

House File 2528 - Introduced

HOUSE FILE 2528

BY McCARTHY

(COMPANION TO 6267XS BY
GRONSTAL)

A BILL FOR

1 An Act relating to permits to carry weapons and permits to
2 acquire pistols and revolvers including the dissemination of
3 information relating to persons suffering from mental and
4 substance abuse health-related disorders and the possession
5 of firearms and providing penalties.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 22.7, Code Supplement 2009, is amended by
2 adding the following new subsection:

3 NEW SUBSECTION. 65. Personally identifiable information
4 relating to applicants or holders of nonprofessional permits
5 to carry weapons and permits to acquire pistols and revolvers
6 pursuant to chapter 724. Such information shall include but
7 not be limited to the name, social security number, date of
8 birth, driver's license or other identification number, and
9 residential or business address of the applicant or permit
10 holder. This subsection does not apply to aggregate data
11 collected by the department relating to the issuance, denial,
12 revocation, and administration of such permits provided that
13 the release of such information does not reveal the identity of
14 any applicant or permit holder.

15 Sec. 2. Section 229.24, subsection 1, Code 2009, is amended
16 to read as follows:

17 1. All papers and records pertaining to any involuntary
18 hospitalization or application for involuntary hospitalization
19 of any person under this chapter, whether part of the permanent
20 record of the court or of a file in the department of human
21 services, are subject to inspection only upon an order of the
22 court for good cause shown. ~~Nothing in this section shall~~
23 ~~prohibit a hospital from complying with the requirements~~
24 ~~of this chapter and of chapter 230 relative to financial~~
25 ~~responsibility for the cost of care and treatment provided~~
26 ~~a patient in that hospital, nor from properly billing any~~
27 ~~responsible relative or third-party payer for such care and~~
28 ~~treatment.~~

29 Sec. 3. Section 229.24, Code 2009, is amended by adding the
30 following new subsection:

31 NEW SUBSECTION. 4. This section shall not prohibit any of
32 the following:

33 a. A hospital from complying with the requirements of this
34 chapter and of chapter 230 relative to financial responsibility
35 for the cost of care and treatment provided a patient in that

1 hospital or from properly billing any responsible relative or
2 third-party payer for such care or treatment.

3 *b.* A court or the department of public safety from
4 forwarding to the federal bureau of investigation a copy of
5 an order issued under section 724.31, for the sole purpose
6 of updating the national instant criminal background system
7 database maintained by the federal bureau of investigation.

8 Sec. 4. NEW SECTION. **724.4C Possession or carrying of**
9 **firearms while under the influence.**

10 1. Except as otherwise provided in this section, a
11 person under the influence of alcohol or an illegally used
12 or possessed controlled substance who knowingly possesses or
13 carries a loaded firearm on or about the person or within the
14 person's immediate access and control while in a vehicle,
15 commits a serious misdemeanor.

16 2. If a person who is arrested pursuant to this section
17 has a permit to carry weapons issued pursuant to section 724.6
18 or 724.7, the issuing officer may suspend such permit pursuant
19 to section 724.13. The issuing officer may revoke such permit
20 pursuant to section 724.13 upon a conviction pursuant to this
21 section.

22 3. This section shall not apply to any of the following:

23 *a.* A person who possesses or carries a firearm while in the
24 person's own dwelling or place of business or on land owned or
25 possessed by the person.

26 *b.* The transitory possession or use of a firearm during
27 an act committed in self-defense or in defense of another
28 person or any other act committed if legally justified or
29 excused, provided such possession or use lasts no longer than
30 is immediately necessary.

31 Sec. 5. Section 724.7, Code 2009, is amended to read as
32 follows:

33 **724.7 Nonprofessional permit to carry weapons.**

34 Any person who ~~can reasonably justify going armed~~ may is
35 not disqualified under section 724.8, who satisfies the

1 training requirements of section 724.9, and who files an
2 application in accordance with section 724.10 shall be issued a
3 nonprofessional permit to carry weapons. Such permits shall
4 be on a form prescribed and published by the commissioner of
5 public safety, which shall be readily distinguishable from the
6 professional permit, and shall identify the holder thereof, and
7 state the reason for the issuance of the permit, and the limits
8 of the authority granted by such permit of the permit. All
9 permits so issued shall be for a ~~definite period as established~~
10 ~~by the issuing officer, but in no event shall exceed a period~~
11 ~~of twelve months~~ five years and shall be valid throughout the
12 state except where the possession or carrying of a firearm is
13 prohibited by state or federal law.

14 Sec. 6. Section 724.8, Code 2009, is amended to read as
15 follows:

16 **724.8 Persons eligible for permit to carry weapons.**

17 ~~No person shall be issued a professional or nonprofessional~~
18 ~~permit to carry weapons unless~~ shall be issued to a person who
19 is subject to any of the following:

20 1. ~~The person is~~ Is less than eighteen years of age ~~or~~
21 ~~older~~ for a professional permit or less than twenty-one years
22 of age for a nonprofessional permit.

23 2. ~~The person has never been convicted of a felony.~~

24 3. ~~The person is not addicted to the use of alcohol or any~~
25 ~~controlled substance.~~

26 4. ~~The person has no history of repeated acts of violence.~~

27 5. ~~The issuing officer reasonably determines that the~~
28 ~~applicant does not constitute a danger to any person.~~

29 2. Is subject to the provisions of section 724.26.

