

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

1 electronic format prescribed by the department.

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

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

- 12 (1) any subsequent appeal of the court order;
13 (2) any subsequent modification of the court order; or
14 (3) the expiration of the court order.

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

27 (g) The department shall grant access to the information

1 submitted under this section to the person who is the subject of the
2 information.

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

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

16 Sec. 462.083. RELIEF FROM DISABILITIES FOLLOWING
17 COURT-ORDERED CHEMICAL DEPENDENCY TREATMENT. (a) A person who is
18 discharged from court-ordered chemical dependency treatment may
19 petition the court that entered the order requiring the treatment
20 for a new order stating that the person qualifies for relief from a
21 firearms disability imposed under 18 U.S.C. Section 922(g)(3) or
22 (4).

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

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

27 (2) the person's substance abuse history;

1 (3) the person's criminal history; and

2 (4) the person's reputation.

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

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

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

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

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

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

16 (3) the person's date of birth; and

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

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

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

26 (g) The department by rule shall establish a procedure to
27 correct department records and transmit those corrected records to

1 the Federal Bureau of Investigation when a person provides a copy of
2 an order issued under this section or proof that the person has
3 obtained notice of relief from disabilities under 18 U.S.C. Section
4 925.

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

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

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

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

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

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

26 (b) Section 462.083, Health and Safety Code, as added by
27 this Act, applies to a petition for relief from disabilities filed

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1 on or after the effective date of this Act, regardless of whether
2 the imposition of the firearms disability occurred before, on, or
3 after the effective date of this Act.

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