

E AND R AMENDMENTS TO LB 512

Introduced by Larson, 40, Chairperson Enrollment and Review

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:

3 Section 1. Section 69-2402, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 69-2402 For purposes of sections 69-2401 to 69-2425:

6 (1) Antique handgun or pistol ~~shall mean~~ means any
7 handgun or pistol, including those with a matchlock, flintlock,
8 percussion cap, or similar type of ignition system, manufactured
9 in or before 1898 and any replica of such a handgun or pistol
10 if such replica (a) is not designed or redesigned for using
11 rimfire or conventional centerfire fixed ammunition or (b) uses
12 rimfire or conventional centerfire fixed ammunition which is no
13 longer manufactured in the United States and which is not readily
14 available in the ordinary channels of commercial trade;

15 (2) Criminal history record check ~~shall include~~ includes
16 a check of the criminal history records of the Nebraska State
17 Patrol and a check of the Federal Bureau of Investigation's
18 National Instant Criminal Background Check System; ~~and~~

19 (3) Firearm-related disability means a person is not
20 permitted to (a) purchase, possess, ship, transport, or receive a
21 firearm under either state or federal law, (b) obtain a certificate
22 to purchase, lease, rent, or receive transfer of a handgun under
23 section 69-2404, or (c) obtain a permit to carry a concealed

1 handgun under the Concealed Handgun Permit Act; and

2 ~~(3)~~ (4) Handgun shall mean means any firearm with a
3 barrel less than sixteen inches in length or any firearm designed
4 to be held and fired by the use of a single hand.

5 Sec. 2. Section 69-2409.01, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 69-2409.01 (1) For purposes of sections 69-2401 to
8 69-2425, the Nebraska State Patrol shall be furnished ~~upon the~~
9 ~~patrol's request~~ with only such information as may be necessary
10 for the sole purpose of determining whether an individual is
11 disqualified from purchasing or possessing a handgun pursuant to
12 ~~state or federal law or is subject to the disability provisions~~
13 of 18 U.S.C. 922(d)(4) and (g)(4). Such information shall be
14 furnished by the Department of Health and Human Services. The
15 clerks of the various courts shall furnish to the Department of
16 Health and Human Services, and Nebraska State Patrol, as soon
17 as practicable but within thirty days after the an order of
18 commitment or finding and the discharge is issued or after removal
19 of firearm-related disabilities pursuant to section 7 of this
20 act, all information necessary to set up and maintain the data
21 base required by this section. This information shall include (a)
22 information regarding those persons who are currently receiving
23 mental health treatment pursuant to a commitment order of a mental
24 health board or who have been discharged, ~~and~~ (b) information
25 regarding those persons who have been committed to treatment
26 pursuant to section 29-3702, and (c) information regarding those
27 persons who have had firearm-related disabilities removed pursuant

1 to section 7 of this act. The mental health board shall notify
2 the Department of Health and Human Services and the Nebraska State
3 Patrol when such disabilities have been removed. The Department of
4 Health and Human Services shall also maintain in the data base
5 a listing of persons committed to treatment pursuant to section
6 29-3702. ~~Information regarding mental health board commitments and~~
7 ~~commitments pursuant to section 29-3702 shall not be retained~~
8 ~~in the data base maintained by the department on persons who~~
9 ~~have been discharged from these commitments more than five years~~
10 ~~previously.~~ To ensure the accuracy of the data base, any
11 information maintained or disclosed under this subsection shall
12 remain privileged and confidential and shall not be redisclosed or
13 utilized for any other purpose. be updated, corrected, modified,
14 or removed, as appropriate, and as soon as practicable, from any
15 data base that the state or federal government maintains and makes
16 available to the National Instant Criminal Background Check System.
17 The procedures for furnishing such the information shall guarantee
18 that no information is released beyond what is necessary for
19 purposes of this section.

