

By: Gamez

H.B. No. 4973

A BILL TO BE ENTITLED

AN ACT

relating to federal firearm reporting for a person who has been released from an emergency detention.

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

SECTION 1. Sections 411.052, Government Code, is amended to read as follows:

(a) In this section, "federal prohibited person information" means information that identifies an individual as:

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

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

(3) a person determined to have mental retardation and committed by a court for long-term placement in a residential care facility under Chapter 593, Health and Safety Code;

(4) an incapacitated adult individual for whom a court has appointed a guardian of the individual under Chapter XIII, Probate Code, based on the determination that the person lacks the mental capacity to manage the person's affairs; ~~or~~

(5) a person determined to be incompetent to stand trial under Chapter 46B, Code of Criminal Procedure; or

(6) a person within the last 30 days has been released

1 from an emergency detention under Chapter 573, Health and Safety
2 Code.

3 SECTION 2. Section 573.0022, Health and Safety Code, is
4 added to read as follows:

5 (a) As soon as practicable, but not later than the first
6 working day after the date a peace officer takes a person who is a
7 ward into custody, the peace officer shall provide the information
8 on the person subject to the emergency detention to the Federal
9 Bureau of Investigation for use with the National Instant Criminal
10 Background Check System. Except as otherwise provided by state
11 law, the department may disseminate information under this
12 subsection regarding a person subject to the emergency detention
13 under this subchapter only to the extent necessary to allow the
14 Federal Bureau of Investigation to collect and maintain a list of
15 persons who are prohibited under federal law from engaging in
16 certain activities with respect to a firearm.

17 (b) The department shall grant access to the information
18 under this section to the person who is the subject of the
19 information.

20 (c) Information maintained by the department regarding a
21 person who is subject to the emergency detention under this
22 subchapter is confidential information for the use of the
23 department and, except as otherwise provided by this section and
24 other state law, may not be disseminated by the department.

25 (d) The department by rule shall establish a procedure to
26 correct department records to reflect the date of any person who has
27 been released from emergency detention under this subchapter and a

1 procedure to transmit the corrected records to the Federal Bureau
2 of Investigation.

3 SECTION 3. Section 573.025, Health and Safety Code, is
4 amended to read as follows:

5 Sec. 573.025. RIGHTS OF PERSONS APPREHENDED, DETAINED, OR
6 TRANSPORTED FOR EMERGENCY DETENTION. (a) A person apprehended,
7 detained, or transported for emergency detention under this chapter
8 has the right:

9 (1) to be advised of the location of detention, the
10 reasons for the detention, and the fact that the detention could
11 result in a longer period of involuntary commitment;

12 (2) to a reasonable opportunity to communicate with
13 and retain an attorney;

14 (3) to be transported to a location as provided by
15 Section 573.024 if the person is not admitted for emergency
16 detention, unless the person is arrested or objects;

17 (4) to be released from a facility as provided by
18 Section 573.023;

19 (5) to be advised that communications with a mental
20 health professional may be used in proceedings for further
21 detention;

22 (6) to be transported in accordance with Sections
23 573.026 and 574.045, if the person is detained under Section
24 573.022 or transported under an order of protective custody under
25 Section 574.023; ~~and~~

26 (7) to a reasonable opportunity to communicate with a
27 relative or other responsible person who has a proper interest in

1 the person's welfare; and

2 (8) be advised that their ability to purchase a
3 firearm upon discharge will be prohibited for 30 days.

4 SECTION 4. Section 573.027, Health and Safety Code, is
5 added to read as follows:

6 Sec. 573.027. NOTIFICATION OF DEPARTMENT OF PUBLIC SAFETY.

7 (a) In this section, "department" means the Department of Public
8 Safety.

9 (b) Upon release under Section 573.023, the facility shall
10 prepare and forward to the department:

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

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

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

16 (4) a statement that the facility has released the
17 person pursuant to Section 573.023.

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

21 (d) The department by rule shall establish a procedure to
22 provide the information submitted by the facility under this
23 section regarding release from emergency detention to the Federal
24 Bureau of Investigation for use with the National Instant Criminal
25 Background Check System. Except as otherwise provided by state
26 law, the department may disseminate information under this
27 subsection regarding a person who has been released from emergency

1 detention under this subchapter only to the extent necessary to
2 allow the Federal Bureau of Investigation to collect and maintain a
3 list of persons who are prohibited under federal law from engaging
4 in certain activities with respect to a firearm.

5 (e) The department shall grant access to the information
6 under this section to the person who is the subject of the
7 information.

8 (f) Information maintained by the department regarding a
9 person who has been released from emergency detention under this
10 subchapter is confidential information for the use of the
11 department and, except as otherwise provided by this section and
12 other state law, may not be disseminated by the department.

13 (g) The department by rule shall establish a procedure to
14 correct department records to reflect the date of any person who has
15 been released from emergency detention under this subchapter and a
16 procedure to transmit the corrected records to the Federal Bureau
17 of Investigation.

18 SECTION 5. This Act takes effect September 1, 2023.