86R3322 JSC-D

By:  Nevárez H.B. No. 544

A BILL TO BE ENTITLED

AN ACT

relating to the unlawful possession of a firearm by persons who are subject to certain judicial determinations; creating a criminal offense.

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

SECTION 1.  Section 46.04, Penal Code, is amended by adding Subsections (b-1) and (h) and amending Subsection (e) to read as follows:

(b-1)  A person commits an offense if the person possesses a firearm and at the time of the offense the person:

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

(2)  has been acquitted in a criminal case by reason of insanity or lack of mental responsibility, regardless of whether the person was ordered by a court to receive inpatient treatment or residential care under Chapter 46C, Code of Criminal Procedure;

(3)  has been determined to be a person with an intellectual disability and has been committed by a court for long-term placement in a residential care facility under Chapter 593, Health and Safety Code;

(4)  is an incapacitated adult for whom a court has appointed a guardian of the person under Title 3, Estates Code, based on a determination that the person lacks the mental capacity to manage the person's affairs; or

(5)  has been determined to be incompetent to stand trial under Chapter 46B, Code of Criminal Procedure.

(e)  An offense under this section is a Class A misdemeanor, except that an offense under Subsection (a) is a felony of the third degree. [~~An offense under Subsection (b) or (c) is a Class A misdemeanor.~~]

(h)  It is a defense to prosecution under Subsection (b-1) that at the time of the offense:

(1)  the person is the subject of a judicial order or finding that the person is no longer an incapacitated adult or is entitled to relief from disabilities under Section 574.088, Health and Safety Code; or

(2)  the person has obtained notice of relief from disabilities under 18 U.S.C. Section 925.

SECTION 2.  The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 3.  This Act takes effect September 1, 2019.