

AMENDMENTS TO LB 512

Introduced by Judiciary

1           1. Strike the original sections and insert the following  
2 new sections:

3           Section 1. Section 69-2402, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           69-2402 For purposes of sections 69-2401 to 69-2425:

6           (1) Antique handgun or pistol ~~shall mean~~ means any  
7 handgun or pistol, including those with a matchlock, flintlock,  
8 percussion cap, or similar type of ignition system, manufactured  
9 in or before 1898 and any replica of such a handgun or pistol  
10 if such replica (a) is not designed or redesigned for using  
11 rimfire or conventional centerfire fixed ammunition or (b) uses  
12 rimfire or conventional centerfire fixed ammunition which is no  
13 longer manufactured in the United States and which is not readily  
14 available in the ordinary channels of commercial trade;

15           (2) Criminal history record check ~~shall include~~ includes  
16 a check of the criminal history records of the Nebraska State  
17 Patrol and a check of the Federal Bureau of Investigation's  
18 National Instant Criminal Background Check System; ~~and~~

19           (3) Firearm-related disability means a person is not  
20 permitted to (a) purchase, possess, ship, transport, or receive a  
21 firearm under either state or federal law, (b) obtain a certificate  
22 to purchase, lease, rent, or receive transfer of a handgun under  
23 section 69-2404, or (c) obtain a permit to carry a concealed

1 handgun under the Concealed Handgun Permit Act; and

2 ~~(3)~~ (4) Handgun shall mean means any firearm with a  
3 barrel less than sixteen inches in length or any firearm designed  
4 to be held and fired by the use of a single hand.

5 Sec. 2. Section 69-2409.01, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 69-2409.01 (1) For purposes of sections 69-2401 to  
8 69-2425, the Nebraska State Patrol shall be furnished ~~upon the~~  
9 ~~patrol's request~~ with only such information as may be necessary  
10 for the sole purpose of determining whether an individual is  
11 disqualified from purchasing or possessing a handgun pursuant to  
12 state or federal law or is subject to the disability provisions  
13 of 18 U.S.C. 922(d)(4) and (g)(4). Such information shall be  
14 furnished by the Department of Health and Human Services. The  
15 clerks of the various courts shall furnish to the Department of  
16 Health and Human Services, and Nebraska State Patrol, as soon  
17 as practicable but within thirty days after the an order of  
18 commitment or finding and the discharge is issued or after removal  
19 of firearm-related disabilities pursuant to section 6 of this  
20 act, all information necessary to set up and maintain the data  
21 base required by this section. This information shall include (a)  
22 information regarding those persons who are currently receiving  
23 mental health treatment pursuant to a commitment order of a mental  
24 health board or who have been discharged, ~~and~~ (b) information  
25 regarding those persons who have been committed to treatment  
26 pursuant to section 29-3702, and (c) information regarding those  
27 persons who have had firearm-related disabilities removed pursuant

1 to section 6 of this act. The mental health board shall notify  
2 the Department of Health and Human Services and the Nebraska State  
3 Patrol when such disabilities have been removed. The Department of  
4 Health and Human Services shall also maintain in the data base  
5 a listing of persons committed to treatment pursuant to section  
6 29-3702. ~~Information regarding mental health board commitments and~~  
7 ~~commitments pursuant to section 29-3702 shall not be retained~~  
8 ~~in the data base maintained by the department on persons who~~  
9 ~~have been discharged from these commitments more than five years~~  
10 ~~previously.~~ To ensure the accuracy of the data base, any  
11 information maintained or disclosed under this subsection shall  
12 remain privileged and confidential and shall not be redisclosed or  
13 utilized for any other purpose. be updated, corrected, modified,  
14 or removed, as appropriate, and as soon as practicable, from any  
15 data base that the state or federal government maintains and makes  
16 available to the National Instant Criminal Background Check System.  
17 The procedures for furnishing such the information shall guarantee  
18 that no information is released beyond what is necessary for  
19 purposes of this section.

20 (2) In order to comply with sections 69-2401 and 69-2403  
21 to 69-2408 and this section, the Nebraska State Patrol shall  
22 provide to the chief of police or sheriff of an applicant's place  
23 of residence or a licensee in the process of a criminal history  
24 record check pursuant to section 69-2411 only the information  
25 regarding whether or not the applicant is disqualified from  
26 purchasing or possessing a handgun.

27 (3) Any person, agency, or mental health board

1 participating in good faith in the reporting or disclosure of  
2 records and communications under this section is immune from any  
3 liability, civil, criminal, or otherwise, that might result by  
4 reason of the action.

5 (4) Any person who intentionally causes the Nebraska  
6 State Patrol to request information pursuant to this section  
7 without reasonable belief that the named individual has submitted  
8 a written application under section 69-2404 or has completed a  
9 consent form under section 69-2410 shall be guilty of a Class II  
10 misdemeanor in addition to other civil or criminal liability under  
11 state or federal law.

12 Sec. 3. Section 71-901, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 71-901 Sections 71-901 to 71-962 and sections 5 and 6 of  
15 this act shall be known and may be cited as the Nebraska Mental  
16 Health Commitment Act.

17 Sec. 4. Section 71-903, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 71-903 For purposes of the Nebraska Mental Health  
20 Commitment Act, unless the context otherwise requires, the  
21 definitions found in sections 71-904 to 71-914 and section 5 of  
22 this act shall apply.

23 Sec. 5. Firearm-related disability means a person is not  
24 permitted to (a) purchase, possess, ship, transport, or receive a  
25 firearm under either state or federal law, (b) obtain a certificate  
26 to purchase, lease, rent, or receive transfer of a handgun under  
27 section 69-2404, or (c) obtain a permit to carry a concealed

1 handgun under the Concealed Handgun Permit Act.

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

10           (2) Upon the filing of the petition, the subject may  
11 request and, if the request is made, shall be entitled to, a review  
12 hearing by the mental health board. The mental health board shall  
13 grant a petition filed under subsection (1) of this section if the  
14 mental health board determines that:

15           (a) The subject will not be likely to act in a manner  
16 dangerous to public safety; and

17           (b) The granting of the relief would not be contrary to  
18 the public interest.

19           In determining whether to remove the subject's  
20 firearm-related disabilities, the mental health board shall receive  
21 and consider evidence upon the following:

22           (i) The circumstances surrounding the subject's mental  
23 health commitment or adjudication;

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

26           (iii) The subject's reputation, developed, at a minimum,  
27 through character witness statements, testimony, or other character

1 evidence; and

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

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

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

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

24 Sec. 7. This act becomes operative on January 1, 2012.

25 Sec. 8. Original sections 69-2402, 69-2409.01, 71-901,  
26 and 71-903, Reissue Revised Statutes of Nebraska, are repealed.