

By Senator Diaz-Balart

37-1312-99

1 A bill to be entitled
2 An act relating to weapons and firearms;
3 amending s. 790.06, F.S.; revising the
4 qualifications for obtaining a license to carry
5 a concealed weapon or firearm; prohibiting the
6 Department of State from issuing such a license
7 to any person who has been involuntarily
8 committed to a mental institution under the
9 Baker Act; prohibiting such a license from
10 being issued to a person who has been
11 voluntarily committed to a facility, is
12 mentally ill, and presents a substantial
13 likelihood of harming self or others;
14 authorizing the Department of State to suspend
15 such a license upon notification of a person's
16 disqualification; amending s. 790.23, F.S.;
17 prohibiting a person from possessing a firearm
18 or electric weapon or device if the person has
19 been involuntarily committed to a mental
20 institution under the Baker Act; prohibiting a
21 person who has been voluntarily committed to a
22 facility, is mentally ill, and presents a
23 substantial likelihood of harming self or
24 others from possessing a firearm or electric
25 weapon or device; amending s. 394.467, F.S.;
26 requiring the court clerk to send a copy of any
27 court order of involuntary placement under the
28 Baker Act to the Agency for Health Care
29 Administration; creating ss. 394.4676,
30 395.3027, F.S.; requiring that the
31 administrator of a facility licensed under ch.

1 394 or ch. 395, F.S., notify the Agency for
2 Health Care Administration of any patient
3 committed to the facility who is mentally ill
4 and who presents a substantial likelihood of
5 harming self or others; requiring that the
6 agency release such information to the
7 Department of State or the Department of Law
8 Enforcement for the purpose of determining
9 whether a person is qualified to carry a
10 concealed weapon or firearm or to possess a
11 firearm or other weapon or device; providing an
12 effective date.

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14 Be It Enacted by the Legislature of the State of Florida:

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16 Section 1. Subsections (2) and (3) of section 790.06,
17 Florida Statutes, 1998 Supplement, are amended to read:

18 790.06 License to carry concealed weapon or firearm.--

19 (2) The Department of State shall issue a license if
20 the applicant:

21 (a) Is a resident of the United States or is a
22 consular security official of a foreign government that
23 maintains diplomatic relations and treaties of commerce,
24 friendship, and navigation with the United States and is
25 certified as such by the foreign government and by the
26 appropriate embassy in this country;

27 (b) Is 21 years of age or older;

28 (c) Does not suffer from a physical infirmity which
29 prevents the safe handling of a weapon or firearm;

30 (d) Is not ineligible to possess a firearm pursuant to
31 s. 790.23 by virtue of having been convicted of a felony;

1 (e) Has not been committed for the abuse of a
2 controlled substance or been found guilty of a crime under the
3 provisions of chapter 893 or similar laws of any other state
4 relating to controlled substances within a 3-year period
5 immediately preceding the date on which the application is
6 submitted;

7 (f) Does not chronically and habitually use alcoholic
8 beverages or other substances to the extent that his or her
9 normal faculties are impaired. It shall be presumed that an
10 applicant chronically and habitually uses alcoholic beverages
11 or other substances to the extent that his or her normal
12 faculties are impaired if the applicant has been committed
13 under chapter 397 or under the provisions of former chapter
14 396 or has been convicted under s. 790.151 or has been deemed
15 a habitual offender under s. 856.011(3), or has had two or
16 more convictions under s. 316.193 or similar laws of any other
17 state, within the 3-year period immediately preceding the date
18 on which the application is submitted;

19 (g) Desires a legal means to carry a concealed weapon
20 or firearm for lawful self-defense;

21 (h) Demonstrates competence with a firearm by any one
22 of the following:

23 1. Completion of any hunter education or hunter safety
24 course approved by the Game and Fresh Water Fish Commission or
25 a similar agency of another state;

26 2. Completion of any National Rifle Association
27 firearms safety or training course;

28 3. Completion of any firearms safety or training
29 course or class available to the general public offered by a
30 law enforcement, junior college, college, or private or public
31 institution or organization or firearms training school,

1 utilizing instructors certified by the National Rifle
2 Association, Criminal Justice Standards and Training
3 Commission, or the Department of State;

4 4. Completion of any law enforcement firearms safety
5 or training course or class offered for security guards,
6 investigators, special deputies, or any division or
7 subdivision of law enforcement or security enforcement;

8 5. Presents evidence of equivalent experience with a
9 firearm through participation in organized shooting
10 competition or military service;

