

Senate Study Bill 3149 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON KREIMAN)

A BILL FOR

1 An Act relating to the issuance of permits to carry weapons and
2 permits to acquire pistols or revolvers including persons
3 subject to mental and substance abuse health-related orders,
4 and providing an effective date.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 724.7, Code 2009, is amended to read as
2 follows:

3 **724.7 Nonprofessional permit to carry weapons.**

4 ~~Any person who can reasonably justify going armed may be~~
5 ~~issued a nonprofessional permit to carry weapons.~~ The issuance
6 of a nonprofessional permit to carry weapons shall be by and at
7 the discretion of the issuing officer who shall, before issuing
8 the permit, determine that the requirements of sections 724.8
9 through 724.10 have been met. Such permits shall be on a form
10 prescribed and published by the commissioner of public safety,
11 which shall be readily distinguishable from the professional
12 permit, and shall identify the holder thereof, and state the
13 reason for the issuance of the permit, and the limits of the
14 authority granted by such permit. All permits so issued shall
15 be for a definite period as established by the issuing officer,
16 but in no event shall exceed a period of twelve months.

17 Sec. 2. Section 724.8, Code 2009, is amended to read as
18 follows:

19 **724.8 Persons eligible for permit to carry weapons.**

20 ~~No~~ A person shall not be issued a professional or
21 nonprofessional permit to carry weapons unless:

22 1. The person is eighteen years of age or older for
23 a professional permit or twenty-one years or older for a
24 nonprofessional permit.

25 2. The person has never been convicted of a felony.

26 3. The person is not addicted to the use of alcohol or any
27 controlled substance.

28 4. The person has no history of repeated acts of violence.

29 5. The issuing officer reasonably determines that the
30 applicant does not constitute a danger to any person.

31 6. The person has never been convicted of any crime defined
32 in chapter 708, except "assault" as defined in section 708.1 and
33 "harassment" as defined in section 708.7.

34 7. The person has not been committed to a mental institution
35 for purposes of 18 U.S.C. § 922(g)(4).

1 8. The person is not subject to a protective order pursuant
2 to 18 U.S.C. § 922(g)(8) and has not been convicted of a
3 misdemeanor crime of domestic violence pursuant to 18 U.S.C.
4 § 922(g)(9). It is the intent of the general assembly that
5 violations of these federal laws be strictly enforced in the
6 courts of this state.

7 Sec. 3. Section 724.9, Code 2009, is amended to read as
8 follows:

9 **724.9 Firearm Firearms training program.**

10 1. A training program to qualify persons in the safe use of
11 firearms shall be provided by the issuing officer of permits,
12 as provided in section 724.11.

13 2. The course of instruction required for a person to apply
14 for a permit under this chapter shall qualify a person on a
15 firing range and shall be limited to a maximum of six hours in
16 length. The course of instruction shall include all of the
17 following:

18 a. Firearms safety in the classroom, at home, on the firing
19 range, and while carrying the firearm.

20 b. A physical demonstration performed by the applicant
21 that demonstrates the applicant's ability to safely load and
22 unload a revolver or a semiautomatic pistol and the applicant's
23 marksmanship.

24 c. The basic principles of marksmanship.

25 d. The law relating to firearms pursuant to this chapter.

26 e. The law relating to the justifiable use of force pursuant
27 to chapter 704.

28 f. A live fire shooting test administered to an applicant
29 pursuant to section 724.9A.

30 3. The commissioner of public safety shall approve the
31 training program, and or the county sheriff or the commissioner
32 of public safety conducting may conduct the training program
33 within their respective jurisdictions, or may contract
34 with a private organization or use the services of other
35 agencies, or may use a combination of the two, to provide

1 ~~such~~ a training program that meets the standards specified in
2 subsection 2. Any person eligible to be issued a permit to
3 carry weapons may enroll in such course. A fee sufficient to
4 cover the cost of the program may be charged to each person
5 attending. Certificates of completion, on a form prescribed
6 and published by the commissioner of public safety, shall
7 be issued by a qualified firearms safety instructor subject
8 to the restrictions of section 724.9B to each person who
9 successfully completes the program. ~~No~~ A person shall not be
10 issued either a professional or nonprofessional permit to
11 carry weapons unless the person has received a certificate of
12 completion or is a certified peace officer. ~~No~~ A peace officer
13 or correctional officer, except a certified peace officer,
14 shall not go armed with a pistol or revolver unless the officer
15 has received a certificate of completion, provided that this
16 requirement shall not apply ~~to persons who are employed in this~~
17 ~~state as peace officers on January 1, 1978 until July 1, 1978,~~
18 ~~or~~ to peace officers of other jurisdictions exercising their
19 legal duties within this state.

