

By Senator Book

32-00288C-19

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1 A bill to be entitled
2 An act relating to firearms; creating s. 397.6753,
3 F.S.; authorizing a law enforcement officer acting in
4 accordance with certain provisions to serve and
5 execute a court order on any day and at any time;
6 authorizing a law enforcement officer acting in
7 accordance with certain provisions to use reasonable
8 physical force to gain entry to the premises or any
9 dwelling on such premises and take custody of the
10 person subject to the court order; requiring the
11 assigning of serving and executing the court order to
12 a law enforcement officer with certain training, when
13 practicable; authorizing a law enforcement officer
14 taking custody of the person to seize and hold that
15 person's firearms and ammunition under certain
16 circumstances; authorizing a law enforcement officer,
17 taking custody of the person subject to the court
18 order, to seek the voluntary surrender of firearms and
19 ammunition under certain circumstances; authorizing a
20 law enforcement officer to petition for a risk
21 protection order under certain circumstances;
22 requiring that firearms seized or surrendered be made
23 available for return within a certain timeframe and
24 under specified circumstances; prohibiting the process
25 for the return of such firearms or ammunition to take
26 longer than a certain timeframe; requiring law
27 enforcement agencies to develop specified policies and
28 procedures; amending s. 744.3215, F.S.; authorizing a
29 court to remove the right to purchase, own, sell, or

32-00288C-19

2019788__

30 possess firearms or ammunition of a person found to be
31 incapacitated; requiring a guardian or an agent to
32 file an inventory of the incapacitated person's
33 firearms and ammunition with the court if this right
34 is removed; requiring the guardian or agent to place
35 the firearms and ammunition in the custody of a local
36 law enforcement agency or petition the court for an
37 alternative storage arrangement outside of the
38 incapacitated person's control; requiring a law
39 enforcement agency to accept such firearms and
40 ammunition; providing for the disposal, donation,
41 transfer, or sale of the firearms and ammunition under
42 certain circumstances, through court petition;
43 requiring written notification by certified mail to
44 the court and the incapacitated person of such intent
45 to petition; requiring a court hearing if there is an
46 objection to the disposal, donation, transfer, or
47 sale; amending s. 790.064, F.S.; requiring the
48 Department of Law Enforcement, in certain cases, to
49 investigate individuals upon whom a firearm disability
50 is imposed on or after a certain date and, if they are
51 in possession of firearms or ammunition, to seize the
52 firearms and ammunition following specified
53 procedures; amending s. 790.065, F.S.; revising the
54 definition of the term "committed to a mental
55 institution"; authorizing a judge or magistrate, when
56 reviewing a petition for involuntary treatment, to
57 refer a case to the department to investigate, in
58 certain cases, individuals upon whom a firearm

32-00288C-19

2019788__

59 disability is imposed on or after a certain date and,
60 if they are in possession of any firearms or
61 ammunition, to seize the firearms and ammunition
62 following specified procedures; requiring the
63 Department of Children and Families and the Department
64 of Law Enforcement to enforce certain reporting
65 provisions; requiring all licensed mental health and
66 substance abuse service providers to comply with
67 certain provisions by a specified date; providing
68 penalties for violations; increasing the time periods
69 under which a clerk of the court must present certain
70 records to a judge or magistrate and submit such
71 records to the department, if applicable; conforming
72 provisions to changes made by the act; providing an
73 effective date.

74

75 Be It Enacted by the Legislature of the State of Florida:

76

77 Section 1. Section 397.6753, Florida Statutes, is created
78 to read:

79 397.6753 Ability of law enforcement to seize firearms.-

80 (1) If a law enforcement officer is acting in accordance
81 with the involuntary admissions procedures of this chapter or a
82 related court order, he or she may:

83 (a) Serve and execute such order on any day of the week, at
84 any time of the day or night; and

85 (b) Use reasonable physical force to gain entry to the
86 premises or any dwellings, buildings, or other structures
87 located on the premises and take custody of the person who is

32-00288C-19

2019788__

88 the subject of the court order. When practicable, a law
89 enforcement officer who has received crisis intervention team
90 training shall be assigned to serve and execute the order.

