

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Criminal Justice Committee

BILL: SB 1616

INTRODUCER: Criminal Justice Committee

SUBJECT: Revocation or Suspension of Concealed Firearm Licenses

DATE: March 7, 2008 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	Favorable
2.	_____	_____	CM	_____
3.	_____	_____	JU	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill would authorize the Florida Department of Law Enforcement (FDLE) to share data with the Department of Agriculture and Consumer Services (DACS) on a routine basis. Currently, the mental health data in the MECOM (mental competency) database is shared, upon request, at the time DACS is conducting a background check on the initial application for a concealed weapon and firearm license. Once the application is approved and the license is issued, DACS is statutorily required to suspend or revoke the license when a license-holder is adjudicated an incapacitated person or is committed to a mental institution.¹ However, DACS does not have routine access to the information necessary to form the basis of a suspension or revocation on mental health grounds. This bill would give DACS that access.

This bill substantially amends section 790.065 of the Florida Statutes.

II. Present Situation:

The Florida Department of Agriculture and Consumer Services (DACS) is statutorily authorized to issue licenses to carry concealed weapons and firearms.² The applicant must provide identifying information, including fingerprints, to the DACS for processing prior to the issuance of a concealed-carry license. Mental capacity and past commitment to mental health institutions are among the criteria DACS examines in determining whether an applicant meets the statutory requirements for possessing a concealed-carry license.³

¹ s. 790.06(10) (g) and (h), F.S.

² s. 790.06(1), F.S.

³ Section 790.06(2) (i) and (j), F.S., require DACS to issue a license if the applicant has not been adjudicated an incapacitated person - unless five years have passed since the applicant's restoration to capacity; or if the applicant has not been committed

DACS makes criminal history and mental health information inquiries of the FBI and FDLE, and sometimes local authorities, during the investigation of an applicant's initial request for a concealed-carry license.

Under circumstances involving an applicant's or license-holder's arrest, issuance of a domestic violence injunction, or sentencing for certain crimes, the DACS is authorized to suspend or revoke a current license or deny a pending application.⁴ In order to carry out that function, DACS is provided with arrest, injunction, and sentencing information weekly, and in some situations, daily. This information is routinely provided by FDLE and sometimes supplemented by local law enforcement or court authorities.

Section 790.06(10), F.S., *requires* DACS to suspend or revoke a concealed-carry license when a license-holder is adjudicated an incapacitated person or is committed to a mental institution.⁵ However, there is no routine flow of information to DACS when adjudications of incapacity or commitments to mental institutions occur. In fact, in those cases where a license-holder is found to be incapacitated or committed, DACS may or may not know about it at all. Sometimes a family member of the license-holder will notify DACS or perhaps local law enforcement will provide notification of the event, but the information is piece-meal, and there are occasional obstacles to verification of the information because of privacy concerns.

Although FDLE now has access to the mental health information that could validate suspension or revocation of an active concealed-carry license, there are apparent statutory limitations that prevent sharing of that information with DACS.⁶ FDLE is only authorized to provide the MECOM (mental competency) data to DACS for "determination of *eligibility for issuance*" of a concealed-carry license, *not for retention of the license*.⁷

This lack of information, after a license has been issued, is problematic for the Department of Agriculture because the information upon which a statutory requirement is based is not readily available to the state agency that is supposed to carry it out.

III. Effect of Proposed Changes:

The bill amends s. 790.065(2)(a)4.d., F.S., to authorize the Florida Department of Law Enforcement to routinely disclose mental competency data to the Department of Agriculture and Consumer Services so that the department is capable of determining concealed-carry licensees' eligibility for license retention, based upon the mental health criteria set forth in s. 790.06(10), F.S.

to a mental institution - unless he or she produces a certificate from a certified psychiatrist stating that five years have lapsed since he or she suffered from disability.

⁴ s. 790.06(3), F.S.

⁵ s. 790.06(10) (g) and (h), F.S.

⁶ s. 790.065(2)(a)4.d., F.S., as revised by Ch. 2006-176, L.O.F.

⁷ s. 790.065(2)(a)4.d., F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Florida Department of Law Enforcement and the Department of Agriculture and Consumer Services report that the agencies will not experience a fiscal impact from the bill and they will be able to absorb the programming into their current workloads.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.