20 Sec. 4. NEW SECTION. 724.9A Live fire shooting test.

21 1. A live fire shooting test shall be administered in
22 the presence of a firearms safety instructor qualified under
23 section 724.9C to an applicant for a nonprofessional permit to
24 carry weapons. The live fire shooting test shall consist of
25 thirty rounds fired from a standing position or its equivalent
26 at a distance from a B-27 silhouette target or an FBI "Q"
27 target, ten rounds fired from a distance of five yards, ten
28 rounds fired from a distance of seven yards, and ten rounds
29 fired from a distance of ten yards. Two sets of five rounds
30 shall be fired consecutively at each designated distance
31 and each five-round string shall be fired within thirty
32 seconds. Twenty-one of the rounds fired must strike either the
33 eight-ring on the B-27 target or the smallest FBI "Q" target to
34 pass the live fire shooting test.

35 2. An applicant for a nonprofessional permit to carry

1 weapons may attempt to pass the live fire shooting test
2 administered pursuant to subsection 1 up to three times in
3 one day but must pass the shooting test within two weeks of
4 completing a firearms training program pursuant to section
5 724.9. An applicant who fails the live fire shooting test
6 within the requisite two-week period shall be required to
7 retake the firearms training program prior to again attempting
8 to pass the live fire shooting test.

9 3. The provisions of this section shall be implemented
10 uniformly throughout the state and shall constitute the
11 statewide standard for the course of instruction qualifying a
12 person shooting on a firing range pursuant to section 724.9.

13 **Sec. 5. NEW SECTION. 724.9B Certificate of completion.**

14 A qualified firearms safety instructor shall not issue a
15 certificate of completion to an applicant for a permit to carry
16 weapons who does any of the following:

17 1. Fails to demonstrate the requisite knowledge and
18 technique regarding the proper handling of a firearm.

19 2. Handles a firearm in a manner that, in the judgment of
20 the qualified firearms safety instructor, poses a danger to the
21 applicant or others.

22 3. Fails the live fire shooting test pursuant to the
23 requirements specified in section 724.9A.

24 **Sec. 6. NEW SECTION. 724.9C Qualified firearms safety
25 instructor.**

26 A firearms safety instructor shall be considered to be a
27 qualified firearms safety instructor if the instructor has any
28 of the following qualifications:

29 1. Is certified by the national rifle association as an
30 instructor in any course that provides basic instruction in
31 pistol marksmanship or in the use of pistols or revolvers for
32 personal protection.

33 2. Is certified as a firearms safety instructor by a local,
34 state, or federal governmental agency.

35 3. Is certified as a firearms safety instructor by

1 successful completion of a course approved by the department
2 of public safety.

3 4. Has successfully completed a firearms safety instructor
4 course given by or under the supervision of any state, county,
5 municipal, or federal law enforcement agency.

6 5. Is a certified police officer firearms safety
7 instructor.

8 6. Is a certified law enforcement academy firearms safety
9 instructor.

10 Sec. 7. Section 724.11, Code 2009, is amended to read as
11 follows:

12 **724.11 Issuance of permit to carry weapons.**

13 1. Applications for permits to carry weapons shall be made
14 to the sheriff of the county in which the applicant resides.
15 Applications from persons who are nonresidents of the state,
16 or whose need to go armed arises out of employment by the
17 state, shall be made to the commissioner of public safety. In
18 either case, the issuance of the permit shall be by and at the
19 discretion of the sheriff or commissioner, who shall, before
20 issuing the permit, determine that the requirements of sections
21 724.6 to 724.10 have been satisfied. However, the training
22 program requirements in section 724.9 may be waived for renewal
23 of nonprofessional permits and may be waived for issuance of a
24 nonprofessional permit that is restricted to the carrying of a
25 dangerous weapon other than a firearm. If the sheriff or the
26 commissioner denies an application for a permit or restricts a
27 permit under this section, unless such restriction is uniformly
28 applied to all nonprofessional permits issued pursuant to
29 standards published by the sheriff or the commissioner, the
30 sheriff or commissioner shall provide a written statement of
31 the reasons for the denial or the restriction to the applicant
32 by regular mail within twenty working days of the filing of the
33 application.

