

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 100

FINAL READING

Introduced by Stinner, 48.

Read first time January 05, 2017

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 2016; to change provisions relating to petitions for removal of a
4 person's firearm-related disabilities; and to repeal the original
5 section.

6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-963, Revised Statutes Cumulative Supplement,
2 2016, 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 obtaining a permit to carry a concealed handgun
9 under the Concealed Handgun Permit Act may petition the mental health
10 board to remove such firearm-related disabilities.

11 ~~(2)(a)(i) (2)(a)~~ Upon the filing of the petition, the petitioner
12 ~~subject~~ may request and, if the request is made, shall be entitled to, a
13 review hearing by the mental health board. The petitioner shall prove by
14 clear and convincing evidence ~~The mental health board shall grant a~~
15 ~~petition filed under subsection (1) of this section if the mental health~~
16 ~~board 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
27 a 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 **proven by clear and convincing evidence that the firearm-related**
6 **disabilities set forth in subsection (1) of this section should be**
7 **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, send an order to the Nebraska State Patrol and the
12 Department of Health and Human Services, in a form and in a manner
13 prescribed by the Department of Health and Human Services and the
14 Nebraska State Patrol, stating the mental health board's ~~its~~ findings,
15 which shall include a statement that, in the opinion of the mental health
16 board, (a) the petitioner subject is not likely to act in a manner that
17 is dangerous to public safety and (b) removing the petitioner's subject's
18 firearm-related disabilities will not 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, 2016, is repealed.