

By Senator Smith

31-01234-13

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1 A bill to be entitled
2 An act relating to mental health; amending s.
3 491.0147, F.S.; providing that the confidentiality of
4 communications between certain health care providers
5 and patients is waived under certain circumstances;
6 requiring certain health care providers to report
7 certain information to the Department of Law
8 Enforcement; amending s. 790.06, F.S.; prohibiting the
9 Department of Agriculture and Consumer Services from
10 issuing a concealed weapons license to a person
11 incapable of exercising proper judgment with respect
12 to a firearm; establishing criteria to determine
13 whether a person is incapable of exercising proper
14 judgment with respect to a firearm; providing a method
15 of appeal for a person found incapable of proper
16 judgment with respect to firearms; requiring the
17 department to forward certain appeal documentation to
18 the Department of Law Enforcement; requiring the
19 Department of Law Enforcement to remove certain mental
20 health records from the firearm-prohibited persons
21 database under certain circumstances; providing that
22 the Department of Agriculture and Consumer Services
23 must suspend or revoke the license of a person
24 incapable of exercising proper judgment with respect
25 to a firearm; amending s. 790.065, F.S.; requiring the
26 Department of Law Enforcement to determine if a person
27 is incapable of exercising proper judgment with
28 respect to a firearm during a firearm sale background
29 check and, if so, prohibit the sale of a firearm to

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30 such person; providing a definition for the term
31 "incapable of exercising sound judgment with respect
32 to the proper use and storage of a firearm"; requiring
33 the department to compile and maintain a database of
34 persons who enter a plea of not guilty by reason of
35 insanity in a criminal proceeding or who have been
36 reported as suffering certain mental disorders and
37 posing a risk to themselves or others by a health care
38 provider; requiring clerks of court to submit the
39 record of a criminal plea of not guilty by reason of
40 insanity or mental defect to the department; requiring
41 certain health care providers to submit certain
42 information for inclusion in the database; providing
43 that a person denied during a firearm sale due to
44 being incapable of exercising proper judgment with
45 respect to a firearm may file an appeal; describing
46 the appeal procedure; requiring the department to
47 remove certain records from the database upon a
48 successful appeal by a denied firearm purchaser;
49 requiring health care providers who provide
50 information for inclusion in the database to assist
51 the department in verifying the identity of denied
52 firearm purchasers; creating s. 790.0651, F.S.;

53 providing legislative intent; providing definitions;
54 requiring certain health care providers to report
55 identifying information of patients who suffer certain
56 mental illnesses and pose a risk to themselves or
57 others to the Department of Law Enforcement; providing
58 a method by which such reports must be made; requiring

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59 the department to provide a reporting health care
60 provider with a unique report number; requiring the
61 department to create or update a record in the
62 firearm-prohibited persons database based on the
63 report; requiring the department to provide notice to
64 the person who is the subject of a report if a record
65 is created based upon the report; limiting the use of
66 information in reports provided by health care
67 providers; requiring certain identifying information
68 of a reporting health care provider to be included in
69 a record and held confidential and exempt; providing
70 that a reporting health care provider is presumed to
71 act in good faith, unless otherwise shown by clear and
72 convincing evidence, and is immune from civil and
73 criminal liability; providing that a health care
74 provider may be disciplined for failure to comply with
75 this act; describing effect of the act; requiring the
76 Department of Law Enforcement and the Department of
77 Health to adopt rules; creating s. 790.234, F.S.;
78 prohibiting the possession of firearms and ammunition
79 by persons with certain mental health records in the
80 firearm-prohibited persons database; providing
81 penalties; providing an effective date.

82
83 Be It Enacted by the Legislature of the State of Florida:

84
85 Section 1. Section 491.0147, Florida Statutes, is amended
86 to read:

87 491.0147 Confidentiality and privileged communications.—Any

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88 communication between any person licensed or certified under
89 this chapter and her or his patient or client shall be
90 confidential.

91 (1) This confidentiality ~~secrecy~~ may be waived under the
92 following conditions:

93 (a) ~~(1)~~ When the person licensed or certified under this
94 chapter is a party defendant to a civil, criminal, or
95 disciplinary action arising from a complaint filed by the
96 patient or client, in which case the waiver shall be limited to
97 that action; or.

98 (b) ~~(2)~~ When the patient or client agrees to the waiver, in
99 writing, or, when more than one person in a family is receiving
100 therapy, when each family member agrees to the waiver, in
101 writing.

