

By the Committee on Infrastructure and Security

596-02240-20

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1                                   A bill to be entitled  
2       An act relating to public safety; amending s. 401.30,  
3       F.S.; requiring emergency medical technicians and  
4       paramedics to disclose certain confidential  
5       communications to law enforcement agencies to  
6       communicate a threat under certain circumstances;  
7       requiring law enforcement agencies receiving such  
8       notifications to take appropriate actions to reduce  
9       the risk of harm to the potential victims; providing  
10      emergency medical technicians and paramedics with  
11      immunity from specified legal action or liability for  
12      such disclosure; amending s. 456.059, F.S.; defining  
13      the term "specified licensee"; requiring specified  
14      licensees, rather than only psychiatrists, to disclose  
15      certain confidential communications to law enforcement  
16      agencies to communicate a threat under certain  
17      circumstances; providing specified licensees with  
18      immunity from specified legal action or liability for  
19      such disclosure; amending s. 790.065, F.S.;  
20      authorizing a person who is not a licensed importer, a  
21      licensed manufacturer, or a licensed dealer and who  
22      chooses to not use a licensed importer, a licensed  
23      manufacturer, or a licensed dealer to facilitate a  
24      private sale of his or her firearm to sell the firearm  
25      if he or she complies with specified requirements;  
26      providing criminal penalties; creating s. 790.0653,  
27      F.S.; defining the term "property to which the public  
28      has the right of access"; prohibiting a person from  
29      selling, offering for sale, delivering, or

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30 transferring a firearm to another person for  
31 consideration if any part of the transaction is  
32 conducted on property to which the public has the  
33 right of access, unless that person first meets  
34 certain requirements; providing that a seller or  
35 transferor who is not a licensed importer, a licensed  
36 manufacturer, or a licensed dealer may comply by  
37 requesting that a licensed importer, a licensed  
38 manufacturer, or a licensed dealer meet certain  
39 requirements on behalf of the seller or transferor;  
40 authorizing a licensed importer, a licensed  
41 manufacturer, or a licensed dealer to charge an  
42 administrative fee; requiring unlicensed sellers or  
43 transferors to prominently display specified  
44 information next to firearms being sold on property to  
45 which the public has the right of access; requiring  
46 firearm transaction records to be maintained in  
47 accordance with federal law; providing criminal  
48 penalties; providing applicability; amending s.  
49 790.0655, F.S.; conforming a provision to changes made  
50 by the act; amending s. 790.174, F.S.; revising a  
51 provision related to requiring a person who stores or  
52 leaves a loaded firearm on a premises under his or her  
53 control to keep the firearm securely stored; revising  
54 applicability; redefining the term "minor"; amending  
55 s. 943.0311, F.S.; requiring the Chief of Domestic  
56 Security to oversee the development of a statewide  
57 strategy for targeted violence prevention; requiring  
58 the chief to coordinate with state and local law

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59 enforcement agencies in the development of the  
60 statewide strategy and in its implementation;  
61 requiring periodic evaluation of the statewide  
62 strategy; providing construction; providing an  
63 appropriation; providing effective dates.

64  
65 Be It Enacted by the Legislature of the State of Florida:

66  
67 Section 1. Present subsection (5) of section 401.30,  
68 Florida Statutes, is redesignated as subsection (6), and a new  
69 subsection (5) is added to that section, to read:

70 401.30 Records.—

71 (5) (a) Notwithstanding subsection (4), an emergency medical  
72 technician or a paramedic must disclose confidential  
73 communications to a law enforcement agency to the extent  
74 necessary to communicate a threat if:

75 1. A person has received basic life support or advanced  
76 life support from an emergency medical technician or a paramedic  
77 within the scope of the emergency medical technician's or the  
78 paramedic's employment pursuant to this part;

79 2. Such person has communicated to the emergency medical  
80 technician or paramedic a specific threat to cause serious  
81 bodily injury or death to an identified or a readily available  
82 person; and

83 3. The emergency medical technician or paramedic in good  
84 faith believes that the person has the apparent intent and  
85 ability to imminently or immediately carry out such threat.

86 (b) A law enforcement agency that receives notification of  
87 such threat under this subsection must take appropriate action

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88 to prevent the risk of harm, including, but not limited to,  
89 notifying the potential victim of the threat or initiating a  
90 risk protection order.

