

**ONE HUNDRED SECOND LEGISLATURE - FIRST SESSION - 2011**  
**COMMITTEE STATEMENT (CORRECTED)**  
**LB512**

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**Hearing Date:** Wednesday February 23, 2011  
**Committee On:** Judiciary  
**Introducer:** Christensen  
**One Liner:** Change provisions relating to mental health determinations regarding the possession and purchase of handguns

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

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**Vote Results:**

<b>Aye:</b>	6	Senators Ashford, Coash, Larson, Lathrop, Lautenbaugh, McGill
<b>Nay:</b>		
<b>Absent:</b>		
<b>Present Not Voting:</b>	2	Senators Council, Harr

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**Proponents:**

SEN. MARK CHRISTENSEN  
BRYAN TUMA  
JORDAN AUSTIN  
JULIE MAASKE, CAPTAIN  
AMY PRENDA

**Representing:**

INTRODUCER  
NEBRASKA STATE PATROL  
NRA  
NEBRASKA STATE PATROL  
NEBRASKA SHERIFFS ASSOCIATION

**Opponents:**

**Representing:**

**Neutral:**

ANDREAS ALLEN

**Representing:**

NFOA

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**Summary of purpose and/or changes:**

LB 512 would amend sections of 69-2409.01 and 71-935 of the Nebraska Statutes in the following manner:

69-2409.01 (Mental health treatment data base; created; disclosure; limitation; liability; prohibited act; violation; penalty.)

\* That the State Patrol be provided with information necessary to determine if a person is either qualified or disqualified to purchase or possess a handgun. Currently 69-2409.01 only provides information that is requested by the State Patrol to determine if a person is "disqualified" from being able to purchase or possess a handgun.

\* This section would also provide to the State Patrol, information identifying that a person has been deemed to be disqualified from purchasing or possessing a handgun for mental health reasons.

\* Deletes the provision that prohibits the inclusion and storage of records under this act pertaining to people who are five years removed from their mental health commitment or some other court ordered treatment for purposes of identifying those who are disqualified from being able to purchase or possess a handgun.

\* Strikes the privileged and confidentiality protection of mental health records under this section and provides that

records can be updated or removed as soon as it is practical to do to ensure that the records are as up to date as possible in the state and federal databases and would allow for these updated records to be shared with the National Instant Criminal Background Check System for handgun eligibility determination.

71-935 (Mental health board; review hearing; order discharge or change treatment disposition; when.)

\* Finally, this bill would implement a "due process hearing" for those previously disqualified to purchase or possess a handgun for mental health reasons. A petition may be filed (might be necessary to clarify where the petition is to be filed) and a review hearing by the mental health board requested to determine if:

\* The person who was previously disqualified is likely to act in a manner that is dangerous to public safety; and  
\* That the removal of the previous disqualification for the purchase and possession of a handgun under 60-4209.01 for mental health reasons would be contrary to the public interest.

\* Evidence that the mental health board may receive and consider when determining whether to remove the disqualification are as follows:

\* The circumstances surrounding the mental health commitment;  
\* The disqualified individuals record, which shall include at a minimum, the mental health and criminal history records of this person; and  
\* The reputation of the disqualified individual, as developed, at a minimum through character witness statements, testimony, or other character evidence

\* If the mental health board decides to remove the previous disqualification for the purchase or possession of a handgun under 69-2409.01 for mental health reasons, the mental health board shall send an order to the Nebraska State Patrol and the Department of Health and Human Services, in a form and manner prescribed by the Patrol and HHS stating the findings that the mental health board:

\* Believes the previously disqualified person is no longer likely to act in a manner that is dangerous to the public; and  
\* That the removal of the previous disqualification to purchase or possess a handgun for mental health reasons under 69-2409.01 is not contrary to the public interest.

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**Explanation of amendments:**

AM 225 makes the following changes to LB 512:

Section 1: Provides a definition of "firearm-related disability" for purposes of sections 69-2401 to 69-2425.

Section 2:

\* Outlines the federal sections relevant to the bill.  
\* Requires when an order of mental health commitment or discharge is issued, or after the removal of a firearm-related disability is issued, that it be sent to both Health Human Services and the Nebraska State Patrol by the courts, as soon as practicable, but within 30 days.  
\* Requires the database to be updated, as soon as practicable, to reflect changes to the record.

Section 5: Provides definition of "firearm-related disability" for purposes of the Nebraska Mental Health Commitment Act.

Section 6: Outlines the provisions for a person to seek relief from a firearm-related disability.

(1) Who is eligible to seek relief.  
(2) Requires when a person requests a review hearing, a person is entitled to such hearing and outlines what the Mental Health Board shall determine and what evidence shall be considered.  
(3) Outlines reporting responsibilities of the clerks of various courts when a decision is made by the Mental Health Board to remove the firearm-related disability.  
(4) Allows for an appeal to the District Court for a de novo review in cases of denials.  
(5) If relief is granted, the firearm-related disability shall not be considered when determining eligibility for Permit to

Purchases, CCW permits, and federal disqualification.

Section 7: Establishes an effective date of January 1, 2012

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Brad Ashford, Chairperson