30 6. ~~3. The person has never~~ Has, within the previous three
31 years, been convicted of any crime serious or aggravated
32 misdemeanor defined in chapter 708, except "assault" as defined
33 in section 708.1 and "harassment" as defined in section 708.7.

34 4. Has been convicted in any court of a crime punishable
35 by imprisonment for a term exceeding one year as defined in 18

1 U.S.C. § 921(a)(20), pursuant to 18 U.S.C. § 922(d)(1) or 18
2 U.S.C. § 922(g)(1).

3 5. Is a fugitive from justice as defined in 18 U.S.C. §
4 921(a)(15), pursuant to 18 U.S.C. § 922(d)(2) or 18 U.S.C. §
5 922(g)(2).

6 6. Is an unlawful user of or addicted to any controlled
7 substance pursuant to 18 U.S.C. § 922(d)(3) or 18 U.S.C. §
8 922(g)(3).

9 7. Has been adjudicated seriously mentally impaired or been
10 committed to a mental institution for purposes of 18 U.S.C. §
11 922(d)(4) or 18 U.S.C. § 922(g)(4).

12 8. Is an alien illegally or unlawfully in the United States
13 or admitted to the United States under a nonimmigrant visa,
14 as those terms are used in 18 U.S.C. § 922(d)(5), 18 U.S.C. §
15 922(g)(5), or 18 U.S.C. § 922(y).

16 9. Has been discharged from the armed forces under
17 dishonorable conditions pursuant to 18 U.S.C. § 922(d)(6) or
18 18 U.S.C. § 922(g)(6).

19 10. Has renounced the person's United States citizenship
20 pursuant to 18 U.S.C. § 922(d)(7) or 18 U.S.C. § 922(g)(7).

21 11. Is subject to a court order that restrains such person
22 from harassing, stalking, or threatening an intimate partner
23 or any child of the intimate partner, as defined in 18 U.S.C. §
24 921(a)(32), pursuant to 18 U.S.C. § 922(d)(8) or 18 U.S.C. §
25 922(g)(8).

26 12. Has been convicted of a misdemeanor crime of domestic
27 violence as defined in 18 U.S.C. § 921(a)(33), pursuant to 18
28 U.S.C. § 922(d)(9) or 18 U.S.C. § 922(g)(9).

29 13. Is under indictment for a crime punishable by
30 imprisonment for a term exceeding one year as defined in 18
31 U.S.C. § 921(a)(20), pursuant to 18 U.S.C. § 922(n).

32 Sec. 7. Section 724.9, Code 2009, is amended by striking the
33 section and inserting in lieu thereof the following:

34 **724.9 Firearm training program.**

35 1. An applicant shall demonstrate knowledge of firearm

1 safety by any of the following means:

2 *a.* Completion of any national rifle association firearms
3 safety or firearms training course.

4 *b.* Completion of any firearms safety or firearms training
5 course available to the general public offered by a law
6 enforcement agency, community college, college, private or
7 public institution or organization, or firearms training
8 school utilizing instructors certified by the national rifle
9 association or the department of public safety or another
10 state's department of public safety, state police department,
11 or similar certifying body.

12 *c.* Completion of any law enforcement firearms safety or
13 firearms training course or class offered for security guards,
14 investigators, special deputies, or any division or subdivision
15 of a law enforcement or security enforcement agency.

16 *d.* Evidence of equivalent experience with a firearm through
17 participation in any organized shooting competition.

18 *e.* Completion of small arms training while serving with the
19 armed forces of the United States as evidenced by any of the
20 following:

21 (1) For personnel released or retired from active duty,
22 possession of an honorable discharge or general discharge under
23 honorable conditions.

24 (2) For personnel on active duty or serving in one of the
25 national guard or reserve components of the armed forces of the
26 United States, possession of a certificate of completion of
27 basic training with a service record of successful completion
28 of small arms training and qualification.

29 *f.* Previously having held a license to carry a firearm in
30 this state, any political subdivision of this state, or in a
31 state recognized under section 724.11A, unless such license was
32 revoked for cause.

33 *g.* Completion of a law enforcement agency firearms training
34 course that qualifies a peace officer to carry a firearm in the
35 normal course of the peace officer's duties.

1 2. Evidence of qualification under this section may be
2 documented by any of the following:

3 a. A photocopy of a certificate of completion or any
4 similar document indicating completion of any course or class
5 identified in subsection 1.

6 b. An affidavit from the instructor, school, organization,
7 or group that conducted or taught a course or class identified
8 in subsection 1 attesting to the completion of the course or
9 class by the applicant.

10 c. A copy of any document indicating participation in any
11 firearms shooting competition.

12 d. A copy of a license described in subsection 1, paragraph
13 "f".

14 3. An issuing officer shall not condition the issuance of a
15 permit on training requirements that are not specified in or
16 that exceed the requirements of this section.