102 (2) ~~(3)~~ This confidentiality shall be waived if ~~when~~, in the
103 clinical judgment of the person licensed or certified under this
104 chapter, there is a clear and immediate probability of physical
105 harm to the patient or client, to other individuals, or to
106 society. ~~and~~ The person licensed or certified under this chapter
107 may communicate ~~communicates~~ the information ~~only~~ to the
108 potential victim, appropriate family member, ~~or~~ law enforcement,
109 or other appropriate authorities, but shall make a report to the
110 Department of Law Enforcement pursuant to s. 790.0651. There
111 shall be no liability on the part of, and no cause of action of
112 any nature shall arise against, a person licensed or certified
113 under this chapter for the disclosure of otherwise confidential
114 communications under this subsection.

115 Section 2. Subsections (2) and (10) of section 790.06,
116 Florida Statutes, are amended to read:

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117 790.06 License to carry concealed weapon or firearm.—

118 (2) The Department of Agriculture and Consumer Services
119 shall issue a license if the applicant:

120 (a) Is a resident of the United States and a citizen of the
121 United States or a permanent resident alien of the United
122 States, as determined by the United States Bureau of Citizenship
123 and Immigration Services, or is a consular security official of
124 a foreign government that maintains diplomatic relations and
125 treaties of commerce, friendship, and navigation with the United
126 States and is certified as such by the foreign government and by
127 the appropriate embassy in this country;

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

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

131 (d) Is not ineligible to possess a firearm pursuant to s.
132 790.23 by virtue of having been convicted of a felony;

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

138 (f) Does not chronically and habitually use alcoholic
139 beverages or other substances to the extent that his or her
140 normal faculties are impaired. It shall be presumed that an
141 applicant chronically and habitually uses alcoholic beverages or
142 other substances to the extent that his or her normal faculties
143 are impaired if the applicant has been committed under chapter
144 397 or under the provisions of former chapter 396 or has been
145 convicted under s. 790.151 or has been deemed a habitual

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146 offender under s. 856.011(3), or has had two or more convictions
147 under s. 316.193 or similar laws of any other state, within the
148 3-year period immediately preceding the date on which the
149 application is submitted;

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

152 (h) Demonstrates competence with a firearm by any one of
153 the following:

154 1. Completion of any hunter education or hunter safety
155 course approved by the Fish and Wildlife Conservation Commission
156 or a similar agency of another state;

157 2. Completion of any National Rifle Association firearms
158 safety or training course;

159 3. Completion of any firearms safety or training course or
160 class available to the general public offered by a law
161 enforcement, junior college, college, or private or public
162 institution or organization or firearms training school,
163 utilizing instructors certified by the National Rifle
164 Association, Criminal Justice Standards and Training Commission,
165 or the Department of Agriculture and Consumer Services;

166 4. Completion of any law enforcement firearms safety or
167 training course or class offered for security guards,
168 investigators, special deputies, or any division or subdivision
169 of law enforcement or security enforcement;

170 5. Presents evidence of equivalent experience with a
171 firearm through participation in organized shooting competition
172 or military service;

173 6. Is licensed or has been licensed to carry a firearm in
174 this state or a county or municipality of this state, unless

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175 such license has been revoked for cause; or

176 7. Completion of any firearms training or safety course or
177 class conducted by a state-certified or National Rifle
178 Association certified firearms instructor;

179
180 A photocopy of a certificate of completion of any of the courses
181 or classes; or an affidavit from the instructor, school, club,
182 organization, or group that conducted or taught said course or
183 class attesting to the completion of the course or class by the
184 applicant; or a copy of any document which shows completion of
185 the course or class or evidences participation in firearms
186 competition shall constitute evidence of qualification under
187 this paragraph; any person who conducts a course pursuant to
188 subparagraph 2., subparagraph 3., or subparagraph 7., or who, as
189 an instructor, attests to the completion of such courses, must
190 maintain records certifying that he or she observed the student
191 safely handle and discharge the firearm;

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

196 (j) Has not been committed to a mental institution under
197 chapter 394, or similar laws of any other state, unless the
198 applicant produces a certificate from a licensed psychiatrist
199 that he or she has not suffered from disability for at least 5
200 years before ~~prior to~~ the date of submission of the application;

201 (k) Is capable of exercising sound judgment with respect to
202 the proper use and storage of a firearm;

203 1. A person is deemed incapable of exercising sound

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204 judgment with respect to the proper use and storage of a firearm
205 if the person:

