

By: Huffman

S.B. No. 728

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the reporting of mental health and intellectual
3 disability information with respect to certain children for
4 purposes of a federal firearm background check.

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

6 SECTION 1. Section 411.052(a), Government Code, is amended
7 to read as follows:

8 (a) In this section, "federal prohibited person
9 information" means information that identifies:

10 (1) an individual who is at least 16 years of age as:

11 (A) [~~(1)~~] a person ordered by a court to receive
12 inpatient mental health services under Chapter 574, Health and
13 Safety Code;

14 (B) [~~(2)~~] a person acquitted in a criminal case
15 by reason of insanity or lack of mental responsibility, regardless
16 of whether the person is ordered by a court to receive inpatient
17 treatment or residential care under Chapter 46C, Code of Criminal
18 Procedure;

19 (C) [~~(3)~~] a person determined to have an
20 intellectual disability [~~mental retardation~~] and committed by a
21 court for long-term placement in a residential care facility under
22 Chapter 593, Health and Safety Code;

23 (D) [~~(4)~~] ~~an incapacitated adult individual for~~
24 ~~whom a court has appointed a guardian of the individual under Title~~

1 ~~3, Estates Code, based on the determination that the person lacks~~
2 ~~the mental capacity to manage the person's affairs; or~~

3 [~~5~~] a person determined to be incompetent to stand
4 trial under Chapter 46B, Code of Criminal Procedure; or

5 (E) a child who has been:

6 (i) found unfit to proceed under Subchapter
7 C, Chapter 55, Family Code, as a result of mental illness or an
8 intellectual disability;

9 (ii) found not responsible for the child's
10 conduct under Subchapter D, Chapter 55, Family Code, as a result of
11 mental illness or an intellectual disability;

12 (iii) ordered by a court to receive
13 inpatient mental health services under Subchapter B, C, or D,
14 Chapter 55, Family Code, as a result of mental illness; or

15 (iv) committed by a court to a residential
16 care facility under Subchapter C or D, Chapter 55, Family Code, as a
17 result of an intellectual disability; or

18 (2) an incapacitated adult person for whom a court has
19 appointed a guardian of the person under Title 3, Estates Code,
20 based on the determination that the person lacks the mental
21 capacity to manage the person's affairs.

22 SECTION 2. Section 411.0521(a), Government Code, is amended
23 to read as follows:

24 (a) The clerk of the court shall prepare and forward to the
25 department the information described by Subsection (b) not later
26 than the 30th day after the date the court:

27 (1) performs any of the following actions with respect

1 to an individual who is at least 16 years of age:

2 (A) [~~(1)~~] orders a person to receive inpatient
3 mental health services under Chapter 574, Health and Safety Code;

4 (B) [~~(2)~~] acquits a person in a criminal case by
5 reason of insanity or lack of mental responsibility, regardless of
6 whether the person is ordered to receive inpatient treatment or
7 residential care under Chapter 46C, Code of Criminal Procedure;

8 (C) [~~(3)~~] commits a person determined to have an
9 intellectual disability [~~mental retardation~~] for long-term
10 placement in a residential care facility under Chapter 593, Health
11 and Safety Code;

12 (D) [~~(4)~~] ~~appoints a guardian of the~~
13 ~~incapacitated adult individual under Title 3, Estates Code, based~~
14 ~~on the determination that the person lacks the mental capacity to~~
15 ~~manage the person's affairs;~~

16 [~~(5)~~] determines a person is incompetent to stand trial
17 under Chapter 46B, Code of Criminal Procedure;

18 (E) finds a child unfit to proceed under
19 Subchapter C, Chapter 55, Family Code, as a result of mental illness
20 or an intellectual disability;

21 (F) finds a child not responsible for the child's
22 conduct under Subchapter D, Chapter 55, Family Code, as a result of
23 mental illness or an intellectual disability;

24 (G) orders a child to receive inpatient mental
25 health services under Subchapter B, C, or D, Chapter 55, Family
26 Code, as a result of mental illness;

27 (H) commits a child to a residential care

1 facility under Subchapter C or D, Chapter 55, Family Code, as a
2 result of an intellectual disability; or

3 (I) [~~6~~] finds a person is entitled to relief
4 from disabilities under Section 574.088, Health and Safety Code;
5 or

6 (2) appoints a guardian of the incapacitated adult
7 person under Title 3, Estates Code, based on the determination that
8 the person lacks the mental capacity to manage the person's
9 affairs.

10 SECTION 3. Section 58.007(a), Family Code, is amended to
11 read as follows:

12 (a) This section applies only to the inspection, copying,
13 and maintenance of a record concerning a child and the storage of
14 information, by electronic means or otherwise, concerning the child
15 from which a record could be generated and does not affect the
16 collection, dissemination, or maintenance of information as
17 provided by Subchapter B or D-1. This section does not apply to a
18 record relating to a child that is:

19 (1) required or authorized to be maintained under the
20 laws regulating the operation of motor vehicles in this state;

21 (2) maintained by a municipal or justice court; [~~or~~]

22 (3) subject to disclosure under Chapter 62, Code of
23 Criminal Procedure;

24 (4) required to be provided to the Federal Bureau of
25 Investigation for use with the National Instant Criminal Background
26 Check System under Section 411.052, Government Code; or

27 (5) required to be forwarded to the Department of

1 Public Safety under Section 411.0521, Government Code.

2 SECTION 4. Sections 411.052 and 411.0521, Government Code,
3 as amended by this Act, apply only to a finding, order, or
4 commitment that occurs on or after the effective date of this Act.
5 A finding, order, or commitment that occurred before the effective
6 date of this Act is governed by the law in effect on the date the
7 finding, order, or commitment occurred, and the former law is
8 continued in effect for that purpose.

9 SECTION 5. Section 58.007, Family Code, as amended by this
10 Act, applies to records created before, on, or after the effective
11 date of this Act.

12 SECTION 6. This Act takes effect September 1, 2023.