

HOUSE BILL NO. 737

INTRODUCED BY E. STAFMAN

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A SUICIDE PREVENTION PROGRAM BY PROVIDING FOR A VOLUNTARY DO-NOT-SELL LIST; ALLOWING A PERSON TO VOLUNTARILY WAIVE THE PERSON'S FIREARM RIGHTS BY BEING PLACED IN THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM INDICES; PROVIDING FOR THE AVAILABILITY OF VOLUNTARY WAIVER FORMS; ESTABLISHING PROCESSES FOR ADDITION, REMOVAL, AND EXPEDITED REMOVAL FROM THE VOLUNTARY DO-NOT-SELL LIST; PROVIDING FOR CONFIDENTIALITY; PROVIDING FOR NONDISCRIMINATION BASED ON A PERSON'S VOLUNTARY WAIVER; ESTABLISHING PENALTIES; PROVIDING DEFINITIONS; AMENDING SECTIONS 45-8-312, 45-8-314, AND 45-8-321, MCA; PROVIDING FOR CONTINGENT VOIDNESS; AND PROVIDING EFFECTIVE DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Short title. [Sections 1 through 13] may be cited as the "Prevent Suicide through a Voluntary Do-Not-Sell List Act".

NEW SECTION. Section 2. Purpose. The purpose of [sections 1 through 13] is to aid in suicide prevention by providing Montana citizens with a way to voluntarily be added to the federal list of persons restricted from purchasing firearms.

NEW SECTION. Section 3. Definitions. As used in [sections 1 through 13], unless the context clearly indicates otherwise, the following definitions apply:

(1) "Firearm permit" means a concealed carry permit, an enhanced concealed carry permit, and a permit issued pursuant to 45-8-314.

(2) "Voluntary do-not-sell list" means the national instant criminal background check system indices to which a person has been added voluntarily pursuant to this part.

(3) "Voluntary waiver documents" means a voluntary waiver of firearm rights form and a revocation form.

NEW SECTION. Section 4. Availability of forms. (1) The department of public health and human services and the department of justice shall make voluntary waiver documents available on their official websites.

(2) Court clerks shall make voluntary waiver documents physically available in their offices.

(3) A licensed medical professional with an office in this state shall make the voluntary waiver documents physically available to a requesting patient.

(4) A local law enforcement agency shall make voluntary waiver documents physically available in their offices.

NEW SECTION. Section 5. Addition process. (1) A person may submit a signed voluntary waiver of firearm rights form in person to the local law enforcement agency of the county in which the person resides.

(2) A person submitting a voluntary waiver of firearm rights form shall provide a government-issued photo identification to prove the person's identity.

(3) A person submitting a voluntary waiver of firearm rights form who possesses a firearm permit shall include the permit with the form.

(4) The local law enforcement agency shall add the person to the national instant criminal background check system indices and any other federal or state systems used by law enforcement to identify prohibited possessors and purchasers of firearms within 24 hours of receipt of the voluntary waiver of firearm rights form.

NEW SECTION. Section 6. Removal process. Any time after submitting a voluntary waiver of firearm rights form the person may submit a revocation form requesting to be removed from the voluntary do-not-sell list. Unless the person is otherwise prohibited from possessing or purchasing a firearm under state or federal law, 21 calendar days after receipt of the request for removal, the local law enforcement agency shall:

(1) remove the person and all their information from the national instant criminal background check

1 system indices and any other state or federal systems used by law enforcement to identify prohibited
2 possessors and purchasers of firearms in which the person's information was entered;

3 (2) destroy all identifying records related to the person being added or removed from the voluntary
4 do-not-sell list; and