17 Sec. 8. Section 724.10, Code 2009, is amended to read as
18 follows:

19 **724.10 Application for permit to carry weapons — ~~criminal~~**
20 **history background check required.**

21 1. A person shall not be issued a permit to carry weapons
22 unless the person has completed and signed an application on
23 a form to be prescribed and published by the commissioner of
24 public safety. The application shall ~~state~~ require only the
25 full name, driver's license or nonoperator's identification
26 card number, residence, place of birth, and age of the
27 applicant, and shall state whether the applicant ~~has ever~~
28 ~~been convicted of a felony, whether the person is addicted to~~
29 ~~the use of alcohol or any controlled substance, and whether~~
30 ~~the person has any history of mental illness or repeated~~
31 acts of violence meets the criteria specified in sections
32 724.8 and 724.9. An applicant may provide the applicant's
33 social security number if the applicant so chooses. The
34 applicant shall also display an identification card that bears
35 a distinguishing number assigned to the cardholder, the full

1 name, date of birth, sex, residence address, and a brief
2 description and colored photograph of the cardholder.

3 2. The sheriff issuing officer, upon receipt of an
4 initial or renewal application under this section, shall
5 ~~conduct~~ immediately conduct a criminal history background check
6 concerning each applicant by obtaining criminal history data
7 from the department of public safety which shall include an
8 inquiry of the national instant criminal background system
9 maintained by the federal bureau of investigation or any
10 successor agency.

11 3. A person who knowingly makes a false statement of
12 material fact on the an application submitted under this
13 section or who knowingly submits any materially falsified or
14 forged document in connection with such application commits a
15 class "D" felony an aggravated misdemeanor.

16 Sec. 9. Section 724.11, Code 2009, is amended to read as
17 follows:

18 **724.11 Issuance of permit to carry weapons.**

19 1. Applications for permits to carry weapons shall be made
20 to the sheriff of the county in which the applicant resides.
21 Applications from persons who are nonresidents of the state,
22 or whose need to go armed arises out of employment by the
23 state, shall be made to the commissioner of public safety. In
24 either case, ~~the issuance of the permit shall be by and at the~~
25 ~~discretion of the sheriff or commissioner, who shall, before~~
26 issuing the permit, shall determine that the requirements of
27 sections 724.6 to 724.10 have been satisfied. However, the
28 training program requirements in section 724.9 may shall be
29 waived for renewal permits.

30 2. The issuing officer shall collect a fee of ten dollars,
31 except from a duly appointed peace officer or correctional
32 officer, for each permit issued. Renewal permits or duplicate
33 permits shall be issued for a fee of five dollars, provided the
34 application for such renewal permit is received by the issuing
35 officer at least thirty days prior to the expiration of the

1 applicant's current permit. The issuing officer shall notify
2 the commissioner of public safety of the issuance of any permit
3 at least monthly and forward to the commissioner an amount
4 equal to two dollars for each permit issued and one dollar
5 for each renewal or duplicate permit issued. All such fees
6 received by the commissioner shall be paid to the treasurer of
7 state and deposited in the operating account of the department
8 of public safety to offset the cost of administering this
9 chapter. Any Notwithstanding section 8.33, any unspent balance
10 as of June 30 of each year shall revert to the general fund as
11 provided by section 8.33 of the state.

12 3. The sheriff or commissioner of public safety shall
13 approve or deny an initial or renewal application submitted
14 under this section within thirty days of receipt of the
15 application. If the issuing officer has not received a
16 response to an information request necessary to determine the
17 applicant's eligibility at the end of the thirty-day period
18 and the applicant is not otherwise disqualified, the issuing
19 officer shall issue a conditional permit to the applicant.
20 The conditional permit shall be readily distinguishable in
21 appearance from a five-year permit and shall be immediately
22 revoked if the information subsequently received indicates the
23 applicant is ineligible for a permit and the application is
24 denied. A person whose application for a permit under this
25 chapter is denied may seek review of the denial under section
26 724.21A.

27 Sec. 10. NEW SECTION. 724.11A Reciprocity.

28 1. The commissioner of public safety shall compare the
29 provisions of sections 724.7 and 724.8 with similar statutes of
30 other states to determine whether such state's laws are similar
31 to or exceed the requirements of sections 724.7 and 724.8.
32 The commissioner shall seek a reciprocity agreement with each
33 state whose laws are similar to or exceed the requirements of
34 sections 724.7 and 724.8.

35 2. A valid nonprofessional permit or license to carry

1 weapons recognized in this state pursuant to subsection 1 shall
2 have the same legal effect as a nonprofessional permit to carry
3 weapons issued under this chapter, except that such permit
4 shall not be considered to be a substitute for an annual permit
5 to acquire weapons issued pursuant to section 724.15.

6 Sec. 11. Section 724.13, Code 2009, is amended by striking
7 the section and inserting in lieu thereof the following:

8 **724.13 Suspension or revocation of permit to carry weapons.**

9 An issuing officer who finds that a person issued a permit
10 to carry weapons under this chapter has been arrested for a
11 disqualifying offense or is the subject of proceedings that
12 could lead to the person's ineligibility for such permit may
13 immediately suspend such permit. An issuing officer proceeding
14 under this section shall immediately notify the permit holder
15 of the suspension by personal service or certified mail on a
16 form prescribed and published by the commissioner of public
17 safety and the suspension shall become effective upon the
18 permit holder's receipt of such notice. If the suspension is
19 based on an arrest or a proceeding that does not result in a
20 disqualifying conviction or finding against the permit holder,
21 the issuing officer shall immediately reinstate the permit upon
22 receipt of proof of the matter's final disposition. If the
23 arrest leads to a disqualifying conviction or the proceedings
24 to a disqualifying finding, the issuing officer shall revoke
25 the permit. The issuing officer may also revoke the permit of
26 a person whom the issuing officer later finds was not qualified
27 for such a permit at the time of issuance or who the officer
28 finds provided materially false information on the permit
29 application. A person aggrieved by a suspension or revocation
30 under this section may seek review of the decision pursuant
31 to section 724.21A.