206 a. Has entered in a criminal proceeding a plea of not
207 guilty by reason of insanity or mental defect; or

208 b. Has been diagnosed or treated by a licensed physician or
209 psychologist as suffering from an active psychiatric or
210 psychological disorder or condition that causes or is likely to
211 cause substantial impairment in judgment, mood, perception,
212 impulse control, or intellectual ability, and the person poses a
213 risk of serious harm to himself, herself, or others. If the
214 condition or disorder is in remission but is reasonably likely
215 to redevelop at a future time or requires continuous medical
216 treatment to avoid, such condition or disorder shall be
217 considered an active condition or disorder. Such conditions or
218 disorders may include, but are not limited to:

219 (I) Schizophrenia or delusional disorder;

220 (II) Bipolar disorder;

221 (III) Chronic dementia, whether caused by illness, brain
222 defect, or brain injury;

223 (IV) Dissociative identity disorder;

224 (V) Intermittent explosive disorder; and

225 (VI) Antisocial personality disorder.

226 2. A person who has been found incapable of exercising
227 sound judgment with respect to the proper use and storage of a
228 firearm may appeal such finding by providing the department with
229 a certificate, dated no more than 30 days before receipt by the
230 department, from a licensed physician whose primary practice is
231 in the field of psychiatry or psychology, stating that the
232 psychiatric or psychological disorder or condition is in

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233 remission and is not reasonably likely to develop at a future
234 time and that the person does not pose a threat of harm to
235 himself, herself, or others. However, if the basis of a finding
236 of incapability to exercise sound judgment with respect to the
237 proper use and storage of a firearm is a plea of not guilty by
238 reason of insanity or mental defect in a criminal proceeding,
239 the prohibited person must submit the certificate described
240 above, but only after the criminal action in which the plea was
241 entered has been disposed. The department shall forward a valid
242 certificate to the Department of Law Enforcement. The Department
243 of Law Enforcement shall delete any mental health record of the
244 person who is the subject of the certificate from the automated
245 database of persons who are prohibited from purchasing a firearm
246 if the record was based solely upon a report pursuant to s.
247 790.0651 or a plea of not guilty by reason of insanity or mental
248 defect;

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

254 (m)~~(l)~~ Has not been issued an injunction that is currently
255 in force and effect and that restrains the applicant from
256 committing acts of domestic violence or acts of repeat violence;
257 and

258 (n)~~(m)~~ Is not prohibited from purchasing or possessing a
259 firearm by any other provision of Florida or federal law.

260 (10) A license issued under this section shall be suspended
261 or revoked pursuant to chapter 120 if the licensee:

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262 (a) Is found to be ineligible under the criteria set forth
263 in subsection (2);

264 (b) Develops or sustains a physical infirmity which
265 prevents the safe handling of a weapon or firearm;

266 (c) Is convicted of a felony which would make the licensee
267 ineligible to possess a firearm pursuant to s. 790.23;

268 (d) Is found guilty of a crime under the provisions of
269 chapter 893, or similar laws of any other state, relating to
270 controlled substances;

271 (e) Is committed as a substance abuser under chapter 397,
272 or is deemed a habitual offender under s. 856.011(3), or similar
273 laws of any other state;

274 (f) Is convicted of a second violation of s. 316.193, or a
275 similar law of another state, within 3 years of a previous
276 conviction of such section, or similar law of another state,
277 even though the first violation may have occurred prior to the
278 date on which the application was submitted;

279 (g) Is adjudicated an incapacitated person under s.
280 744.331, or similar laws of any other state; ~~or~~

281 (h) Is committed to a mental institution under chapter 394,
282 or similar laws of any other state; or

283 (i) Is incapable of exercising sound judgment with respect
284 to the proper use and storage of a firearm.

285 Section 3. Paragraph (a) of subsection (2) of section
286 790.065, Florida Statutes, is amended to read:

287 790.065 Sale and delivery of firearms.—

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

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

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

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

297 3. Has had adjudication of guilt withheld or imposition of
298 sentence suspended on any felony or misdemeanor crime of
299 domestic violence unless 3 years have elapsed since probation or
300 any other conditions set by the court have been fulfilled or
301 expunction has occurred; or

302 4. Has been adjudicated mentally defective or has been
303 committed to a mental institution by a court and as a result is
304 prohibited by federal law from purchasing a firearm, or is
305 incapable of exercising sound judgment with respect to the
306 proper use and storage of a firearm and prohibited from
307 possessing a firearm under s. 790.234.