91 (2) A law enforcement officer taking custody of a person
92 under subsection (1) may seize and hold a firearm or any
93 ammunition the person possesses at the time of taking him or her
94 into custody if the person poses a potential danger to himself
95 or herself or others and has made a credible threat of violence
96 against himself or herself or another person.

97 (3) If the law enforcement officer takes custody of the
98 person at the person's residence and the criteria in subsection
99 (2) have been met, the law enforcement officer may seek the
100 voluntary surrender of firearms or ammunition kept in the
101 residence which have not already been seized under subsection
102 (2). If such firearms or ammunition are not voluntarily
103 surrendered, or if the person has other firearms or ammunition
104 that were not seized or voluntarily surrendered when he or she
105 was taken into custody, a law enforcement officer may petition
106 the appropriate court under s. 790.401 for a risk protection
107 order to remove such firearms and ammunition of the person.

108 (4) Firearms or ammunition seized or voluntarily
109 surrendered pursuant to this section must be made available for
110 return no later than 24 hours after the person taken into
111 custody can demonstrate that he or she is no longer subject to
112 involuntary treatment and has been released or discharged from
113 any treatment provided, unless a risk protection order entered
114 under s. 790.401 directs the law enforcement agency to hold the
115 firearms or ammunition for a longer period, the person is
116 subject to a firearm purchase disability under s. 790.065(2), or

32-00288C-19

2019788__

117 a firearm possession and firearm ownership disability under s.
118 790.064 applies. The process for the actual return of firearms
119 or ammunition seized or voluntarily surrendered under this
120 subsection may not take longer than 7 days, and law enforcement
121 agencies must develop policies and procedures relating to the
122 seizure, storage, and return of firearms or ammunition held
123 under this section.

124 Section 2. Subsection (2) of section 744.3215, Florida
125 Statutes, is amended to read:

126 744.3215 Rights of persons determined incapacitated.—

127 (2) Rights that may be removed from a person by an order
128 determining incapacity but not delegated to a guardian include
129 the right:

130 (a) To marry. If the right to enter into a contract has
131 been removed, the right to marry is subject to court approval.

132 (b) To vote.

133 (c) To personally apply for government benefits.

134 (d) To have a driver license.

135 (e) To travel.

136 (f) To seek or retain employment.

137 (g)1. To purchase, own, sell, or possess firearms and
138 ammunition. If this right is removed, the guardian, or the agent
139 under a power of attorney if there is no guardianship, must file
140 an inventory of the incapacitated person's firearms and
141 ammunition with the court and either place the firearms and
142 ammunition in the custody of a local law enforcement agency in
143 the county where the incapacitated person resides or where the
144 guardianship is being administered, or petition the court for
145 alternative storage of such firearms and ammunition outside of

32-00288C-19

2019788__

146 the incapacitated person's control. This alternative storage
147 entity must be able to legally possess firearms and ammunition,
148 and the guardian or the agent must disclose to the court whether
149 the entity will charge a storage fee.

150 2. A law enforcement agency must accept such firearms and
151 ammunition. If, after 10 years, the incapacitated person has not
152 successfully had his or her firearm and ammunition right
153 restored, the law enforcement agency or the alternative storage
154 entity may petition the court to dispose of, donate, transfer,
155 or sell the incapacitated person's firearms and ammunition to a
156 person or entity legally able to possess firearms and
157 ammunition. Before petitioning the court, the law enforcement
158 agency or the alternative storage entity must notify the court
159 and the incapacitated person in writing by certified mail of its
160 intent. If the incapacitated person or his or her guardian or
161 agent files a written objection with the court, the court must
162 hold a hearing to determine whether there is good cause for the
163 continued storage of the incapacitated person's firearms and
164 ammunition.

