

1 A bill to be entitled

2 An act relating to removing firearm regulations;  
3 amending s. 394.463, F.S.; removing provisions  
4 authorizing the seizure of firearms from persons in  
5 certain circumstances; amending s. 394.4599, F.S.;  
6 conforming a cross-reference; repealing s. 790.064,  
7 F.S., relating to a prohibition on firearms ownership  
8 or possession until removal of the firearm possession  
9 and firearm ownership disability; amending s. 790.065,  
10 F.S.; conforming a cross-reference; removing a  
11 prohibition on persons younger than 21 years of age  
12 from purchasing firearms; amending s. 790.0655, F.S.;  
13 removing exemptions from a waiting period for firearms  
14 purchases for the purchase of a rifle or shotgun upon  
15 successful completion of a hunter safety course and  
16 purchase of a rifle or shotgun by a law enforcement or  
17 correctional officer; repealing s. 790.222, F.S.,  
18 relating to a ban on bump-fire stocks; repealing s.  
19 790.401, F.S., relating to risk protection orders;  
20 providing an effective date.

21  
22 Be It Enacted by the Legislature of the State of Florida:

23  
24 Section 1. Paragraphs (a), (d) and (h) of subsection (2)  
25 of section 394.463, Florida Statutes, are amended to read:

26 | 394.463 Involuntary examination.—

27 | (2) INVOLUNTARY EXAMINATION.—

28 | (a) An involuntary examination may be initiated by any one  
29 | of the following means:

30 | 1. A circuit or county court may enter an ex parte order  
31 | stating that a person appears to meet the criteria for  
32 | involuntary examination and specifying the findings on which  
33 | that conclusion is based. The ex parte order for involuntary  
34 | examination must be based on written or oral sworn testimony  
35 | that includes specific facts that support the findings. If other  
36 | less restrictive means are not available, such as voluntary  
37 | appearance for outpatient evaluation, a law enforcement officer,  
38 | or other designated agent of the court, shall take the person  
39 | into custody and deliver him or her to an appropriate, or the  
40 | nearest, facility within the designated receiving system  
41 | pursuant to s. 394.462 for involuntary examination. The order of  
42 | the court shall be made a part of the patient's clinical record.  
43 | A fee may not be charged for the filing of an order under this  
44 | subsection. A facility accepting the patient based on this order  
45 | must send a copy of the order to the department within 5 working  
46 | days. The order may be submitted electronically through existing  
47 | data systems, if available. The order shall be valid only until  
48 | the person is delivered to the facility or for the period  
49 | specified in the order itself, whichever comes first. If a time  
50 | limit is not specified in the order, the order is valid for 7

51 days after the date that the order was signed.

52 2. A law enforcement officer shall take a person who  
53 appears to meet the criteria for involuntary examination into  
54 custody and deliver the person or have him or her delivered to  
55 an appropriate, or the nearest, facility within the designated  
56 receiving system pursuant to s. 394.462 for examination. The  
57 officer shall execute a written report detailing the  
58 circumstances under which the person was taken into custody,  
59 which must be made a part of the patient's clinical record. Any  
60 facility accepting the patient based on this report must send a  
61 copy of the report to the department within 5 working days.

62 3. A physician, a clinical psychologist, a psychiatric  
63 nurse, an advanced practice registered nurse registered under s.  
64 464.0123, a mental health counselor, a marriage and family  
65 therapist, or a clinical social worker may execute a certificate  
66 stating that he or she has examined a person within the  
67 preceding 48 hours and finds that the person appears to meet the  
68 criteria for involuntary examination and stating the  
69 observations upon which that conclusion is based. If other less  
70 restrictive means, such as voluntary appearance for outpatient  
71 evaluation, are not available, a law enforcement officer shall  
72 take into custody the person named in the certificate and  
73 deliver him or her to the appropriate, or nearest, facility  
74 within the designated receiving system pursuant to s. 394.462  
75 for involuntary examination. The law enforcement officer shall

76 execute a written report detailing the circumstances under which  
77 the person was taken into custody. The report and certificate  
78 shall be made a part of the patient's clinical record. Any  
79 facility accepting the patient based on this certificate must  
80 send a copy of the certificate to the department within 5  
81 working days. The document may be submitted electronically  
82 through existing data systems, if applicable.

