

Senate File 2379

S-5370

- 1 Amend Senate File 2379 as follows:
2 1. Page 1, by striking lines 1 through 14.
3 2. Page 2, by striking lines 4 through 7 and
4 inserting <forwarding to the federal bureau of
5 investigation information that a person has been
6 disqualified from possessing, shipping, transporting,
7 or receiving a firearm pursuant to section 724.31.>
8 3. Page 2, after line 7 by inserting:
9 <Sec. ____ . Section 602.8102, Code 2009, is amended
10 by adding the following new subsection:
11 NEW SUBSECTION. 125A. Forward information that a
12 person has been disqualified from possessing, shipping,
13 transporting, or receiving a firearm pursuant to
14 section 724.31 to the department of public safety.>
15 4. Page 2, by striking lines 10 through 30 and
16 inserting:
17 <A permit issued under this chapter is invalid if
18 the person to whom the permit is issued is intoxicated
19 as provided in section 321J.2, subsection 1.>
20 5. Page 3, line 8, after <permit.> by inserting
21 <Such permits shall not be issued for a particular
22 weapon and shall not contain information about a
23 particular weapon including the make, model, or serial
24 number of the weapon or any ammunition used in that
25 weapon.>
26 6. Page 3, by striking lines 24 and 25 and
27 inserting:
28 ~~<3. 2. The person is not~~ Is addicted to the use of
29 alcohol or any controlled substance.>
30 7. Page 3, by striking line 26 and inserting:
31 ~~<4. 3. The person has no history of repeated~~
32 acts of violence. Probable cause exists to believe,
33 based upon documented specific actions of the person,
34 where at least one of the actions occurred within two
35 years immediately preceding the date of the permit
36 application, that the person is likely to use a weapon
37 unlawfully or in such other manner as would endanger
38 the person's self or others.>
39 8. Page 3, line 29, by striking <2.> and inserting
40 <4.>
41 9. Page 3, line 30, by striking <3.> and inserting
42 <5.>
43 10. Page 3, line 33, after <708.7> by inserting
44 <not involving the use of a firearm or explosive>
45 11. By striking page 3, line 34, through page 4,
46 line 31, and inserting:
47 <6. Is prohibited by federal law from shipping,
48 transporting, possessing, or receiving a firearm.>
49 12. Page 5, by striking lines 2 and 3 and
50 inserting:

1 <a. Completion of any national rifle association
2 handgun safety training course.>
3 13. Page 5, by striking line 4 and inserting:
4 <b. Completion of any handgun safety training>
5 14. Page 5, line 8, by striking <school> and
6 inserting <school,>
7 15. Page 5, by striking lines 12 and 13 and
8 inserting:
9 <c. Completion of any handgun safety training
10 course offered for security guards,>
11 16. Page 5, line 15, after <agency> by inserting
12 <approved by the department of public safety>
13 17. Page 5, by striking lines 16 and 17.
14 18. Page 5, line 18, by striking <e.> and inserting
15 <d.>
16 19. Page 5, by striking lines 29 through 32.
17 20. Page 5, line 33, by striking <g.> and inserting
18 <e.>
19 21. Page 6, by striking lines 12 and 13.
20 22. Page 6, line 26, by striking <age> and
21 inserting <age date of birth>
22 23. Page 7, by striking lines 11 through 15 and
23 inserting:
24 <3. A person who knowingly makes what the person
25 knows to be a false statement of material fact on
26 the an application submitted under this section or who
27 submits what the person knows to be any materially
28 falsified or forged documentation in connection with
29 such an application commits a class "D" felony.>
30 24. Page 7, by striking line 21 and inserting
31 <Applications ~~from~~ for professional permits to carry
32 weapons for persons who are nonresidents of the state,>
33 25. Page 7, by striking lines 27 through 29
34 and inserting <sections 724.6 to 724.10 have been
35 satisfied. However, for renewal of a permit the
36 training program requirements in section 724.9 ~~may be~~
37 ~~waived for renewal permits, subsection 1, shall apply~~
38 or the renewal applicant may choose to qualify on a
39 firing range under the supervision of an instructor
40 certified by the national rifle association or
41 the department of public safety or another state's
42 department of public safety, state police department,
43 or similar certifying body. Such training or
44 qualification must occur within the twelve-month period
45 prior to the expiration of the applicant's current
46 permit.>
47 26. Page 7, before line 30 by inserting:
48 <1A. Neither the sheriff nor the commissioner shall
49 require an applicant for a permit to carry weapons to
50 provide information identifying a particular weapon in

1 the application including the make, model, or serial
2 number of the weapon or any ammunition used in that
3 particular weapon.>