165 Section 3. Subsection (2) of section 790.064, Florida
166 Statutes, is amended to read:

167 790.064 Firearm possession and firearm ownership
168 disability.—

169 (2) The firearm possession and firearm ownership disability
170 runs concurrently with the firearm purchase disability provided
171 in s. 790.065(2). If the Department of Law Enforcement has
172 reason to believe that an individual upon whom any type of
173 firearm disability is imposed on or after July 1, 2019,
174 possesses any firearms or ammunition, the department shall

32-00288C-19

2019788__

175 investigate and seize any such firearms and ammunition pursuant
176 to the procedures in s. 790.401.

177 Section 4. Section 790.065, Florida Statutes, is amended to
178 read:

179 790.065 Sale, ~~and~~ delivery, and possession of firearms.—

180 (1) (a) A licensed importer, licensed manufacturer, or
181 licensed dealer may not sell or deliver from her or his
182 inventory at her or his licensed premises any firearm to another
183 person, other than a licensed importer, licensed manufacturer,
184 licensed dealer, or licensed collector, until she or he has:

185 1. Obtained a completed form from the potential buyer or
186 transferee, which form shall have been adopted ~~promulgated~~ by
187 the Department of Law Enforcement and provided by the licensed
188 importer, licensed manufacturer, or licensed dealer, which shall
189 include the name, date of birth, gender, race, and social
190 security number or other identification number of such potential
191 buyer or transferee and has inspected proper identification
192 including an identification containing a photograph of the
193 potential buyer or transferee.

194 2. Collected a fee from the potential buyer for processing
195 the criminal history check of the potential buyer. The fee shall
196 be established by the Department of Law Enforcement and may not
197 exceed \$8 per transaction. The Department of Law Enforcement may
198 reduce, or suspend collection of, the fee to reflect payment
199 received from the Federal Government applied to the cost of
200 maintaining the criminal history check system established by
201 this section as a means of facilitating or supplementing the
202 National Instant Criminal Background Check System. The
203 Department of Law Enforcement shall, by rule, establish

32-00288C-19

2019788__

204 procedures for the fees to be transmitted by the licensee to the
205 Department of Law Enforcement. Such procedures must provide that
206 fees may be paid or transmitted by electronic means, including,
207 but not limited to, debit cards, credit cards, or electronic
208 funds transfers. All such fees shall be deposited into the
209 Department of Law Enforcement Operating Trust Fund, but shall be
210 segregated from all other funds deposited into such trust fund
211 and must be accounted for separately. Such segregated funds must
212 not be used for any purpose other than the operation of the
213 criminal history checks required by this section. The Department
214 of Law Enforcement, each year before February 1, shall make a
215 full accounting of all receipts and expenditures of such funds
216 to the President of the Senate, the Speaker of the House of
217 Representatives, the majority and minority leaders of each house
218 of the Legislature, and the chairs of the appropriations
219 committees of each house of the Legislature. In the event that
220 the cumulative amount of funds collected exceeds the cumulative
221 amount of expenditures by more than \$2.5 million, excess funds
222 may be used for the purpose of purchasing soft body armor for
223 law enforcement officers.

224 3. Requested, by means of a toll-free telephone call or
225 other electronic means, the Department of Law Enforcement to
226 conduct a check of the information as reported and reflected in
227 the Florida Crime Information Center and National Crime
228 Information Center systems as of the date of the request.

229 4. Received a unique approval number for that inquiry from
230 the Department of Law Enforcement, and recorded the date and
231 such number on the consent form.

232 (b) However, if the person purchasing, or receiving

32-00288C-19

2019788__

233 delivery of, the firearm is a holder of a valid concealed
234 weapons or firearms license pursuant to the provisions of s.
235 790.06 or holds an active certification from the Criminal
236 Justice Standards and Training Commission as a "law enforcement
237 officer," a "correctional officer," or a "correctional probation
238 officer" as defined in s. 943.10(1), (2), (3), (6), (7), (8), or
239 (9), this subsection does not apply.

240 (c) This subsection does not apply to the purchase, trade,
241 or transfer of a rifle or shotgun by a resident of this state
242 when the resident makes such purchase, trade, or transfer from a
243 licensed importer, licensed manufacturer, or licensed dealer in
244 another state.

