

1-1 By: Ellis S.B. No. 1755
1-2 (In the Senate - Filed March 9, 2007; March 21, 2007, read
1-3 first time and referred to Committee on Criminal Justice;
1-4 May 11, 2007, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 5, Nays 0, 1 present not
1-6 voting; May 11, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1755 By: Whitmire

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the collection and dissemination of certain information
1-11 for a federal firearm background check.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter D, Chapter 411, Government Code, is
1-14 amended by adding Sections 411.052 and 411.0521 to read as follows:

1-15 Sec. 411.052. FEDERAL FIREARM REPORTING. (a) In this
1-16 section, "federal prohibited person information" means information
1-17 that identifies an individual as:

1-18 (1) a person ordered by a court to receive inpatient
1-19 mental health services under Chapter 574, Health and Safety Code;

1-20 (2) a person with mental retardation committed by a
1-21 court for long-term placement in a residential care facility under
1-22 Chapter 593, Health and Safety Code;

1-23 (3) an incapacitated adult individual for whom a court
1-24 has appointed a guardian with full authority over the individual
1-25 under Chapter XIII, Probate Code;

1-26 (4) a person determined to be incompetent to stand
1-27 trial under Chapter 46B, Code of Criminal Procedure; or

1-28 (5) a person acquitted in a criminal case by reason of
1-29 insanity.

1-30 (b) The department by rule shall establish a procedure to
1-31 provide federal prohibited person information to the Federal Bureau
1-32 of Investigation for use with the National Instant Criminal
1-33 Background Check System. Except as otherwise provided by state
1-34 law, the department may disseminate federal prohibited person
1-35 information under this subsection only to the extent necessary to
1-36 allow the Federal Bureau of Investigation to collect and maintain a
1-37 list of persons who are prohibited under federal law from engaging
1-38 in certain activities with respect to a firearm.

1-39 (c) The department shall grant access to federal prohibited
1-40 person information to the person who is the subject of the
1-41 information.

1-42 (d) Federal prohibited person information maintained by the
1-43 department is confidential information for the use of the
1-44 department and, except as otherwise provided by this section and
1-45 other state law, may not be disseminated by the department.

1-46 (e) The department by rule shall establish a procedure to
1-47 correct the department's records and update the information sent to
1-48 the Federal Bureau of Investigation when a person provides:

1-49 (1) proof that the person has obtained notice of
1-50 relief from disabilities under 27 C.F.R. Section 478.144; and

1-51 (2) a copy of a judicial order or finding stating that
1-52 the person no longer suffers from mental illness or mental
1-53 retardation or is no longer incompetent to stand trial or an
1-54 incapacitated adult.

1-55 Sec. 411.0521. REPORT BY COURT TO DEPARTMENT OF PUBLIC
1-56 SAFETY. (a) The clerk of the court shall prepare and forward to
1-57 the department the information described by Subsection (b) not
1-58 later than the 30th day after the date the court:

1-59 (1) orders a person to receive inpatient mental health
1-60 services under Chapter 574, Health and Safety Code;

1-61 (2) commits a person with mental retardation for
1-62 long-term placement in a residential care facility under Chapter
1-63 593, Health and Safety Code;

2-1 (3) appoints a guardian with full authority over an
2-2 incapacitated adult individual under Chapter XIII, Probate Code;

2-3 (4) determines a person is incompetent to stand trial
2-4 under Chapter 46B, Code of Criminal Procedure; or

2-5 (5) acquits a person in a criminal case by reason of
2-6 insanity.

2-7 (b) The clerk of the court shall prepare and forward the
2-8 following information under Subsection (a):

2-9 (1) the complete name, race, and sex of the person;

2-10 (2) any known identifying number of the person,
2-11 including social security number, driver's license number, or state
2-12 identification number;

2-13 (3) the person's date of birth; and

2-14 (4) a certified copy of:

2-15 (A) the order for inpatient mental health
2-16 services;

2-17 (B) the order committing the person to a
2-18 residential care facility;

2-19 (C) the order appointing a guardian;

2-20 (D) the order determining that the person is
2-21 incompetent to stand trial; or

2-22 (E) the order acquitting a person in a criminal
2-23 case by reason of insanity.

2-24 (c) As soon as practicable after the date the information
2-25 becomes available, the clerk of the court shall also prepare and
2-26 forward to the department the following information regarding a
2-27 court order previously reported to the department under Subsection
2-28 (a):

2-29 (1) a subsequent reversal or modification of the order
2-30 by any court; or

2-31 (2) notification of the expiration of the order, if
2-32 applicable.

2-33 (d) The duty of a clerk to prepare and forward information
2-34 under this section is not affected by:

2-35 (1) any subsequent appeal of the court order;

2-36 (2) any subsequent modification of the court order; or

2-37 (3) the expiration of the court order.

2-38 SECTION 2. Each clerk of the court shall prepare and forward
2-39 information required to be forwarded to the Department of Public
2-40 Safety of the State of Texas by Section 411.0521, Government Code,
2-41 as added by this Act, for each order issued on or after September 1,
2-42 2003. Not later than September 1, 2008, each clerk of the court
2-43 shall prepare and forward the information for any court orders
2-44 issued on or after September 1, 2003, and before September 1, 2007.

2-45 SECTION 3. This Act takes effect September 1, 2007.

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