5 (3) return any firearm permits to the person by first-class mail.
6

7 **NEW SECTION. Section 7. Expedited removal process.** At any time after requesting to be added
8 to the voluntary do-not-sell list, a person may seek expedited removal by filing a revocation form with the district
9 court of the county where the person resides. The court shall hold a hearing within 2 business days of receipt of
10 the form. There may not be filing fees for a request for expedited removal. The court shall determine by a
11 preponderance of the evidence whether the request is voluntary, knowing, and intelligent. No later than 1
12 business day after the conclusion of the hearing, the court shall inform the person of the court's determination
13 and, if the court determines that the request is voluntary, knowing, and intelligent, the court shall instruct the
14 department to immediately remove the person from the voluntary do-not-sell list unless the person is otherwise
15 prohibited from possessing or purchasing a firearm under state or federal law, and return any firearm permits to
16 the person. An adverse finding does not impact a person's ability to file for nonexpedited removal from the
17 voluntary do-not-sell list.
18

19 **NEW SECTION. Section 8. Confidentiality.** (1) Except as provided in subsection (2), a person's
20 voluntary waiver documents are not subject to public disclosure because the demand of individual privacy
21 regarding the voluntary waiver of firearm rights is exceptionally strong.

22 (2) Voluntary waiver documents may be obtained by a peace officer acting in the course of the
23 officer's official duties, by the applicant, and by any attorneys prosecuting or defending the applicant.
24

25 **NEW SECTION. Section 9. Nondiscrimination.** (1) Except as provided in subsection (2) or during
26 an expedited removal proceeding pursuant to [section 7], an entity may not inquire about, condition services on,
27 or discriminate on the basis of a person's voluntary waiver of firearm rights or rescission of the waiver.

28 (2) This section does not apply to an employee or job applicant if the job requires carrying a

1 firearm.

2

3 NEW SECTION. Section 10. Penalties. (1) A person who knowingly makes a false statement on a
4 voluntary waiver document, including making a request on behalf of someone else, commits the offense of
5 perjury.

6 (2) A person who has been added to the voluntary do-not-sell list who knowingly receives or
7 possesses a firearm shall be subject to a fine not exceeding \$25 or 4 hours of community service.

8 (3) A person who coerces another person to submit voluntary waiver documents shall be subject to
9 a fine of up to \$1,000, up to 1 year of incarceration, or both.

10

11 NEW SECTION. Section 11. Voluntary do-not-sell list addition. The application to be added to the
12 voluntary do-not-sell list must read as follows:

13 VOLUNTARY WAIVER OF FIREARM RIGHTS

14 I (first, middle, last name).....
15 voluntarily waive my firearm rights and voluntarily suspend any firearm permits I possess and enclose them
16 with this application.

17 Date of birth (month/day/year)..... Race.....

18 Sex..... Weight..... Height..... Eye color..... Hair color.....

19 Address.....

20 PERMIT TO CARRY CONCEALED WEAPON

21 ☐ I possess a permit to carry a concealed weapon and voluntarily suspend that permit.

22 ☐ I do not possess a permit to carry a concealed weapon.

23 ENHANCED PERMIT TO CARRY CONCEALED WEAPON

24 ☐ I possess an enhanced permit to carry a concealed weapon and voluntarily suspend that permit.

25 ☐ I do not possess an enhanced permit to carry a concealed weapon.

26 STATE SUPERVISION OF FIREARM RIGHTS

27 ☐ I am convicted of an offense provided for in section 45-8-313, MCA, and have a permit pursuant to
28 section 45-8-314, MCA, and voluntarily suspend that permit.

☐ I am not convicted of an offense provided for in section 45-8-313, MCA.

THIRD-PARTY CONTACT (optional)

☐ If I attempt to buy a firearm or revoke this waiver, contact:

Third-party contact name:.....

Telephone:..... Email:.....

DECLARATION

I declare under penalty of perjury that the foregoing is true and correct.

Date and place..... Signature.....

NEW SECTION. **Section 12. Voluntary do-not-sell list removal.**

REVOCATION OF VOLUNTARY WAIVER OF FIREARM RIGHTS

I (first, middle, last name).....

filed a voluntary waiver of my firearm rights on (date)..... I revoke that waiver.

Date of birth (month/day/year)..... Race.....

Sex..... Weight..... Height..... Eye color..... Hair color.....