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

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

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

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

254 3. Has had adjudication of guilt withheld or imposition of
255 sentence suspended on any felony or misdemeanor crime of
256 domestic violence unless 3 years have elapsed since probation or
257 any other conditions set by the court have been fulfilled or
258 expunction has occurred; or

259 4. Has been adjudicated mentally defective or has been
260 committed to a mental institution by a court or as provided in
261 sub-sub-subparagraph b.(II), and as a result is prohibited by

32-00288C-19

2019788__

262 state or federal law from purchasing or possessing a firearm.

263 a. As used in this subparagraph, "adjudicated mentally
264 defective" means a determination by a court that a person, as a
265 result of marked subnormal intelligence, or mental illness,
266 incompetency, condition, or disease, is a danger to himself or
267 herself or to others or lacks the mental capacity to contract or
268 manage his or her own affairs. The phrase includes a judicial
269 finding of incapacity under s. 744.331(6)(a), an acquittal by
270 reason of insanity of a person charged with a criminal offense,
271 and a judicial finding that a criminal defendant is not
272 competent to stand trial.

273 b. As used in this subparagraph, "committed to a mental
274 institution" means:

275 (I) Involuntary commitment, commitment for mental
276 defectiveness or mental illness, and commitment for substance
277 abuse. The phrase includes involuntary inpatient placement as
278 defined in s. 394.467, involuntary outpatient placement as
279 defined in s. 394.4655, ~~involuntary assessment and stabilization~~
280 ~~under s. 397.6818~~, and involuntary substance abuse treatment
281 under s. 397.6957, but does not include a person in a mental
282 institution for observation or discharged from a mental
283 institution based upon the initial review by the physician or a
284 voluntary admission to a mental institution; or

285 (II) Notwithstanding sub-sub-subparagraph (I), voluntary
286 admission to a substance abuse treatment facility under s.
287 397.601 or a mental institution for outpatient or inpatient
288 treatment of a person who had an involuntary examination under
289 s. 394.463, where each of the following conditions has ~~have~~ been
290 met:

32-00288C-19

2019788__

291 (A) An examining physician or the treatment facility
292 administrator found that the person is an imminent danger to
293 himself or herself or others.

294 (B) The examining physician or the treatment facility
295 administrator certified that if the person did not agree to
296 voluntary treatment, a petition for involuntary ~~outpatient or~~
297 ~~inpatient~~ treatment would have been filed under s.
298 394.463(2)(g)4. or s. 397.693; or an involuntary, ~~or the~~
299 ~~examining physician certified that a petition was filed and the~~
300 person subsequently agreed to voluntary treatment prior to a
301 court hearing on the petition.

302 (C) Before agreeing to voluntary treatment, the person
303 received written notice of that finding and certification, and
304 written notice that as a result of such finding, he or she may
305 be prohibited from purchasing or possessing a firearm, and may
306 not be eligible to apply for or retain a concealed weapon or
307 firearms license under s. 790.06 and the person signed or
308 otherwise acknowledged such notice in writing, in substantially
309 the following form:

310
311 "I understand that the doctor who examined me believes I am a
312 danger to myself or to others. I understand that if I do not
313 agree to voluntary treatment, a petition will be filed in court
314 to require me to receive involuntary treatment. I understand
315 that if that petition is filed, I have the right to contest it.
316 In the event a petition has been filed, I understand that I can
317 subsequently agree to voluntary treatment prior to a court
318 hearing. I understand that by agreeing to voluntary treatment in
319 either of these situations, I may be prohibited from buying,

32-00288C-19

2019788__

320 selling, or possessing firearms and from applying for or
321 retaining a concealed weapons or firearms license until I apply
322 for and receive relief from that restriction under Florida law.”
323

324 (D) A judge or a magistrate has, pursuant to sub-sub-
325 subparagraph c.(II), reviewed the record of the finding,
326 certification, notice, and written acknowledgment classifying
327 the person as an imminent danger to himself or herself or
328 others, and ordered that such record be submitted to the
329 department. When reviewing the petition, the judge or magistrate
330 may also refer the case to the department, and if it has reason
331 to believe that an individual upon whom any type of firearm
332 disability is imposed on or after July 1, 2019, possesses any
333 firearms or ammunition, the department shall investigate and
334 seize any such firearms and ammunition pursuant to the
335 procedures in s. 790.401.

