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West's Annotated Code of Maryland

Public Safety

Effective: October 1, 2013

West's Annotated Code of Maryland
Public Safety (Refs & Annos)
Title 5. Firearms (Refs & Annos)
Subtitle 1. Regulated Firearms (Refs & Annos)

Effective: October 1, 2013

MD Code, Public Safety, § 5-133.3

§ 5-133.3. Persons subject to regulated firearms disqualification[Currentness](#)**Health Department defined**

(a) In this section, "Health Department" means the Maryland Department of Health.

Exemptions to regulated firearms disqualification

(b) A person subject to a regulated firearms disqualification under § 5-133(b)(6), (7), (8), (9), (10), or (11) of this subtitle, a rifle or shotgun disqualification under § 5-205(b)(6), (7), (8), (9), (10), or (11) of this title, or prohibited from the shipment, transportation, possession, or receipt of a firearm by 18 U.S.C. §§ 922(d)(4) or (g)(4) as a result of an adjudication or commitment that occurred in the State may be authorized to possess a firearm if:

- (1) the person is not subject to another firearms restriction under State or federal law; and
- (2) the Health Department, in accordance with this section, determines that the person may possess a firearm.

Relief from firearms disqualification

(c) A person who seeks relief from a firearms disqualification shall file an application with the Health Department in the form and manner set by the Health Department.

Applications for relief from firearms disqualification

(d) An application for relief from a firearms disqualification shall include:

- (1) a complete and accurate statement explaining the reason why the applicant is prohibited from possessing a regulated firearm under § 5-133(b)(6), (7), (8), (9), (10), or (11) of this subtitle or a rifle or shotgun under § 5-205(b)(6), (7), (8), (9), (10), or (11) of this title, or is prohibited from the shipment, transportation, possession, or receipt of a firearm by 18 U.S.C. §§ 922(d)(4) or (g)(4) as a result of an adjudication or commitment that occurred in the State;
- (2) a statement why the applicant should be relieved from the prohibition described in item (1) of this subsection;
- (3) if the applicant is subject to a prohibition described in item (1) of this subsection, a certificate issued within 30 days of the submission of the application on a form approved by the Health Department and signed by an individual licensed in the State as a physician who is board certified in psychiatry or as a psychologist stating:
 - (i) the length of time that the applicant has not had symptoms that cause the applicant to be a danger to the applicant or others, or, if the disqualification relates to an intellectual disability, the length of time that the applicant has not engaged in behaviors that cause the applicant to be a danger to the applicant or others;
 - (ii) the length of time that the applicant has been compliant with the treatment plan for the applicant's mental illness, or, if the disqualification relates to an intellectual disability, the length of time that the applicant has been compliant with any behavior plan or behavior management plan;
 - (iii) an opinion as to whether the applicant, because of mental illness, would be a danger to the applicant if allowed to possess a firearm and a statement of reasons for the opinion; and
 - (iv) an opinion as to whether the applicant, because of mental illness, would be a danger to another person or poses a risk to public safety if allowed to possess a firearm;
- (4) if the applicant is prohibited from possessing a firearm under § 5-133(b)(11) of this subtitle or § 5-205(b)(11) of this title:
 - (i) a copy of all pleadings, affidavits, and certificates submitted into evidence at the guardianship proceeding; and

(ii) all orders issued by the court relating to the guardianship, including, if applicable, an order indicating that the guardianship is no longer in effect;

(5) a signed authorization, on a form approved by the Health Department, allowing the Health Department to access any relevant health care, mental health, disability, guardianship, and criminal justice records, including court ordered or required mental health records, of the applicant for use in determining whether the applicant should be relieved from a firearms disqualification;

(6) three statements signed and dated within 30 days of submission to the Health Department on a form designated by the Health Department attesting to the applicant's reputation and character relevant to firearm ownership or possession including:

(i) at least two statements provided by an individual who is not related to the applicant; and

(ii) contact information for each individual providing a statement; and

(7) any other information required by the Health Department.

Applications not subject to approval

(e) The Health Department may not approve an application under this section if a determination is made that:

(1) the applicant supplied incomplete or false information or made a false statement;

(2) the application is not properly completed; or

(3) on review of the application and supporting documentation and any other information relating to the application requested by the Health Department, including any criminal history records and mental health records of the applicant, the applicant has not shown by a preponderance of the evidence that the applicant will be unlikely to act in a manner dangerous to the applicant or to public safety and that granting a license to possess a regulated firearm or authorizing the possession of a rifle or shotgun would not be contrary to the public interest.

Certificate affirming applicant's mental competence

(f)(1) If the Health Department determines that the application shall be approved, the Health Department shall provide the applicant with a certificate affirming the applicant's mental competence to possess a firearm.

(2) A certificate provided under paragraph (1) of this subsection or a written statement that the individual is not mentally competent to possess a firearm shall be provided to the applicant within 60 days from the Health Department's receipt of a completed application, which includes any records necessary to review an application.

(3) A certificate issued under paragraph (1) of this subsection shall be presented to the Department of State Police as evidence of the applicant's eligibility to possess a firearm.

Aggrieved applicants

(g)(1) An applicant who is aggrieved by the action of the Health Department under subsection (e) of this section may request a hearing in writing to the Secretary of Health within 30 days after the Health Department mails notice of the decision to the applicant.

(2)(i) The hearing requested under paragraph (1) of this subsection shall be held in accordance with Title 10, Subtitle 2 of the State Government Article within 60 days after the Health Department receives the request.

(ii) At the hearing, the information described in subsections (d) and (e) of this section shall be considered and used to determine whether the applicant, if allowed to possess a firearm, would not be likely to act in a manner dangerous to the public safety and whether granting the relief would not be contrary to the public interest.

(3)(i) Judicial review of the determination on an application under this section for relief from a firearms prohibition may be sought in accordance with §§ 10-222 and 10-223 of the State Government Article.

(ii) Notwithstanding the provisions of § 10-222 of the State Government Article, the circuit court may give deference to the final decision of the Health Department and may in its discretion receive additional evidence that it determines to be necessary to conduct an adequate review.

Review of final decisions

(h) The Board of Review of the Health Department does not have jurisdiction to review a final decision of the Health Department under this section.

Request for subsequent hearings

(i) After a determination on the merits of a hearing requested under this section, an applicant may not request a subsequent hearing within 1 year after the completion of the hearing process and any judicial review of the administrative decision.

Regulations establishing fees

(j) The Secretary of Health may adopt regulations establishing fees to cover the administrative costs associated with the implementation of this section.

Physicians or psychologists not civilly or criminally liable for actions

(k) An individual licensed in the State as a physician who is board certified in psychiatry, or a psychologist who, in good faith and with reasonable grounds, acts in compliance with this section, may not be held civilly or criminally liable for actions authorized by this section.

Credits

Added by Acts 2013, c. 427, § 1, eff. Oct. 1, 2013. Amended by Acts 2017, c. 62, § 6.

Titles 1 through 8 appear in this volume.

Editors' Notes**HISTORICAL AND STATUTORY NOTES****2017 Legislation**

Acts 2017, c. 62, § 6, in (a), substituted "Maryland Department of Health" for "Department of Health and Mental Hygiene"; and in (g)(1) and (j), substituted "Secretary of Health" for "Secretary of Health and Mental Hygiene".

MD Code, Public Safety, § 5-133.3, MD PUBLIC SAFETY § 5-133.3

Current through Chapters 1 to 5 from the 2018 Regular Session of the General Assembly

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