

1                                   A bill to be entitled  
 2           An act relating to firearms; amending s. 790.065, F.S.;  
 3           authorizing the Department of Law Enforcement to provide  
 4           data collected from court records to the Department of  
 5           Agriculture and Consumer Services for purposes of  
 6           determining whether a license should be revoked or  
 7           suspended under s. 790.06(10), F.S.; adding involuntary  
 8           outpatient placement to the definition of "committed to a  
 9           mental institution" for purposes of firearm purchases;  
 10          providing an effective date.

11  
 12 Be It Enacted by the Legislature of the State of Florida:

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 14           Section 1. Paragraph (a) of subsection (2) of section  
 15           790.065, Florida Statutes, is amended to read:

16           790.065 Sale and delivery of firearms.--

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

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

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

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

26           3. Has had adjudication of guilt withheld or imposition of  
 27           sentence suspended on any felony or misdemeanor crime of  
 28           domestic violence unless 3 years have elapsed since probation or

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29 | any other conditions set by the court have been fulfilled or  
30 | expunction has occurred; or

31 |         4. Has been adjudicated mentally defective or has been  
32 | committed to a mental institution by a court and as a result is  
33 | prohibited by federal law from purchasing a firearm.

34 |         a. As used in this subparagraph, "adjudicated mentally  
35 | defective" means a determination by a court that a person, as a  
36 | result of marked subnormal intelligence, or mental illness,  
37 | incompetency, condition, or disease, is a danger to himself or  
38 | herself or to others or lacks the mental capacity to contract or  
39 | manage his or her own affairs. The phrase includes ~~shall include~~  
40 | a judicial finding of incapacity under s. 744.331(6)(a), an  
41 | acquittal by reason of insanity of a person charged with a  
42 | criminal offense, and a judicial finding that a criminal  
43 | defendant is not competent to stand trial.

44 |         b. As used in this subparagraph, "committed to a mental  
45 | institution" means involuntary commitment, commitment for mental  
46 | defectiveness or mental illness, and commitment for substance  
47 | abuse. The phrase includes ~~shall include~~ involuntary inpatient  
48 | placement as defined in s. 394.467, involuntary outpatient  
49 | placement as defined in s. 394.4655, involuntary assessment and  
50 | stabilization under s. 397.6818, and involuntary substance abuse  
51 | treatment under s. 397.6957, but does ~~shall~~ not include a person  
52 | in a mental institution for observation or discharged from a  
53 | mental institution based upon the initial review by the  
54 | physician or a voluntary admission to a mental institution.

55 |         c. In order to check for these conditions, the department  
56 | shall compile and maintain an automated database of persons who

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57 are prohibited from purchasing a firearm based on court records  
58 of adjudications of mental defectiveness or commitments to  
59 mental institutions. Clerks of court shall ~~are required to~~  
60 submit these records to the department within 1 month after the  
61 rendition of the adjudication or commitment. Reports may be  
62 submitted in an automated format. The reports must, at a  
63 minimum, include the name, along with any known alias or former  
64 name, the sex, and the date of birth of the subject. The  
65 department shall delete any mental health record from the  
66 database upon request of an individual when 5 years have elapsed  
67 since the individual's restoration to capacity by court order  
68 after being adjudicated an incapacitated person under s.  
69 744.331, or similar laws of any other state; or, in the case of  
70 an individual who was previously committed to a mental  
71 institution under chapter 394, or similar laws of any other  
72 state, when the individual produces a certificate from a  
73 licensed psychiatrist that he or she has not suffered from  
74 disability for at least 5 years prior to the date of request for  
75 removal of the record. When ~~Where~~ the department has received a  
76 subsequent record of an adjudication of mental defectiveness or  
77 commitment to a mental institution for such individual, the 5-  
78 year timeframe shall be calculated from the most recent  
79 adjudication of incapacitation or commitment.

80 d. The department is authorized to disclose the collected  
81 data to agencies of the Federal Government and other states for  
82 use exclusively in determining the lawfulness of a firearm sale  
83 or transfer. The department is also authorized to disclose any  
84 ~~applicable~~ collected data to the Department of Agriculture and

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85 Consumer Services for purposes of determining ~~determination of~~  
86 eligibility for issuance of a concealed weapons or concealed  
87 firearms license and for determining whether a basis exists for  
88 revoking or suspending a previously issued license pursuant to  
89 s. 790.06(10) upon receipt of an applicant fingerprint  
90 ~~submission forwarded pursuant to s. 790.06(6)(a)~~. When a  
91 potential buyer or transferee appeals a nonapproval based on  
92 these records, the clerks of court and mental institutions  
93 shall, upon request by the department, provide information to  
94 help determine whether the potential buyer or transferee is the  
95 same person as the subject of the record. Photographs and any  
96 other data that could confirm or negate identity must be made  
97 available to the department for such purposes, notwithstanding  
98 any other provision of state law to the contrary. Any such  
99 information that is made confidential or exempt from disclosure  
100 by law shall retain such confidential or exempt status when  
101 transferred to the department.

102 Section 2. This act shall take effect July 1, 2008.