11 6. Is licensed or has been licensed to carry a firearm
12 in this state or a county or municipality of this state,
13 unless such license has been revoked for cause; or

14 7. Completion of any firearms training or safety
15 course or class conducted by a state-certified or National
16 Rifle Association certified firearms instructor;

17
18 A photocopy of a certificate of completion of any of the
19 courses or classes; or an affidavit from the instructor,
20 school, club, organization, or group that conducted or taught
21 said course or class attesting to the completion of the course
22 or class by the applicant; or a copy of any document which
23 shows completion of the course or class or evidences
24 participation in firearms competition shall constitute
25 evidence of qualification under this paragraph; any person who
26 conducts a course pursuant to subparagraph 2., subparagraph
27 3., or subparagraph 7., or who, as an instructor, attests to
28 the completion of such courses, must maintain records
29 certifying that he or she observed the student safely handle
30 and discharge the firearm;

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1 (i) Has not been adjudicated an incapacitated person
2 under s. 744.331, or similar laws of any other state, unless 5
3 years have elapsed since the applicant's restoration to
4 capacity by court order;

5 (j) Has not been involuntarily committed to a mental
6 institution under chapter 394, or similar laws of any other
7 state, ~~unless the applicant produces a certificate from a~~
8 ~~licensed psychiatrist that he or she has not suffered from~~
9 ~~disability for at least 5 years prior to the date of~~
10 ~~submission of the application;~~

11 (k) Has not been voluntarily committed to a facility
12 under chapter 394 or chapter 395 and determined by a
13 psychiatrist or psychologist to be mentally ill and to present
14 a substantial likelihood, in the near future, of inflicting
15 serious bodily harm to himself, herself, or another person, as
16 evidenced by recent behavior, including causing, attempting,
17 or threatening such harm;

18 (l)~~(k)~~ Has not had adjudication of guilt withheld or
19 imposition of sentence suspended on any felony or misdemeanor
20 crime of domestic violence unless 3 years have elapsed since
21 probation or any other conditions set by the court have been
22 fulfilled, or the record has been sealed or expunged; and

23 (m)~~(l)~~ Has not been issued an injunction that is
24 currently in force and effect and that restrains the applicant
25 from committing acts of domestic violence or acts of repeat
26 violence.

27 (3) The Department of State shall deny a license if
28 the applicant has been found guilty of, had adjudication of
29 guilt withheld for, or had imposition of sentence suspended
30 for one or more crimes of violence constituting a misdemeanor,
31 unless 3 years have elapsed since probation or any other

1 conditions set by the court have been fulfilled or the record
2 has been sealed or expunged. The Department of State shall
3 revoke a license if the licensee has been found guilty of, had
4 adjudication of guilt withheld for, or had imposition of
5 sentence suspended for one or more crimes of violence within
6 the preceding 3 years. The department shall, upon
7 notification by a law enforcement agency, a court, the Agency
8 for Health Care Administration, or the Florida Department of
9 Law Enforcement and subsequent written verification, suspend a
10 license or the processing of an application for a license if
11 the licensee or applicant:

12 (a) Is arrested or formally charged with a crime that
13 would disqualify such person from having a license under this
14 section, until final disposition of the case;

15 (b) Has been involuntarily committed to a facility
16 under chapter 394, or similar laws of any other state; or

17 (c) Has been voluntarily committed to a facility under
18 chapter 394 or chapter 395 and determined by a psychiatrist or
19 psychologist to be mentally ill and to present a substantial
20 likelihood, in the near future, of inflicting serious bodily
21 harm to himself, herself, or another person, as evidenced by
22 recent behavior, including causing, attempting, or threatening
23 such harm.

24 (4) The department shall suspend a license or the
25 processing of an application for a license if the licensee or
26 applicant is issued an injunction that restrains the licensee
27 or applicant from committing acts of domestic violence or acts
28 of repeat violence.

29 Section 2. Section 790.23, Florida Statutes, 1998
30 Supplement, is amended to read:

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1 790.23 Felons,~~and~~ delinquents, and mentally ill
2 persons; possession of firearms or electric weapons or devices
3 unlawful.--

4 (1) It is unlawful for any person to own or to have in
5 his or her care, custody, possession, or control any firearm
6 or electric weapon or device, or to carry a concealed weapon,
7 including a tear gas gun or chemical weapon or device, if that
8 person has been:

9 (a) Convicted of a felony or found to have committed a
10 delinquent act that would be a felony if committed by an adult
11 in the courts of this state;

12 (b) Convicted of or found to have committed a crime
13 against the United States which is designated as a felony;

