



# OLR RESEARCH REPORT

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## **SUITABILITY FOR GUN PERMIT AND SUMMARY OF SUBSTITUTE SENATE BILL 967**

By: Veronica Rose, Chief Analyst

You asked for a summary of (1) the law governing the issuance of temporary gun permits and (2) substitute Senate Bill 967, which the Public Safety Committee reported to the floor on March 8. You also want to know if the bill eliminates the requirement that officials who issue temporary permits must find applicants suitable to carry handguns (pistols or revolvers).

### **SUMMARY**

The law lists specific criteria that an applicant for a temporary state gun permit must meet, including a finding by the official issuing the permit of his or her suitability to carry handguns. The official must notify the applicant if his or her application has been approved or denied within eight weeks after he or she submits a sufficient application. The law does not define “suitability” or “sufficient application.” Consequently, officials differ in their interpretation of the terms; many (1) requiring, as part of a suitability investigation, information and documentation from applicants that some contend are unreasonable and onerous (e.g., credit checks and medical information) and (2) delaying issuing permits on the grounds that applicants do not provide required information to meet an official’s definition of “sufficient application.”

Substitute Senate Bill 967 requires that an applicant be notified that his or her permit is approved or denied no later than eight weeks after submitting documents specified in the bill, instead of after a “sufficient

application. . .has been made.” The documents are (1) a completed and notarized Department of Public Safety (DPS) application form, which cannot be modified or supplemented with additional forms; (2) proof of U.S. citizenship or permanent residency; (3) a certificate of successful completion of a handgun safety and use course; and (4) two sets of fingerprints.

These changes will create uniform criteria for the issuance of temporary permits, according to testimony submitted to the Public Safety Committee on the bill. But while the changes may create some measure of uniformity, the bill does not completely eliminate discretion on the part of officials. This is because the bill limits the “application forms,” not the utilization of other criteria to determine applicant eligibility for a permit.

The bill does not eliminate the requirement that officials must find applicants for gun permits suitable. And officials still have discretion in determining what constitutes suitability.

The bill takes effect on October 1, 2011.

## **CURRENT GUN PERMIT APPLICATION PROCEDURES**

With minor exceptions (not at issue here), state law bars anyone from carrying handguns (except antique handguns) anywhere in Connecticut without a gun permit. For Connecticut residents, getting a gun permit is a two-step process. They must apply to the local permit-issuing official (usually the police chief), who issues a temporary, 60-day state permit. The official forwards the application to the DPS commissioner, who issues a five-year state permit. Out-of-state residents apply directly to the commissioner. The commissioner (1) may not issue a five-year permit to anyone denied a temporary permit and (2) must revoke the temporary permit if grounds for denial surface after it is issued.

Ordinarily, the local official has eight weeks after an applicant submits a sufficient application to approve or deny the temporary permit, but the law does not define what constitutes a “sufficient application.” The commissioner has eight weeks after receiving the information from the local official to approve or deny the five-year state permit. The deadlines may be extended if the officials do not receive the required FBI criminal history record report on an applicant. Applicants have 90 days to appeal a denial to the Board of Firearms Permit Examiners ([CGS § 29-32b\(b\)](#)). The temporary permit, unless revoked, is valid until the five-year permit is issued. Except for the period of validity, both permits give permittees the same right, i.e., the right to carry handguns statewide.

The law lists specific criteria an applicant must satisfy to get a gun permit. Among other things, the official issuing the temporary state permit must investigate the applicant's suitability and find that he or she is a suitable person to carry firearms and wants to carry them for lawful purposes ([CGS §§ 29-28 -29](#)). The law does not define "suitability," which is left to the official's discretion, and it does not limit what officials may consider when determining suitability. In practice, based on testimony before the Public Safety Committee on Senate Bill 967 (March 3, 2011), no uniformity exists in the way the determination is made and in what the officials require. According to Robert Crook, director of the Coalition of Connecticut Sportsmen, the documentation that municipalities have requested include credit reports, medical history, psychiatric evaluations, and letters of reference (written testimony submitted to the Public Safety Committee on SB 967, dated March 3, 2011).

