

Amendment No.

CHAMBER ACTION

Senate

House

.

Representative Watson, B. offered the following:

Amendment (with directory and title amendments)

Remove line 677 and insert:

790.065 Sale, ~~and~~ delivery, and possession of firearms.-

(1)(a)1. A licensed importer, licensed manufacturer, or licensed dealer may not sell or deliver from her or his inventory at her or his licensed premises any firearm to another person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, who is less than 21 years of age, except that a licensed importer, licensed manufacturer, or licensed dealer may sell or deliver a rifle or shotgun to a person who is 18 years of age or older and is a law

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14 enforcement officer or correctional officer as defined in s.
15 943.10 or on active duty in the Armed Forces of the United
16 States or full-time duty in the National Guard.

17 2. For a person 21 years of age or older, or 18 years of
18 age or older and meeting an exception under this paragraph, a
19 licensed importer, licensed manufacturer, or licensed dealer may
20 not sell or deliver from her or his inventory at her or his
21 licensed premises any firearm to another person, other than a
22 licensed importer, licensed manufacturer, licensed dealer, or
23 licensed collector until she or he has:

24 a.1. Obtained a completed form from the potential buyer or
25 transferee, which form shall have been promulgated by the
26 Department of Law Enforcement and provided by the licensed
27 importer, licensed manufacturer, or licensed dealer, which shall
28 include the name, date of birth, gender, race, and social
29 security number or other identification number of such potential
30 buyer or transferee and has inspected proper identification
31 including an identification containing a photograph of the
32 potential buyer or transferee.

33 b.2. Collected a fee from the potential buyer for
34 processing the criminal history check of the potential buyer.
35 The fee shall be established by the Department of Law
36 Enforcement and may not exceed \$8 per transaction. The
37 Department of Law Enforcement may reduce, or suspend collection
38 of, the fee to reflect payment received from the Federal

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39 Government applied to the cost of maintaining the criminal
40 history check system established by this section as a means of
41 facilitating or supplementing the National Instant Criminal
42 Background Check System. The Department of Law Enforcement
43 shall, by rule, establish procedures for the fees to be
44 transmitted by the licensee to the Department of Law
45 Enforcement. All such fees shall be deposited into the
46 Department of Law Enforcement Operating Trust Fund, but shall be
47 segregated from all other funds deposited into such trust fund
48 and must be accounted for separately. Such segregated funds must
49 not be used for any purpose other than the operation of the
50 criminal history checks required by this section. The Department
51 of Law Enforcement, each year prior to February 1, shall make a
52 full accounting of all receipts and expenditures of such funds
53 to the President of the Senate, the Speaker of the House of
54 Representatives, the majority and minority leaders of each house
55 of the Legislature, and the chairs of the appropriations
56 committees of each house of the Legislature. In the event that
57 the cumulative amount of funds collected exceeds the cumulative
58 amount of expenditures by more than \$2.5 million, excess funds
59 may be used for the purpose of purchasing soft body armor for
60 law enforcement officers.

61 ~~c.3.~~ Requested, by means of a toll-free telephone call,
62 the Department of Law Enforcement to conduct a check of the
63 information as reported and reflected in the Florida Crime

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64 Information Center and National Crime Information Center systems
65 as of the date of the request.

66 ~~d.4.~~ Received a unique approval number for that inquiry
67 from the Department of Law Enforcement, and recorded the date
68 and such number on the consent form.

69 (2) Upon receipt of a request for a criminal history
70 record check, the Department of Law Enforcement shall, during
71 the licensee's call or by return call, forthwith:

72 (a) Review any records available to determine if the
73 potential buyer or transferee:

74 1. Has been convicted of a felony and is prohibited from
75 receipt or possession of a firearm pursuant to s. 790.23;

76 2. Has been convicted of a misdemeanor crime of domestic
77 violence, and therefore is prohibited from purchasing a firearm;

78 3. Has had adjudication of guilt withheld or imposition of
79 sentence suspended on any felony or misdemeanor crime of
80 domestic violence unless 3 years have elapsed since probation or
81 any other conditions set by the court have been fulfilled or
82 expunction has occurred; or

83 4. Has been adjudicated mentally defective or has been
84 committed to a mental institution by a court or as provided in
85 sub-sub-subparagraph b.(II), and as a result is prohibited by
86 state or federal law from purchasing or possessing a firearm.