20 (2) In order to comply with sections 69-2401 and 69-2403
21 to 69-2408 and this section, the Nebraska State Patrol shall
22 provide to the chief of police or sheriff of an applicant's place
23 of residence or a licensee in the process of a criminal history
24 record check pursuant to section 69-2411 only the information
25 regarding whether or not the applicant is disqualified from
26 purchasing or possessing a handgun.

27 (3) Any person, agency, or mental health board

1 participating in good faith in the reporting or disclosure of
2 records and communications under this section is immune from any
3 liability, civil, criminal, or otherwise, that might result by
4 reason of the action.

5 (4) Any person who intentionally causes the Nebraska
6 State Patrol to request information pursuant to this section
7 without reasonable belief that the named individual has submitted
8 a written application under section 69-2404 or has completed a
9 consent form under section 69-2410 shall be guilty of a Class II
10 misdemeanor in addition to other civil or criminal liability under
11 state or federal law.

12 Sec. 3. Section 69-2433, Revised Statutes Cumulative
13 Supplement, 2010, is amended to read:

14 69-2433 An applicant shall:

15 (1) Be at least twenty-one years of age;

16 (2) Not be prohibited from purchasing or possessing a
17 handgun by 18 U.S.C. 922, as such section existed on January 1,
18 2005;

19 (3) Possess the same powers of eyesight as required under
20 section 60-4,118 for a Class O operator's license. If an applicant
21 does not possess a current Nebraska motor vehicle operator's
22 license, the applicant may present a current optometrist's or
23 ophthalmologist's statement certifying the vision reading obtained
24 when testing the applicant. If such certified vision reading meets
25 the vision requirements prescribed by section 60-4,118 for a Class
26 O operator's license, the vision requirements of this subdivision
27 shall have been met;

1 (4) Not have pled guilty to, not have pled nolo
2 contendere to, or not have been convicted of a felony under
3 the laws of this state or under the laws of any other jurisdiction;

4 (5) Not have pled guilty to, not have pled nolo
5 contendere to, or not have been convicted of a misdemeanor crime
6 of violence under the laws of this state or under the laws of any
7 other jurisdiction within the ten years immediately preceding the
8 date of application;

9 (6) Not have been found in the previous ten years to be a
10 mentally ill and dangerous person under the Nebraska Mental Health
11 Commitment Act or a similar law of another jurisdiction or not be
12 currently adjudged mentally incompetent;

13 (7) (a) Have been a resident of this state for at least
14 one hundred eighty days. For purposes of this section, resident
15 does not include an applicant who maintains a residence in another
16 state and claims that residence for voting or tax purposes except
17 as provided in subdivision (b) or (c) of this subdivision; ~~or~~

18 (b) If an applicant is a member of the United States
19 Armed Forces, such applicant shall be considered a resident of
20 this state for purposes of this section after he or she has been
21 stationed at a military installation in this state pursuant to
22 permanent duty station orders even though he or she maintains a
23 residence in another state and claims that residence for voting or
24 tax purposes; or

25 (c) If an applicant is a new Nebraska resident and
26 possesses a valid permit to carry a concealed handgun issued by his
27 or her previous state of residence that is recognized by this state

1 pursuant to section 69-2448, such applicant shall be considered a
2 resident of this state for purposes of this section;

3 (8) Have had no violations of any law of this state
4 relating to firearms, unlawful use of a weapon, or controlled
5 substances or of any similar laws of another jurisdiction in the
6 ten years preceding the date of application;

7 (9) Not be on parole, probation, house arrest, or work
8 release;

9 (10) Be a citizen of the United States; and

10 (11) Provide proof of training.

11 Sec. 4. Section 71-901, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 71-901 Sections 71-901 to 71-962 and sections 6 and 7 of
14 this act shall be known and may be cited as the Nebraska Mental
15 Health Commitment Act.

16 Sec. 5. Section 71-903, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-903 For purposes of the Nebraska Mental Health
19 Commitment Act, unless the context otherwise requires, the
20 definitions found in sections 71-904 to 71-914 and section 6 of
21 this act shall apply.

