

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 815

Introduced by Stinner, 48.

Read first time January 08, 2016

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to the Nebraska Mental Health Commitment Act;
- 2 to amend section 71-963, Revised Statutes Cumulative Supplement,
- 3 2014; to change provisions relating to petitions for removal of a
- 4 person's firearms-related disabilities or disqualifications; and to
- 5 repeal the original section.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-963, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

3 71-963 (1) Upon release from commitment or treatment, a person who,
4 because of a mental health-related commitment or adjudication occurring
5 under the laws of this state, is subject to the disability provisions of
6 18 U.S.C. 922(d)(4) and (g)(4) or is disqualified from obtaining a
7 certificate to purchase, lease, rent, or receive transfer of a handgun
8 under section 69-2404 or a permit to carry a concealed handgun under the
9 Concealed Handgun Permit Act may petition the mental health board to
10 remove such disabilities.

11 (2)(a)(i) Upon the filing of the petition, the petitioner subject
12 may request and, if the request is made, shall be entitled to, a review
13 hearing by the mental health board. The petitioner must prove by clear
14 and convincing evidence ~~The mental health board shall grant a petition~~
15 ~~filed under subsection (1) of this section if the mental health board~~
16 ~~determines that:~~

17 (A i) The petitioner subject will not be likely to act in a manner
18 dangerous to public safety; and

19 (B ii) The granting of the relief would not be contrary to the
20 public interest.

21 (ii b) In determining whether to remove the petitioner's subject's
22 firearm-related disabilities, the mental health board shall receive and
23 consider evidence upon the following:

24 (A i) The circumstances surrounding the petitioner's subject's
25 mental health commitment or adjudication;

26 (B ii) The petitioner's subject's record, which shall include, at a
27 minimum, the petitioner's subject's mental health and criminal history
28 records;

29 (C iii) The petitioner's subject's reputation, developed, at a
30 minimum, through character witness statements, testimony, or other
31 character evidence; and

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

3 (b) The mental health board shall grant a petition filed under this
4 section if the mental health board determines that the petitioner has
5 presented clear and convincing evidence that the disability or
6 disqualification provisions set forth in subsection (1) of this section
7 should be removed.

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

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

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

26 Sec. 2. Original section 71-963, Revised Statutes Cumulative
27 Supplement, 2014, is repealed.