308 a. As used in this subparagraph, "adjudicated mentally
309 defective" means a determination by a court that a person, as a
310 result of marked subnormal intelligence, or mental illness,
311 incompetency, condition, or disease, is a danger to himself or
312 herself or to others or lacks the mental capacity to contract or
313 manage his or her own affairs. The phrase includes a judicial
314 finding of incapacity under s. 744.331(6)(a), an acquittal by
315 reason of insanity of a person charged with a criminal offense,
316 and a judicial finding that a criminal defendant is not
317 competent to stand trial.

318 b. As used in this subparagraph, "committed to a mental
319 institution" means involuntary commitment, commitment for mental

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320 defectiveness or mental illness, and commitment for substance
321 abuse. The phrase includes involuntary inpatient placement as
322 defined in s. 394.467, involuntary outpatient placement as
323 defined in s. 394.4655, involuntary assessment and stabilization
324 under s. 397.6818, and involuntary substance abuse treatment
325 under s. 397.6957, but does not include a person in a mental
326 institution for observation or discharged from a mental
327 institution based upon the initial review by the physician or a
328 voluntary admission to a mental institution.

329 c. As used in this subparagraph, "incapable of exercising
330 sound judgment with respect to the proper use and storage of a
331 firearm" means the diagnosis by a licensed physician that the
332 person suffers from an active psychiatric or psychological
333 disorder or condition that causes or is likely to cause
334 substantial impairment in judgment, mood, perception, impulse
335 control, or intellectual ability, and the person poses a risk of
336 serious harm to himself, herself, or others. If the condition or
337 disorder is in remission but is reasonably likely to redevelop
338 at a future time or requires continuous medical treatment to
339 avoid, such condition or disorder shall be considered an active
340 condition or disorder. Such conditions or disorders may include,
341 but are not limited to, schizophrenia or delusional disorder;
342 bipolar disorder; chronic dementia, whether caused by illness,
343 brain defect, or brain injury; dissociative identity disorder;
344 intermittent explosive disorder; or antisocial personality
345 disorder. The term also includes a person who has entered in a
346 criminal proceeding a plea of not guilty by reason of insanity
347 or mental defect.

348 d.e. In order to check for these conditions, the department

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349 shall compile and maintain an automated database of persons who
350 are prohibited from purchasing a firearm based on court records
351 of adjudications of mental defectiveness, ~~or~~ commitments to
352 mental institutions, criminal pleas of not guilty by reason of
353 insanity or mental defect, and reports of mental health status
354 pursuant to s. 790.0651. Clerks of court shall submit these
355 records to the department within 1 month after the rendition of
356 the adjudication, ~~or~~ commitment, or plea. Reports shall be
357 submitted in an automated format. The reports must, at a
358 minimum, include the name, along with any known alias or former
359 name, the sex, and the date of birth of the subject. Health care
360 providers shall submit reports of mental health status for
361 inclusion in the database pursuant to s. 790.0651.

362 ~~e.d.~~ A person who has been adjudicated mentally defective
363 or committed to a mental institution, as those terms are defined
364 in this paragraph, may petition the circuit court that made the
365 adjudication or commitment for relief from the firearm
366 disabilities imposed by such adjudication or commitment. A copy
367 of the petition shall be served on the state attorney for the
368 county in which the person was adjudicated or committed. The
369 state attorney may object to and present evidence relevant to
370 the relief sought by the petition. The hearing on the petition
371 may be open or closed as the petitioner may choose. The
372 petitioner may present evidence and subpoena witnesses to appear
373 at the hearing on the petition. The petitioner may confront and
374 cross-examine witnesses called by the state attorney. A record
375 of the hearing shall be made by a certified court reporter or by
376 court-approved electronic means. The court shall make written
377 findings of fact and conclusions of law on the issues before it

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378 and issue a final order. The court shall grant the relief
379 requested in the petition if the court finds, based on the
380 evidence presented with respect to the petitioner's reputation,
381 the petitioner's mental health record and, if applicable,
382 criminal history record, the circumstances surrounding the
383 firearm disability, and any other evidence in the record, that
384 the petitioner will not be likely to act in a manner that is
385 dangerous to public safety and that granting the relief would
386 not be contrary to the public interest. If the final order
387 denies relief, the petitioner may not petition again for relief
388 from firearm disabilities until 1 year after the date of the
389 final order. The petitioner may seek judicial review of a final
390 order denying relief in the district court of appeal having
391 jurisdiction over the court that issued the order. The review
392 shall be conducted de novo. Relief from a firearm disability
393 granted under this sub-subparagraph has no effect on the loss of
394 civil rights, including firearm rights, for any reason other
395 than the particular adjudication of mental defectiveness or
396 commitment to a mental institution from which relief is granted.