336 c. In order to check for these conditions, the department
337 shall compile and maintain an automated database of persons who
338 are prohibited from purchasing or possessing a firearm based on
339 court records of adjudications of mental defectiveness or
340 commitments to mental institutions. The Department of Children
341 and Families and the Department of Law Enforcement shall enforce
342 the reporting provisions of this section, and all licensed
343 mental health and substance abuse service providers shall fully
344 comply with this section by January 1, 2020. If, on or after
345 that date, either department finds that a provider is not in
346 compliance with the reporting provisions, it may impose a
347 \$100,000 fine for the first offense and a \$250,000 fine for the
348 second offense and may suspend the provider's license for the

32-00288C-19

2019788__

349 third offense.

350 (I) Except as provided in sub-sub-subparagraph (II), clerks
351 of court shall submit these records to the department within 1
352 month after the rendition of the adjudication or commitment.
353 Reports shall be submitted in an automated format. The reports
354 must, at a minimum, include the name, along with any known alias
355 or former name, the sex, and the date of birth of the subject.

356 (II) For persons committed to a mental institution pursuant
357 to sub-sub-subparagraph b.(II), within 24 hours after the
358 person's agreement to voluntary admission, a record of the
359 finding, certification, notice, and written acknowledgment must
360 be filed by the administrator of the receiving or treatment
361 facility, as defined in s. 394.455, with the clerk of the court
362 for the county in which the involuntary examination under s.
363 394.463 occurred. No fee shall be charged for the filing under
364 this sub-sub-subparagraph. The clerk must present the records to
365 a judge or magistrate within 72 ~~24~~ hours after receipt of the
366 records. A judge or magistrate is required and has the lawful
367 authority to review the records ex parte and, if the judge or
368 magistrate determines that the record supports the classifying
369 of the person as an imminent danger to himself or herself or
370 others, to order that the record be submitted to the department.
371 If a judge or magistrate orders the submittal of the record to
372 the department, the record must be submitted to the department
373 within 72 ~~24~~ hours.

374 d. A person who has been adjudicated mentally defective or
375 committed to a mental institution, as those terms are defined in
376 this paragraph, may petition the court that made the
377 adjudication or commitment, or the court that ordered that the

32-00288C-19

2019788__

378 record be submitted to the department pursuant to sub-sub-
379 subparagraph c.(II), for relief from the firearm disabilities or
380 seizure imposed by such adjudication or commitment. A copy of
381 the petition shall be served on the state attorney for the
382 county in which the person was adjudicated or committed. The
383 state attorney may object to and present evidence relevant to
384 the relief sought by the petition. The hearing on the petition
385 may be open or closed as the petitioner may choose. The
386 petitioner may present evidence and subpoena witnesses to appear
387 at the hearing on the petition. The petitioner may confront and
388 cross-examine witnesses called by the state attorney. A record
389 of the hearing shall be made by a certified court reporter or by
390 court-approved electronic means. The court shall make written
391 findings of fact and conclusions of law on the issues before it
392 and issue a final order. The court shall grant the relief
393 requested in the petition if the court finds, based on the
394 evidence presented with respect to the petitioner's reputation,
395 the petitioner's mental health record and, if applicable,
396 criminal history record, the circumstances surrounding the
397 firearm disability or seizure, and any other evidence in the
398 record, that the petitioner will not be likely to act in a
399 manner that is dangerous to public safety and that granting the
400 relief would not be contrary to the public interest. If the
401 final order denies relief, the petitioner may not petition again
402 for relief from firearm disabilities or seizure until 1 year
403 after the date of the final order. The petitioner may seek
404 judicial review of a final order denying relief in the district
405 court of appeal having jurisdiction over the court that issued
406 the order. The review shall be conducted de novo. Relief from a

32-00288C-19

2019788__

407 firearm disability or seizure granted under this sub-
408 subparagraph has no effect on the loss of civil rights,
409 including firearm rights, for any reason other than the
410 particular adjudication of mental defectiveness or commitment to
411 a mental institution from which relief is granted.