14 (c) Found to have committed a delinquent act in
15 another state, territory, or country that would be a felony if
16 committed by an adult and which was punishable by imprisonment
17 for a term exceeding 1 year; ~~or~~

18 (d) Found guilty of an offense that is a felony in
19 another state, territory, or country and which was punishable
20 by imprisonment for a term exceeding 1 year; ~~-~~

21 (e) Committed involuntarily to a mental institution
22 under chapter 394, or similar laws of any other state; or

23 (f) Voluntarily committed to a facility under chapter
24 394 or chapter 395 and determined by a psychiatrist or
25 psychologist to be mentally ill and to present a substantial
26 likelihood, in the near future, of inflicting serious bodily
27 harm to himself, herself, or another person, as evidenced by
28 recent behavior, including causing, attempting, or threatening
29 such harm.

30 (2) This section shall not apply to a person convicted
31 of a felony whose civil rights and firearm authority have been

1 restored, or to a person found to have committed a delinquent
2 act that would be a felony if committed by an adult with
3 respect to which the jurisdiction of the court pursuant to
4 chapter 985 has expired.

5 (3) Any person who violates this section commits a
6 felony of the second degree, punishable as provided in s.
7 775.082, s. 775.083, or s. 775.084.

8 Section 3. Paragraph (f) is added to subsection (6) of
9 section 394.467, Florida Statutes, 1998 Supplement, to read:

10 394.467 Involuntary placement.--

11 (6) HEARING ON INVOLUNTARY PLACEMENT.--

12 (f) The clerk of the court shall provide a copy of the
13 court order to the Agency for Health Care Administration
14 within 24 hours after the order is signed.

15 Section 4. Section 394.4676, Florida Statutes, is
16 created to read:

17 394.4676 Notice of patients who are mentally ill and
18 who present a danger to self or others.--

19 (1) The administrator of a receiving facility or
20 treatment facility shall submit to the Agency for Health Care
21 Administration the name and other identifying information of
22 each patient who is committed to the facility and who is
23 determined by a psychiatrist or psychologist to be mentally
24 ill and to present a substantial likelihood, in the near
25 future, of inflicting serious bodily harm to himself, herself,
26 or another person, as evidenced by recent behavior, including
27 causing, attempting, or threatening such harm.

28 (2) The Agency for Health Care Administration shall
29 maintain the information provided under subsection (1) and
30 release copies upon the request of:

31

1 (a) The Department of State for the purpose of
2 determining whether a person is qualified to carry a concealed
3 weapon or firearm, as provided in s. 790.06.

4 (b) The Department of Law Enforcement for the purpose
5 of determining whether a person is prohibited from possessing
6 a firearm or electric weapon or device, as provided in s.
7 790.23.

8 Section 5. Section 395.3027, Florida Statutes, is
9 created to read:

10 395.3027 Notice of patients who are mentally ill and
11 who present a danger to self or others.--

12 (1) The administrator of any licensed facility shall
13 submit to the Agency for Health Care Administration the name
14 and other identifying information of each patient who has been
15 determined by a psychiatrist or psychologist to be mentally
16 ill and who presents a substantial likelihood, in the near
17 future, of inflicting serious bodily harm to himself, herself,
18 or another person, as evidenced by recent behavior, including
19 causing, attempting, or threatening such harm.

20 (2) The Agency for Health Care Administration shall
21 maintain the information provided under subsection (1) and
22 release copies upon the request of:

23 (a) The Department of State for the purpose of
24 determining whether a person is qualified to carry a concealed
25 weapon or firearm, as provided in s. 790.06.

26 (b) The Department of Law Enforcement for the purpose
27 of determining whether a person is prohibited from possessing
28 a firearm or electric weapon or device, as provided in s.
29 790.23.

30 Section 6. This act shall take effect October 1, 1999.

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SENATE SUMMARY

Prohibits a person who has been involuntarily committed to a facility under the Baker Act from obtaining a license to carry a concealed firearm or possessing a firearm or other weapon or device. Prohibits a person who has been voluntarily committed to a facility, who is mentally ill, and who presents a substantial likelihood of harming self or others from obtaining a license to carry a concealed firearm or possessing a firearm or other weapon or device. Requires that the administrator of a facility licensed under ch. 394 or ch. 395 F.S., notify the Agency for Health Care Administration of any patient who is mentally ill and presents a substantial likelihood of harming self or others. Provides for the agency to release such information to the Department of State and the Department of Law Enforcement for the purpose of determining whether a person is qualified to carry or possess a concealed weapon or other firearm.