83  
84 When sending the order, report, or certificate to the  
85 department, a facility shall, at a minimum, provide information  
86 about which action was taken regarding the patient under  
87 paragraph (h) ~~(g)~~, which information shall also be made a part  
88 of the patient's clinical record.

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

95 ~~2. If the law enforcement officer takes custody of the~~  
96 ~~person at the person's residence and the criteria in~~  
97 ~~subparagraph 1. have been met, the law enforcement officer may~~  
98 ~~seek the voluntary surrender of firearms or ammunition kept in~~  
99 ~~the residence which have not already been seized under~~  
100 ~~subparagraph 1. If such firearms or ammunition are not~~

101 ~~voluntarily surrendered, or if the person has other firearms or~~  
102 ~~ammunition that were not seized or voluntarily surrendered when~~  
103 ~~he or she was taken into custody, a law enforcement officer may~~  
104 ~~petition the appropriate court under s. 790.401 for a risk~~  
105 ~~protection order against the person.~~

106 ~~3. Firearms or ammunition seized or voluntarily~~  
107 ~~surrendered under this paragraph must be made available for~~  
108 ~~return no later than 24 hours after the person taken into~~  
109 ~~custody can document that he or she is no longer subject to~~  
110 ~~involuntary examination and has been released or discharged from~~  
111 ~~any inpatient or involuntary outpatient treatment provided or~~  
112 ~~ordered under paragraph (g), unless a risk protection order~~  
113 ~~entered under s. 790.401 directs the law enforcement agency to~~  
114 ~~hold the firearms or ammunition for a longer period or the~~  
115 ~~person is subject to a firearm purchase disability under s.~~  
116 ~~790.065(2), or a firearm possession and firearm ownership~~  
117 ~~disability under s. 790.064. The process for the actual return~~  
118 ~~of firearms or ammunition seized or voluntarily surrendered~~  
119 ~~under this paragraph may not take longer than 7 days.~~

120 ~~4. Law enforcement agencies must develop policies and~~  
121 ~~procedures relating to the seizure, storage, and return of~~  
122 ~~firearms or ammunition held under this paragraph.~~

123 (g)~~(h)~~ A person for whom an involuntary examination has  
124 been initiated who is being evaluated or treated at a hospital  
125 for an emergency medical condition specified in s. 395.002 must

126 be examined by a facility within the examination period  
127 specified in paragraph (f) ~~(g)~~. The examination period begins  
128 when the patient arrives at the hospital and ceases when the  
129 attending physician documents that the patient has an emergency  
130 medical condition. If the patient is examined at a hospital  
131 providing emergency medical services by a professional qualified  
132 to perform an involuntary examination and is found as a result  
133 of that examination not to meet the criteria for involuntary  
134 outpatient services pursuant to s. 394.4655(2) or involuntary  
135 inpatient placement pursuant to s. 394.467(1), the patient may  
136 be offered voluntary services or placement, if appropriate, or  
137 released directly from the hospital providing emergency medical  
138 services. The finding by the professional that the patient has  
139 been examined and does not meet the criteria for involuntary  
140 inpatient services or involuntary outpatient placement must be  
141 entered into the patient's clinical record. This paragraph is  
142 not intended to prevent a hospital providing emergency medical  
143 services from appropriately transferring a patient to another  
144 hospital before stabilization if the requirements of s.  
145 395.1041(3) (c) have been met.

146 Section 2. Paragraph (c) of subsection (2) of section  
147 394.4599, Florida Statutes, is amended to read:

148 394.4599 Notice.—

149 (2) INVOLUNTARY ADMISSION.—

150 (c)1. A receiving facility shall give notice of the

151 whereabouts of a minor who is being involuntarily held for  
152 examination pursuant to s. 394.463 to the minor's parent,  
153 guardian, caregiver, or guardian advocate, in person or by  
154 telephone or other form of electronic communication, immediately  
155 after the minor's arrival at the facility. The facility may  
156 delay notification for no more than 24 hours after the minor's  
157 arrival if the facility has submitted a report to the central  
158 abuse hotline, pursuant to s. 39.201, based upon knowledge or  
159 suspicion of abuse, abandonment, or neglect and if the facility  
160 deems a delay in notification to be in the minor's best  
161 interest.