34 2. The issuing officer shall collect a fee of ten dollars,
35 except from a duly appointed peace officer or correctional

1 officer, for each permit issued. Renewal permits or duplicate
2 permits shall be issued for a fee of five dollars. The issuing
3 officer shall notify the commissioner of public safety of the
4 issuance of any permit at least monthly and forward to the
5 commissioner an amount equal to two dollars for each permit
6 issued and one dollar for each renewal or duplicate permit
7 issued. All such fees received by the commissioner shall be
8 paid to the treasurer of state and deposited in the operating
9 account of the department of public safety to offset the cost
10 of administering this chapter. Any Notwithstanding section
11 8.33, any unspent balance as of June 30 of each year shall
12 not revert to the general fund as provided by section 8.33 but
13 shall remain available to the department.

14 Sec. 8. NEW SECTION. 724.11A **Reciprocity.**

15 A person possessing a valid permit to carry weapons issued
16 by the person's state of residence shall be entitled to the
17 privileges and subject to the restrictions prescribed in this
18 chapter provided the state that issued the license has been
19 designated as a Brady-alternative state pursuant to 18 U.S.C.
20 § 922(t)(3) as determined by the federal bureau of alcohol,
21 tobacco, firearms, and explosives. The department of public
22 safety shall post such information on the department's internet
23 site.

24 Sec. 9. NEW SECTION. 724.14 **Immunity.**

25 The sheriff or the commissioner of public safety shall not be
26 liable for damages in any civil action arising from the alleged
27 wrongful issuance, renewal, or failure to revoke a permit to
28 carry weapons provided that the sheriff or the commissioner
29 acted reasonably and in good faith and in accordance with the
30 provisions of this chapter in carrying out the sheriff's or the
31 commissioner's official duties.

32 Sec. 10. Section 724.15, subsection 1, Code 2009, is amended
33 by adding the following new paragraphs:

34 NEW PARAGRAPH. *g.* The person has not been committed to a
35 mental institution for purposes of 18 U.S.C. § 922(g)(4).

1 NEW PARAGRAPH. *h.* The person is not subject to a protective
2 order pursuant to 18 U.S.C. § 922(g)(8) and has not been
3 convicted of a misdemeanor crime of domestic violence pursuant
4 to 18 U.S.C. § 922(g)(9). It is the intent of the general
5 assembly that violations of these federal laws be strictly
6 enforced in the courts of this state.

7 Sec. 11. NEW SECTION. **724.21A Hearing on denial or**
8 **restriction of permit to carry weapons.**

9 1. In any case where the sheriff or the commissioner of
10 public safety denies an application for a permit to carry
11 weapons or issues a permit with a restriction, the denied
12 applicant or holder of a restricted permit shall have the right
13 to appeal the denial or restriction to an administrative law
14 judge in the department of inspections and appeals within
15 thirty days of receiving written notice of the denial or
16 restriction.

17 2. A denial of an application for a permit to carry weapons
18 or the issuance of a permit with a restriction may be appealed
19 by filing with an administrative law judge a copy of the
20 denial or the restricted permit with a written statement that
21 clearly states the applicant's reasons rebutting the denial or
22 the restriction along with a fee of ten dollars. Additional
23 supporting information relevant to the application for a permit
24 may also be included.

25 3. The administrative law judge shall grant an aggrieved
26 applicant an opportunity to be heard within forty-five days of
27 receipt of the request for an appeal. The hearing may be held
28 by telephone conference at the discretion of the administrative
29 law judge.

30 4. Upon hearing, the administrative law judge shall order
31 that the denial of the application or restriction of the permit
32 be either rescinded or sustained. An applicant, holder of a
33 restricted permit, or issuing officer aggrieved by the final
34 judgment of the administrative law judge shall have the right
35 to judicial review in accordance with the terms of the Iowa

1 administrative procedure Act, chapter 17A.

