87R5940 JSC-D

By:  Goodwin H.B. No. 1040

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting certain persons with chemical dependencies from possessing a firearm; creating a criminal offense.

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

SECTION 1.  Subchapter D, Chapter 462, Health and Safety Code, is amended by adding Sections 462.082 and 462.083 to read as follows:

Sec. 462.082.  NOTIFICATION OF DEPARTMENT OF PUBLIC SAFETY. (a) In this section, "department" means the Department of Public Safety.

(b)  Not later than the 30th day after the date the court orders a person to receive chemical dependency treatment under this subchapter, the clerk of the court shall prepare and forward to the department:

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

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

(3)  the person's date of birth; and

(4)  a statement that the court ordered the person to receive chemical dependency treatment under this subchapter and the basis for that order.

(c)  If practicable, the clerk shall forward to the department the information described by Subsection (b) in an electronic format prescribed by the department.

(d)  The clerk shall notify the department of the discharge of a person from court-ordered chemical dependency treatment under this subchapter not later than the 30th day after the date the clerk receives notice of the discharge. If the person is discharged because a treatment order under Subsection (b) was reversed or vacated by order of any court, the clerk shall notify the department of that fact.

(e)  The duty of a clerk to prepare and forward information as a result of a court order issued under this subchapter is not affected by:

(1)  any subsequent appeal of the court order;

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

(3)  the expiration of the court order.

(f)  The department by rule shall establish a procedure to provide the information submitted by the court under this section regarding court-ordered chemical dependency treatment to the Federal Bureau of Investigation for use with the National Instant Criminal Background Check System.  Except as otherwise provided by state law, the department may disseminate information under this subsection regarding a person who is receiving or has received court-ordered chemical dependency treatment under this subchapter only to the extent necessary to allow the Federal Bureau of Investigation to collect and maintain a list of persons who are prohibited under federal law from engaging in certain activities with respect to a firearm.

(g)  The department shall grant access to the information submitted under this section to the person who is the subject of the information.

(h)  Information maintained by the department regarding a person who is receiving or has received court-ordered chemical dependency treatment under this subchapter is confidential information for the use of the department and, except as otherwise provided by this section and other state law, may not be disseminated by the department.

(i)  The department by rule shall establish a procedure to correct department records to reflect the date of any discharge of the person from court-ordered chemical dependency treatment under this subchapter and a procedure to transmit the corrected records to the Federal Bureau of Investigation. The corrected records must indicate whether the person was discharged from treatment because the court order requiring treatment was reversed or vacated.

Sec. 462.083.  RELIEF FROM DISABILITIES FOLLOWING COURT-ORDERED CHEMICAL DEPENDENCY TREATMENT. (a) A person who is discharged from court-ordered chemical dependency treatment may petition the court that entered the order requiring the treatment for a new order stating that the person qualifies for relief from a firearms disability imposed under 18 U.S.C. Section 922(g)(3) or (4).

(b)  In determining whether to grant relief, the court must hear and consider evidence about:

(1)  the circumstances that led to imposition of the firearms disability under 18 U.S.C. Section 922(g)(3) or (4);

(2)  the person's substance abuse history;

(3)  the person's criminal history; and

(4)  the person's reputation.

(c)  A court may not grant relief unless it makes and enters in the record the following affirmative findings:

(1)  the person is no longer likely to act in a manner dangerous to public safety; and

(2)  removing the person's disability to purchase a firearm is in the public interest.

(d)  Not later than the 30th day after the date the court grants relief under this section, the clerk of the court shall prepare and forward to the department:

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

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

(3)  the person's date of birth; and

(4)  a statement that the court has granted the person relief from disabilities under this section.

(e)  If practicable, the clerk of the court shall forward to the department the information described by Subsection (d) in an electronic format prescribed by the department.

(f)  If an order previously reported to the department under this section is reversed or vacated by order of any court, the clerk shall notify the department of that fact not later than the 30th day after the date the clerk receives notice of that action.

(g)  The department by rule shall establish a procedure to correct department records and transmit those corrected records to the Federal Bureau of Investigation when a person provides a copy of an order issued under this section or proof that the person has obtained notice of relief from disabilities under 18 U.S.C. Section 925.

SECTION 2.  Section 46.04, Penal Code, is amended by adding Subsection (c-1) and amending Subsection (e) to read as follows:

(c-1)  A person commits an offense if the person possesses a firearm:

(1)  while the person is subject to a court order requiring chemical dependency treatment under Subchapter D, Chapter 462, Health and Safety Code; or

(2)  during the 12-month period following the date of the person's discharge from the treatment described by Subdivision (1), unless the discharge occurs because the order is reversed or vacated.

(e)  An offense under Subsection (a) is a felony of the third degree. An offense under Subsection (b), [~~or~~] (c), or (c-1) is a Class A misdemeanor.

SECTION 3. (a) Section 462.082, Health and Safety Code, as added by this Act, applies to a court order for chemical dependency treatment entered on or after the effective date of this Act. A court order for chemical dependency treatment entered before the effective date of this Act is governed by the law in effect on the date the court order was entered and the former law is continued in effect for that purpose.

(b)  Section 462.083, Health and Safety Code, as added by this Act, applies to a petition for relief from disabilities filed on or after the effective date of this Act, regardless of whether the imposition of the firearms disability occurred before, on, or after the effective date of this Act.

SECTION 4.  This Act takes effect September 1, 2021.