

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 631

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO FIREARMS; AMENDING CHAPTER 3, TITLE 66, IDAHO CODE, BY
2 THE ADDITION OF A NEW SECTION 66-356, IDAHO CODE, TO PROVIDE THAT
3 COURTS SHALL MAKE A FINDING AS TO WHETHER CERTAIN FEDERAL LAW
4 APPLIES TO PERSONS IN SPECIFIED CASES, TO PROVIDE REQUIREMENTS IN
5 THE EVENT SPECIFIED FEDERAL LAW IS FOUND BY THE COURT TO APPLY, TO
6 PROVIDE FOR ACTION BY SHERIFFS IN CERTAIN CASES, TO PROVIDE FOR
7 DISSEMINATION OF ORDERS, TO PROVIDE FOR PETITIONS FOR RELIEF AND TO
8 REMOVE FIREARMS-RELATED DISABILITIES, TO PROVIDE FOR PARTICIPATION
9 IN THE PROCEEDINGS BY THE DEPARTMENT OF HEALTH AND WELFARE AND THE
10 PROSECUTING ATTORNEY, TO PROVIDE FOR CONSIDERATION OF CERTAIN EVIDENCE
11 BY THE COURT, TO PROVIDE A STANDARD OF PROOF, TO PROVIDE FOR APPEAL, TO
12 PROVIDE A LIMITATION REGARDING FILING PETITIONS FOR RELIEF, TO PROVIDE
13 FOR DISSEMINATION OF ORDERS GRANTING PETITIONS FOR RELIEF; AND AMENDING
14 SECTION 67-3003, IDAHO CODE, TO PROVIDE THAT THE BUREAU OF CRIMINAL
15 IDENTIFICATION OF THE IDAHO STATE POLICE SHALL OBTAIN AND TRANSMIT
16 SPECIFIED INFORMATION TO THE NATIONAL INSTANT CRIMINAL BACKGROUND
17 CHECK SYSTEM (NICS) IN ACCORDANCE WITH FEDERAL LAW, TO PROVIDE FOR
18 NOTIFICATION OF CHANGES REGARDING THE INFORMATION AND TO PROVIDE FOR
19 THE UPDATE, CORRECTION, MODIFICATION OR REMOVAL OF THE INFORMATION FROM
20 THE NICS DATABASE.
21

22 Be It Enacted by the Legislature of the State of Idaho:

23 SECTION 1. That Chapter 3, Title 66, Idaho Code, be, and the same is
24 hereby amended by the addition thereto of a NEW SECTION, to be known and
25 designated as Section 66-356, Idaho Code, and to read as follows:

26 66-356. RELIEF FROM FIREARMS DISABILITIES. (1) A court that:
27 (a) Orders commitment pursuant to section 66-329, Idaho Code;
28 (b) Orders commitment or treatment pursuant to section 66-406, Idaho
29 Code;
30 (c) Appoints a guardian pursuant to section 66-322, Idaho Code, or
31 section 15-5-304, Idaho Code;
32 (d) Appoints a conservator pursuant to section 15-5-407(b), Idaho
33 Code;
34 (e) Appoints a guardian or conservator pursuant to section 66-404,
35 Idaho Code; or
36 (f) Finds a defendant incompetent to stand trial pursuant to section
37 18-212, Idaho Code, shall make a finding as to whether the subject of
38 the proceeding is a person to whom the provisions of 18 U.S.C. 922(d) (4)
39 and (g) (4) apply, and if so, shall inform the person of the applicable
40 prohibitions and shall order the person not to ship, transport,
41 possess or receive any firearms or ammunition and to make immediate
42 arrangements for the disposition of any firearms or ammunition owned

1 or possessed by the individual. If the person is unable to make lawful
2 disposition by other means, the sheriff of the person's county of
3 residence may take custody of any firearms or ammunition owned or
4 possessed by the person for such time as the order issued under this
5 subsection remains in effect. The clerk of the court shall forward a
6 copy of the order to the Idaho state police, which in turn shall forward
7 a copy to the federal bureau of investigation, or its successor agency,
8 for inclusion in the national instant criminal background check system
9 database.

