

State of Arkansas
92nd General Assembly
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As Engrossed: S4/1/19
A Bill

HOUSE BILL 1748

By: Representative Richmond

By: Senator D. Wallace

For An Act To Be Entitled

AN ACT CONCERNING A VETERAN WHO VOLUNTARILY SOUGHT MENTAL HEALTH TREATMENT AND WHO SUBSEQUENTLY SEEKS TO OBTAIN A LICENSE TO CARRY A CONCEALED HANDGUN; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING A VETERAN WHO VOLUNTARILY SOUGHT MENTAL HEALTH TREATMENT AND WHO SUBSEQUENTLY SEEKS TO OBTAIN A LICENSE TO CARRY A CONCEALED HANDGUN.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 5-73-309(11), concerning the requirements for a person who wants to obtain a license to carry a concealed handgun, is amended to read as follows:

(11)(A) Has not been voluntarily or involuntarily committed to a mental institution or mental health treatment facility.

(B) An applicant who is a veteran who voluntarily sought mental health treatment at a mental health institution or mental health treatment facility may obtain a license under this subchapter if a circuit court grants his or her petition under § 5-73-327;

SECTION 2. Arkansas Code Title 5, Chapter 73, Subchapter 3, is amended to add an additional section to read as follows:

5-73-327. Discharged veterans.



(a) As used in this section:

(1) "Mental health institution or mental health treatment facility" means a public or private facility where a person may voluntarily admit himself or herself for mental health treatment; and

(2) "Veteran" means a person who:

(A) Served on active duty in the United States Armed Forces for a period of more than one hundred eighty (180) days and was discharged or released from active duty with other than a dishonorable discharge;

(B) Was discharged or released from active duty in the United States Armed Forces because of a service-connected disability; or

(C) As a member of a reserve component of the United States Armed Forces under an order to active duty, not to include training, was discharged or released from duty with other than a dishonorable discharge.

(b)(1) A veteran who voluntarily seeks and completes mental health treatment in a mental health institution or mental health treatment facility may obtain a license to carry a concealed handgun under this subchapter by filing a petition in the circuit court where the veteran resides.

(2) However, the veteran may not obtain a license to carry a concealed handgun under this subchapter until at least two (2) years after he or she completed mental health treatment in a mental health institution or mental health treatment facility.

(c)(1) A petition under this section shall request a judicial determination that the petitioner is mentally fit and that his or her past voluntary commitment to a mental institution or mental health treatment facility would currently not have a negative impact on the petitioner's ability to responsibly possess a license to carry a concealed handgun.

(2) A petitioner shall also provide the circuit court with a limited medical waiver that would allow the circuit court and the prosecuting attorney access to and the ability to request any medical record that concerns the petitioner's mental health treatment at issue.

(d)(1) A copy of a petition under this section shall be served on the prosecuting attorney within thirty (30) days of the filing of the petition.

(2) The prosecuting attorney may appear, support, object to, or present evidence relevant to the petition.

(e) The circuit court shall consider evidence in an open proceeding, including evidence offered by the petitioner concerning:

(1) The circumstances that led to the petitioner voluntarily seeking mental health treatment;

(2) The petitioner's certified mental health records;

(3) The petitioner's certified criminal history;

(4) The petitioner's reputation; and

(5) Changes in the petitioner's condition or circumstances relevant to the petition.

(f) The circuit court shall grant the petition if the circuit court finds by a preponderance of the evidence the following:

(1) The petitioner is not likely to act in a manner that is dangerous to public safety; and

(2) Granting the petition would not be contrary to the public interest.

(g) The petitioner may appeal a final order denying the petition and the review on appeal shall be de novo.

(h) A veteran may file a petition under this section no more than one (1) time every two (2) years.

(i) When the circuit court issues an order granting a petition under this section, as soon as practicable but no later than thirty (30) days after issuance of the order, the circuit clerk shall forward a copy of the order to the Department of Arkansas State Police.

/s/Richmond

APPROVED: 4/11/19