162 2. The receiving facility shall attempt to notify the  
163 minor's parent, guardian, caregiver, or guardian advocate until  
164 the receiving facility receives confirmation from the parent,  
165 guardian, caregiver, or guardian advocate, verbally, by  
166 telephone or other form of electronic communication, or by  
167 recorded message, that notification has been received. Attempts  
168 to notify the parent, guardian, caregiver, or guardian advocate  
169 must be repeated at least once every hour during the first 12  
170 hours after the minor's arrival and once every 24 hours  
171 thereafter and must continue until such confirmation is  
172 received, unless the minor is released at the end of the 72-hour  
173 examination period, or until a petition for involuntary services  
174 is filed with the court pursuant to s. 394.463(2)(f) ~~s.~~  
175 ~~394.463(2)(g)~~. The receiving facility may seek assistance from a

176 law enforcement agency to notify the minor's parent, guardian,  
 177 caregiver, or guardian advocate if the facility has not received  
 178 within the first 24 hours after the minor's arrival a  
 179 confirmation by the parent, guardian, caregiver, or guardian  
 180 advocate that notification has been received. The receiving  
 181 facility must document notification attempts in the minor's  
 182 clinical record.

183 Section 3. Section 790.064, Florida Statutes, is repealed.

184 Section 4. Paragraph (a) of subsection (2) and subsection  
 185 (13) of section 790.065, Florida Statutes, are amended to read:  
 186 790.065 Sale and delivery of firearms.—

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

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

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

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

196 3. Has had adjudication of guilt withheld or imposition of  
 197 sentence suspended on any felony or misdemeanor crime of  
 198 domestic violence unless 3 years have elapsed since probation or  
 199 any other conditions set by the court have been fulfilled or  
 200 expunction has occurred; or



201           4. Has been adjudicated mentally defective or has been  
202 committed to a mental institution by a court or as provided in  
203 sub-sub-subparagraph b.(II), and as a result is prohibited by  
204 state or federal law from purchasing a firearm.

205           a. As used in this subparagraph, "adjudicated mentally  
206 defective" means a determination by a court that a person, as a  
207 result of marked subnormal intelligence, or mental illness,  
208 incompetency, condition, or disease, is a danger to himself or  
209 herself or to others or lacks the mental capacity to contract or  
210 manage his or her own affairs. The phrase includes a judicial  
211 finding of incapacity under s. 744.331(6)(a), an acquittal by  
212 reason of insanity of a person charged with a criminal offense,  
213 and a judicial finding that a criminal defendant is not  
214 competent to stand trial.

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

217           (I) Involuntary commitment, commitment for mental  
218 defectiveness or mental illness, and commitment for substance  
219 abuse. The phrase includes involuntary inpatient placement as  
220 defined in s. 394.467, involuntary outpatient placement as  
221 defined in s. 394.4655, involuntary assessment and stabilization  
222 under s. 397.6818, and involuntary substance abuse treatment  
223 under s. 397.6957, but does not include a person in a mental  
224 institution for observation or discharged from a mental  
225 institution based upon the initial review by the physician or a

226 | voluntary admission to a mental institution; or

227 |       (II) Notwithstanding sub-sub-subparagraph (I), voluntary  
228 | admission to a mental institution for outpatient or inpatient  
229 | treatment of a person who had an involuntary examination under  
230 | s. 394.463, where each of the following conditions have been  
231 | met:

232 |       (A) An examining physician found that the person is an  
233 | imminent danger to himself or herself or others.

234 |       (B) The examining physician certified that if the person  
235 | did not agree to voluntary treatment, a petition for involuntary  
236 | outpatient or inpatient treatment would have been filed under s.  
237 | 394.463(2)(f)4. ~~s. 394.463(2)(g)4.~~, or the examining physician  
238 | certified that a petition was filed and the person subsequently  
239 | agreed to voluntary treatment prior to a court hearing on the  
240 | petition.

