

By: Ellis

S.B. No. 1755

A BILL TO BE ENTITLED

AN ACT

relating to the collection and dissemination of certain information for a federal firearm background check.

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

SECTION 1. Subchapter D, Chapter 411, Government Code, is amended by adding Sections 411.052 and 411.0521 to read as follows:

Sec. 411.052. FEDERAL FIREARM REPORTING. (a) In this section, "federal prohibited person information" means information that identifies an individual as:

(1) a person ordered by a court to receive inpatient mental health services under Chapter 574, Health and Safety Code;

(2) a person with mental retardation committed by a court for long-term placement in a residential care facility under Chapter 593, Health and Safety Code;

(3) an incapacitated adult individual for whom a court has appointed a guardian with full authority over the individual under Chapter XIII, Probate Code;

(4) a person determined to be incompetent to stand trial under Chapter 46B, Code of Criminal Procedure; or

(5) a person acquitted in a criminal case by reason of insanity.

(b) The department by rule shall establish a procedure to provide federal prohibited person information to the Federal Bureau of Investigation for use with the National Instant Criminal

1 Background Check System. Except as otherwise provided by state
2 law, the department may disseminate federal prohibited person
3 information under this subsection only to the extent necessary to
4 allow the Federal Bureau of Investigation to collect and maintain a
5 list of persons who are prohibited under federal law from engaging
6 in certain activities with respect to a firearm.

7 (c) The department shall grant access to federal prohibited
8 person information to the person who is the subject of the
9 information.

10 (d) Federal prohibited person information maintained by the
11 department is confidential information for the use of the
12 department and, except as otherwise provided by this section and
13 other state law, may not be disseminated by the department.

14 (e) The department by rule shall establish a procedure to
15 correct the department's records and update the information sent to
16 the Federal Bureau of Investigation when a person provides:

17 (1) proof that the person has obtained notice of
18 relief from disabilities under 27 C.F.R. Section 478.144; and

19 (2) a copy of a judicial order or finding stating that
20 the person no longer suffers from mental illness or mental
21 retardation or is no longer incompetent to stand trial or an
22 incapacitated adult.

23 Sec. 411.0521. REPORT BY COURT TO DEPARTMENT OF PUBLIC
24 SAFETY. (a) The clerk of the court shall prepare and forward to
25 the department the information described by Subsection (b) not
26 later than the 30th day after the date the court:

27 (1) orders a person to receive inpatient mental health

1 services under Chapter 574, Health and Safety Code;

2 (2) commits a person with mental retardation for
3 long-term placement in a residential care facility under Chapter
4 593, Health and Safety Code;

5 (3) appoints a guardian with full authority over an
6 incapacitated adult individual under Chapter XIII, Probate Code;

7 (4) determines a person is incompetent to stand trial
8 under Chapter 46B, Code of Criminal Procedure; or

9 (5) acquits a person in a criminal case by reason of
10 insanity.

11 (b) The clerk of the court shall prepare and forward the
12 following information under Subsection (a):

13 (1) the complete name, race, and sex of the person;

14 (2) any known identifying number of the person,
15 including social security number, driver's license number, or state
16 identification number;

17 (3) the person's date of birth; and

18 (4) a certified copy of:

19 (A) the order for inpatient mental health
20 services;

21 (B) the order committing the person to a
22 residential care facility;

23 (C) the order appointing a guardian;

24 (D) the order determining that the person is
25 incompetent to stand trial; or

26 (E) the order acquitting a person in a criminal
27 case by reason of insanity.

1 (c) As soon as practicable after the date the information
2 becomes available, the clerk of the court shall also prepare and
3 forward to the department the following information regarding a
4 court order previously reported to the department under Subsection
5 (a):

6 (1) a subsequent reversal or modification of the order
7 by any court; or

8 (2) notification of the expiration of the order, if
9 applicable.

10 (d) The duty of a clerk to prepare and forward information
11 under this section is not affected by:

12 (1) any subsequent appeal of the court order;

13 (2) any subsequent modification of the court order; or

14 (3) the expiration of the court order.

15 SECTION 2. Each clerk of the court shall prepare and forward
16 information required to be forwarded to the Department of Public
17 Safety of the State of Texas by Section 411.0521, Government Code,
18 as added by this Act, for each order issued on or after September 1,
19 2003. Not later than September 1, 2008, each clerk of the court
20 shall prepare and forward the information for any court orders
21 issued on or after September 1, 2003, and before September 1, 2007.

22 SECTION 3. This Act takes effect September 1, 2007.