

LEGISLATIVE BILL 100

Approved by the Governor February 14, 2018

Introduced by Stinner, 48.

A BILL FOR AN ACT relating to the Nebraska Mental Health Commitment Act; to amend section 71-963, Revised Statutes Cumulative Supplement, 2016; to change provisions relating to petitions for removal of a person's firearm-related disabilities; and to repeal the original section.
Be it enacted by the people of the State of Nebraska,

Section 1. Section 71-963, Revised Statutes Cumulative Supplement, 2016, is amended to read:

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

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

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

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

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

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

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

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

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

~~(b)~~ The mental health board shall grant a petition filed under this section if the mental health board determines that the petitioner has proven by clear and convincing evidence that the firearm-related disabilities set forth in subsection (1) of this section should be removed.

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

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

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

Sec. 2. Original section 71-963, Revised Statutes Cumulative Supplement, 2016, is repealed.