397 f. A person who has been denied a firearm due to incapacity
398 to exercise sound judgment with respect to the proper use and
399 storage of a firearm may appeal the determination by providing
400 the department with a certificate, dated no more than 30 days
401 before receipt by the department, from a licensed physician
402 whose primary practice is in the field of psychiatry or
403 psychology, stating that the psychiatric or psychological
404 disorder or condition is in remission and is not reasonably
405 likely to redevelop at a future time and that the person does
406 not pose a threat of harm to himself, herself, or others.

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407 However, if the basis of a denial due to incapacity to exercise
408 sound judgment with respect to the proper use and storage of a
409 firearm is a plea of not guilty by reason of insanity or mental
410 defect in a criminal proceeding, the person denied the firearm
411 must submit the certificate described above, but only after the
412 criminal action in which the plea was entered has been disposed.

413 g.e. Upon receipt of proper notice of relief from firearm
414 disabilities granted under sub-subparagraph e. ~~d.~~, the
415 department shall remove ~~delete~~ any mental health record of the
416 person granted relief from the automated database of persons who
417 are prohibited from purchasing a firearm based on court records
418 of adjudications of mental defectiveness or commitments to
419 mental institutions. Upon receipt of a valid certificate from a
420 licensed physician pursuant to sub-subparagraph f., the
421 department shall remove any mental health record of the person
422 who is the subject of the certificate from the automated
423 database of persons who are prohibited from purchasing a firearm
424 if the record was based solely upon a report pursuant to s.
425 790.0651 or a plea of not guilty by reason of insanity or mental
426 defect.

427 h.f. The department is authorized to disclose the collected
428 data to agencies of the Federal Government and other states for
429 use exclusively in determining the lawfulness of a firearm sale
430 or transfer. The department is also authorized to disclose any
431 collected data to the Department of Agriculture and Consumer
432 Services for purposes of determining eligibility for issuance of
433 a concealed weapons or concealed firearms license and for
434 determining whether a basis exists for revoking or suspending a
435 previously issued license pursuant to s. 790.06(10). When a

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436 potential buyer or transferee appeals a nonapproval based on
437 these records, the clerks of court, ~~and~~ mental institutions, and
438 health care providers reporting a mental health status pursuant
439 to s. 790.0651 shall, upon request by the department, provide
440 information to help determine whether the potential buyer or
441 transferee is the same person as the subject of the record.
442 Photographs and any other data that could confirm or negate
443 identity must be made available to the department for such
444 purposes, notwithstanding any other provision of state law to
445 the contrary. Any such information that is made confidential or
446 exempt from disclosure by law shall retain such confidential or
447 exempt status when transferred to the department.

448 Section 4. Section 790.0651, Florida Statutes, is created
449 to read:

450 790.0651 Mandatory reporting of mental health status for
451 firearm safety.—

452 (1) The Legislature finds that prohibiting persons who have
453 mental illness from having access to firearms is an important
454 state interest and an interest that has been acknowledged and
455 supported by the United States Supreme Court. Numerous high-
456 profile tragedies involving gun violence have illustrated that a
457 critical deficiency exists in regard to records of persons who
458 have mental illness in the current system of firearm background
459 checks. This deficiency results in the detection of only a small
460 percentage of the dangerous mentally ill, those persons who have
461 been adjudicated as having a mental defect or who have been
462 involuntarily committed to a mental institution. An adjudication
463 of mental defectiveness or involuntary commitment is the
464 exception and not the rule for those suffering from mental

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465 illness. As a result, only a small number of persons who have a
466 mental illness and who pose a risk to themselves or others are
467 prevented from purchasing or carrying firearms. Requiring health
468 care providers with direct knowledge of an individual's mental
469 health status and propensity for violence to provide identifying
470 information to law enforcement for inclusion in the automated
471 database of persons prohibited from purchasing a firearm will
472 more fully enable the state to realize its goal of preventing
473 the dangerous mentally ill from accessing guns that may be used
474 to harm innocent persons in this state.

