

By: Nevárez

H.B. No. 544

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the unlawful possession of a firearm by persons who are
3 subject to certain judicial determinations; creating a criminal
4 offense.

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

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

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

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

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

17 (3) has been determined to be a person with an
18 intellectual disability and has been committed by a court for
19 long-term placement in a residential care facility under Chapter
20 593, Health and Safety Code;

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

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

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

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

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

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

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

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