## **SUITABILITY**

In a recent Superior Court case, the court quoted an 1882 Connecticut Supreme Court opinion stating that suitability "is not defined by the law so that its application can be determined as mere matter of eye-sight, but it is left necessarily to be determined solely by the judgment of the commissioners based upon inquiry and information. And that the particular manner of exercising such judgment cannot be controlled by any court is too obvious to require the citation of any authorities" (*Lepri v. Board of Firearms Permit Examiners*, No. CV 96-0055714, Sept. 29, 1998, citing *Batters v. Dunning*, 49 Conn. 479 (1882)).

Many court opinions dealing with suitability for gun permits cite an 1894 Connecticut Supreme Court decision which involved liquor licenses for the definition of suitability.

The word "suitable" as descriptive of an applicant for license under the statute, is insusceptible of any legal definition that wholly excludes the personal views of the tribunal authorized to determine the suitability of the applicant. A person is "suitable" who by reason of his character – his reputation in the community, his previous conduct as a licensee – is shown to be suited or adapted to the orderly conduct of [an activity] which the law regards as so dangerous to public welfare that its transaction by any other than a carefully selected person duly licensed is made a criminal offense. It is patent that the adaptability of any person to such [an activity] depends upon facts and circumstances that may be indicated but cannot be fully defined by law, whose probative

force will differ in different cases, and must in each case depend largely upon the sound judgment of the selecting tribunal (*Smith's Appeal from County Commissioners*, 65 Conn. 135, 138 (1894)).

One court dealing with suitability stated that the government's interest "is to protect the safety of the general public from individuals whose conduct has shown them to be lacking the essential character or temperament necessary to be entrusted with a weapon" (*Rabbit v. Leonard*, 36 Conn. Sup. 108, 115 (1979)). Another court stated that the "personal views of the agency members are necessarily a factor in the decision, and similar facts and circumstances will have varying probative force in different cases," but the facts found by the board should provide a logical inference that the person poses some danger to the public if allowed to carry a weapon outside the home or business (*Nicholson v. Board of Firearms Permit Examiners*, No. CV 940541048, Sept. 28, 1995).

**SUBSTITUTE SENATE BILL 967—AN ACT CONCERNING  
APPLICATION REQUIREMENTS FOR A TEMPORARY STATE PERMIT  
TO CARRY A PISTOL OR A REVOLVER**

Under current law, the official issuing a temporary state permit must inform the applicant that his or her request for a permit has been approved or denied no later than eight weeks after a sufficient application has been made. The law does not specify what an application must contain or what constitutes a sufficient application.

This bill requires the notification within eight weeks after an applicant submits specific documents, instead of eight weeks after a sufficient application. The documents are:

1. a completed and notarized application on DPS forms, which may not be modified or supplemented with additional forms;
2. a birth certificate, naturalization certificate, or U.S. passport for U.S. citizens, or a permanent resident card for aliens;
3. a certificate of successful completion of a handgun safety and use course signed by an instructor certified by the National Rifle Association, the Department of Environmental Protection, a law enforcement agency, or a branch of the U.S. military service; and
4. two sets of fingerprints.

The bill's supporters contend that the changes will create uniform criteria for the issuance of temporary state permits and eliminate the delays associated with the permitting process. The bill's opponents contend that the changes may limit the ability of officials to conduct comprehensive suitability investigations.

By requiring specific documentation in the applications, the bill creates a measure of uniformity, as the bill's supporters contend. But the bill does not limit the application to the specified documents. The only limitation placed on officials is that they cannot supplement the DPS form with other forms. Thus, officials still have latitude in performing actions not limited by the bill. These include credit check requests and character witness interviews. Because the officials still have discretion in determining what constitutes suitability, the bill's changes may not result in a completely uniform process.

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