Address.....

REQUEST FOR EXPEDITED REMOVAL

☐ (optional) By checking the optional box I request expedited removal from the national instant criminal background check system indices.

SECTION 45-8-313, MCA, STATEMENT

☐ I am not convicted of an offense as provided in section 45-8-313, MCA.

☐ I am convicted of an offense as provided in section 45-8-313, MCA, and have not been granted a permit as provided in section 45-8-314, MCA.

☐ I am convicted of an offense as provided in section 45-8-313, MCA, and have been granted a permit as provided in section 45-8-314, MCA.

PERMITS (check any that apply)

I request the return of my:

☐ permit to carry a concealed weapon.

[] enhanced permit to carry a concealed weapon.

[] section 45-8-314, MCA, permit.

DECLARATION

I declare under penalty of perjury that the foregoing is true and correct.

Date and place..... Signature.....

NEW SECTION. Section 13. Department of public health and human services developed forms.

The department of public health and human services shall develop forms for a person to request addition to the voluntary do-not-sell list, for removal from the voluntary do-not-sell list, and for expedited removal from the voluntary do-not-sell list. The forms must contain a signature line for the requesting person and state that the form is signed under penalty of perjury. The forms must include all information necessary for identification and entry of the person into the national instant criminal background check system indices to identify prohibited possessors or purchasers of firearms.

Section 14. Section 45-8-312, MCA, is amended to read:

"45-8-312. Enhanced permit to carry concealed weapon -- temporary restricted enhanced permit for individuals 18 to 20 years of age. (1) To obtain an optional enhanced permit to carry a concealed weapon, an applicant shall submit an application to the sheriff of the county in which the applicant resides. The permit is valid for 5 years from the date of issuance and may be renewed pursuant to subsection (6).

(2) An application for an enhanced permit must include:

(a) a copy of the applicant's fingerprints for submission to the federal bureau of investigation, or to any government agency or entity authorized to receive the information, for a state, national, and international criminal background check;

(b) an authorization from the applicant to run a fingerprint background check; and

(c) proof that the applicant:

(i) _____ has successfully completed a qualifying handgun course, as defined in subsection (5), within the preceding 12 months; or

(ii) is a current or former law enforcement officer and has, within the preceding 12 months,

1 qualified or regualified on a certified shooting course administered by a firearms instructor approved by a law
2 enforcement agency.

3 (3) An applicant for an enhanced concealed carry permit must be:

4 (a) a United States citizen or permanent lawful resident;

5 (b) 21 years of age or older;

6 (c) the holder of a valid Montana driver's license or other form of identification issued by the state
7 that has a picture of the person identified; and

8 (d) a resident of the state for at least 6 months on the date of application.

9 (4) A county sheriff who receives an application for an enhanced permit to carry a concealed
10 weapon shall:

11 (a) conduct or cause to be conducted the criminal background checks required pursuant to
12 subsection (2);

13 (b) retain the application and other documents until the sheriff receives the results of the
14 background checks required pursuant to subsection (2); and

15 (c) after receiving satisfactory background check results and verification that an applicant has met
16 the requirements of subsection (2)(c)(i) or (2)(c)(ii) and subsection (3), issue a permit clearly designated as
17 enhanced within 60 days after the filing of the application.

18 (5) A qualifying handgun course is any handgun course approved by a law enforcement agency
19 that includes instruction in each of the following:

20 (a) laws relating to firearms and the use of force;

21 (b) the basic concepts of the safe and responsible use of handguns;

22 (c) self-defense principles; and

23 (d) live fire training, including the firing of at least 98 rounds of ammunition by the student.

24 (6) A person who holds an enhanced permit to carry a concealed weapon may renew the permit
25 through the sheriff of the county in which the person resides. The period for renewal begins 180 days before the
26 permit expires and ends 30 days after the permit expires. To renew an enhanced permit, a person shall:

27 (a) pass a criminal background check; and

28 (b) present proof that:

1 (i) during the period of renewal, the applicant successfully completed a live fire component of a
2 qualifying handgun course pursuant to subsection (5)(d); or

3 (ii) the applicant is a current or former law enforcement officer and has, within the preceding 12
4 months, qualified or requalified on a certified shooting course administered by a firearms instructor approved by
5 a law enforcement agency.