32 Sec. 12. Section 724.15, Code 2009, is amended to read as
33 follows:

34 **724.15 Annual permit to acquire pistols or revolvers.**

35 1. Any person who ~~acquires~~ desires to acquire ownership of

1 any pistol or revolver shall first obtain an annual permit.
2 An annual permit shall ~~not~~ be issued upon request to any
3 ~~person~~ resident of this state unless the person is subject to
4 any of the following:

5 ~~a. The person is~~ Is less than twenty-one years of age ~~or~~
6 ~~older.~~

7 ~~b. The person has never been convicted of a felony.~~

8 ~~c. The person is not addicted to the use of alcohol or a~~
9 ~~controlled substance.~~

10 ~~d. The person has no history of repeated acts of violence.~~

11 ~~e. The person has never been convicted of a crime defined in~~
12 ~~chapter 708, except "assault" as defined in section 708.1 and~~
13 ~~"harassment" as defined in section 708.7.~~

14 ~~f. The person has never been adjudged mentally incompetent.~~

15 b. Is subject to the provisions of section 724.26.

16 c. Has been convicted in any court of a crime punishable
17 by imprisonment for a term exceeding one year as defined in 18
18 U.S.C. § 921(a)(20), pursuant to 18 U.S.C. § 922(d)(1) or 18
19 U.S.C. § 922(g)(1).

20 d. Is a fugitive from justice as defined in 18 U.S.C. §
21 921(a)(15), pursuant to 18 U.S.C. § 922(d)(2) or 18 U.S.C. §
22 922(g)(2).

23 e. Is an unlawful user of or addicted to any controlled
24 substance pursuant to 18 U.S.C. § 922(d)(3) or 18 U.S.C. §
25 922(g)(3).

26 f. Has been adjudicated seriously mentally impaired or been
27 committed to a mental institution for purposes of 18 U.S.C. §
28 922(d)(4) or 18 U.S.C. § 922(g)(4).

29 g. Is an alien illegally or unlawfully in the United States
30 or admitted to the United States under a nonimmigrant visa,
31 as those terms are used in 18 U.S.C. § 922(d)(5), 18 U.S.C. §
32 922(g)(5), or 18 U.S.C. § 922(y).

33 h. Has been discharged from the armed forces under
34 dishonorable conditions pursuant to 18 U.S.C. § 922(d)(6) or
35 18 U.S.C. § 922(g)(6).

1 i. Has renounced the person's United States citizenship
2 pursuant to 18 U.S.C. § 922(d)(7) or 18 U.S.C. § 922(g)(7).

3 j. Is subject to a court order that restrains such person
4 from harassing, stalking, or threatening an intimate partner
5 or any child of the intimate partner as defined in 18 U.S.C. §
6 921(a)(32), pursuant to 18 U.S.C. § 922(d)(8) or 18 U.S.C. §
7 922(g)(8).

8 k. Has been convicted of a misdemeanor crime of domestic
9 violence as defined in 18 U.S.C. § 921(a)(33), pursuant to 18
10 U.S.C. § 922(d)(9) or 18 U.S.C. § 922(g)(9).

11 l. Is under indictment for a crime punishable by
12 imprisonment for a term exceeding one year as defined in 18
13 U.S.C. § 921(a)(20), pursuant to 18 U.S.C. § 922(n).

14 2. Any person who acquires ownership of a pistol or revolver
15 shall not be required to obtain an annual permit if any of the
16 following apply:

17 a. The person transferring the pistol or revolver and the
18 person acquiring the pistol or revolver are licensed firearms
19 dealers under federal law.

20 b. The pistol or revolver acquired is an antique firearm, a
21 collector's item, a device which is not designed or redesigned
22 for use as a weapon, a device which is designed solely for use
23 as a signaling, pyrotechnic, line-throwing, safety, or similar
24 device, or a firearm which is unserviceable by reason of being
25 unable to discharge a shot by means of an explosive and is
26 incapable of being readily restored to a firing condition.

27 c. The person acquiring the pistol or revolver is authorized
28 to do so on behalf of a law enforcement agency.

29 d. The person has obtained a valid permit to carry weapons,
30 as provided in section 724.11.

31 e. The person transferring the pistol or revolver and the
32 person acquiring the pistol or revolver are related to one
33 another within the second degree of consanguinity or affinity
34 unless the person transferring the pistol or revolver knows
35 that the person acquiring the pistol or revolver would be

1 ~~ineligible to obtain~~ disqualified from obtaining a permit.

