 2009 Act, the Chief Justice shall issue an order so indicating. The Chief Justice shall notify Legislative Counsel when the order is issued.

**(b)(A)** Except as provided in subparagraph (B) of this paragraph, the amendments to ORS 426.160 and 427.293 by sections 2 and 3 of this 2009 Act become operative on the date the Chief Justice issues the order described in paragraph (a) of this subsection.

(B) If the Chief Justice issues the order described in paragraph (a) of this subsection before January 2, 2012, the amendments to ORS 426.160 and 427.293 by sections 2 and 3 of this 2009 Act become operative on the later of:

(i) The date the Psychiatric Security Review Board adopts the rule described in section 13 of this 2009 Act; or

(ii) January 2, 2012.

**SECTION 22.** If Senate Bill 603 becomes law, section 13 of this 2009 Act is amended to read:

**Sec. 13.** (1) When the Psychiatric Security Review Board determines that the board has received a sufficient legislative appropriation or federal funding to carry out the provisions of section 5 of this 2009 Act, the board shall adopt a rule so indicating. The board shall notify Legislative Counsel upon adoption of the rule.

(2) Section 5 of this 2009 Act and the amendments to ORS 166.250, 166.274, 166.291 and 166.470 by sections [6 to 8a] **7, 8, 8a and 19** of this 2009 Act become operative on the date the rule described in subsection (1) of this section is adopted.

**SECTION 23.** If Senate Bill 603 becomes law, section 14 of this 2009 Act is amended to read:

**Sec. 14.** (1) Sections 5 and 13 of this 2009 Act are repealed on January 2, 2012.

(2) The amendments to ORS 166.250, 166.274, 166.291 and 166.470 by sections [9 to 11a] **10, 11, 11a and 20** of this 2009 Act become operative on January 2, 2012.

**SECTION 24.** If Senate Bill 603 becomes law, section 15 of this 2009 Act is amended to read:

**Sec. 15.** (1) The repeal of section 5 of this 2009 Act by section 14 of this 2009 Act does not affect any petition for relief filed pursuant to section 5 of this 2009 Act with the Psychiatric Security Review Board before January 2, 2012. Any proceeding commenced under section 5 of this 2009 Act before January 2, 2012, shall continue to be governed by the provisions of section 5 of this 2009 Act.

(2) Nothing in the repeal of section 5 of this 2009 Act by section 14 of this 2009 Act or the amendments to ORS 166.250, 166.274, 166.291 and 166.470 by sections [9 to 11a] **10, 11, 11a and 20** of this 2009 Act affects the relief granted to a person under section 5 of this 2009 Act.

**Passed by House June 25, 2009**

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Chief Clerk of House

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Speaker of House

**Passed by Senate June 29, 2009**

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President of Senate

**Received by Governor:**

.....M.,....., 2009

**Approved:**

.....M.,....., 2009

.....  
Governor

**Filed in Office of Secretary of State:**

.....M.,....., 2009

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Secretary of State