

BILL ANALYSIS

Senate Research Center
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S.B. 1755
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Criminal Justice
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Brady Handgun Violence Prevention Act, passed by the United States Congress in 1993, prohibits the transfer of a firearm to certain categories of persons, including those who have been adjudicated as a person with a mental impairment or who has been committed to a mental institution. Information on prohibited persons is compiled and maintained in the National Instant Criminal Background Check System (NICS) by the Federal Bureau of Investigation (FBI).

The Texas Department of Public Safety (DPS) is primarily responsible for providing prohibited persons' information to the FBI. Before completing any firearm transfer originating in this state, a licensed firearm dealer must first contact the FBI for a NICS check. Due to a loophole in current Texas law, Texas does not have an effective system in place to provide the necessary information to the FBI regarding persons who have been adjudicated as a person with a mental impairment or who has been committed to a mental institution. This oversight may have led to the unlawful and dangerous transfer of firearms to individuals who are suffering from mental illnesses.

As proposed, S.B. 1755 directs the clerk of a court to forward information to DPS regarding certain persons. The bill further directs DPS to establish by rule a procedure to provide this information to the FBI for use with the NICS. The bill clarifies that information obtained is confidential and not accessible by the general public.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Department of Public Safety in SECTION 1 (Section 411.052, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter D, Chapter 411, Government Code, by adding Sections 411.052 and 411.0521, as follows:

Sec. 411.052. FEDERAL FIREARM REPORTING. (a) Defines "federal prohibited person information."

(b) Requires the Department of Public Safety (DPS) by rule to establish a procedure to provide federal prohibited person information to the Federal Bureau of Investigation (FBI) for use with the National Instant Criminal Background Check System. Authorizes DPS, except as otherwise provided by state law, to disseminate federal prohibited person information under this subsection only to the extent necessary to allow the FBI to collect and maintain a list of persons who are prohibited under federal law from engaging in certain activities with respect to a firearm.

(c) Requires DPS to grant access to federal prohibited person information to the person who is the subject of the information.

(d) Provides that federal prohibited person information maintained by DPS is confidential information for the use of DPS and, except as otherwise provided by this section and other state law, is prohibited from being disseminated by DPS.

Sec. 411.0521. REPORT BY COURT TO DEPARTMENT OF PUBLIC SAFETY. (a) Requires the clerk of the court to prepare and forward to DPS the information described by Subsection (b) not later than the 30th day after the date the court takes certain actions.

(b) Requires the clerk of the court to prepare and forward certain identifying information under Subsection (a).

(c) Provides that the duty of a clerk to prepare and forward information under this section is not affected by any subsequent appeal of the court order, any subsequent modification of the court order, or the expiration of the court order.

SECTION 2. Requires each clerk of the court to prepare and forward information required to be forwarded to DPS by Section 411.0521, Government Code, as added by this Act, for each order issued on or after September 1, 2003. Requires each clerk of the court, not later than September 1, 2008, to prepare and forward the information for any court orders issued on or after September 1, 2003, and before September 1, 2007.

SECTION 3. Effective date: September 1, 2007.