2 5. The losing party shall be required to pay the prevailing
3 party's administrative costs incurred in an appeal pursuant to
4 this section.

5 Sec. 12. NEW SECTION. 724.31 **Persons subject to mental and**
6 **substance abuse health-related orders, commitments, or findings**
7 **— disabilities — restoration of rights — reports.**

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

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

29 a. Orders commitment or treatment pursuant to section
30 125.84.

31 b. Orders commitment pursuant to section 222.31.

32 c. Orders commitment or treatment pursuant to section
33 229.14.

34 d. Appoints a guardian or conservator pursuant to section
35 231E.6.

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

2 f. Issues an order pursuant to section 633.244.

3 g. Appoints a guardian pursuant to section 633.556.

4 h. Finds a defendant incompetent to stand trial pursuant to
5 section 812.5.

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

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

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

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

23 (4) Any changes in the petitioner's condition or
24 circumstances since the order of prohibition relevant to the
25 relief sought.

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

35 c. If a court issues an order granting a petition for relief

1 under paragraph "b", the clerk of the district court shall
2 immediately forward a copy of the order to the department of
3 public safety which, upon receipt, shall immediately forward a
4 copy of the order to the federal bureau of investigation or its
5 successor agency for inclusion in the national instant criminal
6 background check system database.

7

EXPLANATION

8 This bill relates to the issuance of weapons permits.

9 The bill provides that a person who is at least 21 and who
10 meets additional eligibility requirements shall be issued, at
11 the discretion of the issuing officer, a nonprofessional permit
12 to carry weapons. The bill provides that persons who have been
13 committed to a mental institution under federal law or persons
14 who are subject to protective orders or who have been convicted
15 of a misdemeanor crime of domestic violence under federal law
16 are all ineligible for a permit to carry weapons and a permit
17 to acquire pistols or revolvers.

18 The bill amends current law relating to a firearms training
19 program. Firearms training program requirements shall be
20 waived for renewal of nonprofessional permits to carry weapons
21 and may be waived for issuance of a nonprofessional permit that
22 is restricted to the carrying of a dangerous weapon other than
23 a firearm. The bill provides that the course of instruction
24 required for a person to apply for a permit to carry weapons
25 shall qualify a person on a firing range and shall be limited
26 to a maximum of six hours. The bill further provides a
27 statewide standard designed to qualify an applicant for a
28 nonprofessional permit to carry weapons shooting on a firing
29 range.

30 The bill provides that a qualified firearms safety
31 instructor shall issue a certificate of completion to a person
32 who successfully completes the training program, including the
33 completion of the requirements relating to live fire ammunition
34 testing on a firing range. The bill specifically provides that
35 a person who handles a firearm in a manner that poses a danger

1 to the applicant or others, or who fails to pass the live fire
2 testing portion of the training program shall not be issued a
3 certificate of completion. An applicant for a permit to carry
4 weapons shall not be issued a permit to carry weapons unless
5 the applicant has received a certificate of completion or is a
6 certified peace officer.

7 The bill defines a qualified firearms safety instructor as a
8 person who meets any of the following qualifications:

9 1. Is certified by the national rifle association as an
10 instructor in any course that provides basic instruction in
11 pistol marksmanship or in the use of pistols or revolvers for
12 personal protection.

13 2. Is certified as a firearms safety instructor by a local,
14 state, or federal governmental agency.

15 3. Is certified as a firearms safety instructor by
16 successful completion of a course approved by the department
17 of public safety.

18 4. Has successfully completed a firearms safety instructor
19 course given by or under the supervision of any state, county,
20 municipal, or federal law enforcement agency.

21 5. Is a certified police officer firearms safety
22 instructor.

23 6. Is a certified law enforcement academy firearms safety
24 instructor.

25 The bill provides that if the sheriff or commissioner
26 restricts or denies an application for a concealed weapons
27 permit, the sheriff or commissioner shall provide a written
28 statement of the reasons for the restriction or denial.

29 The bill provides that a person possessing a valid permit to
30 carry weapons issued by the person's state of residence shall
31 be entitled to the privileges and subject to the restrictions
32 prescribed in Code chapter 724 provided the state that issued
33 the license has been designated as a Brady-alternative state
34 pursuant to 18 U.S.C. § 922(t)(3) as determined by the federal
35 bureau of alcohol, tobacco, firearms, and explosives. The

1 department of public safety shall post such information on the
2 department's internet site.