6 (7) (a) If a person fails to renew an enhanced permit to carry a concealed weapon during the
7 period set forth in subsection (6), the enhanced permit is deemed to be invalid.

8 (b) To obtain an enhanced permit after a previous enhanced permit has become invalid, a person
9 shall submit a new application and meet all requirements for an initial enhanced permit.

10 (8) Except as provided in subsection (9), an enhanced permit to carry a concealed weapon may
11 not be denied to a qualified applicant unless the applicant:

12 (a) is ineligible under Montana or federal law to own, possess, or receive a firearm;

13 (b) has been charged and is awaiting judgment in any state or federal crime that is
14 punishable by incarceration for 1 year or more;

15 (c) subject to the provisions of subsection (10), has been convicted in any state or federal court of:

16 (i) a crime punishable by more than 1 year of incarceration; or

17 (ii) regardless of the sentence that may be imposed, a crime that includes as an element of the
18 crime an act, attempted act, or threat of intentional homicide, serious bodily harm, unlawful restraint, sexual
19 abuse, or sexual intercourse or contact without consent;

20 (d) has been convicted under 45-8-327 or 45-8-328, unless the applicant has been pardoned or 5
21 years have elapsed since the date of the conviction;

22 (e) has a warrant of any state or the federal government out for the applicant's arrest;

23 (f) has been adjudicated in a criminal or civil proceeding in any state or federal court to be an
24 unlawful user of an intoxicating substance and is under a court order of imprisonment or other incarceration,
25 probation, suspended or deferred imposition of sentence, treatment or education, or other conditions of release
26 or is otherwise under state supervision;

27 (g) has been adjudicated in a criminal or civil proceeding in any state or federal court to be
28 mentally ill, mentally disordered, or mentally disabled and is still subject to a disposition order of that court; or

1 (h) was dishonorably discharged from the United States armed forces.

2 (9) A county sheriff may deny an applicant an enhanced permit to carry a concealed weapon if the
3 sheriff has reasonable cause to believe that the applicant is mentally ill, mentally disordered, or mentally
4 disabled or otherwise may be a threat to the peace and good order of the community to the extent that the
5 applicant should not be allowed to carry a concealed weapon. At the time an application is denied, the sheriff
6 shall, unless the applicant is the subject of an active criminal investigation, give the applicant a written
7 statement of the reasonable cause on which the denial is based.

8 (10) Except for a person referred to in subsection (8)(c)(ii), a person who has been convicted of a
9 felony and whose rights have been restored pursuant to Article II, section 28, of the Montana constitution is
10 entitled to issuance of an enhanced concealed weapons permit if otherwise eligible.

11 (11) The fee for issuance of an enhanced permit is \$75. The fee for an enhanced permit must be
12 paid to the county sheriff. The county sheriff shall forward the appropriate amount of the fee to the department
13 of justice to cover the costs of background checks and fingerprinting.

14 (12) The sheriff of the county in which the permittee resides may revoke the enhanced permit or
15 deny its renewal under 45-8-323.

16 (13) A denial or revocation of an enhanced permit or a refusal to renew an enhanced permit may be
17 appealed under 45-8-324.

18 (14) The immunity from liability provided under 45-8-326 applies to the grant of, renewal of, or
19 failure to revoke an enhanced permit.

20 (15) (a) An applicant between 18 and 20 years of age who otherwise meets the requirements of
21 subsections (2) and (3) and any other specified requirements and qualifications, on approval from the sheriff of
22 the county where the applicant submitted the application, must be issued a temporary restricted enhanced
23 permit that clearly designates the restricted enhanced permit is for individuals who are 18 to 20 years of age.