91 (c) An emergency medical technician's or a paramedic's  
92 disclosure of confidential communications pursuant to this  
93 subsection may not be the basis of any legal action or criminal  
94 or civil liability against the emergency medical technician or  
95 paramedic.

96 Section 2. Section 456.059, Florida Statutes, is amended to  
97 read:

98 456.059 Communications confidential; exceptions.—

99 (1) As used in this section, the term "specified licensee"  
100 means any health care practitioner certified or licensed under  
101 chapter 458, chapter 459, chapter 462, part I of chapter 464,  
102 chapter 490, or chapter 491.

103 (2) Communications between a patient and a psychiatrist, as  
104 defined in s. 394.455, shall be held confidential and may not be  
105 disclosed except upon the request of the patient or the  
106 patient's legal representative. Provision of psychiatric records  
107 and reports is governed by s. 456.057.

108 (3) Notwithstanding subsection (2) or any other law  
109 relating to the confidentiality of communications between a  
110 specified licensee and a patient, if ~~provision of this section~~  
111 ~~or s. 90.503, when:~~

112 (a) ~~(1)~~ A patient has received health care services provided  
113 by a specified licensee is engaged in a treatment relationship  
114 with a psychiatrist;

115 (b) ~~(2)~~ Such patient has communicated to the specified  
116 licensee ~~psychiatrist~~ a specific threat to cause serious bodily

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117 injury or death to an identified or a readily available person;  
118 and

119 (c)(3) The specified licensee in good faith believes  
120 ~~treating psychiatrist makes a clinical judgment~~ that the patient  
121 has the apparent intent and ability to imminently or immediately  
122 carry out such threat,

123  
124 the specified licensee ~~psychiatrist~~ may disclose patient  
125 communications to the extent necessary to warn any potential  
126 victim and must disclose patient communications to the extent  
127 necessary to communicate the threat to a law enforcement agency.  
128 A law enforcement agency that receives notification of a  
129 specific threat under this section must take appropriate action  
130 to prevent the risk of harm, including, but not limited to,  
131 notifying the intended victim of such threat or initiating a  
132 risk protection order. A specified licensee's ~~psychiatrist's~~  
133 disclosure of confidential communications when communicating a  
134 threat pursuant to this section may not be the basis of any  
135 legal action or criminal or civil liability against the  
136 specified licensee ~~psychiatrist~~.

137 Section 3. Present subsection (14) of section 790.065,  
138 Florida Statutes, is redesignated as subsection (15), and a new  
139 subsection (14) is added to that section, to read:

140 790.065 Sale and delivery of firearms.—

141 (14) (a) A person who is not a licensed importer, a licensed  
142 manufacturer, or a licensed dealer and who chooses not to use a  
143 licensed importer, a licensed manufacturer, or a licensed dealer  
144 to facilitate a private sale may sell his or her firearm to  
145 another person if all of the following requirements are met:

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146       1. The seller confirms by examining the purchaser's valid  
 147 government-issued photo identification that the purchaser is 21  
 148 years of age or older and is therefore of a lawful age to  
 149 purchase a firearm.

150       2. The seller makes and preserves a dated record of the  
 151 sale for each firearm which includes:

152       a. The make, model, and serial number of the firearm sold  
 153 to the purchaser. This information about the firearm must match  
 154 the information provided on the affidavit required under this  
 155 paragraph for the private sale of a firearm;

156       b. The date of the sale;

157       c. The purchaser's name and date of birth and the  
 158 identification number on the purchaser's valid government-issued  
 159 photo identification. This information about the purchaser must  
 160 match the information provided on the affidavit for private sale  
 161 of a firearm; and

162       d. A copy of an affidavit for the private sale of a firearm  
 163 signed by the purchaser and a notary public. At a minimum, the  
 164 affidavit must be in substantially the following general form,  
 165 but such form is not exclusive:

167       STATE OF FLORIDA

168       COUNTY OF ....

169  
 170       Before the undersigned authority personally appeared ... (Firearm  
 171 purchaser's full legal name) ..., who on oath does solemnly swear  
 172 (or affirm) that she or he has knowledge of the matters stated  
 173 herein; that a purchase of a firearm is being made for a  
 174 ... (Manufacturer of firearm) ... (Model of firearm) ...