4 27. Page 7, line 30, by striking <ten> and
5 inserting <ten fifty>

6 28. Page 7, line 33, by striking <five> and
7 inserting <five twenty-five>

8 29. Page 8, by striking line 4 and inserting <equal
9 to ~~two~~ ten dollars for each permit issued and ~~one~~
10 dollar five dollars>

11 30. Page 8, line 10, after <shall> by inserting
12 <not>

13 31. Page 8, by striking lines 12 through 26 and
14 inserting:

15 <3. The sheriff or commissioner of public safety
16 shall approve or deny an initial or renewal application
17 submitted under this section within thirty days of
18 receipt of the application. A person whose application
19 for a permit under this chapter is denied may seek
20 review of the denial under section 724.21A. The failure
21 to approve or deny an initial or renewal application
22 shall result in a decision of approval.>

23 32. By striking page 8, line 27, through page 9,
24 line 5, and inserting:

25 <Sec. ____ . **NEW SECTION. 724.11A Recognition.**

26 A valid permit or license issued by another state to
27 any nonresident of this state shall be considered to
28 be a valid permit or license to carry weapons issued
29 pursuant to this chapter, except that such permit or
30 license shall not be considered to be a substitute for
31 an annual permit to acquire pistols or revolvers issued
32 pursuant to section 724.15.>

33 33. Page 9, line 8, after <weapons> by inserting
34 <— **criminal history background check**>

35 34. Page 9, after line 31 by inserting:

36 <The issuing officer may annually conduct a
37 background check concerning a person issued a permit by
38 obtaining criminal history data from the department of
39 public safety.>

40 35. Page 10, by striking lines 8 and 9 and
41 inserting:

42 <~~e. b.~~ The person is not Is addicted to the use of
43 alcohol or a controlled substance.>

44 36. Page 10, line 15, by striking <b.> and
45 inserting <c.>

46 37. By striking page 10, line 16, through page 11,
47 line 13, and inserting:

48 <d. Is prohibited by federal law from shipping,
49 transporting, possessing, or receiving a firearm.>

50 38. Page 12, by striking lines 4 through 7 and

1 inserting <revolvers during the period that the permit
2 remains valid. If the issuing officer determines
3 that the applicant has become disqualified under
4 the provisions of subsection 1, the issuing officer
5 may immediately ~~invalidate~~ revoke the permit and
6 shall provide a written statement of the reasons for
7 revocation, and the applicant shall have the right to
8 appeal the revocation as provided in section 724.21A.>

9 39. Page 12, line 21, by striking <commissioner>
10 and inserting <issuing officer>

11 40. Page 13, line 8, by striking <age> and
12 inserting <age date>

13 41. Page 13, by striking lines 21 through 25 and
14 inserting <"D" felony. A person who makes what the
15 person knows to be a false statement of material fact
16 on an application submitted under this section or who
17 submits what the person knows to be any materially
18 falsified or forged documentation in connection with
19 such an application commits a class "D" felony.>

20 42. By striking page 13, line 26, through page 14,
21 line 22, and inserting:

22 <Sec. ____ . NEW SECTION. 724.21A Denial,
23 suspension, or revocation of permit to carry weapons or
24 permit to acquire pistols or revolvers.

25 1. In any case where the sheriff or the
26 commissioner of public safety denies an application
27 for or suspends or revokes a permit to carry weapons
28 or an annual permit to acquire pistols or revolvers,
29 the sheriff or commissioner shall provide a written
30 statement of the reasons for the denial, suspension,
31 or revocation and the applicant or permit holder
32 shall have the right to appeal the denial, suspension,
33 or revocation to an administrative law judge in the
34 department of inspections and appeals within thirty
35 days of receiving written notice of the denial,
36 suspension, or revocation.

37 2. The applicant or permit holder may file an
38 appeal with an administrative law judge by filing a
39 copy of the denial, suspension, or revocation notice
40 with a written statement that clearly states the
41 applicant's reasons rebutting the denial, suspension,
42 or revocation along with a fee of ten dollars.
43 Additional supporting information relevant to the
44 proceedings may also be included.

45 3. The administrative law judge shall, within
46 forty-five days of receipt of the request for an
47 appeal, set a hearing date. The hearing may be held
48 by telephone or video conference at the discretion
49 of the administrative law judge. The administrative
50 law judge shall receive witness testimony and other

1 evidence relevant to the proceedings at the hearing.
2 The hearing shall be conducted pursuant to chapter 17A.

3 4. Upon conclusion of the hearing, the
4 administrative law judge shall order that the denial,
5 suspension, or revocation of the permit be either
6 rescinded or sustained. An applicant, permit holder,
7 or issuing officer aggrieved by the final judgment of
8 the administrative law judge shall have the right to
9 judicial review in accordance with the terms of the
10 Iowa administrative procedure Act, chapter 17A.

