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1  
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.  
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13 Be It Enacted by the Legislature of the State of Florida:  
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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

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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

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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

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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.