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175 ...(Type of firearm)... with a serial number of ...(Firearm  
176 serial number)..., and who has provided a yes or no response to  
177 each of the following questions:

178  
179 1. Are you the actual purchaser of the firearm listed on this  
180 affidavit? Yes .... No ....

181 2. Are you under indictment or information in any court for a  
182 felony, or any other crime for which the judge could imprison  
183 you for more than 1 year? Yes .... No ....

184 3. Have you ever been convicted in any court of a felony, or any  
185 other crime for which the judge could have imprisoned you for  
186 more than 1 year, even if you received a shorter sentence,  
187 including probation, and not had your rights restored pursuant  
188 to law? Yes .... No ....

189 4. Are you a fugitive from justice? Yes .... No ....

190 5. Are you an unlawful user of, or addicted to, marijuana or any  
191 depressant, stimulant, narcotic drug, or any other controlled  
192 substance? Yes .... No ....

193 6. Have you ever been adjudicated as mentally defective or have  
194 you ever been committed to a mental institution and not had a  
195 petition for relief from the firearm disabilities imposed by  
196 such adjudication or commitment approved? Yes .... No ....

197 7. Have you been discharged from the United States Armed Forces  
198 under dishonorable conditions? Yes .... No ....

199 8. Are you subject to a court order restraining you from  
200 harassing, stalking, or threatening your child or an intimate  
201 partner or child of such partner? Yes .... No ....

202 9. Have you ever been convicted in any court of a misdemeanor  
203 crime of domestic violence? Yes .... No ....

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204 10. Are you under indictment or information in any court for a  
205 crime of domestic violence? Yes .... No ....

206 11. Have you ever renounced your United States citizenship? Yes  
207 .... No ....

208 12. Are you an alien illegally or unlawfully in the United  
209 States? Yes .... No ....

210 13. Are you an alien who has been admitted to the United States  
211 under a nonimmigrant visa? Yes .... No ....

212

213 ...(Firearm purchaser's full legal name)... has a valid  
214 government-issued photo identification in the form of a ...(Type  
215 of valid government photo identification)... with an  
216 identification number of ...(Identification number of valid  
217 government photo identification)..., which indicates the  
218 purchaser's date of birth as ...(Date of birth on valid  
219 government photo identification)..., has indicated the physical  
220 address of the purchaser's current residence as ...(Physical  
221 address of current residence)..., and will provide a copy of  
222 this affidavit to ...(Firearm seller's full legal name)....

223

224 I, ...(Firearm purchaser's full legal name)..., understand that  
225 I am swearing or affirming under oath to the truthfulness of the  
226 above information and statements made in this affidavit, and  
227 that the punishment for knowingly making a false statement may  
228 include fines or imprisonment, or both.

229

230 Dated ...(Day, month, year)...

231 Signed ...(Signature of firearm purchaser)...

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Sworn to (or affirmed) and subscribed before me this .... day of  
...(Month)..., ...(Year)..., by ...(Firearm purchaser's full  
legal name)....

...(Signature of Notary Public - State of Florida)...  
...(Print, type, or stamp Commissioned Name of Notary Public)...

Personally Known .... or Produced Identification ....

Type of Identification Produced ....

3. The seller has confirmed the purchaser's answer to each  
question on the affidavit for private sale of a firearm is "No."

4. The seller has no knowledge or reason to believe that  
the purchaser is of unsound mind.

(b) A seller who violates this subsection commits a  
misdemeanor of the second degree, punishable as provided in s.  
775.082 or s. 775.083.

Section 4. Section 790.0653, Florida Statutes, is created  
to read:

790.0653 Sale, delivery, or transfer of firearms conducted  
on property to which the public has the right of access.-

(1) As used in this section, the term "property to which  
the public has the right of access" means any property that is  
open for public access, regardless of whether an admission fee  
is charged, and includes, but is not limited to, a flea market,  
a gun show, or a firearm exhibit.