241 |       (C) Before agreeing to voluntary treatment, the person  
242 | received written notice of that finding and certification, and  
243 | written notice that as a result of such finding, he or she may  
244 | be prohibited from purchasing a firearm, and may not be eligible  
245 | to apply for or retain a concealed weapon or firearms license  
246 | under s. 790.06 and the person acknowledged such notice in  
247 | writing, in substantially the following form:

248 | "I understand that the doctor who examined me believes I am a  
249 | danger to myself or to others. I understand that if I do not  
250 | agree to voluntary treatment, a petition will be filed in court

251 to require me to receive involuntary treatment. I understand  
252 that if that petition is filed, I have the right to contest it.  
253 In the event a petition has been filed, I understand that I can  
254 subsequently agree to voluntary treatment prior to a court  
255 hearing. I understand that by agreeing to voluntary treatment in  
256 either of these situations, I may be prohibited from buying  
257 firearms and from applying for or retaining a concealed weapons  
258 or firearms license until I apply for and receive relief from  
259 that restriction under Florida law."

260 (D) A judge or a magistrate has, pursuant to sub-sub-  
261 subparagraph c.(II), reviewed the record of the finding,  
262 certification, notice, and written acknowledgment classifying  
263 the person as an imminent danger to himself or herself or  
264 others, and ordered that such record be submitted to the  
265 department.

266 c. In order to check for these conditions, the department  
267 shall compile and maintain an automated database of persons who  
268 are prohibited from purchasing a firearm based on court records  
269 of adjudications of mental defectiveness or commitments to  
270 mental institutions.

271 (I) Except as provided in sub-sub-subparagraph (II),  
272 clerks of court shall submit these records to the department  
273 within 1 month after the rendition of the adjudication or  
274 commitment. Reports shall be submitted in an automated format.  
275 The reports must, at a minimum, include the name, along with any

276 | known alias or former name, the sex, and the date of birth of  
277 | the subject.

278 |       (II) For persons committed to a mental institution  
279 | pursuant to sub-sub-subparagraph b.(II), within 24 hours after  
280 | the person's agreement to voluntary admission, a record of the  
281 | finding, certification, notice, and written acknowledgment must  
282 | be filed by the administrator of the receiving or treatment  
283 | facility, as defined in s. 394.455, with the clerk of the court  
284 | for the county in which the involuntary examination under s.  
285 | 394.463 occurred. No fee shall be charged for the filing under  
286 | this sub-sub-subparagraph. The clerk must present the records to  
287 | a judge or magistrate within 24 hours after receipt of the  
288 | records. A judge or magistrate is required and has the lawful  
289 | authority to review the records ex parte and, if the judge or  
290 | magistrate determines that the record supports the classifying  
291 | of the person as an imminent danger to himself or herself or  
292 | others, to order that the record be submitted to the department.  
293 | If a judge or magistrate orders the submittal of the record to  
294 | the department, the record must be submitted to the department  
295 | within 24 hours.

296 |       d. A person who has been adjudicated mentally defective or  
297 | committed to a mental institution, as those terms are defined in  
298 | this paragraph, may petition the court that made the  
299 | adjudication or commitment, or the court that ordered that the  
300 | record be submitted to the department pursuant to sub-sub-

301 subparagraph c.(II), for relief from the firearm disabilities  
302 imposed by such adjudication or commitment. A copy of the  
303 petition shall be served on the state attorney for the county in  
304 which the person was adjudicated or committed. The state  
305 attorney may object to and present evidence relevant to the  
306 relief sought by the petition. The hearing on the petition may  
307 be open or closed as the petitioner may choose. The petitioner  
308 may present evidence and subpoena witnesses to appear at the  
309 hearing on the petition. The petitioner may confront and cross-  
310 examine witnesses called by the state attorney. A record of the  
311 hearing shall be made by a certified court reporter or by court-  
312 approved electronic means. The court shall make written findings  
313 of fact and conclusions of law on the issues before it and issue  
314 a final order. The court shall grant the relief requested in the  
315 petition if the court finds, based on the evidence presented  
316 with respect to the petitioner's reputation, the petitioner's  
317 mental health record and, if applicable, criminal history  
318 record, the circumstances surrounding the firearm disability,  
319 and any other evidence in the record, that the petitioner will  
320 not be likely to act in a manner that is dangerous to public  
321 safety and that granting the relief would not be contrary to the  
322 public interest. If the final order denies relief, the  
323 petitioner may not petition again for relief from firearm  
324 disabilities until 1 year after the date of the final order. The  
325 petitioner may seek judicial review of a final order denying