2 3. The annual permit to acquire pistols or revolvers shall
3 authorize the permit holder to acquire one or more pistols or
4 revolvers during the period that the permit remains valid. ~~If~~
5 ~~the issuing officer determines that the applicant has become~~
6 ~~disqualified under the provisions of subsection 1, the issuing~~
7 ~~officer may immediately invalidate the permit.~~

8 4. An issuing officer who finds that a person issued a
9 permit to acquire pistols or revolvers under this chapter
10 has been arrested for a disqualifying offense or who is
11 the subject of proceedings that could lead to the person's
12 ineligibility for such permit may immediately suspend such
13 permit. An issuing officer proceeding under this subsection
14 shall immediately notify the permit holder of the suspension
15 by personal service or certified mail on a form prescribed
16 and published by the commissioner of public safety and the
17 suspension shall become effective upon the permit holder's
18 receipt of such notice. If the suspension is based on an
19 arrest or a proceeding that does not result in a disqualifying
20 conviction or finding against the permit holder, the
21 commissioner shall immediately reinstate the permit upon
22 receipt of proof of the matter's final disposition. If the
23 arrest leads to a disqualifying conviction or the proceedings
24 to a disqualifying finding, the issuing officer shall revoke
25 the permit. The issuing officer may also revoke the permit of
26 a person whom the issuing officer later finds was not qualified
27 for such a permit at the time of issuance or who the officer
28 finds provided materially false information on the permit
29 application. A person aggrieved by a suspension or revocation
30 under this subsection may seek review of the decision, pursuant
31 to section 724.21A.

32 Sec. 13. Section 724.17, Code 2009, is amended to read as
33 follows:

34 **724.17 Application for annual permit to acquire — criminal**
35 **history check required.**

1 The application for an annual permit to acquire pistols
 2 or revolvers may be made to the sheriff of the county of
 3 the applicant's residence and shall be on a form prescribed
 4 and published by the commissioner of public safety. The
 5 application shall state require only the full name of the
 6 applicant, the driver's license or nonoperator's identification
 7 card number of the applicant, the residence of the applicant,
 8 and the age and place of birth of the applicant. The
 9 applicant shall also display an identification card that
 10 bears a distinguishing number assigned to the cardholder,
 11 the full name, date of birth, sex, residence address, and
 12 brief description and colored photograph of the cardholder, or
 13 other identification as specified by rule of the department
 14 of public safety. The sheriff shall conduct a criminal
 15 history check concerning each applicant by obtaining criminal
 16 history data from the department of public safety which shall
 17 include an inquiry of the national instant criminal background
 18 system maintained by the federal bureau of investigation or
 19 any successor agency. ~~A person who knowingly makes a false~~
 20 ~~statement of material fact on the application commits a class~~
 21 ~~"D" felony.~~ A person who knowingly makes a false statement
 22 of material fact on an application submitted under this
 23 section or who knowingly submits any materially falsified or
 24 forged document in connection with such application commits an
 25 aggravated misdemeanor.

26 Sec. 14. NEW SECTION. 724.21A Hearing on denial,
 27 suspension, or revocation of permit to carry weapons and permits
 28 to acquire pistols or revolvers.

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

1 notice of the denial, suspension, or revocation.

2 2. The applicant or permit holder may file an appeal with
3 an administrative law judge by filing a copy of the denial,
4 suspension, or revocation notice with a written statement that
5 clearly states the applicant's reasons rebutting the denial,
6 suspension, or revocation along with a fee of ten dollars.
7 Additional supporting information relevant to the proceedings
8 may also be included.

9 3. The administrative law judge shall grant an aggrieved
10 applicant an opportunity to be heard within forty-five days
11 of receipt of the request for an appeal. The hearing may be
12 held by telephone or video conference at the discretion of the
13 administrative law judge. The administrative law judge shall
14 receive witness testimony and other evidence relevant to the
15 proceedings at the hearing.

16 4. Upon conclusion of the hearing, the administrative law
17 judge shall order that the denial, suspension, or revocation
18 of the permit be either rescinded or sustained. An applicant,
19 permit holder, or issuing officer aggrieved by the final
20 judgment of the administrative law judge shall have the right
21 to judicial review in accordance with the terms of the Iowa
22 administrative procedure Act, chapter 17A.

23 Sec. 15. Section 724.23, Code 2009, is amended to read as
24 follows:

25 **724.23 Records kept by commissioner.**

26 The commissioner of public safety shall maintain a permanent
27 record of all valid permits to carry weapons and of current
28 permit revocations. Information that would personally identify
29 applicants or holders of nonprofessional permits to carry
30 weapons or permits to acquire pistols or revolvers including
31 but not limited to the person's name, social security number,
32 date of birth, driver's license or other identification number,
33 and residential or business address shall be kept confidential
34 pursuant to section 22.7.

35 Sec. 16. Section 724.25, subsection 1, Code 2009, is amended

1 to read as follows:

2 1. As used in ~~sections 724.8, subsection 2, and section~~
3 724.26, the word "*felony*" means any offense punishable in the
4 jurisdiction where it occurred by imprisonment for a term
5 exceeding one year, but does not include any offense, other
6 than an offense involving a firearm or explosive, classified as
7 a misdemeanor under the laws of the state and punishable by a
8 term of imprisonment of two years or less.

9 Sec. 17. Section 724.27, Code 2009, is amended to read as
10 follows:

11 **724.27 Offenders' rights restored.**

12 1. The provisions of section 724.8, ~~subsection 2,~~ section
13 724.15, subsection 1, ~~paragraphs "b" and "e",~~ and section
14 724.26 shall not apply to a person who is eligible to have
15 the person's civil rights regarding firearms restored under
16 section 914.7 ~~and who is pardoned or has had the person's civil~~
17 ~~rights restored by the President of the United States or the~~
18 ~~chief executive of a state and who is expressly authorized by~~
19 ~~the President of the United States or such chief executive~~
20 ~~to receive, transport, or possess firearms or destructive~~
21 ~~devices.~~ if any of the following occur:

22 a. The person is pardoned by the President of the United
23 States or the chief executive of a state for a disqualifying
24 conviction.