475 (2) As used in this section, the term:

476 (a) "Firearm-prohibited persons database" means the
477 automated database of persons prohibited from purchasing a
478 firearm created by s. 790.065 and currently operating under the
479 name Mental Competency Database, or MECOM.

480 (b) "Health care provider" means any person licensed under
481 chapter 458, chapter 490, or chapter 491.

482 (3) A healthcare provider shall report the name, known
483 aliases, last known address, social security number, or other
484 unique government identification number, date of birth, race,
485 and sex of a person who poses a serious danger to himself,
486 herself, or others and who has been diagnosed or treated by the
487 health care provider as suffering from an active psychiatric or
488 psychological disorder or condition that causes or is likely to
489 cause substantial impairment in judgment, mood, perception,
490 impulse control, or intellectual ability which may include, but
491 is not limited to, the following diagnosed conditions:

492 (a) Schizophrenia or delusional disorder.

493 (b) Bipolar disorder.

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494 (c) Chronic dementia, whether caused by illness, brain
495 defect, or brain injury.

496 (d) Dissociative identity disorder.

497 (e) Intermittent explosive disorder.

498 (f) Antisocial personality disorder.

499 (4) If a person suffers from a disorder or condition
500 described in subsection (3) which is in remission but is
501 reasonably likely to redevelop at a future time or requires
502 continuous medical treatment to avoid, such condition shall be
503 considered an active psychiatric or psychological disorder or
504 condition for purposes of this section.

505 (5) Reports required pursuant to this section must be made
506 to the Department of Law Enforcement through a single statewide
507 telephone number, fax number, or secure web-based system
508 operating 24 hours a day, every day of the year. Upon receipt of
509 such report, the Department of Law Enforcement shall provide the
510 reporting health care provider with a unique report
511 identification number for the health care provider's records.

512 (6) Within 24 hours after the receipt of a report, the
513 Department of Law Enforcement shall create a record based upon
514 the identifying information contained in the report and shall
515 enter the record into the firearm-prohibited persons database.
516 If a record exists for the reported person within the firearm-
517 prohibited persons database at the time of the report, the
518 Department of Law Enforcement shall update such record with
519 information contained in the most recent report.

520 (7) Within 5 days after the creation of a record in the
521 firearm-prohibited persons database based upon a report under
522 this section, the Department of Law Enforcement shall provide

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523 notice to the person who is the subject of the record advising
524 that he or she is prohibited from possessing a firearm in
525 accordance with s. 790.234.

526 (8) Reports provided by health care providers pursuant to
527 this section may be used only to determine an individual's
528 eligibility to purchase a firearm or carry a concealed weapon
529 pursuant to ss. 790.06 and 790.065. Protected health information
530 that is confidential or exempt from disclosure by law shall
531 retain such confidential or exempt status when provided to the
532 Department of Law Enforcement in a report under this section.

533 (9) The name, license number, and contact information of
534 the reporting health care provider shall be entered into a
535 record created or updated in the firearm-prohibited persons
536 database based upon a report under this section, but such
537 information shall be held confidential and exempt as provided by
538 s. 790.0652.

539 (10) A health care provider who makes a report pursuant to
540 this section or participates in a resulting judicial proceeding
541 is presumed to be acting in good faith, and unless lack of good
542 faith is shown by clear and convincing evidence, is immune from
543 liability, civil or criminal, which otherwise might be incurred
544 or imposed.

545 (11) A health care provider who fails to comply with this
546 section may be disciplined by his or her licensing authority.

547 (12) This section does not enlarge or reduce other required
548 or authorized disclosures of protected health information by
549 health care providers for the protection of their patients or
550 clients, or the public.

551 (13) The Department of Law Enforcement, in cooperation with

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552 the Department of Health, shall adopt forms and rules to
553 implement this section.

554 Section 5. Section 790.234, Florida Statutes, is created to
555 read:

556 790.234 Possession of firearms or ammunition prohibited
557 when person has active mental health record in firearm-
558 prohibited persons database.-

559 (1) A person may not have in his or her care, custody,
560 possession, or control any firearm or ammunition if the person
561 has an active mental health record in the automated database of
562 persons prohibited from purchasing a firearm under s. 790.065,
563 and the record is based upon a mental health status report
564 pursuant to s. 790.0651 or upon a plea of not guilty by reason
565 of insanity or mental defect in a criminal proceeding.

566 (2) A person who violates subsection (1) commits a
567 misdemeanor of the second degree, punishable as provided in s.
568 775.082 or s. 775.083.

569 Section 6. This act shall take effect July 1, 2013.