



House Bill No. 6490

Public Act No. 11-134

AN ACT ESTABLISHING A PROCEDURE FOR RELIEF FROM CERTAIN FEDERAL FIREARMS PROHIBITIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective July 1, 2011*) (a) Any person having a federal firearms disability under 18 USC 922(d)(4) and 18 USC 922(g)(4), as a result of an adjudication or commitment rendered in this state, may petition the probate court for the district in which such person resides for relief from the federal firearms disability that resulted from such adjudication or commitment.

(b) The petitioner shall submit to the probate court, together with the petition and the releases required by subsection (d) of this section, information in support of the petition, including, but not limited to:

(1) Certified copies of medical records detailing the petitioner's psychiatric history where applicable, including records pertaining to the specific adjudication or commitment that is the subject of the petition;

(2) Certified copies of medical records from all of the petitioner's current treatment providers, if the petitioner is receiving treatment;

(3) A certified copy of all criminal history information maintained

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on file by the State Police Bureau of Identification and the Federal Bureau of Investigation pertaining to the petitioner or a copy of the response from said bureaus indicating that there is no criminal history information on file;

(4) Evidence of the petitioner's reputation, which may include notarized letters of reference from current and past employers, family members or personal friends, affidavits from the petitioner or other character evidence; and

(5) Any further information or documents specifically requested by the court, which documents shall be certified copies of original documents.

(c) The petitioner shall cause a copy of the petition and all supporting documents submitted to the probate court pursuant to subsection (b) of this section to be delivered to the Commissioner of Public Safety and shall certify to the probate court that such delivery has been made.

(d) The petitioner shall provide for the release of all of the petitioner's records that may relate to the petition, including, but not limited to, health, mental health, military, immigration, juvenile court, civil court and criminal records, on forms prescribed by the Probate Court Administrator. The releases shall authorize the Commissioner of Public Safety to obtain any of such records for use at the probate court hearing or in any appeal from the decision of the probate court.

(e) The petitioner shall ensure that all required information accompanies the petition at the time it is submitted to the court. Unless specifically requested by the court, information provided after receipt of the petition by the court shall not be considered. Information specifically requested by the court must be received by the court no later than fifteen days after the date of the request in order for the

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information to be considered. The court may extend such time period for good cause shown. Failure to provide the requested information within such time period may result in a denial of the petition.

(f) Upon the filing of the petition, the probate court shall set a date, time and place for a hearing and shall give notice of such hearing to (1) the petitioner, (2) the Commissioner of Public Safety, (3) the court that rendered the adjudication or commitment, (4) the conservator appointed for the petitioner, if any, and (5) any other person determined by the court to have an interest in the matter.

(g) The court shall cause a recording of the testimony given at such hearing to be made. Such recording shall be transcribed only in the event of an appeal from the decision rendered by the probate court under this section. A copy of such transcript shall be furnished without charge to any appellant whom the probate court finds is unable to pay for such copy. The cost of such transcript shall be paid from funds appropriated to the Judicial Department.

(h) The petitioner shall have the burden of establishing by clear and convincing evidence that (1) the petitioner is not likely to act in a manner that is dangerous to public safety, and (2) granting relief from the federal firearms disability is not contrary to the public interest. The Commissioner of Public Safety and any other person determined by the court to have an interest in the matter may present any and all relevant information at the probate court hearing and in any appeal to the Superior Court.

(i) In determining whether to grant relief under this section, the court shall consider the following:

(1) The circumstances regarding the firearms disability imposed by 18 USC 922(d)(4) and 18 USC 922(g)(4);

(2) The petitioner's record, which shall include, at a minimum, the

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petitioner's mental health records and criminal history records, if any;

(3) The petitioner's reputation, which the petitioner must demonstrate through character witness statements, testimony or other character evidence; and

(4) Any other relevant information provided by the petitioner, the Commissioner of Public Safety or any other person determined by the court to have an interest in the matter.

(j) The court shall grant relief under this section if it finds by clear and convincing evidence that: (1) The petitioner will not be likely to act in a manner dangerous to public safety, and (2) granting the relief will not be contrary to the public interest. The court shall include in its decision the specific findings of fact on which it bases its decision.

(k) The petitioner or the Commissioner of Public Safety may appeal the final decision of the probate court to the Superior Court in accordance with the provisions of section 45a-186 of the general statutes. Notwithstanding any other provision of the general statutes, any review of the decision of the probate court by the Superior Court shall be de novo.

(l) Enforcement of any decision of the probate court granting relief pursuant to the petition shall be stayed until the period in which to take an appeal under section 45a-186 of the general statutes has expired or, if an appeal is taken, until the final decision of the court. If the court grants the relief and no appeal is taken or an appeal is taken and the decision is upheld, the court granting relief shall notify the Commissioner of Public Safety of that decision.

(m) As soon as practicable after receiving notice of the decision of the court granting relief, the Commissioner of Public Safety shall (1) coordinate the removal or cancellation of the record in the National Instant Criminal Background Check System (NICS), and (2) notify the

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Attorney General of the United States that the basis of the record no longer applies.

(n) All proceedings in the probate court under the provisions of this section shall be closed to the public and all records of the proceedings shall be confidential and not subject to disclosure except to the petitioner or his or her counsel and the Commissioner of Public Safety, unless the probate court, after notice to the parties and a hearing, determines that such records should be disclosed for good cause shown.