

20081616e1

1 A bill to be entitled
2 An act relating to interagency data sharing; amending s.
3 790.065, F.S.; authorizing the Department of Law
4 Enforcement to provide data collected from court records
5 to the Department of Agriculture and Consumer Services for
6 purposes of determining eligibility for concealed weapons
7 and firearm licenses; adding involuntary outpatient
8 treatment to the definition of "committed to a mental
9 institution" in the criteria considered for license
10 qualifications and firearm purchases; providing an
11 effective date.

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

14
15 Section 1. Paragraph (a) of subsection (2) of section
16 790.065, Florida Statutes, is amended to read:

17 790.065 Sale and delivery of firearms.--

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

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

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

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

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

20081616e1

30 conditions set by the court have been fulfilled or expunction has
31 occurred; or

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

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

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

56 c. In order to check for these conditions, the department
57 shall compile and maintain an automated database of persons who
58 are prohibited from purchasing a firearm based on court records

20081616e1

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

20081616e1

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

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