24 (b) An individual holding an unexpired restricted enhanced permit who has reached the age of 21
25 may submit a written request to the sheriff of the county in which the individual resides for an unrestricted
26 enhanced permit. The unrestricted enhanced permit must be issued at no additional cost.

27 (16) A person may temporarily suspend a permit issued pursuant to this section as provided in
28 [sections 1 through 13]."

1

2 **Section 15.** Section 45-8-314, MCA, is amended to read:

3 **"45-8-314. Lifetime firearms supervision of certain convicted persons.** (1) For the purposes of
4 rehabilitation and public protection, a person convicted of an offense referred to in 45-8-313 shall, as part of the
5 sentence imposed, be sentenced to life supervision by the state for the purpose of restricting the person's right
6 to purchase and possess firearms. Active supervision by a probation or parole officer is not required but may be
7 imposed by the court. "Supervision" means that the person may not violate 45-8-313 and must comply with
8 other state and federal law restrictions on the purchase and possession of firearms.

9 (2) (a) A person subject to subsection (1) may apply to the district court for the county in which the
10 person resides for a permit to purchase and possess one or more firearms. The person shall show good cause
11 for the possession of each firearm sought to be purchased and possessed. The grant or denial of the
12 application does not prevent the person from making another application, except that if an application is denied,
13 another application may not be made for the next 12 months.

14 (b) The application must contain the following information:

15 (i) the person's full name and any past or present aliases;

16 (ii) the person's date and place of birth;

17 (iii) the person's address;

18 (iv) the person's occupation;

19 (v) the make and model of each firearm sought to be purchased and possessed;

20 (vi) the date and place of each conviction of an offense referred to in 45-8-313, the name of the
21 offense, the state and county in which the offense occurred, the sentence imposed, the place or places of
22 incarceration, and the date of discharge from supervision for the last offense;

23 (vii) the name and business address of the person's last probation or parole officer; and

24 (viii) any other information considered necessary by the court.

25 (c) The person shall, at the time of filing the application with the court, mail a copy to the county
26 attorney and county sheriff.

27 (d) The county attorney or county sheriff may file a written objection with the court. If no objection
28 is filed, the court may grant the permit if it finds that the person has shown good cause to purchase and

1 possess the firearm or firearms listed in the application. If an objection is filed, a hearing must be held within 60
2 days after the filing of the objection. If the court first finds that the person has shown good cause to purchase
3 and possess the firearm or firearms listed in the application and that, but for the objection, the court would have
4 granted a permit, the court shall decide whether the objection is valid and overrides the good cause showing
5 and requires denial of the permit.

6 (3) A person may temporarily suspend a permit issued pursuant to this section as provided in
7 [sections 1 through 13]."
8

9 **Section 16.** Section 45-8-321, MCA, is amended to read:

10 **"45-8-321. Permit to carry concealed weapon.** (1) A county sheriff shall, within 60 days after the
11 filing of an application, issue a permit to carry a concealed weapon to the applicant. The permit is valid for 5
12 years from the date of issuance. An applicant must be a United States citizen or permanent lawful resident who
13 is 18 years of age or older and who holds a valid Montana driver's license or other form of identification issued
14 by the state that has a picture of the person identified. An applicant must have been a resident of the state for
15 at least 6 months. Except as provided in subsection (2), this privilege may not be denied an applicant unless
16 the applicant:

- 17 (a) is ineligible under Montana or federal law to own, possess, or receive a firearm;
18 (b) has been charged and is awaiting judgment in any state or federal crime that is
19 punishable by incarceration for 1 year or more;
20 (c) subject to the provisions of subsection (6), has been convicted in any state or federal court of:
21 (i) a crime punishable by more than 1 year of incarceration; or
22 (ii) regardless of the sentence that may be imposed, a crime that includes as an element of the
23 crime an act, attempted act, or threat of intentional homicide, serious bodily harm, unlawful restraint, sexual
24 abuse, or sexual intercourse or contact without consent;
25 (d) has been convicted under 45-8-327 or 45-8-328, unless the applicant has been pardoned or 5
26 years have elapsed since the date of the conviction;
27 (e) has a warrant of any state or the federal government out for the applicant's arrest;
28 (f) has been adjudicated in a criminal or civil proceeding in any state or federal court to be an