11 5. The standard of review under this section shall
12 be clear and convincing evidence that the issuing
13 officer's written statement of the reasons for the
14 denial, suspension, or revocation constituted probable
15 cause to deny an application or to suspend or revoke
16 a permit.

17 6. The department of inspections and appeals shall
18 adopt rules pursuant to chapter 17A as necessary to
19 carry out the provisions of this section.

20 7. In any case where the issuing officer denies an
21 application for, or suspends or revokes a permit to
22 carry weapons or an annual permit to acquire pistols or
23 revolvers solely because of an adverse determination
24 by the national instant criminal background check
25 system, the applicant or permit holder shall not seek
26 relief under this section but may pursue relief of
27 the national instant criminal background check system
28 determination pursuant to Pub. L. No. 103-159, sections
29 103(f) and (g) and 104 and 28 C.F.R. § 25.10, or other
30 applicable law. The outcome of such proceedings shall
31 be binding on the issuing officer.>

32 43. Page 14, by striking lines 23 through 34.

33 44. Page 15, lines 34 and 35, by striking **<orders,**
34 **commitments, or findings — disabilities>** and inserting
35 **<orders or commitments — firearms>**

36 45. Page 16, by striking lines 1 through 19 and
37 inserting:

38 <1. A court order referred to in subsection 2 shall
39 include information informing the person who is the
40 subject of the order not to ship, possess, receive,
41 or transport or cause the transport of firearms or
42 ammunition. The clerk of the district court shall
43 forward only such information as is necessary to
44 identify a person subject to an order in subsection
45 2 to the department of public safety, which in turn
46 shall forward the information to the federal bureau
47 of investigation or its successor agency for the sole
48 purpose of inclusion in the national instant criminal
49 background check system database.>

50 46. Page 16, line 22, by striking <or treatment>

1 47. Page 16, line 25, by striking <or treatment>

2 48. Page 16, by striking lines 27 through 31.

3 49. Page 16, line 32, by striking <h.> and

4 inserting <d.>

5 50. By striking page 16, line 34, through page 17,
6 line 34, and inserting:

7 <3. a. A person who is the subject of a court
8 order listed in subsection 2 and who has been released
9 from commitment may petition the court that issued
10 the order or the court in the county where the person
11 resides no earlier than two years from the date of the
12 issuance of the order for relief from the disabilities
13 imposed by 18 U.S.C. section 922(d)(4) and (g)(4).
14 A copy of the petition shall also be served on the
15 director of human services and the county attorney at
16 the county attorney's office of the county in which
17 the original order occurred, and the director or the
18 county attorney may appear, support, object to, and
19 present evidence relevant to the relief sought by the
20 petitioner. A court considering a petition under this
21 section shall receive evidence concerning all of the
22 following:

23 (1) The circumstances surrounding the original
24 issuance of the order in subsection 2.

25 (2) The petitioner's mental health and criminal
26 history.

27 (3) The petitioner's reputation and character.

28 (4) Any changes in the petitioner's condition
29 or circumstances since the issuance of the order in
30 subsection 2 that are relevant to the relief sought.

31 b. The court shall grant a petition filed pursuant
32 to paragraph "a" if the court finds by a preponderance
33 of the evidence that the petitioner will not be likely
34 to act in a manner dangerous to the public safety and
35 that the granting of the relief would not be contrary
36 to the public interest. The petitioner may appeal a
37 denial of the requested relief and the review shall be
38 de novo. A person may file a petition for relief under
39 this subsection not more than once every two years.

40 c. If a court issues an order granting a petition
41 for relief under paragraph "b", the clerk of the
42 district court shall immediately forward a copy of the
43 order to the department of public safety which, upon
44 receipt, shall immediately forward such information as
45 is necessary to the federal bureau of investigation or
46 its successor agency to update the national instant
47 criminal background check system database with the
48 relief from disabilities.>

49 51. Page 17, after line 34 by inserting:

50 <Sec. ____ . TRANSITION PROVISIONS. A permit issued

1 under chapter 724 prior to January 1, 2011, remains
2 effective and continues in effect as issued for the
3 twelve-month period following its issuance. This Act
4 does not preclude the permit holder from seeking to
5 renew the permit under this Act prior to the expiration
6 of the twelve-month period.
7 Sec. ____ . EFFECTIVE DATE. This Act takes effect
8 January 1, 2011.>
9 52. Title page, line 5, after <penalties> by
10 inserting <and an effective date>
11 53. By renumbering as necessary.

COMMITTEE ON JUDICIARY
KEITH KREIMAN, CHAIRPERSON