25 b. The person's civil rights have been restored after a
26 disqualifying conviction, commitment, or adjudication.

27 c. The person's conviction for a disqualifying offense has
28 been expunged.

29 2. Subsection 1 shall not apply to a person whose pardon,
30 restoration of civil rights, or expungement of conviction
31 expressly forbids the person to receive, transport, or possess
32 firearms or destructive devices.

33 Sec. 18. NEW SECTION. 724.31 Persons subject to mental and
34 substance abuse health-related orders, commitments, or findings
35 — disabilities — restoration of rights — reports.

1 1. Subsequent to the issuance of a court order listed in
2 subsection 2, a court shall make a finding as to whether the
3 person who is the subject of the order is a person to whom the
4 provisions of 18 U.S.C. § 922(d)(4) or 18 U.S.C. § 922(g)(4)
5 apply, and if so, shall inform the person of the applicable
6 prohibitions and shall order the person not to ship, possess,
7 receive, or transport or cause the transport of firearms or
8 ammunition. The court shall also order the person to make
9 immediate arrangements for the disposition of any firearms or
10 ammunition owned or possessed by the person. If the person
11 is unable to make lawful disposition by other means, the
12 department of public safety may take custody of any firearms
13 or ammunition owned or possessed by the person for such time
14 as the order issued in subsection 2 remains in effect. The
15 clerk of the district court shall forward a copy of the
16 prohibition order to the department of public safety which in
17 turn shall forward a copy of the order to the federal bureau
18 of investigation or its successor agency for inclusion in the
19 national instant criminal background check system database.

20 2. A court order that does any of the following is subject
21 to this section:

22 a. Orders commitment or treatment pursuant to section
23 125.84.

24 b. Orders commitment pursuant to section 222.31.

25 c. Orders commitment or treatment pursuant to section
26 229.14.

27 d. Appoints a guardian or conservator pursuant to section
28 231E.6.

29 e. Grants a petition filed pursuant to section 597.6.

30 f. Issues an order pursuant to section 633.244.

31 g. Appoints a guardian pursuant to section 633.556.

32 h. Finds a defendant incompetent to stand trial pursuant to
33 section 812.5.

34 3. a. A person who is the subject of a court order listed
35 in subsection 2 may petition the court that issued the order

1 or the court in the county where the person resides to cancel
2 the order and to restore the person's right to ship, possess,
3 receive, or transport or cause the transport of firearms or
4 ammunition. A copy of the petition shall also be served on
5 the director of human services and the county attorney at the
6 county attorney's office of the county in which the original
7 order, commitment, or finding occurred and the director or the
8 county attorney may appear, support, object to, and present
9 evidence relevant to the relief sought by the petitioner. A
10 court considering a petition under this section shall receive
11 evidence concerning all of the following:

12 (1) The circumstances surrounding the original issuance of
13 the prohibition and disposition order pursuant to subsection 1.

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

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

16 (4) Any changes in the petitioner's condition or
17 circumstances since the order of prohibition relevant to the
18 relief sought.

19 *b.* The court shall grant a petition filed pursuant to
20 paragraph "a" if the court finds by a preponderance of the
21 evidence that the petitioner will not be likely to act in a
22 manner dangerous to the public safety and that the granting
23 of the relief would not be contrary to the public interest.
24 The petitioner may appeal a denial of the requested relief and
25 the review shall be de novo. A person may file a petition
26 for relief under this subsection not more than once every two
27 years.

28 *c.* If a court issues an order granting a petition for relief
29 under paragraph "b", the clerk of the district court shall
30 immediately forward a copy of the order to the department of
31 public safety which, upon receipt, shall immediately forward a
32 copy of the order to the federal bureau of investigation or its
33 successor agency for inclusion in the national instant criminal
34 background check system database.

35

EXPLANATION

1 This bill relates to permits to carry weapons and permits
2 to acquire pistols and revolvers including the dissemination
3 of information relating to persons suffering from mental and
4 substance abuse health-related disorders and the possession of
5 firearms.

6 PERSONALLY IDENTIFIABLE INFORMATION — PERMITS TO CARRY
7 WEAPONS AND PERMITS TO ACQUIRE PISTOLS AND REVOLVERS. The
8 bill adds a provision in Code section 22.7 making personally
9 identifiable information of applicants or holders of
10 nonprofessional permits to carry weapons and annual permits to
11 acquire pistols or revolvers in Code chapter 724 confidential
12 unless otherwise ordered by a court, by the lawful custodian of
13 the records, or by another person duly authorized to release
14 such information. Such information includes but is not limited
15 to the name, social security number or other identification
16 number, date of birth, and residential or business address of
17 the applicant or permit holder. This provision does not apply
18 to aggregate data collected by the department of public safety
19 relating to the issuance, denial, revocation, or administration
20 of such permits, provided applicant or holder identities are
21 not revealed. The bill makes a corresponding amendment to Code
22 section 724.23 relating to records of permits to carry weapons
23 including permit revocations maintained by the commissioner of
24 public safety.

