
 DIGEST

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SB 411 Reengrossed

2018 Regular Session

White

Present law (C.Cr.P. Art. 655) provides that when the superintendent of a mental institution is of the opinion that a person committed pursuant to present law can be discharged or can be released on probation, without danger to others or to himself, he is to recommend the discharge or release of the person in a report to a review panel comprised of the person's treating physician, the clinical director of the facility to which the person is committed, and a physician or psychologist who served on the sanity commission that recommended commitment of the person.

Proposed law retains present law and adds that a recommendation that the person be discharged or released on probation requires a unanimous vote of the panel. Proposed law further provides that the panel must render specific findings of fact in support of its recommendation.

Present law (R.S. 13:753) requires each district clerk of court and each city and parish clerk of court to report to the Supreme Court for reporting to the National Instant Criminal Background Check System (NICS) the name and other identifying information of any adult who is prohibited from possessing a firearm pursuant to federal or state laws, by reason of a conviction or adjudication in a court within their respective jurisdictions for any of the following:

- (1) A conviction of a crime listed in the provision of present law (R.S. 14:95.1) that prohibits the possession of a firearm or carrying of a concealed weapon by a person convicted of certain felonies.
- (2) A verdict of an acquittal of a crime listed in present law (R.S. 14:95.1) by reason of insanity.
- (3) A court determination that a person does not have the mental capacity to proceed with a criminal trial for a crime listed in present law (R.S. 14:95.1).
- (4) A court order requiring that a person be involuntarily committed to an inpatient mental health treatment facility.
- (5) A court order prohibiting a person from possessing a firearm or restricting a person in the use of a firearm.
- (6) A conviction for a felony violation of the crime of domestic abuse battery.

Proposed law retains present law.

Present law (R.S. 28:57) provides the procedure by which a person who is prohibited from possessing a firearm or is ineligible to be issued a concealed handgun permit pursuant to present federal law may, upon release from involuntary commitment, file a civil petition seeking judgment ordering the removal of that prohibition.

Proposed law retains present law but expands its application to authorize persons who have been found not guilty by reason of insanity for any felony to file the same petition if at least ten years have passed since the person was discharged from probation or custody, or discharged from a mental institution, by a court of competent jurisdiction. Proposed law excludes from application of present and proposed law any person on conditional release or conditional discharge under the provisions of present law (C.Cr.P. Art. 657.1 and 658) or a person who has been convicted or found not guilty by reason of insanity of any felony

enumerated in present law (R.S. 14:95.1) in the ten years prior to the filing of the petition.

Present law (R.S. 14:95.1) provides that it is unlawful for any person who has been convicted of a crime of violence that is a felony, or certain other enumerated present law crimes, or any crime defined as a sex offense, or any crime defined as an attempt to commit one of the enumerated present law offenses, or who has been convicted under the laws of any other state or the U.S. or any foreign government or country of a crime that, if committed in this state, would be one of these enumerated present law crimes, to possess a firearm or carry a concealed weapon.

Proposed law retains present law and makes present law applicable to persons found not guilty by reason of insanity of any of the crimes provided for in the present law (R.S. 14:95.1).

Present law provides that present law prohibiting the possession of firearms and carrying concealed weapons by persons who have been convicted of certain felonies does not apply to any person who has not been convicted of any felony for a period of 10 years from the date of completion of sentence, probation, parole, or suspension of sentence.

Proposed law retains present law and adds that the 10-year "cleansing period" contained in present law applies to persons found not guilty by reason of insanity of the crimes provided for in present law (R.S. 14:95.1).

Effective Aug. 1, 2018.

(Amends C.Cr.P. Art. 655(A), R.S. 13:753(A)(intro. para.), (B)(intro. para.), (B)(1), and (C), R.S. 14:95.1(A) and (C), and R.S. 28:57(A); Adds R.S. 13:753(F) and R.S. 28:57(J))

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Requires each district clerk of court and each city and parish clerk of court to report to the Supreme Court for reporting to the NICS database the name and other identifying information of any adult who is prohibited from possessing a firearm pursuant to federal or state laws, by reason of a conviction or adjudication in a court within their respective jurisdictions for a violation of domestic abuse battery.
2. Requires clerks to report the date of conviction, adjudication, or order of involuntary commitment within 10 days to the Supreme Court.
3. Requires clerks to notify each person for whom the information is reported that, as an adjudicated mental defective or as a person committed to a mental institution, the person is prohibited, pursuant to federal law, from receiving or possessing a firearm or ammunition.
4. Provides procedures for such person to petition the court to remove the person's firearm-related disabilities and restore that person's right to receive and possess a firearm and ammunition and the right to be eligible to obtain a concealed handgun permit.

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the reengrossed bill:

1. Remove the requirement that the clerk of court notify each person for whom information is reported pursuant to proposed law that the person is prohibited from receiving or possessing a firearm or ammunition.

2. Remove the proposed law procedure by which a person may petition the court to have his firearm-related disabilities removed and to restore his right to receive and possess a firearm and ammunition and his eligibility to obtain a concealed handgun permit.
3. Clarify changes made to present law relative to persons who are prohibited from possessing a firearm or carrying a concealed weapon.
4. Amend the present law procedure by which a person may petition the court to order removal of a firearm-related prohibition to expand its application to persons found not guilty by reason of insanity of any felony except under certain circumstances.