

D R A F T

SUMMARY

Authorizes specified reporters to make report to Department of State Police Firearms Unit that person is experiencing mental health emergency and is danger to self or others with firearm. Directs department, upon receipt of report, to record temporary firearm purchase hold preventing person from purchasing firearm. Provides civil immunity to reporter acting in good faith. Provides that knowingly making false report is criminal offense. Punishes by maximum of 1 year's imprisonment, \$6,250 fine, or both.

Creates processes for person to obtain relief from firearm purchase hold.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to mental health reporting; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) For the purposes of this section and section 2 of this**
5 **2016 Act:**

6 (a) **“Health care provider” means an individual licensed, certified**
7 **or otherwise authorized or permitted by the laws of this state or an-**
8 **other state to administer health care services in the ordinary course**
9 **of business or practice of a profession.**

10 (b) **“Licensed mental health professional” includes a clinical social**
11 **worker licensed under ORS 675.530 and a professional counselor or**
12 **therapist licensed by the Oregon Board of Licensed Professional**
13 **Counselors and Therapists under ORS 675.715 to 675.835.**

14 (c) **“Physician” means a person who holds a degree of Doctor of**
15 **Medicine or Doctor of Osteopathy and is licensed under ORS chapter**
16 **677 and a person who holds a degree of Doctor of Naturopathic Medi-**

1 **cine and is licensed under ORS chapter 685.**

2 **(2) A reporter described in subsection (3) of this section may make**
3 **a report to the Department of State Police Firearms Unit that a person**
4 **is experiencing a mental health emergency and poses a danger to self**
5 **or others with a firearm.**

6 **(3) The reporters that may make a report described in subsection**
7 **(2) of this section are:**

8 **(a) A physician;**

9 **(b) A health care provider;**

10 **(c) A licensed mental health professional;**

11 **(d) An educator or principal at a school who has had direct contact**
12 **with the person;**

13 **(e) An administrator, instructor or professor at a college or uni-**
14 **versity who has had direct contact with the person; or**

15 **(f) An immediate family member, as that term is defined in ORS**
16 **60.801, of the person.**

17 **(4)(a) Upon receipt of a report described in subsection (2) of this**
18 **section, the department shall ensure that a firearm purchase hold re-**
19 **cord is created that prevents the person from receiving a unique ap-**
20 **proval number authorizing the person to purchase a firearm for a**
21 **period of 30 days from the date of the report.**

22 **(b) At the end of the 30th day after receiving the report, the de-**
23 **partment shall cause the firearm purchase hold to be removed.**

24 **(c) The department may not notify the person:**

25 **(A) Of the existence of the hold unless the person attempts to pur-**
26 **chase a firearm.**

27 **(B) Of the date of expiration of the hold.**

28 **(C) Of the identity of the reporter.**

29 **(5) A reporter who makes a report described in subsection (2) of this**
30 **section is immune from civil liability for making the report as long**
31 **as the report is made in good faith.**

1 **(6) The department shall adopt rules concerning receiving and doc-**
2 **umenting the reports described in subsection (2) of this section and**
3 **implementing and removing the firearm purchase holds described in**
4 **subsection (4) of this section. The rules must establish a telephone**
5 **number or Internet website with which to make a report.**

6 **(7) Knowingly making a false report described in subsection (2) of**
7 **this section is a Class A misdemeanor.**

8 **SECTION 2.** (1) **A person prevented from obtaining a firearm by a**
9 **firearm purchase hold under section 1 of this 2016 Act may obtain re-**
10 **lief from the hold as described in subsections (2) and (3) of this section.**

11 **(2) A person described in subsection (1) of this section may obtain**
12 **documentation from a health care provider that the person is not a**
13 **danger to self or others and provide the documentation to the De-**
14 **partment of State Police Firearms Unit. Upon receipt of the doc-**
15 **umentation, the department shall cause the firearm purchase hold to**
16 **be removed.**

17 **(3)(a) A person described in subsection (1) of this section may file**
18 **a petition for relief from the firearm purchase hold with the circuit**
19 **court in the person's county of residence. A person petitioning for re-**
20 **lief under this subsection shall serve a copy of the petition on the**
21 **Department of State Police Firearms Unit at the same time the peti-**
22 **tion is filed with the court.**

23 **(b) Petitions filed under this subsection shall be heard within five**
24 **judicial days of filing. The judge shall then make findings and con-**
25 **clusions and issue a judgment based on the findings and conclusions**
26 **in accordance with the requirements of law.**

27 **(c) Relief from the firearm purchase hold shall be granted when the**
28 **person demonstrates, by clear and convincing evidence, that the per-**
29 **son does not pose a danger to self or others with a firearm.**

30 **(d) A person filing a petition under this section shall pay the filing**
31 **fee established under ORS 21.135.**

1 (e) When a petition is granted, the judge shall cause the department
2 to be notified of the relief from the firearm purchase hold. Upon re-
3 ceipt of the notification, the department shall cause the firearm pur-
4 chase hold to be removed.

5 (f) Notwithstanding the provisions of ORS 9.320, a public body as
6 defined in ORS 174.109, a public official as defined in ORS 244.020 or the
7 reporter who made the report described in section 1 of this 2016 Act,
8 without appearance by attorney, may appear as a party to an action
9 under this section.

10 SECTION 3. This 2016 Act being necessary for the immediate pres-
11 ervation of the public peace, health and safety, an emergency is de-
12 clared to exist, and this 2016 Act takes effect on its passage.

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