25 CONFIDENTIALITY OF RECORDS OF INVOLUNTARY HOSPITAL
26 PROCEEDINGS. The bill provides that although all papers and
27 records pertaining to any involuntary hospitalization or
28 application for involuntary hospitalization of any person
29 under Code chapter 229, whether part of the permanent record
30 of the court or of a file in the department of human services,
31 are subject to public inspection only upon an order of the
32 court for good cause shown, this prohibition does not prevent
33 a court or the department of public safety from forwarding
34 to the federal bureau of investigation a copy of an order
35 issued by a court relating to a person who is the subject of a

1 mental health-related order or commitment and the possession of
2 firearms by such a person under new Code section 724.31 created
3 in the bill.

4 POSSESSION OR CARRYING OF FIREARMS WHILE UNDER THE
5 INFLUENCE. The bill creates a new crime relating to the
6 possession or carrying of firearms while under the influence of
7 alcohol or an illegally used or possessed controlled substance
8 and provides certain exemptions. The bill makes this crime a
9 serious misdemeanor. A person arrested under this provision in
10 the bill may have the person's nonprofessional or professional
11 permit to carry weapons suspended or revoked. A serious
12 misdemeanor is punishable by confinement for no more than one
13 year and a fine of at least \$315 but not more than \$1,875.

14 NONPROFESSIONAL PERMIT TO CARRY WEAPONS — ISSUANCE —
15 RENEWAL PERMITS. The bill amends current law relating to the
16 issuance of nonprofessional permits to carry weapons to provide
17 that a person who is not subject to the disqualifying criteria
18 in Code section 724.8 and who meets the training requirements
19 of Code section 724.9, as amended in the bill, and who files
20 the requisite application under Code section 724.10, as amended
21 in the bill, shall be issued such a permit for a five-year
22 period. Current law provides that even if certain criteria are
23 met the issuing officer has the discretion to decide whether a
24 permit should be issued to the applicant.

25 The bill provides that renewal permits or duplicate permits
26 to carry weapons shall be issued provided the application
27 for such renewal permit is received by the issuing officer
28 at least 30 days prior to the expiration of the applicant's
29 current permit and the sheriff or commissioner of public
30 safety shall approve or deny an initial or renewal application
31 submitted within 30 days of receipt of the application. If the
32 issuing officer has not received a response to an information
33 request necessary to determine the applicant's eligibility at
34 the end of the 30-day period and the applicant is otherwise
35 qualified, the issuing officer shall issue a conditional permit

1 to the applicant, which shall be immediately revoked if the
2 information subsequently received indicates the applicant is
3 ineligible for a permit and the application is denied. A
4 person whose application for a permit to carry weapons is
5 denied may seek judicial review of the denial under Code
6 chapter 17A.

7 FIREARMS TRAINING PROGRAM. The bill amends current law
8 relating to a firearms training program and requires an
9 applicant to demonstrate knowledge of firearm safety through
10 completion of certain firearms safety or firearms training
11 courses, evidence of equivalent experience with a firearm
12 through participation in an organized shooting competition,
13 completion of a small arms training program while serving with
14 the armed forces of the United States, obtaining or previously
15 having held a license to carry a firearm in this state or any
16 political subdivision unless such license has been revoked for
17 cause, or completion of a law enforcement firearms training
18 program that qualifies a peace officer to carry a firearm in
19 the normal course of the peace officer's duties.

20 BACKGROUND CHECKS. The bill amends Code section 724.10
21 relating to background checks of an applicant for a permit to
22 carry weapons. The bill requires the issuing officer, upon
23 receipt of an initial or renewal application for a permit
24 to carry weapons, to conduct a background check utilizing
25 any available state and federal data sources. In addition,
26 the bill provides that a person who knowingly gives a false
27 name or presents false identification or otherwise knowingly
28 gives false material information in connection with an
29 application for a permit to carry weapons commits an aggravated
30 misdemeanor. An aggravated misdemeanor is punishable by
31 confinement for no more than two years and a fine of at least
32 \$625 but not more than \$6,250.

33 RECIPROCITY. The bill creates a reciprocity provision
34 requiring the commissioner of public safety to compare the
35 relevant provisions relating to the issuance of a permit to

1 carry weapons with similar statutes of other states in which
2 reciprocity is requested to determine whether such state's laws
3 are similar to or exceed the requirements of Iowa law. In
4 addition, the bill allows the commissioner of public safety to
5 seek a reciprocity agreement with each state whose laws are
6 similar to or exceed the Iowa requirements.

7 SUSPENSION OR REVOCATION OF PERMITS TO CARRY. The bill
8 amends current law relating to the revocation of permits to
9 carry by providing that an issuing officer who finds that
10 a person who has been issued a permit to carry weapons has
11 been arrested for a disqualifying offense or is the subject
12 of proceedings that could lead to the person's ineligibility
13 for such permit may immediately suspend such permit. If the
14 suspension is based on an arrest or a proceeding that does
15 not result in a disqualifying conviction or finding against
16 the permit holder, the issuing officer shall immediately
17 reinstate the permit upon receipt of proof of the matter's
18 final disposition. If the arrest leads to a disqualifying
19 conviction or the proceedings to a disqualifying finding, the
20 issuing officer shall revoke the permit. The issuing officer
21 may also revoke the permit of a person whom the issuing officer
22 later finds was not qualified for such a permit at the time of
23 issuance or who the officer finds provided materially false
24 information on the permit application. A person aggrieved by
25 a suspension or revocation under this Code section may seek
26 review of the decision pursuant to an administrative review
27 process under the bill.