(2) A person may not sell, offer for sale, deliver, or

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262 transfer a firearm to another person for consideration if any  
263 part of the transaction is conducted on property to which the  
264 public has the right of access, unless he or she first meets the  
265 requirements that apply to a licensed importer, a licensed  
266 manufacturer, or a licensed dealer under s. 790.065(1)(a)1., 3.,  
267 and 4.

268 (a) A seller or transferor who is not a licensed importer,  
269 a licensed manufacturer, or a licensed dealer may comply with  
270 this subsection by requesting that a licensed importer, a  
271 licensed manufacturer, or a licensed dealer, on behalf of the  
272 seller or transferor, for the purpose of a sale or transfer,  
273 perform the functions required under s. 790.065(1)(a). The  
274 licensed importer, licensed manufacturer, or licensed dealer may  
275 charge the unlicensed seller or transferor an administrative fee  
276 to cover the costs associated with the performance of those  
277 functions. The unlicensed seller or transferor shall prominently  
278 display next to any firearms being sold on property to which the  
279 public has the right of access the following information:

280 1. The full legal name of the seller or transferor; and  
281 2. The full legal name and the license number of the  
282 licensed importer, licensed manufacturer, or licensed dealer who  
283 will be completing a transaction on behalf of the seller or  
284 transferor.

285 (b) A licensed importer, a licensed manufacturer, or a  
286 licensed dealer who conducts a criminal history records check  
287 pursuant to this subsection shall maintain the firearms  
288 transaction records in accordance with federal law and shall  
289 provide a copy of the firearms transaction record to the seller  
290 or transferor if he or she is not a licensed importer, a

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291 licensed manufacturer, or a licensed dealer.

292 (3) A person who violates subsection (2):

293 (a) Commits a misdemeanor of the first degree, punishable  
294 as provided in s. 775.082 or s. 775.083 for a first offense.

295 (b) Commits a felony of the third degree, punishable as  
296 provided in s. 775.082, s. 775.083, or s. 775.084 for a second  
297 or subsequent offense.

298 (4) The mandatory waiting period, exceptions, and penalties  
299 of s. 790.0655 apply to this section.

300 Section 5. Paragraph (b) of subsection (3) of section  
301 790.0655, Florida Statutes, is redesignated as paragraph (c) of  
302 that subsection, a new paragraph (b) is added to that  
303 subsection, and subsections (1) and (2) of that section are  
304 republished, to read:

305 790.0655 Purchase and delivery of firearms; mandatory  
306 waiting period; exceptions; penalties.—

307 (1) (a) A mandatory waiting period is imposed between the  
308 purchase and delivery of a firearm. The mandatory waiting period  
309 is 3 days, excluding weekends and legal holidays, or expires  
310 upon the completion of the records checks required under s.  
311 790.065, whichever occurs later. "Purchase" means the transfer  
312 of money or other valuable consideration to the retailer.  
313 "Retailer" means and includes a licensed importer, licensed  
314 manufacturer, or licensed dealer engaged in the business of  
315 making firearm sales at retail or for distribution, or use, or  
316 consumption, or storage to be used or consumed in this state, as  
317 defined in s. 212.02(13).

318 (b) Records of firearm sales must be available for  
319 inspection by any law enforcement agency, as defined in s.

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320 934.02, during normal business hours.

321 (2) The waiting period does not apply in the following  
322 circumstances:

323 (a) When a firearm is being purchased by a holder of a  
324 concealed weapons permit as defined in s. 790.06.

325 (b) To a trade-in of another firearm.

326 (c) To the purchase of a rifle or shotgun, upon a person's  
327 successfully completing a minimum of a 16-hour hunter safety  
328 course and possessing a hunter safety certification card issued  
329 under s. 379.3581. A person who is exempt from the hunter safety  
330 course requirements under s. 379.3581 and holds a valid Florida  
331 hunting license is exempt from the mandatory waiting period  
332 under this section for the purchase of a rifle or shotgun.

333 (d) When a rifle or shotgun is being purchased by a law  
334 enforcement officer or correctional officer, as those terms are  
335 defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9), or a  
336 servicemember as defined in s. 250.01.

337 (3) It is a felony of the third degree, punishable as  
338 provided in s. 775.082, s. 775.083, or s. 775.084:

339 (a) For any retailer, or any employee or agent of a  
340 retailer, to deliver a firearm before the expiration of the  
341 waiting period, subject to the exceptions provided in subsection  
342 (2).