412 e. Upon receipt of proper notice of relief from firearm
413 disabilities or seizure granted under sub-subparagraph d., the
414 department shall delete any mental health record of the person
415 granted relief from the automated database of persons who are
416 prohibited from purchasing or possessing a firearm based on
417 court records of adjudications of mental defectiveness or
418 commitments to mental institutions.

419 f. The department is authorized to disclose data collected
420 pursuant to this subparagraph to agencies of the Federal
421 Government and other states for use exclusively in determining
422 the lawfulness of a firearm sale or transfer. The department is
423 also authorized to disclose this data to the Department of
424 Agriculture and Consumer Services for purposes of determining
425 eligibility for issuance of a concealed weapons or concealed
426 firearms license and for determining whether a basis exists for
427 revoking or suspending a previously issued license pursuant to
428 s. 790.06(10). When a potential buyer or transferee appeals a
429 nonapproval based on these records, the clerks of court and
430 mental institutions shall, upon request by the department,
431 provide information to help determine whether the potential
432 buyer or transferee is the same person as the subject of the
433 record. Photographs and any other data that could confirm or
434 negate identity must be made available to the department for
435 such purposes, notwithstanding any other provision of state law

32-00288C-19

2019788__

436 to the contrary. Any such information that is made confidential
437 or exempt from disclosure by law shall retain such confidential
438 or exempt status when transferred to the department.

439 (b) Inform the licensee making the inquiry ~~either~~ that
440 either records demonstrate that the buyer or transferee is so
441 prohibited and provide the licensee a nonapproval number, or
442 provide the licensee with a unique approval number.

443 (c)1. Review any records available to it to determine
444 whether the potential buyer or transferee has been indicted or
445 has had an information filed against her or him for an offense
446 that is a felony under either state or federal law, or, as
447 mandated by federal law, has had an injunction for protection
448 against domestic violence entered against the potential buyer or
449 transferee under s. 741.30, has had an injunction for protection
450 against repeat violence entered against the potential buyer or
451 transferee under s. 784.046, or has been arrested for a
452 dangerous crime as specified in s. 907.041(4) (a) or for any of
453 the following enumerated offenses:

- 454 a. Criminal anarchy under ss. 876.01 and 876.02.
 - 455 b. Extortion under s. 836.05.
 - 456 c. Explosives violations under s. 552.22(1) and (2).
 - 457 d. Controlled substances violations under chapter 893.
 - 458 e. Resisting an officer with violence under s. 843.01.
 - 459 f. Weapons and firearms violations under this chapter.
 - 460 g. Treason under s. 876.32.
 - 461 h. Assisting self-murder under s. 782.08.
 - 462 i. Sabotage under s. 876.38.
 - 463 j. Stalking or aggravated stalking under s. 784.048.
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32-00288C-19

2019788__

465 If the review indicates any such indictment, information, or
466 arrest, the department shall provide to the licensee a
467 conditional nonapproval number.

468 2. Within 24 working hours, the department shall determine
469 the disposition of the indictment, information, or arrest and
470 inform the licensee as to whether the potential buyer is
471 prohibited from receiving or possessing a firearm. For purposes
472 of this paragraph, "working hours" means the hours from 8 a.m.
473 to 5 p.m. Monday through Friday, excluding legal holidays.

474 3. The office of the clerk of court, at no charge to the
475 department, shall respond to any department request for data on
476 the disposition of the indictment, information, or arrest as
477 soon as possible, but in no event later than 8 working hours.

478 4. The department shall determine as quickly as possible
479 within the allotted time period whether the potential buyer is
480 prohibited from receiving or possessing a firearm.

481 5. If the potential buyer is not so prohibited, or if the
482 department cannot determine the disposition information within
483 the allotted time period, the department shall provide the
484 licensee with a conditional approval number.

485 6. If the buyer is so prohibited, the conditional
486 nonapproval number shall become a nonapproval number.

