

By: Fierro

H.B. No. 521

A BILL TO BE ENTITLED

AN ACT

relating to the establishment and use of a voluntary registry of individuals experiencing mental illness who waive the right to purchase or receive transfer of a firearm; creating criminal offenses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 411, Government Code, is amended by adding Subchapter H-1 to read as follows:

SUBCHAPTER H-1. VOLUNTARY REGISTRY OF INDIVIDUALS EXPERIENCING MENTAL ILLNESS WHO WAIVE RIGHT TO PURCHASE OR RECEIVE TRANSFER OF FIREARM

Sec. 411.221. DEFINITIONS. In this subchapter:

(1) "Firearm" has the meaning assigned by Section 46.01, Penal Code.

(2) "Licensed firearms dealer" means an individual who is licensed as a firearms dealer under 18 U.S.C. Section 923.

Sec. 411.222. VOLUNTARY REGISTRY OF INDIVIDUALS WAIVING RIGHT TO PURCHASE OR RECEIVE TRANSFER OF FIREARM. The department shall establish and maintain a registry that identifies individuals who have voluntarily waived the right to purchase or receive transfer of a firearm under Section 411.223, except that the registry may not include information for an individual with respect to a waiver that has been revoked under Section 411.226.

Sec. 411.223. WAIVER OF RIGHT TO PURCHASE OR RECEIVE

1 TRANSFER OF FIREARM. (a) An individual experiencing mental  
2 illness may submit to the department, on a form prescribed by the  
3 department, a waiver of the individual's right to purchase or  
4 receive transfer of a firearm.

5 (b) The waiver form must require the individual to provide  
6 information sufficient to enable the department to verify the  
7 individual's identity.

8 (c) In addition to other requirements specified by  
9 department rule, the waiver form must contain the following  
10 prominently displayed statement:

11 "BECAUSE YOU HAVE SUBMITTED THIS WAIVER, YOU MAY NOT PURCHASE  
12 OR RECEIVE TRANSFER OF ANY FIREARMS. YOU MAY VOLUNTARILY REVOKE  
13 THIS WAIVER AT ANY TIME BY SUBMITTING A REVOCATION FORM TO THE TEXAS  
14 DEPARTMENT OF PUBLIC SAFETY."

15 (d) In submitting the waiver, the individual may designate a  
16 third person to be notified if the individual revokes the waiver.

17 (e) The fact that an individual has submitted a waiver under  
18 this section or is listed in the voluntary registry does not in  
19 itself prohibit the individual from possessing a firearm under  
20 state law.

21 Sec. 411.224. ADDITION TO VOLUNTARY REGISTRY. Not later  
22 than 24 hours after the department receives the completed waiver  
23 form, the department shall enter the individual's name and  
24 identifying information in the registry.

25 Sec. 411.225. DUTY TO ACCESS VOLUNTARY REGISTRY. Before  
26 transferring a firearm to an individual, a licensed firearms dealer  
27 shall access the voluntary registry to ensure that the individual

1 is not listed in that registry, regardless of whether the  
2 individual presents an apparently valid license to carry a handgun  
3 issued under Subchapter H.

4 Sec. 411.226. REVOCATION OF WAIVER; REMOVAL FROM VOLUNTARY  
5 REGISTRY. (a) An individual experiencing mental illness may  
6 revoke a waiver under this subchapter by submitting a revocation to  
7 the department on a form prescribed by the department.

8 (b) The revocation form must require the individual to  
9 provide information sufficient to enable the department to verify  
10 that the individual submitting the revocation is the same  
11 individual who submitted the waiver.

12 (c) Not later than 24 hours after the department receives a  
13 revocation form, the department shall, if applicable, notify the  
14 third person designated in the waiver under Section 411.223(d) that  
15 the department has received a revocation form.

16 (d) Subject to Subsection (e), not later than the seventh  
17 day after the date the department receives a revocation form, the  
18 department shall:

19 (1) remove all information about the individual from  
20 the voluntary registry;

21 (2) destroy all records of the waiver and revocation  
22 forms; and

23 (3) notify the individual that all information about  
24 the individual was successfully removed from the voluntary  
25 registry.

26 (e) The department may not remove information about an  
27 individual from the voluntary registry before the seventh day after

1 the date the individual submitted the waiver for inclusion in the  
2 registry, regardless of whether a revocation of the waiver is made  
3 before the expiration of that period.

4 Sec. 411.227. MULTIPLE WAIVERS AND REVOCATIONS PERMITTED.

5 An individual experiencing mental illness may make one or more  
6 waivers or revocations of waiver under this subchapter, as the  
7 individual considers necessary or appropriate.

8 Sec. 411.228. WAIVERS AND REVOCATIONS BY AUTHORIZED  
9 REPRESENTATIVE PERMITTED. A person who is authorized by law to  
10 represent an individual experiencing mental illness may make, as  
11 the authorized representative considers necessary or appropriate,  
12 waivers or revocations of waivers under this subchapter on behalf  
13 of the individual, provided that the waiver or revocation is  
14 considered within the scope of the representation.