343 (b) For a seller or transferor under s. 790.0653, or an  
344 employee or agent of such seller or transferor, to deliver a  
345 firearm before the expiration of the waiting period, subject to  
346 the exceptions provided in subsection (2).

347 (c) For a purchaser to obtain delivery of a firearm by  
348 fraud, false pretense, or false representation.

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349 Section 6. Section 790.174, Florida Statutes, is amended to  
350 read:

351 790.174 Safe storage of firearms required.-

352 (1) A person who stores or leaves, on a premises ~~premise~~  
353 under his or her control, a loaded firearm, as defined in s.  
354 790.001, and who has actual knowledge that a person of unsound  
355 mind or who knows or reasonably should know that a minor is  
356 likely to gain access to the firearm without the lawful  
357 permission of the minor's parent or the person having charge of  
358 the minor, or without the supervision required by law, shall  
359 keep the firearm in a securely locked box or container or in a  
360 location which a reasonable person would believe to be secure or  
361 shall secure it with a trigger lock, except when the person is  
362 carrying the firearm on his or her body or within such close  
363 proximity thereto that he or she can retrieve and use it as  
364 easily and quickly as if he or she carried it on his or her  
365 body.

366 (2) It is a misdemeanor of the second degree, punishable as  
367 provided in s. 775.082 or s. 775.083, if a person violates  
368 subsection (1) by failing to store or leave a firearm in the  
369 required manner and as a result thereof a person of unsound mind  
370 or a minor gains access to the firearm, without the lawful  
371 permission of the minor's parent or the person having charge of  
372 the minor, and possesses or exhibits it, without the supervision  
373 required by law:

374 (a) In a public place; or

375 (b) In a rude, careless, angry, or threatening manner in  
376 violation of s. 790.10.

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378 This subsection does not apply if the person of unsound mind or  
379 minor obtains the firearm as a result of an unlawful entry by  
380 any person.

381 (3) As used in this section ~~act~~, the term "minor" means any  
382 person under 18 years of ~~the age of 16~~.

383 Section 7. Effective upon the same date that SB 7030 or  
384 similar legislation takes effect, only if such legislation is  
385 adopted in the same legislative session or an extension thereof  
386 and becomes a law, present subsection (7) of section 943.0311,  
387 Florida Statutes, is redesignated as subsection (10), and a new  
388 subsection (7) and subsections (8) and (9) are added to that  
389 section, to read:

390 943.0311 Chief of Domestic Security; duties of the  
391 department with respect to domestic security.—

392 (7) The chief shall oversee the development of a statewide  
393 strategy for targeted violence prevention to develop a  
394 comprehensive threat assessment strategy and appropriate  
395 training to be used by state and local law enforcement agencies.  
396 The chief shall coordinate with state and local law enforcement  
397 agencies in the development of the statewide strategy and its  
398 implementation.

399 (8) Any statewide strategy for targeted violence prevention  
400 shall be evaluated periodically, as determined by the  
401 department, and after any event of targeted violence, to  
402 incorporate changes needed to address deficiencies and improve  
403 effectiveness.

404 (9) Subsections (7) and (8) may not be construed to  
405 abrogate or diminish any person's right to be secure in their  
406 persons, houses, papers, and effects against unreasonable

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407 seizures and searches as provided in the United States and  
408 Florida Constitutions, and in the laws of this state and the  
409 Federal Government, including, but not limited to, s. 933.04.

410 Section 8. Effective upon the same date that SB 7030 or  
411 similar legislation takes effect, only if such legislation is  
412 adopted in the same legislative session or an extension thereof  
413 and becomes a law, for the 2020-2021 fiscal year, 37 full-time  
414 equivalent positions with an associated total salary rate of  
415 2,045,705 are authorized and the recurring sum of \$4,827,538 and  
416 the nonrecurring sum of \$1,043,415 are appropriated from the  
417 General Revenue Fund to the Department of Law Enforcement for  
418 the purpose of implementing a statewide strategy for targeted  
419 violence prevention.

420 Section 9. Except as otherwise expressly provided in this  
421 act, this act shall take effect July 1, 2020.