1 unlawful user of an intoxicating substance and is under a court order of imprisonment or other incarceration,
2 probation, suspended or deferred imposition of sentence, treatment or education, or other conditions of release
3 or is otherwise under state supervision;

4 (g) has been adjudicated in a criminal or civil proceeding in any state or federal court to be
5 mentally ill, mentally disordered, or mentally disabled and is still subject to a disposition order of that court; or

6 (h) was dishonorably discharged from the United States armed forces.

7 (2) The sheriff may deny an applicant a permit to carry a concealed weapon if the sheriff has
8 reasonable cause to believe that the applicant is mentally ill, mentally disordered, or mentally disabled or
9 otherwise may be a threat to the peace and good order of the community to the extent that the applicant should
10 not be allowed to carry a concealed weapon. At the time an application is denied, the sheriff shall, unless the
11 applicant is the subject of an active criminal investigation, give the applicant a written statement of the
12 reasonable cause upon which the denial is based.

13 (3) An applicant for a permit under this section must, as a condition to issuance of the permit, be
14 required by the sheriff to demonstrate familiarity with a firearm by:

15 (a) completion of a hunter education or safety course approved or conducted by the department of
16 fish, wildlife, and parks or a similar agency of another state;

17 (b) completion of a firearms safety or training course approved or conducted by the department of
18 fish, wildlife, and parks, a similar agency of another state, a national firearms association, a law enforcement
19 agency, an institution of higher education, or an organization that uses instructors certified by a national
20 firearms association;

21 (c) completion of a law enforcement firearms safety or training course offered to or required of
22 public or private law enforcement personnel and conducted or approved by a law enforcement agency;

23 (d) possession of a license from another state to carry a firearm, concealed or otherwise, that is
24 granted by that state upon completion of a course described in subsections (3)(a) through (3)(c); or

25 (e) evidence that the applicant, during military service, was found to be qualified to operate
26 firearms, including handguns.

27 (4) A photocopy of a certificate of completion of a course described in subsection (3), an affidavit
28 from the entity or instructor that conducted the course attesting to completion of the course, or a copy of any

1 other document that attests to completion of the course and can be verified through contact with the entity or
2 instructor that conducted the course creates a presumption that the applicant has completed a course
3 described in subsection (3).

4 (5) If the sheriff and applicant agree, the requirement in subsection (3) of demonstrating familiarity
5 with a firearm may be satisfied by the applicant's passing, to the satisfaction of the sheriff or of any person or
6 entity to which the sheriff delegates authority to give the test, a physical test in which the applicant
7 demonstrates the applicant's familiarity with a firearm.

8 (6) A person, except a person referred to in subsection (1)(c)(ii), who has been convicted of a
9 felony and whose rights have been restored pursuant to Article II, section 28, of the Montana constitution is
10 entitled to issuance of a concealed weapons permit if otherwise eligible.

11 (7) A person may temporarily suspend a permit issued pursuant to this section as provided in
12 [sections 1 through 13]."

13
14 NEW SECTION. Section 17. Codification instruction. [Sections 1 through 13] are intended to be
15 codified as an integral part of Title 45, chapter 8, part 3, and the provisions of Title 45, chapter 8, part 3, apply
16 to [sections 1 through 13].

17
18 NEW SECTION. Section 18. Contingent voidness. If the director of the department of public health
19 and human services makes a certification pursuant to [section 19], then [sections 11 and 12] are void.

20
21 NEW SECTION. Section 19. Effective date -- contingent effective date. (1) Except as provided in
22 subsection (2), [this act] is effective January 1, 2026.

23 (2) [Section 13] is effective on the date that the director of the department of public health and
24 human services certifies to the code commissioner that the forms prescribed by [sections 11 and 12] are
25 insufficient for the purpose of [this act].

26 - END -