326 relief in the district court of appeal having jurisdiction over  
327 the court that issued the order. The review shall be conducted  
328 de novo. Relief from a firearm disability granted under this  
329 sub-subparagraph has no effect on the loss of civil rights,  
330 including firearm rights, for any reason other than the  
331 particular adjudication of mental defectiveness or commitment to  
332 a mental institution from which relief is granted.

333 e. Upon receipt of proper notice of relief from firearm  
334 disabilities granted under sub-subparagraph d., the department  
335 shall delete any mental health record of the person granted  
336 relief from the automated database of persons who are prohibited  
337 from purchasing a firearm based on court records of  
338 adjudications of mental defectiveness or commitments to mental  
339 institutions.

340 f. The department is authorized to disclose data collected  
341 pursuant to this subparagraph to agencies of the Federal  
342 Government and other states for use exclusively in determining  
343 the lawfulness of a firearm sale or transfer. The department is  
344 also authorized to disclose this data to the Department of  
345 Agriculture and Consumer Services for purposes of determining  
346 eligibility for issuance of a concealed weapons or concealed  
347 firearms license and for determining whether a basis exists for  
348 revoking or suspending a previously issued license pursuant to  
349 s. 790.06(10). When a potential buyer or transferee appeals a  
350 nonapproval based on these records, the clerks of court and

351 mental institutions shall, upon request by the department,  
352 provide information to help determine whether the potential  
353 buyer or transferee is the same person as the subject of the  
354 record. Photographs and any other data that could confirm or  
355 negate identity must be made available to the department for  
356 such purposes, notwithstanding any other provision of state law  
357 to the contrary. Any such information that is made confidential  
358 or exempt from disclosure by law shall retain such confidential  
359 or exempt status when transferred to the department.

360 ~~(13) A person younger than 21 years of age may not~~  
361 ~~purchase a firearm. The sale or transfer of a firearm to a~~  
362 ~~person younger than 21 years of age may not be made or~~  
363 ~~facilitated by a licensed importer, licensed manufacturer, or~~  
364 ~~licensed dealer. A person who violates this subsection commits a~~  
365 ~~felony of the third degree, punishable as provided in s.~~  
366 ~~775.082, s. 775.083, or s. 775.084. The prohibitions of this~~  
367 ~~subsection do not apply to the purchase of a rifle or shotgun by~~  
368 ~~a law enforcement officer or correctional officer, as those~~  
369 ~~terms are defined in s. 943.10(1), (2), (3), (6), (7), (8), or~~  
370 ~~(9), or a servicemember as defined in s. 250.01.~~

371 Section 5. Paragraphs (c) and (d) of subsection (2) of  
372 section 790.0655, Florida Statutes, are amended to read:

373 790.0655 Purchase and delivery of firearms; mandatory  
374 waiting period; exceptions; penalties.—

375 (2) The waiting period does not apply in the following

376 | circumstances:

377 |       ~~(c) To the purchase of a rifle or shotgun, upon a person's~~  
 378 | ~~successfully completing a minimum of a 16-hour hunter safety~~  
 379 | ~~course and possessing a hunter safety certification card issued~~  
 380 | ~~under s. 379.3581. A person who is exempt from the hunter safety~~  
 381 | ~~course requirements under s. 379.3581 and holds a valid Florida~~  
 382 | ~~hunting license is exempt from the mandatory waiting period~~  
 383 | ~~under this section for the purchase of a rifle or shotgun.~~

384 |       ~~(d) When a rifle or shotgun is being purchased by a law~~  
 385 | ~~enforcement officer or correctional officer, as those terms are~~  
 386 | ~~defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9), or a~~  
 387 | ~~servicemember as defined in s. 250.01.~~

388 |       Section 6. Section 790.222, Florida Statutes, is repealed.

389 |       Section 7. Section 790.401, Florida Statutes, is repealed.

390 |       Section 8. This act shall take effect upon becoming a law.