



General Assembly

February Session, 2010

Raised Bill No. 458

LCO No. 2293

02293_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

**AN ACT CONCERNING RESTORATION OF ELIGIBILITY TO POSSESS
FIREARMS UNDER FEDERAL LAW.**

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

1 Section 1. (NEW) (*Effective July 1, 2010*) (a) Any person who is
2 prohibited from possessing firearms under 18 USC 922(d)(4) and 18
3 USC 922(g)(4), as a result of an adjudication or commitment rendered
4 in this state, may petition the probate court for the district in which
5 such person resides for relief from the federal firearms prohibition that
6 resulted from such adjudication or commitment.

7 (b) If the adjudication or commitment in question was rendered by
8 the judge of probate for the district in which the petitioner resides,
9 such judge shall be disqualified from hearing the petition for relief
10 under this section and shall request the Probate Court Administrator
11 to cite another judge of probate to hear the matter in accordance with
12 section 45a-120 of the general statutes.

13 (c) The petitioner shall provide for the release of all of the
14 petitioner's records that may relate to the petition including, but not
15 limited to, health, mental health, military, immigration, juvenile court,

16 civil court and criminal records, on forms prescribed by the Probate
17 Court Administrator.

18 (d) The petitioner shall submit further information in support of the
19 petition including, but not limited to:

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

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

26 (3) A certified copy of all criminal history information maintained
27 on file by the State Police Bureau of Identification and the Federal
28 Bureau of Investigation pertaining to the petitioner or a copy of the
29 response from said bureaus indicating that there is no criminal history
30 information on file;

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

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

38 (e) The releases provided by the petitioner shall also authorize the
39 Attorney General, representing the Commissioner of Public Safety and
40 the interests of the state, to receive any of the petitioner's records that
41 may relate to the petition including, but not limited to, health, mental
42 health, military, immigration, juvenile court, civil court and criminal
43 records. For purposes of providing such representation at the probate
44 court hearing or in any appeal from the decision of the probate court,
45 the Attorney General may access and use any and all records obtained

46 through the releases. The petitioner shall certify that a copy of the
47 petition and all supporting documents was delivered to the
48 Commissioner of Public Safety.

49 (f) The petitioner shall ensure that all required information
50 accompanies the petition at the time it is submitted to the court. Unless
51 specifically requested by the court, information provided after receipt
52 of the petition by the court shall not be considered. Information
53 specifically requested by the court must be received by the court no
54 later than fifteen days after the date of the request in order for the
55 information to be considered. The court may extend such time period
56 for good cause shown. Failure to provide the requested information
57 within such time period shall result in a denial of the petition.

58 (g) Upon the filing of the petition, the probate court shall set a date,
59 time and place for a hearing and shall give notice of such hearing to (1)
60 the petitioner, (2) the Commissioner of Public Safety, (3) the Attorney
61 General, and (4) the court that rendered the adjudication or
62 commitment.

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

70 (i) The petitioner shall have the burden of establishing by clear and
71 convincing evidence that (1) the petitioner is not likely to act in a
72 manner that is dangerous to public safety, and (2) granting relief from
73 the federal firearms prohibition is not contrary to the public interest.
74 The Attorney General may present any and all relevant information to
75 the contrary at the probate court hearing and shall present such
76 information in any appeal to the Superior Court.

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

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

81 (2) The petitioner's record, which shall include, at a minimum, the
82 petitioner's mental health records and criminal history records, if any;

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

86 (4) Any other relevant information provided by the petitioner or the
87 Attorney General.

88 (k) In order to grant relief under this section, the court must find by
89 clear and convincing evidence that: (1) The petitioner will not be likely
90 to act in a manner dangerous to public safety, and (2) granting the
91 relief will not be contrary to the public interest. The court shall include
92 in its decision the specific findings of fact on which it bases its decision.

93 (l) The petitioner or the Commissioner of Public Safety may appeal
94 the final decision of the probate court to the Superior Court in
95 accordance with the provisions of section 45a-186 of the general
96 statutes. Notwithstanding any other provision of the general statutes,
97 any review of the decision of the probate court by the Superior Court
98 shall be de novo and the Superior Court is not required to give
99 deference to the decision of the probate court. The Superior Court shall
100 receive such additional evidence as necessary to conduct an adequate
101 review.

102 (m) Enforcement of any decision of the probate court granting relief
103 pursuant to the petition shall be stayed until the period in which to
104 take an appeal under section 45a-186 of the general statutes has
105 expired or, if an appeal is taken, until the final decision of the court. If
106 the court grants the relief and any appeal therefrom upholds that

107 decision, the court granting relief shall notify the Commissioner of
108 Public Safety of that decision.

109 (n) As soon as practicable after receiving notice of the decision of the
110 court granting relief, the Commissioner of Public Safety shall (1)
111 coordinate the removal or cancellation of the record in the National
112 Instant Criminal Background Check System (NICCS), and (2) notify the
113 Attorney General of the United States that the basis of the record no
114 longer applies.

115 (o) All records and proceedings in the probate court under the
116 provisions of this section shall be confidential and available only to the
117 petitioner or his or her counsel, the Commissioner of Public Safety and
118 the Attorney General, unless the probate court, after notice to the
119 parties and a hearing, determines that such records should be
120 disclosed for good cause shown.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2010</i>	New section

Statement of Purpose:

To provide a process for a person prohibited from possessing or receiving firearms under federal law on account of such person's mental or developmental disabilities to be granted relief from that prohibition.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]