3 The bill provides that the sheriff or the commissioner of
4 public safety shall not be liable for damages in any civil
5 action arising from the alleged wrongful issuance, renewal,
6 or failure to revoke a permit to carry weapons provided that
7 the sheriff or the commissioner acted reasonably and in good
8 faith and in accordance with provisions of Code chapter 724
9 in carrying out the sheriff's or the commissioner's official
10 duties.

11 The bill provides an administrative review procedure for
12 an applicant who has been denied a permit to carry concealed
13 weapons or who has had a restriction placed on the permit.
14 The denied applicant or restricted holder of the permit may
15 file an appeal of the denial to an administrative law judge
16 in the department of inspections and appeals within 30 days
17 of receiving written notice of the denial or restriction.
18 The applicant must then file a copy of the denial or the
19 restricted permit and a written statement that clearly states
20 the applicant's reasons rebutting the denial or restriction
21 along with a fee of \$10. The administrative law judge shall
22 grant an aggrieved applicant an opportunity to be heard within
23 45 days of receipt of the request for an appeal. An applicant,
24 holder of a restricted permit, or issuing officer aggrieved by
25 the final judgment of the administrative law judge shall have
26 the right to judicial review in accordance with the terms of
27 the Iowa administrative procedure Act, Code chapter 17A. The
28 losing party is required to pay the costs of the appeal.

29 The bill provides that subsequent to a court order that
30 orders commitment or treatment pursuant to Code section
31 125.84 (chemical substance abuse), Code section 222.31
32 (mental retardation), or Code section 229.14 (mental health),
33 appoints a guardian or conservator pursuant to Code section
34 231E.6 (appointment of state or local substitute decision
35 maker), grants a petition filed pursuant to Code section 597.6

1 (conveyance of property due to mental illness), issues an
2 order pursuant to Code section 633.244 (incompetent spouse),
3 appoints a guardian pursuant to Code section 633.556, or
4 finds a defendant incompetent to stand trial pursuant to Code
5 section 812.5, a court shall make a finding as to whether
6 the person who is the subject of the order is subject to a
7 federal firearms prohibition under federal law (18 U.S.C. §
8 922(d)(4) or (g)(4)), and if so, shall inform the person of
9 the applicable prohibitions and shall order the person not to
10 possess, receive, or transport or cause to transport a firearm
11 or offensive weapon. The court shall also order the person to
12 make immediate arrangements for the disposition of any firearms
13 or ammunition owned or possessed by the person. If the person
14 is unable to make lawful disposition by other means, the
15 department of public safety may take custody of any firearms or
16 ammunition owned or possessed by the person for such time as
17 the order remains in effect. The clerk of the district court
18 shall forward a copy of the order to the department of public
19 safety which in turn shall forward a copy of the order to the
20 federal bureau of investigation or its successor agency for
21 inclusion in the national instant criminal background check
22 system database.

23 A person who is the subject of any of the underlying orders
24 may petition the court that issued the order or the court in
25 the county where the person resides to cancel the order and
26 to restore the person's right to ship, possess, receive, or
27 transport or cause the transport of firearms or ammunition. A
28 copy of the petition shall also be served on the director of
29 human services and the county attorney at the county attorney's
30 office of the county in which the original order, commitment,
31 or finding occurred and the director or the county attorney may
32 appear, support, object to, and present evidence relevant to
33 the relief sought by the petitioner. The court shall grant a
34 petition if the court finds by a preponderance of the evidence
35 that the petitioner will not be likely to act in a manner

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1 dangerous to the public safety and that the granting of the
2 relief would not be contrary to the public interest. The
3 petitioner may appeal a denial of the requested relief and the
4 review shall be de novo. A person may file a petition for
5 relief not more than once every two years. When a court issues
6 an order granting a petition for relief, the clerk of the
7 district court shall immediately forward a copy of the order
8 to the department of public safety which, upon receipt, shall
9 immediately forward a copy of the order to the federal bureau
10 of investigation or its successor agency for inclusion in the
11 national instant criminal background check system database.