87 a. As used in this subparagraph, "adjudicated mentally
88 defective" means a determination by a court that a person, as a

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89 result of marked subnormal intelligence, or mental illness,
90 incompetency, condition, or disease, is a danger to himself or
91 herself or to others or lacks the mental capacity to contract or
92 manage his or her own affairs. The phrase includes a judicial
93 finding of incapacity under s. 744.331(6)(a), an acquittal by
94 reason of insanity of a person charged with a criminal offense,
95 and a judicial finding that a criminal defendant is not
96 competent to stand trial.

97 b. As used in this subparagraph, "committed to a mental
98 institution" means:

99 (I) Involuntary commitment, commitment for mental
100 defectiveness or mental illness, and commitment for substance
101 abuse. The phrase includes involuntary inpatient placement as
102 defined in s. 394.467, involuntary outpatient placement as
103 defined in s. 394.4655, involuntary assessment and stabilization
104 under s. 397.6818, and involuntary substance abuse treatment
105 under s. 397.6957, but does not include a person in a mental
106 institution for observation or discharged from a mental
107 institution based upon the initial review by the physician or a
108 voluntary admission to a mental institution; or

109 (II) Notwithstanding sub-sub-subparagraph (I), voluntary
110 admission to a mental institution for outpatient or inpatient
111 treatment of a person who had an involuntary examination under
112 s. 394.463, where each of the following conditions have been
113 met:

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114 (A) An examining physician found that the person is an
115 imminent danger to himself or herself or others.

116 (B) The examining physician certified that if the person
117 did not agree to voluntary treatment, a petition for involuntary
118 outpatient or inpatient treatment would have been filed under s.
119 394.463(2)(g)4., or the examining physician certified that a
120 petition was filed and the person subsequently agreed to
121 voluntary treatment prior to a court hearing on the petition.

122 (C) Before agreeing to voluntary treatment, the person
123 received written notice of that finding and certification, and
124 written notice that as a result of such finding, he or she may
125 be prohibited from purchasing or possessing a firearm, and may
126 not be eligible to apply for or retain a concealed weapon or
127 firearms license under s. 790.06 and the person acknowledged
128 such notice in writing, in substantially the following form:
129 "I understand that the doctor who examined me believes I am a
130 danger to myself or to others. I understand that if I do not
131 agree to voluntary treatment, a petition will be filed in court
132 to require me to receive involuntary treatment. I understand
133 that if that petition is filed, I have the right to contest it.
134 In the event a petition has been filed, I understand that I can
135 subsequently agree to voluntary treatment prior to a court
136 hearing. I understand that by agreeing to voluntary treatment in
137 either of these situations, I may be prohibited from buying or
138 possessing firearms and from applying for or retaining a

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139 concealed weapons or firearms license until I apply for and
140 receive relief from that restriction under Florida law."

141 (D) A judge or a magistrate has, pursuant to sub-sub-
142 subparagraph c.(II), reviewed the record of the finding,
143 certification, notice, and written acknowledgment classifying
144 the person as an imminent danger to himself or herself or
145 others, and ordered that such record be submitted to the
146 department. At the hearing, or no more than 20 days thereafter,
147 the judge or magistrate may also inquire into whether the person
148 possesses any weapons or firearms. If so, the court shall order
149 an inventory of said weapons to be entered into the record and
150 should a friend or relative be unable or unwilling to keep the
151 weapons outside of the person's control, the court may either
152 order these items be placed with or seized by the sheriff for
153 the county in which the respondent resides.

154 c. In order to check for these conditions, the department
155 shall compile and maintain an automated database of persons who
156 are prohibited from purchasing a firearm based on court records
157 of adjudications of mental defectiveness or commitments to
158 mental institutions. All Baker Act service providers shall fully
159 comply with the reporting provisions of this chapter by January
160 1, 2019. The Department of Children and Families and the
161 Department of Law Enforcement shall enforce the provisions of
162 this chapter relating to purchase and possession of firearms by
163 persons prohibited from doing so due to mental health issues.

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164 Failure by such a service provider to comply after a finding by
165 the Department of Children and Families and the Department of
166 Law Enforcement shall result in a fine of \$100,000, a subsequent
167 finding shall result in a \$250,000 fine, and a third finding may
168 result in the suspension of the provider's license by the
169 Department of Children and Families.

170 (I) Except as provided in sub-sub-subparagraph (II),
171 clerks of court shall submit these records to the department
172 within 1 month after the rendition of the adjudication or
173 commitment. Reports shall be submitted in an automated format.
174 The reports must, at a minimum, include the name, along with any
175 known alias or former name, the sex, and the date of birth of
176 the subject.