10 (2) A person who is subject to an order, including an appointment
11 or finding described in subsection (1) of this section, may petition the
12 court that issued such order, or the district court of the county where the
13 individual resides, for relief from the order and to remove the person's
14 firearms-related disabilities. A copy of the petition for relief shall
15 also be served on the director of the department of health and welfare
16 and the prosecuting attorney of the county in which the original order,
17 appointment or finding occurred, and such department and office may, as it
18 deems appropriate, appear, support, object to and present evidence relevant
19 to the relief sought by the petitioner. The court shall receive and consider
20 evidence, including evidence offered by the petitioner, concerning:

- 21 (a) The circumstances of the original order, appointment or finding;
- 22 (b) The petitioner's mental health and criminal history records, if
23 any;
- 24 (c) The petitioner's reputation; and
- 25 (d) Changes in the petitioner's condition or circumstances relevant to
26 the relief sought.

27 The court shall grant the petition for relief if it finds by a preponderance
28 of the evidence that the petitioner will not be likely to act in a manner
29 dangerous to public safety and that the granting of the relief would not be
30 contrary to the public interest. The petitioner may appeal a denial of the
31 requested relief, and review on appeal shall be de novo. A person may file a
32 petition for relief under this section no more than once every two (2) years.

33 (3) When a court issues an order granting a petition for relief under
34 subsection (2) of this section, the clerk of the court shall immediately
35 forward a copy of the order to the Idaho state police, which in turn shall
36 immediately forward a copy to the federal bureau of investigation, or its
37 successor agency, for inclusion in the national instant criminal background
38 check system database.

39 SECTION 2. That Section 67-3003, Idaho Code, be, and the same is hereby
40 amended to read as follows:

41 67-3003. DUTIES OF THE DEPARTMENT. (1) The department shall establish
42 a bureau of criminal identification to:

- 43 (a) Serve as the state's central repository of criminal history
44 records;
- 45 (b) Conduct criminal background checks as authorized by law or rule and
46 provide fingerprint identification services;
- 47 (c) Obtain and electronically file information relating to in-state
48 stolen vehicles and in-state wanted persons;

1 (d) Establish and maintain an automated fingerprint identification
2 system;

3 (e) Establish a uniform crime reporting system for the periodic
4 collection and reporting of crimes, and compile and publish statistics
5 and other information on the nature and extent of crime in the state;

6 (f) Maintain, pursuant to department rule, other identification
7 information, which may include, but is not limited to, palm prints and
8 photographs;

9 (g) Cooperate with other criminal justice agencies of the state, state
10 and federal courts, the criminal records repositories of other states,
11 the federal bureau of investigation criminal justice information
12 services, the national law enforcement telecommunications system,
13 and other appropriate agencies and systems, in the operation of an
14 effective interstate and national system of criminal identification,
15 records and statistics; ~~and~~

16 (h) Develop and implement a training program to assist criminal justice
17 agencies with the recordkeeping and reporting requirements of this
18 chapter; and

19 (i) Obtain and electronically transmit to the national instant
20 criminal background check system (NICS), in accordance with federal
21 law, information relating to eligibility to receive or possess a
22 firearm pursuant to state or federal law. Upon notification to the
23 department that the basis for which any such information previously
24 transmitted to the NICS does not apply or no longer applies, the
25 department shall, as soon as practicable, notify the NICS of such change
26 and shall update, correct, modify or remove such information from the
27 NICS database.

28 (2) In accordance with chapter 52, title 67, Idaho Code, the department
29 may adopt rules necessary to implement the provisions of this chapter. Rules
30 relating to information maintained and reported by the court shall be made
31 after consultation with and approval by the Idaho supreme court.