

Regular Session, 2013

HOUSE BILL NO. 21

BY REPRESENTATIVE HENRY BURNS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

WEAPONS/HANDGUNS: Provides with respect to reporting of mental health information regarding the purchase of firearms

1 AN ACT

2 To enact R.S. 13:919 and Part V of Chapter 9 of Title 40 of the Louisiana Revised Statutes
3 of 1950, to be comprised of R.S. 40:1821 through 1825, relative to the reporting of
4 mental health information; to enact the Louisiana Firearms Reporting Act; to provide
5 for definitions; to require clerks of court to provide certain information to the
6 Department of Public Safety and Corrections; to require the Department of Public
7 Safety and Corrections to collect certain information and submit that information to
8 the Federal Bureau of Investigation; to provide for time periods for providing
9 information; to provide for the adoption of rules; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 13:919 is hereby enacted to read as follows:

12 §919. Report by clerk of court to the Department of Public Safety and Corrections

13 A. Within thirty days of the following actions taken by a court, the clerk of
14 court shall prepare and forward to the Department of Public Safety and Corrections
15 the name, birth date, and any other identifying information the clerk has in his
16 possession of any person who is subject to any of the following court orders or
17 determinations:

18 (1) A court order requiring that a person be judicially committed, receive
19 involuntary outpatient treatment, or receive mental health treatment or services
20 pursuant to the provisions of Title 28 of the Louisiana Revised Statutes of 1950.

1 (2) A court ordering that a person be interdicted pursuant to the provisions
2 of Title IX of Book I of the Civil Code.

3 (3) A court determining that a person does not have the mental capacity to
4 proceed with a criminal trial pursuant to the provisions of Chapter 1 of Title XXI of
5 the Code of Criminal Procedure.

6 (4) A verdict of an acquittal in a criminal case by reason of insanity pursuant
7 to the provisions of Chapter 2 of Title XXI of the Code of Criminal Procedure.

8 (5) A court order prohibiting a person from possessing a firearm or
9 restricting a person in the use of a firearm.

10 B. In addition to the information regarding the person as provided for in
11 Subsection A of this Section, the clerk of court shall also forward to the Department
12 of Public Safety and Corrections a certified copy of the court order or verdict within
13 thirty days of the issuance of the order or verdict.

14 C. As soon as practicable after the date the information becomes available,
15 the clerk of court shall also prepare and forward to the Department of Public Safety
16 and Corrections any of the following information regarding a court order previously
17 reported to the department pursuant to Subsection A of this Section:

18 (1) A subsequent reversal or modification of the order by any court.

19 (2) Notification of the expiration of the order, if applicable.

20 D. Each clerk of court shall prepare and forward information to the
21 Department of Public Safety and Corrections pursuant to the provisions of this
22 Section for each order issued on or after August 1, 2013.

23 Section 2. Part V of Chapter 9 of Title 40 of the Louisiana Revised Statutes of 1950,
24 comprised of R.S. 40:1821 through 1825, is hereby enacted to read as follows:

25 PART V. LOUISIANA FIREARMS REPORTING ACT

26 §1821. Title

27 This Part shall be known as the "Louisiana Firearms Reporting Act".

1 §1822. Legislative findings

2 (1) The Second Amendment of the United States Constitution provides that,
3 "[a] well regulated Militia, being necessary to the security of a free State, the right
4 of the people to keep and bear Arms, shall not be infringed".

5 (2) Article I, Section 11 of the Louisiana Constitution provides that "The
6 right of each citizen to keep and bear arms is fundamental and shall not be infringed.
7 Any restriction on this right shall be subject to strict scrutiny".

8 (3) Federal law (18 U.S.C. 922(g)) prohibits a person from purchasing a
9 firearm who has been convicted of a crime punishable by imprisonment exceeding
10 one year.

11 (4) Federal law (18 U.S.C. 922(g)) further prohibits any person from
12 purchasing a firearm that the court has determined to have certain mental conditions.

13 (5) Based upon the successful interfacing of state law enforcement agencies
14 with the Federal Bureau of Investigation criminal databases, information regarding
15 a person's criminal convictions is available at the point of sale.

16 (6) However, the reporting of judicial decisions which would, in effect,
17 prohibit a person from being eligible to purchase a firearm under federal law has not
18 been consistent nor has the information been uniformly reported to the Federal
19 Bureau of Investigation.

20 (7) The state of Louisiana has a compelling interest in protecting and
21 preserving the fundamental rights of its citizens to keep and bear arms while also
22 ensuring the timely reporting of information to the Federal Bureau of Investigation
23 regarding court decisions which would prohibit the purchase of a firearm.

24 (8) It is the express intention of the legislature that the provisions of this Part
25 are enacted to provide for the collection of information and to facilitate the reporting
26 of information which would prohibit the purchasing of firearms while preserving the
27 constitutional rights of Louisiana citizens to keep and bear arms.

1 §1823. Definitions

2 For the purposes of this Part:

3 (1) "Department" means the Department of Public Safety and Corrections.

4 (2) "Prohibited person information" means information that identifies an
5 individual as any of the following:

6 (a) A person ordered by a court to be judicially committed, receive
7 involuntary outpatient treatment, or receive mental health treatment or services
8 pursuant to the provisions of Title 28 of the Louisiana Revised Statutes of 1950.

