

STATE OF CONNECTICUT
AGENCY LEGISLATIVE PROPOSAL
2010 SESSION

Document Name (e.g., OPM051.doc; OPM052.doc) Relief of Disabilities from Mental Health Prohibitor. Procedures. Fees.
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Agency DEPARTMENT OF PUBLIC SAFETY	Agency Priority (necessary)
Contact Person	Telephone
Email Address	
Title of Proposal Relief of Disabilities from Mental Health Prohibitor. Procedures. Fees.	Statutory Reference Proposal Type <u>New</u> Resubmittal
ATTACH COPY OF FULLY DRAFTED BILL <i>(Required for review)</i>	

APPROVAL OF OTHER AFFECTED AGENCY (Attach additional approvals if necessary)	
Agency N/A	Agency Contact (Name and Title)
Attach Summary of Agency Comments	Contact Date

Summary of Proposal (Include background information) Federal Public Law 110-108, Section 105 enacted 1/8/08, NICS Improvement Act (NIAA) requires a Relief of Disabilities program for those prohibited from possessing or purchasing firearms due legislation passed under Title 19 U.S.C 922 g (4). Included are procedures and fees.

Reason for Proposal (Include significant policy and programmatic impacts)

The NICS Improvement Amendments Act requires that a Relief of Disabilities program be enacted by each state that submits the required mental health prohibitors to the National Instant Background Check System (NICS) Index as required by Title 18 U.S.C 922 g. Reporting also required by C.G.S. 29-28, 29-33,29-36f, 29-37a, 53a-217 and 53a-217c. The NIAA states that if a state does not have a program enacted by legislation for the above stated reason, grant money will be decreased on a yearly basis by certain percentages until such program is implemented.

Significant Fiscal Impacts

Municipal: None

Federal: None

State: Increased fees to the General Fund

**(NEW) Relief of Disabilities from Mental Health Prohibitor. Procedures.
Fees.**

(a) Any person aggrieved of any mental health prohibitors reported to the NICS (National Instant Criminal Background Check System) by the states Point of Contact, designated by C.G.S. 29-36/ (d), may apply to the Commissioner of Department of Public Safety for a Relief of Disabilities. The commissioner shall cause an investigation into the request for relief by securing any and all pertinent criminal and mental health records as required by federal Public Law 110-108, Section 105 enacted January 8, 2008, NICS Improvement Amendments Act (NIAA).

(b) Mental health records shall be released from the Commissioner of Mental Health and Addiction Services for purposes of the investigation to the investigator appointed by the Commissioner of Public Safety. The Department of Mental Health and Addictions Services shall assist in the investigation to determine relief to the petitioner.

- (c) The commissioner shall take fingerprints of such petitioner or conduct any other method of investigation to determine the positive identification and shall forward such fingerprints to the State Police Bureau of Identification and the Federal Bureau of Investigation for state and national criminal history checks in accordance with section 29-17a. Letters attesting to the present reputation of the applicant with respect to the disability in question may be entered as evidence, wherein the letters shall be sent from character witnesses directly to the Commissioner of Public Safety. Additional testimony or other character evidence may be used as necessary to determine the relief of disabilities.**
- (d) The Commissioner of Public Safety shall appoint an independent decision maker; a lawful authority that may only consider applications for relief due to mental health prohibitors imposed under U.S.C. § 922(g)(4) and C.G.S. § 29-28, 29-33, 29.36f, 29-37a, 53a-217 and 53a-217c in accordance with principles of due process. The Department of Mental Health and Addiction Services will appoint one physician who treats and rehabilitates patients with mental health issues to assist the independent decision maker that will decide the relief of disabilities. In determining whether to grant relief, the minimum to be considered is whether the applicant is likely to act in a manner dangerous to public safety and relief granted would be contrary to public interest. A record of the matter must be created and maintained for review by the independent decision maker.**
- (e) If relief is denied the applicant may apply for an appeal to the superior court for the judicial district of New Britain for a de novo judicial review. Copies of all pertinent records will be turned over to the presiding official. The court may, but is not required to, give deference to the decision of the lawful authority that denied the application for relief. The reviewing court has discretion to receive**

additional evidence necessary to conduct an adequate review.

(f) Immediately upon issuance of a Relief of Disabilities, all Connecticut and federal records pursuant to Section 102(c) of the NIAA being made aware that the record was made available does not apply or no longer applies, shall be altered, modified or removed to reflect that the record is consistent with the rules pertaining to the database as stated in NIAA.

(g) The fee for the processing of the application for relief of disabilities as it pertains to NIAA shall be two hundred dollars and shall not be refundable. Upon deposit of such fees in the General Fund, fifty dollars of each fee shall be credited within thirty days into a non-lapsing account to the Department of Public Safety for the purpose of administration and the regulation of the Special Licensing and Firearms Unit within the State of Connecticut.