487 7. The department shall continue its attempts to obtain the
488 disposition information and may retain a record of all approval
489 numbers granted without sufficient disposition information. If
490 the department later obtains disposition information that ~~which~~
491 indicates:

492 a. That the potential buyer is not prohibited from owning a
493 firearm, it shall treat the record of the transaction in

32-00288C-19

2019788__

494 accordance with this section; or

495 b. That the potential buyer is prohibited from owning a
496 firearm, it shall immediately revoke the conditional approval
497 number and notify local law enforcement.

498 8. During the time that disposition of the indictment,
499 information, or arrest is pending and until the department is
500 notified by the potential buyer that there has been a final
501 disposition of the indictment, information, or arrest, the
502 conditional nonapproval number shall remain in effect.

503 (3) In the event of scheduled computer downtime, electronic
504 failure, or similar emergency beyond the control of the
505 Department of Law Enforcement, the department shall immediately
506 notify the licensee of the reason for, and estimated length of,
507 such delay. After such notification, the department shall
508 forthwith, and in no event later than the end of the next
509 business day of the licensee, either inform the requesting
510 licensee if its records demonstrate that the buyer or transferee
511 is prohibited from receipt or possession of a firearm pursuant
512 to Florida and Federal law or provide the licensee with a unique
513 approval number. Unless notified by the end of the ~~said~~ next
514 business day that the buyer or transferee is so prohibited, and
515 without regard to whether she or he has received a unique
516 approval number, the licensee may complete the sale or transfer
517 and shall not be deemed in violation of this section with
518 respect to such sale or transfer.

519 (4) (a) Any records containing any of the information set
520 forth in subsection (1) pertaining to a buyer or transferee who
521 is not found to be prohibited from receipt or transfer of a
522 firearm by reason of Florida and federal law which records are

32-00288C-19

2019788__

523 created by the Department of Law Enforcement to conduct the
524 criminal history record check shall be confidential and exempt
525 from ~~the provisions of~~ s. 119.07(1) and may not be disclosed by
526 the Department of Law Enforcement or any officer or employee
527 thereof to any person or to another agency. The Department of
528 Law Enforcement shall destroy any such records forthwith after
529 it communicates the approval and nonapproval numbers to the
530 licensee and, in any event, such records shall be destroyed
531 within 48 hours after the day of the response to the licensee's
532 request.

533 (b) Notwithstanding ~~the provisions of~~ this subsection, the
534 Department of Law Enforcement may maintain records of NCIC
535 transactions to the extent required by the Federal Government,
536 and may maintain a log of dates of requests for criminal history
537 records checks, unique approval and nonapproval numbers, license
538 identification numbers, and transaction numbers corresponding to
539 such dates for a period of not longer than 2 years or as
540 otherwise required by law.

541 (c) Nothing in this chapter shall be construed to allow the
542 State of Florida to maintain records containing the names of
543 purchasers or transferees who receive unique approval numbers or
544 to maintain records of firearm transactions.

545 (d) Any officer or employee, or former officer or employee
546 of the Department of Law Enforcement or law enforcement agency
547 who intentionally and maliciously violates ~~the provisions of~~
548 this subsection commits a felony of the third degree punishable
549 as provided in s. 775.082 or s. 775.083.

550 (5) The Department of Law Enforcement shall establish a
551 toll-free telephone number which shall be operational 7 days a

32-00288C-19

2019788__

552 week with the exception of Christmas Day and New Year's Day, for
553 a period of 12 hours a day beginning at 9 a.m. and ending at 9
554 p.m., for purposes of responding to inquiries as described in
555 this section from licensed manufacturers, licensed importers,
556 and licensed dealers. The Department of Law Enforcement shall
557 employ and train such personnel as are necessary expeditiously
558 to administer the provisions of this section.

559 (6) Any person who is denied the right to receive or
560 purchase a firearm as a result of the procedures established by
561 this section may request a criminal history records review and
562 correction in accordance with the rules adopted ~~promulgated~~ by
563 the Department of Law Enforcement.

