

C.R.S. 13-5-142.5

Copy Citation

Statutes current through Chapter 220 of the 2021 Regular Session and effective as of June 10, 2021. The inclusion of the 2021 legislation is not final. It will be final later in 2021 after reconciliation with the official statutes, produced by the Colorado Office of Legislative Legal Services.

- [Colorado Revised Statutes Annotated](#)
- [Title 13. Courts and Court Procedure \(§§ 13-1-101 — 13-94-111\)](#)
- [Courts of Record \(Arts. 1 — 9\)](#)
- [Article 5. Judicial Districts \(Pts. 1 — 3\)](#)
- [Part 1. Judges - Terms \(§§ 13-5-101 — 13-5-145\)](#)

13-5-142.5. National instant criminal background check system - judicial process for awarding relief from federal prohibitions - legislative declaration

(1) Legislative declaration. The purpose of this section is to set forth a judicial process whereby a person may apply or petition for relief from federal firearms prohibitions imposed pursuant to 18 U.S.C. sec. 922 (d)(4) and (g)(4), as permitted by the federal "NICS Improvement Amendments Act of 2007" (Pub.L. 110-180, sec. 105).

(2) Eligibility. A person may petition for relief pursuant to this section if:

(a)

(I) He or she has been found to be incapacitated by order of the court pursuant to part 3 of article 14 of title 15, C.R.S.;

(II) He or she has been committed by order of the court to the custody of the office of behavioral health in the department of human services pursuant to section 27-81-112; or

(III) The court has entered an order for the person's involuntary certification for short-term treatment of a mental health disorder pursuant to section 27-65-107, for extended certification for treatment of a mental health disorder pursuant to section 27-65-108, or for long-term care and treatment of a mental health disorder pursuant to section 27-65-109; and

(b) He or she is a person to whom the sale or transfer of a firearm or ammunition is prohibited by 18 U.S.C. sec. 922 (d)(4), or who is prohibited from shipping, transporting, possessing, or receiving a firearm or ammunition pursuant to 18 U.S.C. sec. 922 (g)(4).

(3) Due process. In a court proceeding pursuant to this section:

(a) The petitioner shall have an opportunity to submit his or her own evidence to the court concerning his or her petition;

(b) The court shall review the evidence; and

(c) The court shall create and thereafter maintain a record of the proceeding.

(4) Proper record. In determining whether to grant relief to a petitioner pursuant to this section, the court shall receive evidence concerning, and shall consider:

(a) The circumstances regarding the firearms prohibitions imposed by 18 U.S.C. sec. 922 (g)(4);

(b) The petitioner's record, which must include, at a minimum, the petitioner's mental health records and criminal history records; and

(c) The petitioner's reputation, which the court shall develop, at a minimum, through character witness statements, testimony, or other character evidence.

(5) Proper findings.

(a) Before granting relief to a petitioner pursuant to this section, the court shall issue findings that:

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

(II) Granting relief to the petitioner is not contrary to the public interest.

(b)

(I) If the court denies relief to a petitioner pursuant to this section, the petitioner may petition the court of appeals to review the denial, including the record of the denying court.

(II) A review of a denial shall be de novo in that the court of appeals may, but is not required to, give deference to the decision of the denying court.

(III) In reviewing a denial, the court of appeals has discretion, but is not required, to receive additional evidence necessary to conduct an adequate review.

History

Source: **L. 2013:** Entire section added, (HB 13-1229), ch. 47, p. 132, § 3, effective March 20. **L. 2017:** (2)(a)(II) amended, (SB 17-242), ch. 263, p. 1251, § 6, effective May 25. **L. 2018:** (2)(a)(III) amended, (SB 18-091), ch. 35, p. 383, § 9, effective August 8. **L. 2020:** (2)(a)(II) amended, (SB 20-007), ch. 286, p. 1414, § 43, effective July 13.

▼ Annotations

State Notes

Research References & Practice Aids

Cross references:

For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017. For the legislative declaration in SB 18-091, see section 1 of chapter 35, Session Laws of Colorado 2018.