

IN THE CIRCUIT AND DISTRICT COURTS FOR THE STATE OF OREGON
FOR COOS AND CURRY COUNTIES

96 DEC 17 AM 8:01

COQUILLE, OREGON

IN THE MATTER OF ESTABLISHING)
THE PROCEDURE FOR FILING AND)
HEARING PETITIONS UNDER)
ORS 166.274)

GENERAL ORDER

96-03

This matter having come before the court because the Oregon legislature enacted ORS 166.274 requiring district courts to hear petitions filed by persons disqualified from possessing or purchasing firearms and requiring the circuits courts to hold de novo hearings of appeals from district courts and the statute not fully setting forth the procedures for filing and hearing, the court hereby adopts the following procedures:

It is hereby ordered that a petition filed by a person under ORS 166.274 shall request the court to set a hearing requiring the city chief of police of the city in which the court is located or the sheriff of the county in which the court is located to appear and show cause why the petition requesting relief from the bar of possessing or purchasing a firearm should not be granted.

It is hereby further ordered that a fingerprint card and an affidavit shall be attached to the petition with the affidavit setting forth the person's full name and all other names which have been used by the person or by which the person is known, the person's date of birth, and why the person filing the petition is disqualified under ORS 166.250(1)(c)(A), (B), (D) or (E), or ORS 166.470, including where applicable, the name of the crime or crimes the person was convicted of or adjudicated on if the person was a juvenile, the date of the conviction or convictions or adjudication or adjudications, and the court or courts in which the conviction or convictions or adjudication or adjudications occurred.

It is further ordered that an order to show cause shall accompany the petition and shall include a blank space for the court to write in the date of the hearing and a line for the court's signature.

It is hereby further ordered that after the court sets the date and signs the order, the person filing the petition shall immediately mail a certified copy of the petition, affidavit, and order to the appropriate law enforcement official as designated in the second paragraph above and file with the court a statement of the date on which the mailing occurred.

It is further ordered that the court shall set the hearing so that the petition can be heard and disposed of not later than 30 days after the petition has been filed.

It is hereby further ordered that the person filing the petition shall appear at the time set

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cc: all judges
all supervisors
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for the hearing and present evidence to prove by clear and convincing evidence that the person does not pose a threat to the safety of the public or to the person filing the petition.

It is hereby further ordered that the appropriate law enforcement official as designated in the second paragraph above served with a copy of the petition, affidavit, and order may appear at the show cause hearing and present evidence either in favor of or opposed to granting the petition.

It is hereby further ordered that if the court grants the petition after the hearing the court shall make findings and conclusions and issue a judgment which along with the fingerprint card submitted with the petition shall be sent to the Department of State Police.

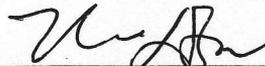
It is hereby further ordered that if the Department of State Police charge a reasonable fee for the entry and maintenance of the information required in the paragraph above, the person filing the petition shall provide the court with a check or money order made payable to the Department of State Police, said check or money order to be submitted to the Department of State Police at the same time as the judgment and fingerprint card.

It is further ordered that if the court denies the petition, the court shall make findings and conclusions and issue a judgment and cause the information to be entered into the Department of State Police computerized criminal history files.

It is hereby further ordered that an appeal to a circuit court from a judgment entered by a district court shall be in accordance with Chapter 53 of the Oregon Revised Statutes.

It is hereby further ordered that the above procedures, except the preceding paragraph, shall apply to circuit courts beginning January 15, 1998, the date on which district courts are abolished.

Dated at the city of Coquille, Oregon this 16th day of December, 1996.



Richard L. Barron
Presiding Judge