564 (7) It is ~~shall be~~ unlawful for any licensed dealer,
565 licensed manufacturer, or licensed importer willfully and
566 intentionally to request criminal history record information
567 under false pretenses, or willfully and intentionally to
568 disseminate criminal history record information to any person
569 other than the subject of such information. Any person convicted
570 of a violation of this subsection commits a felony of the third
571 degree punishable as provided in s. 775.082 or s. 775.083.

572 (8) The Department of Law Enforcement shall adopt
573 ~~promulgate~~ regulations to ensure the identity, confidentiality,
574 and security of all records and data provided pursuant to this
575 section.

576 (9) This section shall become effective at such time as the
577 Department of Law Enforcement has notified all licensed
578 importers, licensed manufacturers, and licensed dealers in
579 writing that the procedures and toll-free number described in
580 this section are operational. This section shall remain in

32-00288C-19

2019788__

581 effect only during such times as the procedures described in
582 subsection (2) remain operational.

583 (10) A licensed importer, licensed manufacturer, or
584 licensed dealer is not required to comply with the requirements
585 of this section in the event of:

586 (a) Unavailability of telephone service at the licensed
587 premises due to the failure of the entity which provides
588 telephone service in the state, region, or other geographical
589 area in which the licensee is located to provide telephone
590 service to the premises of the licensee due to the location of
591 said premises; or the interruption of telephone service by
592 reason of hurricane, tornado, flood, natural disaster, or other
593 act of God, war, invasion, insurrection, riot, or other bona
594 fide emergency, or other reason beyond the control of the
595 licensee; or

596 (b) Failure of the Department of Law Enforcement to comply
597 with the requirements of subsections (2) and (3).

598 (11) Compliance with ~~the provisions of~~ this chapter shall
599 be a complete defense to any claim or cause of action under the
600 laws of any state for liability for damages arising from the
601 importation or manufacture, or the subsequent sale or transfer
602 to any person who has been convicted in any court of a crime
603 punishable by imprisonment for a term exceeding 1 year, of any
604 firearm that ~~which~~ has been shipped or transported in interstate
605 or foreign commerce. The Department of Law Enforcement, its
606 agents and employees shall not be liable for any claim or cause
607 of action under the laws of any state for liability for damages
608 arising from its actions in lawful compliance with this section.

609 (12) (a) Any potential buyer or transferee who willfully and

32-00288C-19

2019788__

610 knowingly provides false information or false or fraudulent
611 identification commits a felony of the third degree punishable
612 as provided in s. 775.082 or s. 775.083.

613 (b) Any licensed importer, licensed manufacturer, or
614 licensed dealer who violates the provisions of subsection (1)
615 commits a felony of the third degree punishable as provided in
616 s. 775.082 or s. 775.083.

617 (c) Any employee or agency of a licensed importer, licensed
618 manufacturer, or licensed dealer who violates the provisions of
619 subsection (1) commits a felony of the third degree punishable
620 as provided in s. 775.082 or s. 775.083.

621 (d) Any person who knowingly acquires a firearm through
622 purchase or transfer intended for the use of a person who is
623 prohibited by state or federal law from possessing or receiving
624 a firearm commits a felony of the third degree, punishable as
625 provided in s. 775.082 or s. 775.083.

626 (13) A person younger than 21 years of age may not purchase
627 a firearm. The sale or transfer of a firearm to a person younger
628 than 21 years of age may not be made or facilitated by a
629 licensed importer, licensed manufacturer, or licensed dealer. A
630 person who violates this subsection commits a felony of the
631 third degree, punishable as provided in s. 775.082, s. 775.083,
632 or s. 775.084. The prohibitions of this subsection do not apply
633 to the purchase of a rifle or shotgun by a law enforcement
634 officer or correctional officer, as those terms are defined in
635 s. 943.10(1), (2), (3), (6), (7), (8), or (9), or a
636 servicemember as defined in s. 250.01.

637 (14) This section does not apply to employees of sheriff's
638 offices, municipal police departments, correctional facilities

32-00288C-19

2019788__

639 or agencies, or other criminal justice or governmental agencies
640 when the purchases or transfers are made on behalf of an
641 employing agency for official law enforcement purposes.

642 Section 5. This act shall take effect July 1, 2019.