

SB0281/753829/1

BY: Senator Brinkley

AMENDMENTS TO SENATE BILL 281  
(First Reading File Bill)

AMENDMENT NO. 1

On page 2, strike beginning with “requiring” in line 5 down through “understanding” in line 13 and substitute “requiring a certain court or other authority to forward certain information to the Department of Public Safety and Correctional Services; requiring the Department to forward certain information to the Federal Bureau of Investigation for a certain purpose; requiring a certain court to make a certain notification; authorizing a certain person to petition a court for relief from certain disabilities or disqualifications; requiring a court to take certain actions on receipt of a certain petition for relief; requiring a court to hold a certain hearing under certain circumstances; requiring a court to grant a certain petition under certain circumstances; providing that certain records may not be disclosed except to certain parties; providing for a certain appeal; requiring the Department to take a certain action under certain circumstances; providing certain restrictions on the filing of a certain petition”; and in line 40, strike “5-133.3,”.

AMENDMENT NO. 2

On pages 26 through 33, strike in their entirety the lines beginning with line 11 on page 26 through line 3 on page 33, inclusive, and substitute:

**“(A) (1) IF A COURT OR OTHER ADJUDICATIVE AUTHORITY ORDERS A COMMITMENT OR MAKES A FINDING OR ADJUDICATION IN ACCORDANCE WITH STATE LAW BY WHICH A PERSON BECOMES SUBJECT TO THE PROVISIONS OF 18 U.S.C. § 922(D)(4) AND (G)(4), THE COURT SHALL FORWARD ONLY THE INFORMATION THAT IS NECESSARY TO IDENTIFY THE PERSON TO THE DEPARTMENT.**

(Over)

(2) THE DEPARTMENT SHALL FORWARD THE INFORMATION RECEIVED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE FEDERAL BUREAU OF INVESTIGATION FOR THE SOLE PURPOSE OF INCLUSION IN THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM DATABASE.

(3) THE COURT SHALL ALSO NOTIFY THE PERSON OF THE PROHIBITIONS OF 18 U.S.C. § 922(D)(4) AND (G)(4).

(B) (1) A PERSON WHO IS SUBJECT TO THE DISABILITIES OF 18 U.S.C. § 922(D)(4) AND (G)(4) OR THE DISQUALIFICATIONS LISTED IN § 5-133(B)(6), (7), (8), OR (9) OF THIS SUBTITLE BECAUSE OF AN ADJUDICATION OR COMMITMENT THAT OCCURRED UNDER THE LAWS OF THIS STATE MAY PETITION THE COURT IN WHICH THE ADJUDICATION OR COMMITMENT PROCEEDINGS OCCURRED OR THE COURT WITH JURISDICTION OVER THE COUNTY IN WHICH THE PERSON CURRENTLY RESIDES TO SEEK RELIEF FROM THE DISABILITIES OR DISQUALIFICATIONS.

(2) A COPY OF THE PETITION FOR RELIEF SHALL BE SERVED ON THE STATE'S ATTORNEY WHO APPEARED IN THE UNDERLYING CASE, OR THE STATE'S ATTORNEY'S SUCCESSOR.

(3) THE STATE'S ATTORNEY MAY REPRESENT THE INTERESTS OF THE STATE IN THE PROCEEDINGS ON A PETITION FOR RELIEF.

(C) (1) THE COURT SHALL RECEIVE AND CONSIDER EVIDENCE IN A CLOSED PROCEEDING, INCLUDING EVIDENCE OFFERED BY THE PETITIONER, CONCERNING:

(I) THE CIRCUMSTANCES REGARDING THE FIREARM DISABILITIES OR DISQUALIFICATIONS FROM WHICH RELIEF IS SOUGHT;

(II) THE PETITIONER'S MENTAL HEALTH AND CRIMINAL HISTORY RECORDS, IF ANY;

(III) THE PETITIONER'S REPUTATION, DEVELOPED AT A MINIMUM THROUGH CHARACTER WITNESS STATEMENTS, TESTIMONY, OR OTHER CHARACTER EVIDENCE; AND

(IV) CHANGES IN THE PETITIONER'S CONDITION OR CIRCUMSTANCES SINCE THE ORIGINAL ADJUDICATION OR COMMITMENT RELEVANT TO THE RELIEF SOUGHT.

(2) THE COURT SHALL GRANT THE PETITION FOR RELIEF IF IT FINDS BY A PREPONDERANCE OF THE EVIDENCE THAT:

(I) THE PETITIONER WILL NOT BE LIKELY TO ACT IN A MANNER DANGEROUS TO PUBLIC SAFETY; AND

(II) GRANTING THE RELIEF WILL NOT BE CONTRARY TO THE PUBLIC INTEREST.

(3) (I) A CONFIDENTIAL RECORD SHALL BE KEPT OF THE PROCEEDINGS ON A PETITION FOR RELIEF.

(II) THE RECORD SHALL BE DISCLOSED ONLY TO A COURT OR THE PARTIES.

(4) (I) THE PETITIONER MAY APPEAL A DENIAL OF THE REQUESTED RELIEF.

(II) THE APPEAL SHALL BE HEARD DE NOVO.

(D) (1) THE CLERK OF THE COURT SHALL PROMPTLY NOTIFY THE DEPARTMENT OF AN ORDER GRANTING RELIEF UNDER THIS SECTION.

(2) THE DEPARTMENT SHALL, AS SOON AS PRACTICABLE BUT NOT LATER THAN 10 BUSINESS DAYS:

(I) UPDATE, CORRECT, MODIFY, OR REMOVE THE PERSON'S RECORD IN ANY DATABASE THAT THE DEPARTMENT MAKES AVAILABLE TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM; AND

(II) NOTIFY THE UNITED STATES ATTORNEY GENERAL THAT THE BASIS FOR THE RECORD BEING MADE AVAILABLE NO LONGER APPLIES.

(E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PERSON MAY NOT PETITION FOR RELIEF UNDER THIS SECTION MORE THAN ONCE EVERY 2 YEARS.

(2) A PERSON WHO WAS COMMITTED TO A FACILITY, AS DEFINED IN § 10-101 OF THE HEALTH – GENERAL ARTICLE, MAY NOT PETITION FOR RELIEF UNDER THIS SECTION UNTIL THE PERSON HAS BEEN DISCHARGED FROM THE COMMITMENT.”.