

By: Watson

S.B. No. 1945

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to a court's authority to temporarily restrict the ability  
3 of a proposed patient for court-ordered mental health services to  
4 possess a firearm.

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

6 SECTION 1. Article 18.191, Code of Criminal Procedure, is  
7 amended by amending Subsections (c) and (d) and adding Subsection  
8 (d-1) to read as follows:

9 (c) Not later than the 30th day after the date a firearm  
10 subject to disposition under this article is seized, the law  
11 enforcement agency holding the firearm shall contact the court in  
12 the county having jurisdiction to order commitment under Chapter  
13 574, Health and Safety Code, and request the disposition of the  
14 case. Not later than the 30th day after the date of this request,  
15 the clerk of the court shall advise the requesting agency:

16 (1) whether the person taken into custody was released  
17 under Section 573.023, Health and Safety Code, or was ordered to  
18 receive outpatient mental health services or inpatient mental  
19 health services under Section 574.034 or 574.035, Health and Safety  
20 Code; and

21 (2) whether the person is subject to a temporary  
22 firearm restriction ordered under Section 574.0335, Health and  
23 Safety Code.

24 (d) Except as provided by Subsection (d-1), not ~~Not~~ later

1 than the 30th day after the date the clerk of the court informs a law  
2 enforcement agency holding a firearm subject to disposition under  
3 this article that the person taken into custody was released under  
4 Section 573.023, Health and Safety Code, the law enforcement agency  
5 shall:

6 (1) conduct a check of state and national criminal  
7 history record information to verify whether the person may  
8 lawfully possess a firearm under 18 U.S.C. Section 922(g); and

9 (2) provide written notice to the person by certified  
10 mail that the firearm may be returned to the person on verification  
11 under Subdivision (1) that the person may lawfully possess the  
12 firearm.

13 (d-1) If the clerk of court informs a law enforcement agency  
14 holding a firearm subject to disposition under this article that  
15 the person is subject to a temporary firearm restriction ordered  
16 under Section 574.0335, Health and Safety Code, the law enforcement  
17 agency shall hold the firearm until the expiration of the 90-day  
18 period of the restriction. Not later than 30 days before the  
19 expiration of the 90-day period of the restriction, the law  
20 enforcement agency shall conduct the verification required under  
21 Subsection (d)(1) and provide the notice described by Subsection  
22 (d)(2). If the law enforcement agency verifies that the person  
23 lawfully may possess a firearm, the firearm may be returned to the  
24 person on expiration of the 90-day period of the restriction. A law  
25 enforcement agency may return a firearm to a person who lawfully may  
26 possess a firearm before the expiration of the 90-day period if the  
27 person provides a copy of an order showing the court granted the

1 person's appeal of the restriction, in accordance with Section  
2 574.0335(b), Health and Safety Code.

3 SECTION 2. Subchapter C, Chapter 574, Health and Safety  
4 Code, is amended by adding Section 574.0335 to read as follows:

5 Sec. 574.0335. ORDER IMPOSING TEMPORARY FIREARM  
6 RESTRICTION. (a) The judge may issue an order prohibiting the  
7 owning, possessing, or purchasing of a firearm for a period of 90  
8 days by a proposed patient who is ordered to receive court-ordered  
9 outpatient mental health services under Section 574.034 or 574.035,  
10 or who does not otherwise meet the applicable criteria for  
11 court-ordered mental health services and is released under Section  
12 574.033, if the court finds by clear and convincing evidence that  
13 the proposed patient's possession of a firearm would present a  
14 substantial risk of serious harm to the proposed patient's self or  
15 to others.

16 (b) A person may appeal a temporary firearm restriction  
17 imposed on the person under this section not sooner than 30 days  
18 after the date the order is imposed. The court shall hold a hearing  
19 to consider the appeal and shall remove the restriction unless the  
20 court finds by clear and convincing evidence that the person's  
21 possession of a firearm continues to pose a substantial risk of  
22 serious harm to the person's self or to others.

23 (c) If the court denies a person's appeal, the temporary  
24 firearm restriction shall continue, and the person may not make a  
25 subsequent appeal of the restriction for the remainder of the  
26 90-day period for which the restriction is imposed.

27 SECTION 3. (a) The change in law made by this Act to Article

1 18.191, Code of Criminal Procedure, applies only to the disposition  
2 of a firearm seized by a law enforcement agency on or after the  
3 effective date of this Act.

4 (b) The change in law made by this Act in adding Section  
5 574.0335, Health and Safety Code, applies to a hearing held under  
6 that chapter on or after the effective date of this Act, regardless  
7 of whether conduct of a proposed patient that is a subject of the  
8 hearing occurred before the effective date of this Act.

9 SECTION 4. This Act takes effect September 1, 2019.