



General Assembly

Amendment

February Session, 2010

LCO No. 4805

HB0527504805HDO

Offered by:

REP. LAWLOR, 99th Dist.

REP. DARGAN, 115th Dist.

To: Subst. House Bill No. 5275

File No. 105

Cal. No. 76

"AN ACT ELIMINATING A REQUIREMENT FOR A STATE BOOK OF RECORDS OF PISTOL AND REVOLVER SALES."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. (NEW) (*Effective July 1, 2010*) (a) Any person having a
4 federal firearms disability under 18 USC 922(d)(4) and 18 USC
5 922(g)(4), as a result of an adjudication or commitment rendered in this
6 state, may petition the probate court for the district in which such
7 person resides for relief from the federal firearms disability that
8 resulted from such adjudication or commitment.

9 (b) The petitioner shall submit to the probate court, together with
10 the petition and the releases required by subsection (d) of this section,
11 information in support of the petition, including, but not limited to:

12 (1) Certified copies of medical records detailing the petitioner's
13 psychiatric history where applicable, including records pertaining to

14 the specific adjudication or commitment that is the subject of the
15 petition;

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

18 (3) A certified copy of all criminal history information maintained
19 on file by the State Police Bureau of Identification and the Federal
20 Bureau of Investigation pertaining to the petitioner or a copy of the
21 response from said bureaus indicating that there is no criminal history
22 information on file;

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

27 (5) Any further information or documents specifically requested by
28 the court, which documents shall be certified copies of original
29 documents.

30 (c) The petitioner shall cause a copy of the petition and all
31 supporting documents submitted to the probate court pursuant to
32 subsection (b) of this section to be delivered to the Commissioner of
33 Public Safety and shall certify to the probate court that such delivery
34 has been made.

35 (d) The petitioner shall provide for the release of all of the
36 petitioner's records that may relate to the petition, including, but not
37 limited to, health, mental health, military, immigration, juvenile court,
38 civil court and criminal records, on forms prescribed by the Probate
39 Court Administrator. The releases shall authorize the Commissioner of
40 Public Safety to obtain any of such records for use at the probate court
41 hearing or in any appeal from the decision of the probate court.

42 (e) The petitioner shall ensure that all required information
43 accompanies the petition at the time it is submitted to the court. Unless

44 specifically requested by the court, information provided after receipt
45 of the petition by the court shall not be considered. Information
46 specifically requested by the court must be received by the court no
47 later than fifteen days after the date of the request in order for the
48 information to be considered. The court may extend such time period
49 for good cause shown. Failure to provide the requested information
50 within such time period shall result in a denial of the petition.

51 (f) Upon the filing of the petition, the probate court shall set a date,
52 time and place for a hearing and shall give notice of such hearing to (1)
53 the petitioner, (2) the Commissioner of Public Safety, (3) the court that
54 rendered the adjudication or commitment, (4) the conservator
55 appointed for the petitioner, if any, and (5) any other person
56 determined by the court to have an interest in the matter.

57 (g) The court shall cause a recording of the testimony given at such
58 hearing to be made. Such recording shall be transcribed only in the
59 event of an appeal from the decision rendered by the probate court
60 under this section. A copy of such transcript shall be furnished without
61 charge to any appellant whom the probate court finds is unable to pay
62 for such copy. The cost of such transcript shall be paid from funds
63 appropriated to the Judicial Department.

64 (h) The petitioner shall have the burden of establishing by clear and
65 convincing evidence that (1) the petitioner is not likely to act in a
66 manner that is dangerous to public safety, and (2) granting relief from
67 the federal firearms disability is not contrary to the public interest. The
68 Commissioner of Public Safety and any other person determined by
69 the court to have an interest in the matter may present any and all
70 relevant information at the probate court hearing and in any appeal to
71 the Superior Court.

72 (i) In determining whether to grant relief under this section, the
73 court shall consider the following:

74 (1) The circumstances regarding the firearms disability imposed by
75 18 USC 922(d)(4) and 18 USC 922(g)(4);

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

78 (3) The petitioner's reputation, which the petitioner must
79 demonstrate through character witness statements, testimony or other
80 character evidence; and

81 (4) Any other relevant information provided by the petitioner, the
82 Commissioner of Public Safety or any other person determined by the
83 court to have an interest in the matter.

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

89 (k) The petitioner or the Commissioner of Public Safety may appeal
90 the final decision of the probate court to the Superior Court in
91 accordance with the provisions of section 45a-186 of the general
92 statutes. Notwithstanding any other provision of the general statutes,
93 any review of the decision of the probate court by the Superior Court
94 shall be de novo.

95 (l) Enforcement of any decision of the probate court granting relief
96 pursuant to the petition shall be stayed until the period in which to
97 take an appeal under section 45a-186 of the general statutes has
98 expired or, if an appeal is taken, until the final decision of the court. If
99 the court grants the relief and no appeal is taken or an appeal is taken
100 and the decision is upheld, the court granting relief shall notify the
101 Commissioner of Public Safety of that decision.

102 (m) As soon as practicable after receiving notice of the decision of
103 the court granting relief, the Commissioner of Public Safety shall (1)
104 coordinate the removal or cancellation of the record in the National
105 Instant Criminal Background Check System (NICCS), and (2) notify the
106 Attorney General of the United States that the basis of the record no

107 longer applies.

108 (n) All proceedings in the probate court under the provisions of this
109 section shall be closed to the public and all records of the proceedings
110 shall be confidential and not subject to disclosure except to the
111 petitioner or his or her counsel and the Commissioner of Public Safety,
112 unless the probate court, after notice to the parties and a hearing,
113 determines that such records should be disclosed for good cause
114 shown."