177 (II) For persons committed to a mental institution
178 pursuant to sub-sub-subparagraph b.(II), within 24 hours after
179 the person's agreement to voluntary admission, a record of the
180 finding, certification, notice, and written acknowledgment must
181 be filed by the administrator of the receiving or treatment
182 facility, as defined in s. 394.455, with the clerk of the court
183 for the county in which the involuntary examination under s.
184 394.463 occurred. No fee shall be charged for the filing under
185 this sub-sub-subparagraph. The clerk must present the records to
186 a judge or magistrate within 24 hours after receipt of the
187 records. A judge or magistrate is required and has the lawful
188 authority to review the records ex parte and, if the judge or

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189 magistrate determines that the record supports the classifying
190 of the person as an imminent danger to himself or herself or
191 others, to order that the record be submitted to the department.
192 If a judge or magistrate orders the submittal of the record to
193 the department, the record must be submitted to the department
194 within 24 hours.

195 d. A person who has been adjudicated mentally defective or
196 committed to a mental institution, as those terms are defined in
197 this paragraph, may petition the court that made the
198 adjudication or commitment, or the court that ordered that the
199 record be submitted to the department pursuant to sub-sub-
200 subparagraph c.(II), for relief from the firearm disabilities
201 imposed by such adjudication or commitment. A copy of the
202 petition shall be served on the state attorney for the county in
203 which the person was adjudicated or committed. The state
204 attorney may object to and present evidence relevant to the
205 relief sought by the petition. The hearing on the petition may
206 be open or closed as the petitioner may choose. The petitioner
207 may present evidence and subpoena witnesses to appear at the
208 hearing on the petition. The petitioner may confront and cross-
209 examine witnesses called by the state attorney. A record of the
210 hearing shall be made by a certified court reporter or by court-
211 approved electronic means. The court shall make written findings
212 of fact and conclusions of law on the issues before it and issue
213 a final order. The court shall grant the relief requested in the

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214 petition if the court finds, based on the evidence presented
215 with respect to the petitioner's reputation, the petitioner's
216 mental health record and, if applicable, criminal history
217 record, the circumstances surrounding the firearm disability,
218 and any other evidence in the record, that the petitioner will
219 not be likely to act in a manner that is dangerous to public
220 safety and that granting the relief would not be contrary to the
221 public interest. If the final order denies relief, the
222 petitioner may not petition again for relief from firearm
223 disabilities until 1 year after the date of the final order. The
224 petitioner may seek judicial review of a final order denying
225 relief in the district court of appeal having jurisdiction over
226 the court that issued the order. The review shall be conducted
227 de novo. Relief from a firearm disability granted under this
228 sub-subparagraph has no effect on the loss of civil rights,
229 including firearm rights, for any reason other than the
230 particular adjudication of mental defectiveness or commitment to
231 a mental institution from which relief is granted.

232 e. Upon receipt of proper notice of relief from firearm
233 disabilities granted under sub-subparagraph d., the department
234 shall delete any mental health record of the person granted
235 relief from the automated database of persons who are prohibited
236 from purchasing a firearm based on court records of
237 adjudications of mental defectiveness or commitments to mental
238 institutions.

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239 f. The department is authorized to disclose data collected
240 pursuant to this subparagraph to agencies of the Federal
241 Government and other states for use exclusively in determining
242 the lawfulness of a firearm sale or transfer. The department is
243 also authorized to disclose this data to the Department of
244 Agriculture and Consumer Services for purposes of determining
245 eligibility for issuance of a concealed weapons or concealed
246 firearms license and for determining whether a basis exists for
247 revoking or suspending a previously issued license pursuant to
248 s. 790.06(10). When a potential buyer or transferee appeals a
249 nonapproval based on these records, the clerks of court and
250 mental institutions shall, upon request by the department,
251 provide information to help determine whether the potential
252 buyer or transferee is the same person as the subject of the
253 record. Photographs and any other data that could confirm or
254 negate identity must be made available to the department for
255 such purposes, notwithstanding any other provision of state law
256 to the contrary. Any such information that is made confidential
257 or exempt from disclosure by law shall retain such confidential
258 or exempt status when transferred to the department.

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D I R E C T O R Y A M E N D M E N T

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Remove lines 674-676 and insert:

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263 Section 11. Subsection (13) of section 790.65, Florida
264 Statutes, is renumbered as subsection (14), paragraph (a) of
265 subsection (1) and paragraph (a) of subsection (2) of that
266 section, are amended, and a new subsection (13) is added to that
267 section, to read:

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T I T L E A M E N D M E N T

271

Remove line 65 and insert:

272

F.S.; providing exceptions; providing for the seizure

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of weapons from persons voluntarily committed in

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certain circumstances; providing penalties for certain

275

service providers that fail to comply with reporting

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requirements; prohibiting a person younger than a

277

certain age

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