

Enrolled House Bill 4045

Sponsored by Representatives THATCHER, BARKER, HOYLE, KRIEGER; Representatives CLEM, FREEMAN, HUFFMAN, HUNT, MATTHEWS, MCLANE, SCHAUFLE, G SMITH, WHISNANT, Senator PROZANSKI (at the request of Oregon State Sheriffs' Association) (Pre-session filed.)

CHAPTER

AN ACT

Relating to the public disclosure of concealed handgun license information; and declaring an emergency.

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

SECTION 1. Section 2 of this 2012 Act is added to and made a part of ORS 192.410 to 192.505.

SECTION 2. (1) A public body may not disclose records or information that identifies a person as a current or former holder of, or applicant for, a concealed handgun license, unless:

(a) The disclosure is made to another public body and is necessary for criminal justice purposes;

(b) A court enters an order in a criminal or civil case directing the public body to disclose the records or information;

(c) The holder of, or applicant for, the concealed handgun license consents to the disclosure in writing;

(d) The public body determines that a compelling public interest requires disclosure in the particular instance and the disclosure is limited to the name, age and county of residence of the holder or applicant;

(e)(A) The disclosure is limited to confirming or denying that a person convicted of a person crime, or restrained by a protective order, is a current holder of a concealed handgun license; and

(B) The disclosure is made to a victim of the person crime or to a person who is protected by the protective order, in response to a request for disclosure that provides the public body with the name and age of the person convicted of the person crime or restrained by the protective order;

(f)(A) The disclosure is limited to confirming or denying that a person convicted of a crime involving the use or possession of a firearm is a current holder of a concealed handgun license; and

(B) The disclosure is made to a bona fide representative of the news media in response to a request for disclosure that provides the name and age of the person convicted of the crime involving the use or possession of a firearm; or

(g) The disclosure is made by the Department of State Police and results from access to the Law Enforcement Data System, or to other similar databases, that the department provides to other public bodies.

(2) A public body may not confirm or deny that a person described in subsection (1)(e)(A) or (f)(A) of this section is a current holder of a concealed handgun license unless the person seeking disclosure:

(a) Under subsection (1)(e) of this section provides the public body with written proof that the person is a victim of the person crime or is protected by the protective order.

(b) Under subsection (1)(f) of this section provides the public body with written proof that the person is a bona fide representative of the news media.

(3) Notwithstanding any other provision of law, a public body that receives a request for disclosure under subsection (1)(e) or (f) of this section may conduct an investigation, including a criminal records check, to determine whether a person described in subsection (1)(e)(A) or (f)(A) of this section has been convicted of a person crime or a crime involving the use or possession of a firearm or is restrained by a protective order.

(4) The Attorney General shall adopt rules to carry out the provisions of this section. The rules must include a description of:

(a) The procedures for submitting the written request described in subsection (1)(d) of this section; and

(b) The materials an individual must provide to the public body to establish a compelling public interest that supports the disclosure of the name, age and county of residence of the holder or applicant.

(5) The prohibition described in subsection (1) of this section does not apply to the Judicial Department.

(6) As used in this section:

(a) "Convicted" does not include a conviction that has been reversed, vacated or set aside or a conviction for which the person has been pardoned.

(b) "Person crime" means a person felony or person Class A misdemeanor, as those terms are defined in the rules of the Oregon Criminal Justice Commission, or any other crime constituting domestic violence, as defined in ORS 135.230.

(c) "Protective order" has the meaning given that term in ORS 135.886.

(d) "Victim" has the meaning given that term in ORS 131.007.

SECTION 3. Section 2 of this 2012 Act applies to public records requests made:

(1) Before the effective date of this 2012 Act, if the public body has not responded to the request as of the effective date of this 2012 Act; and

(2) On or after the effective date of this 2012 Act.

SECTION 4. The amendments to section 2 of this 2012 Act by section 5 of this 2012 Act become operative on January 1, 2013.

SECTION 5. Section 2 of this 2012 Act is amended to read:

Sec. 2. (1) A public body may not disclose records or information that identifies a person as a current or former holder of, or applicant for, a concealed handgun license, unless:

(a) The disclosure is made to another public body and is necessary for criminal justice purposes;

(b) A court enters an order in a criminal or civil case directing the public body to disclose the records or information;

(c) The holder of, or applicant for, the concealed handgun license consents to the disclosure in writing;

(d) The public body determines that a compelling public interest requires disclosure in the particular instance and the disclosure is limited to the name, age and county of residence of the holder or applicant;

(e)(A) The disclosure is limited to confirming or denying that a person convicted of a person crime, or restrained by a protective order, is a current holder of a concealed handgun license; and

(B) The disclosure is made to a victim of the person crime or to a person who is protected by the protective order, in response to a request for disclosure that provides the public body with the name and age of the person convicted of the person crime or restrained by the protective order; **or**

(f)(A) The disclosure is limited to confirming or denying that a person convicted of a crime involving the use or possession of a firearm is a current holder of a concealed handgun license; and

(B) The disclosure is made to a bona fide representative of the news media in response to a request for disclosure that provides the name and age of the person convicted of the crime involving the use or possession of a firearm.]; *or*]

[(g) The disclosure is made by the Department of State Police and results from access to the Law Enforcement Data System, or to other similar databases, that the department provides to other public bodies.]

(2) A public body may not confirm or deny that a person described in subsection (1)(e)(A) or (f)(A) of this section is a current holder of a concealed handgun license unless the person seeking disclosure:

(a) Under subsection (1)(e) of this section provides the public body with written proof that the person is a victim of the person crime or is protected by the protective order.

(b) Under subsection (1)(f) of this section provides the public body with written proof that the person is a bona fide representative of the news media.

(3) Notwithstanding any other provision of law, a public body that receives a request for disclosure under subsection (1)(e) or (f) of this section may conduct an investigation, including a criminal records check, to determine whether a person described in subsection (1)(e)(A) or (f)(A) of this section has been convicted of a person crime or a crime involving the use or possession of a firearm or is restrained by a protective order.

(4) The Attorney General shall adopt rules to carry out the provisions of this section. The rules must include a description of:

(a) The procedures for submitting the written request described in subsection (1)(d) of this section; and

(b) The materials an individual must provide to the public body to establish a compelling public interest that supports the disclosure of the name, age and county of residence of the holder or applicant.

(5) The prohibition described in subsection (1) of this section does not apply to the Judicial Department.

(6) As used in this section:

(a) "Convicted" does not include a conviction that has been reversed, vacated or set aside or a conviction for which the person has been pardoned.

(b) "Person crime" means a person felony or person Class A misdemeanor, as those terms are defined in the rules of the Oregon Criminal Justice Commission, or any other crime constituting domestic violence, as defined in ORS 135.230.

(c) "Protective order" has the meaning given that term in ORS 135.886.

(d) "Victim" has the meaning given that term in ORS 131.007.

SECTION 6. This 2012 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2012 Act takes effect on its passage.

Passed by House February 15, 2012

Repassed by House March 2, 2012

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Passed by Senate March 1, 2012

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2012

Approved:

.....M,....., 2012

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2012

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Kate Brown, Secretary of State