9 (b) A person who has been interdicted by a court of competent jurisdiction
10 pursuant to the provisions of Title IX of Book I of the Civil Code.

11 (c) A person determined to lack the mental capacity to proceed with a
12 criminal trial pursuant to the provisions of Chapter 1 of Title XXI of the Code of
13 Criminal Procedure.

14 (d) A person acquitted in a criminal case by reason of insanity pursuant to
15 the provisions of Chapter 2 of Title XXI of the Code of Criminal Procedure.

16 (e) A person who has been denied a concealed handgun permit because he
17 is not qualified pursuant to R.S. 40:1379.3(C)(13).

18 (f) A person who has been prohibited by a court from possessing a firearm
19 or has been restricted in the use of a firearm.

20 §1824. Information collected by the department

21 The department shall collect the following information to be submitted to the
22 Federal Bureau of Investigation pursuant to the provisions of R.S. 40:1825:

23 (1) Any court order requiring that a person be judicially committed, receive
24 involuntary outpatient treatment, or receive mental health treatment or services
25 pursuant to the provisions of Title 28 of the Louisiana Revised Statutes of 1950.

26 (2) Any court order of interdiction ordered pursuant to the provisions of Title
27 IX of Book I of the Civil Code.

1 (3) Any court determination that a person lacks the mental capacity to
2 proceed with a criminal trial pursuant to the provisions of Chapter 1 of Title XXI of
3 the Code of Criminal Procedure.

4 (4) Any verdict of an acquittal in a criminal case by reason of insanity
5 pursuant to the provisions of Chapter 2 of Title XXI of the Code of Criminal
6 Procedure.

7 (5) Any court order prohibiting a person from possessing a firearm or
8 restricting a person in the use of a firearm.

9 (6) Any denial of a concealed handgun permit because the person is not
10 qualified pursuant to R.S. 40:1379.3(C)(13).

11 §1825. Providing information to the Federal Bureau of Investigation

12 A. The department shall provide the prohibited person information collected
13 by the department pursuant to the provisions of R.S. 40:1824 to the Federal Bureau
14 of Investigation within thirty days of receipt of that information.

15 B. The department shall adopt rules in accordance with the Administrative
16 Procedure Act to establish a procedure to provide the prohibited person information
17 collected by the department pursuant to the provisions of R.S. 40:1824 to the Federal
18 Bureau of Investigation for use with the National Instant Criminal Background
19 Check System. Except as otherwise provided by law, the department may
20 disseminate the information under this Part only to the extent necessary to allow the
21 Federal Bureau of Investigation to collect and maintain a list of persons who are
22 prohibited under federal law from engaging in certain activities with respect to
23 firearms.

24 C. The department shall grant access to the information collected pursuant
25 to the provisions of this Part to the person who is the subject of the information.

26 D. The information collected pursuant to the provisions of this Part is
27 confidential information for the use of the department and, except as otherwise
28 provided by law, may not be disseminated by the department.

- 1 E. The department shall adopt rules in accordance with the Administrative
 2 Procedure Act to establish a procedure to correct the department's records and update
 3 the information sent to the Federal Bureau of Investigation when a person provides
 4 any of the following:
- 5 (1) Proof that the person has obtained notice of relief from disabilities under
 6 27 C.F.R. 478.144.
- 7 (2) A copy of a court order stating that the person is no longer a prohibited
 8 person because the person no longer has the disability.
- 9 (3) Proof that the person is qualified and has been issued a concealed
 10 handgun permit by the department.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Henry Burns

HB No. 21

Abstract: Requires certain types of information regarding a person's mental health to be collected and sent to DPS&C and the FBI.

Proposed law provides that "prohibited person information" means information that identifies an individual as any of the following:

- (1) A person ordered by a court to be judicially committed, receive involuntary outpatient treatment, or receive mental health treatment or services.
- (2) A person who has been interdicted by a court of competent jurisdiction.
- (3) A person determined to lack the mental capacity to proceed with a criminal trial.
- (4) A person acquitted in a criminal case by reason of insanity.
- (5) A person who has been denied a concealed handgun permit pursuant to present law for reasons involving his mental capacity.
- (6) A person who has been ordered by a court from possessing a firearm or had his use of a firearm restricted pursuant to a court order.

Proposed law requires the clerk of court to provide to DPS&C, within 30 days of issuance of an order, a certified copy of an order of the court providing for any of the following:

- (1) That a person be judicially committed, receive involuntary outpatient treatment, or receive mental health treatment or services.
- (2) That a person be interdicted.

- (3) That a person lacks the mental capacity to proceed with a criminal trial.
- (4) That a person has been acquitted in a criminal case by reason of insanity.
- (5) That a person has been ordered not to possess a firearm or has his use of firearm limited.

Proposed law requires DPS&C to provide the FBI with prohibited person information within 30 days of receipt of that information.

Further requires each clerk of court to prepare and forward information pursuant to proposed law for each order issued on or after Aug. 1, 2013.

(Adds R.S. 13:919 and R.S. 40:1821-1825)