28 ADMINISTRATIVE REVIEW — DENIAL, SUSPENSION, OR REVOCATION.
29 The bill provides an administrative review procedure in any
30 case where the sheriff or the commissioner of public safety
31 denies an application for or suspends or revokes a permit
32 to carry weapons or an annual permit to acquire pistols or
33 revolvers and provides that the applicant or permit holder
34 shall have the right to appeal the denial, suspension, or
35 revocation of the permit to an administrative law judge in

1 the department of inspections and appeals within 30 days
2 of receiving written notice of the denial, suspension, or
3 revocation. The applicant or permit holder may file an
4 appeal with an administrative law judge by filing a copy of
5 the denial, suspension, or revocation notice with a written
6 statement that clearly states the applicant's reasons rebutting
7 the denial, suspension, or revocation along with a fee of \$10.
8 The administrative law judge shall grant an aggrieved applicant
9 an opportunity to be heard within 45 days of receipt of the
10 appeal request and the hearing may be held by telephone or
11 video conference at the discretion of the administrative law
12 judge. The administrative law judge shall receive witness
13 testimony and other evidence relevant to the proceedings at the
14 hearing. Upon conclusion of the hearing, the administrative
15 law judge shall order that the denial, suspension, or
16 revocation of the permit be either rescinded or sustained. An
17 applicant, permit holder, or issuing officer aggrieved by the
18 final judgment of the administrative law judge shall have the
19 right to judicial review in accordance with the terms of the
20 Iowa administrative procedure Act pursuant to Code chapter 17A.

21 PERMITS TO ACQUIRE PISTOLS OR REVOLVERS — ISSUANCE —
22 PERMIT REVOCATIONS. The bill amends Code section 724.13
23 relating to the issuance of permits to acquire pistols or
24 revolvers and provides the same procedure for such permit
25 denials, suspensions, and revocations as previously indicated
26 for denials, suspensions, and revocations of permits to carry
27 weapons.

28 RESTORATION OF RIGHTS — FIREARMS. The bill makes
29 conforming changes relating to the restoration of the right
30 to possess a firearm under Code section 724.27 and provides
31 that a person whose pardon, restoration of civil rights, or
32 expungement of conviction expressly forbids the person to
33 receive, transport, or possess firearms is ineligible to have
34 the person's civil rights regarding firearms restored.

35 PERSONS SUBJECT TO MENTAL AND SUBSTANCE ABUSE HEALTH-RELATED

1 ORDERS — RESTORATION OF RIGHTS — REPORTING. The bill
2 provides that subsequent to a court order that orders
3 commitment or treatment pursuant to Code section 125.84
4 (chemical substance abuse), Code section 222.31 (mental
5 retardation), or Code section 229.14 (mental health), appoints
6 a guardian or conservator pursuant to Code section 231E.6
7 (appointment of state or local substitute decision maker),
8 grants a petition filed pursuant to Code section 597.6
9 (conveyance of property due to mental illness), issues an
10 order pursuant to Code section 633.244 (incompetent spouse),
11 appoints a guardian pursuant to Code section 633.556, or
12 finds a defendant incompetent to stand trial pursuant to Code
13 section 812.5, a court shall make a finding as to whether
14 the person who is the subject of the order is subject to a
15 federal firearms prohibition under federal law (18 U.S.C. §
16 922(d)(4) or (g)(4)), and if so, shall inform the person of
17 the applicable prohibitions and shall order the person not to
18 possess, receive, or transport or cause to transport a firearm
19 or offensive weapon. The court shall also order the person to
20 make immediate arrangements for the disposition of any firearms
21 or ammunition owned or possessed by the person. If the person
22 is unable to make lawful disposition by other means, the
23 department of public safety may take custody of any firearms or
24 ammunition owned or possessed by the person for such time as
25 the order remains in effect. The clerk of the district court
26 shall forward a copy of the order to the department of public
27 safety which in turn shall forward a copy of the order to the
28 federal bureau of investigation or its successor agency for
29 inclusion in the national instant criminal background check
30 system database.

31 A person who is the subject of any of the underlying orders
32 may petition the court that issued the order or the court in
33 the county where the person resides to cancel the order and
34 to restore the person's right to ship, possess, receive, or
35 transport or cause the transport of firearms or ammunition. A

1 copy of the petition shall also be served on the director of
2 human services and the county attorney at the county attorney's
3 office of the county in which the original order, commitment,
4 or finding occurred and the director or the county attorney may
5 appear, support, object to, and present evidence relevant to
6 the relief sought by the petitioner. The court shall grant a
7 petition if the court finds by a preponderance of the evidence
8 that the petitioner will not be likely to act in a manner
9 dangerous to the public safety and that the granting of the
10 relief would not be contrary to the public interest. The
11 petitioner may appeal a denial of the requested relief and the
12 review shall be de novo. A person may file a petition for
13 relief not more than once every two years. When a court issues
14 an order granting a petition for relief, the clerk of the
15 district court shall immediately forward a copy of the order
16 to the department of public safety which, upon receipt, shall
17 immediately forward a copy of the order to the federal bureau
18 of investigation or its successor agency for inclusion in the
19 national instant criminal background check system database.