

2012 Kansas Statutes

75-7c27. Petition for relief of firearm prohibitions; procedure. (a) An individual who has been adjudicated as a mentally ill person subject to involuntary commitment for care and treatment, or who is prohibited from shipping, transporting, possessing or receiving firearms or ammunition by subsection (d)(4) or (g)(4) of 18 U.S.C. § 922, may petition for relief of disabilities for the purpose of firearm prohibitions imposed under state and federal laws.

(b) A petitioner shall submit such petition to a court of competent jurisdiction within this state.

(c) The court may only consider petitions for relief due to mental health adjudications or commitments that occurred within the state.

(d) The court shall consider the petition for relief, in accordance with the principles of due process. Such petitioner shall submit, and such court shall receive and consider:

(1) The circumstances regarding the firearm disability imposed by federal law;

(2) such petitioner's mental health records;

(3) such petitioner's criminal history records; and

(4) such petitioner's reputation, developed through character witness statements, testimony or other character evidence.

(e) The court shall grant relief only if such court determines there is clear and convincing evidence that:

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

(2) granting such relief would not be contrary to the public interest.

(f) If the court denies the petition for relief, the petitioner may petition a court of proper jurisdiction for a de novo judicial review of the court's decision to deny such petition.

(g) Documentation of a granted petition shall be submitted to the Kansas bureau of investigation. The Kansas bureau of investigation shall immediately cause such order to be entered into the appropriate state and federal databases.

(h) As used in this section:

(1) "Mentally ill person subject to involuntary commitment for care and treatment" has the same meaning as defined in K.S.A. 59-2946, and amendments thereto.

(2) "Due process" requires that:

(A) The petitioner shall have the opportunity to submit such petitioner's own evidence to the court;

(B) an independent decision maker, other than the individual who gathered the evidence for the court acting on the application, shall review such evidence; and

(C) a record of the proceedings shall be created and maintained for review.

History: L. 2011, ch. 100, § 1; July 1.