15 Sec. 411.229. AVAILABILITY OF FORMS. The department shall  
16 make available the waiver form described by Section 411.223 and the  
17 revocation form described by Section 411.226:

18 (1) on the department's Internet website;

19 (2) at each county clerk's office;

20 (3) at the location at which a licensed firearms  
21 dealer conducts sales or other transfers of firearms; and

22 (4) to individuals and facilities that are licensed,  
23 certified, or otherwise authorized to provide mental health care  
24 services, for profit or otherwise, in the ordinary course of  
25 business or professional practice.

26 Sec. 411.230. VOLUNTARY REGISTRY ACCESSIBILITY. The  
27 department shall ensure that the volunteer registry is maintained

1 in a secure electronic database that:

2 (1) documents the date and time that any information  
3 about a specific individual is added to or removed from the  
4 registry;

5 (2) provides a licensed firearms dealer with real time  
6 access to the registry and documents the name of the specific dealer  
7 gaining access and the date and time that the access occurred; and

8 (3) prevents unauthorized access to the registry.

9 Sec. 411.231. CONFIDENTIALITY AND DISCLOSURE OF  
10 INFORMATION. Information obtained by the department for the  
11 voluntary registry:

12 (1) is confidential and not subject to disclosure  
13 under Chapter 552; and

14 (2) may not be disclosed except to a licensed firearms  
15 dealer in connection with a prospective transfer of a firearm or to  
16 a law enforcement agency.

17 Sec. 411.232. OFFENSE. (a) A person commits an offense if  
18 the person knowingly:

19 (1) submits a waiver form under Section 411.223 to the  
20 department to add the name and identifying information of another  
21 person to the voluntary registry without the other person's  
22 effective consent; or

23 (2) submits a revocation form under Section 411.226 to  
24 the department to remove the name and identifying information of  
25 another person from the voluntary registry without the other  
26 person's effective consent.

27 (b) An offense under this section is a state jail felony.

1       Sec. 411.233. CONSIDERATION IN LEGAL PROCEEDINGS  
2 PROHIBITED. A court may not consider a waiver or revocation under  
3 this subchapter as evidence in any legal proceeding other than in  
4 the prosecution of an offense under Section 46.06(a)(7), Penal  
5 Code, or Section 411.232 of this code.

6       Sec. 411.234. BENEFITS. Subject to Section 411.228, a  
7 person may not require an individual experiencing mental illness to  
8 submit a waiver under this subchapter for any reason, including as a  
9 condition of receiving employment, housing, education, or any  
10 benefit or service.

11       Sec. 411.235. RULES. (a) The director shall adopt rules to  
12 establish and maintain the voluntary registry, including rules  
13 prescribing the forms necessary for submission or revocation of a  
14 waiver described by this subchapter.

15       (b) The rules governing use or disclosure of information in  
16 the registry must be at least as stringent as the Health Insurance  
17 Portability and Accountability Act and Privacy Standards, as  
18 defined by Section 181.001, Health and Safety Code.

19       SECTION 2. Section 46.06(a), Penal Code, is amended to read  
20 as follows:

21       (a) A person commits an offense if the person:

22               (1) sells, rents, leases, loans, or gives a handgun to  
23 any person knowing that the person to whom the handgun is to be  
24 delivered intends to use it unlawfully or in the commission of an  
25 unlawful act;

26               (2) intentionally or knowingly sells, rents, leases,  
27 or gives or offers to sell, rent, lease, or give to any child

1 younger than 18 years of age any firearm, club, or  
2 location-restricted knife;

3 (3) intentionally, knowingly, or recklessly sells a  
4 firearm or ammunition for a firearm to any person who is  
5 intoxicated;

6 (4) knowingly sells a firearm or ammunition for a  
7 firearm to any person who has been convicted of a felony before the  
8 fifth anniversary of the later of the following dates:

9 (A) the person's release from confinement  
10 following conviction of the felony; or

11 (B) the person's release from supervision under  
12 community supervision, parole, or mandatory supervision following  
13 conviction of the felony;

14 (5) sells, rents, leases, loans, or gives a handgun to  
15 any person knowing that an active protective order is directed to  
16 the person to whom the handgun is to be delivered; ~~or~~

17 (6) knowingly purchases, rents, leases, or receives as  
18 a loan or gift from another a handgun while an active protective  
19 order is directed to the actor; or

20 (7) is a licensed firearms dealer and sells or  
21 otherwise transfers a firearm to a person the dealer knows is listed  
22 in the voluntary registry created under Subchapter H-1, Chapter  
23 411, Government Code.

24 SECTION 3. Section 46.06(b), Penal Code, is amended by  
25 adding Subdivision (3) to read as follows:

26 (3) "Licensed firearms dealer" means a person who is  
27 licensed as a firearms dealer under 18 U.S.C. Section 923.

1           SECTION 4. (a) Not later than September 1, 2022, the  
2 Department of Public Safety of the State of Texas shall develop and  
3 make available the waiver and revocation forms and create the  
4 voluntary registry required by Subchapter H-1, Chapter 411,  
5 Government Code, as added by this Act.

6           (b) Section 46.06(a), Penal Code, as amended by this Act,  
7 applies only to a sale or other transfer of a firearm that occurs on  
8 or after September 1, 2022.

9           SECTION 5. This Act takes effect September 1, 2021.