22 Sec. 6. Firearm-related disability means a person is not
23 permitted to (1) purchase, possess, ship, transport, or receive a
24 firearm under either state or federal law, (2) obtain a certificate
25 to purchase, lease, rent, or receive transfer of a handgun under
26 section 69-2404, or (3) obtain a permit to carry a concealed
27 handgun under the Concealed Handgun Permit Act.

1 Sec. 7. (1) Upon release from commitment or treatment,
2 a person who, because of a mental health-related commitment or
3 adjudication occurring under the laws of this state, is subject to
4 the disability provisions of 18 U.S.C. 922(d)(4) and (g)(4) or is
5 disqualified from obtaining a certificate to purchase, lease, rent,
6 or receive transfer of a handgun under section 69-2404 or a permit
7 to carry a concealed handgun under the Concealed Handgun Permit Act
8 may petition the mental health board to remove such disabilities.

9 (2)(a) Upon the filing of the petition, the subject may
10 request and, if the request is made, shall be entitled to, a review
11 hearing by the mental health board. The mental health board shall
12 grant a petition filed under subsection (1) of this section if the
13 mental health board determines that:

14 (i) The subject will not be likely to act in a manner
15 dangerous to public safety; and

16 (ii) The granting of the relief would not be contrary to
17 the public interest.

18 (b) In determining whether to remove the subject's
19 firearm-related disabilities, the mental health board shall receive
20 and consider evidence upon the following:

21 (i) The circumstances surrounding the subject's mental
22 health commitment or adjudication;

23 (ii) The subject's record, which shall include, at a
24 minimum, the subject's mental health and criminal history records;

25 (iii) The subject's reputation, developed, at a minimum,
26 through character witness statements, testimony, or other character
27 evidence; and

1 (iv) Changes in the subject's condition, treatment,
2 treatment history, or circumstances relevant to the relief sought.

3 (3) If a decision is made by the mental health board to
4 remove the subject's firearm-related disabilities, the clerks of
5 the various courts shall immediately send as soon as practicable
6 but within thirty days an order to the Nebraska State Patrol and
7 the Department of Health and Human Services, in a form and in a
8 manner prescribed by the Department of Health and Human Services
9 and the Nebraska State Patrol, stating its findings, which shall
10 include a statement that, in the opinion of the mental health
11 board, (a) the subject is not likely to act in a manner that
12 is dangerous to public safety and (b) removing the subject's
13 firearm-related disabilities will not be contrary to the public
14 interest.

15 (4) The subject may appeal a denial of the requested
16 relief to the district court, and review on appeal shall be de
17 novo.

18 (5) If a petition is granted under this section, the
19 commitment or adjudication for which relief is granted shall be
20 deemed not to have occurred for purposes of section 69-2404 and
21 the Concealed Handgun Permit Act and, pursuant to section 105(b) of
22 Public Law 110-180, for purposes of 18 U.S.C. 922(d)(4) and (g)(4).

23 Sec. 8. This act becomes operative on January 1, 2012.

24 Sec. 9. Original sections 69-2402, 69-2409.01, 71-901,
25 and 71-903, Reissue Revised Statutes of Nebraska, and section
26 69-2433, Revised Statutes Cumulative Supplement, 2010, are
27 repealed.

1 2. On page 1, strike beginning with "69-2409.01" in
2 line 1 through line 6 and insert "69-2402, 69-2409.01, 71-901,
3 and 71-903, Reissue Revised Statutes of Nebraska, and section
4 69-2433, Revised Statutes Cumulative Supplement, 2010; to change
5 provisions relating to mental health determinations for purposes of
6 possessing and purchasing of handguns and concealed handgun permit
7 applications; to change concealed handgun permit requirements
8 relating to residency; to provide procedures for the removal
9 of adverse mental health determinations; to define terms; to
10 harmonize provisions; to provide an operative date; and to repeal
11 the original sections."