Regular Session, 2013

HOUSE BILL NO. 98

BY REPRESENTATIVES THOMPSON AND JIM MORRIS

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

WEAPONS/HANDGUNS: Provides with respect to concealed handgun permits issued by sheriffs

AN ACT

To enact R.S. 40:1379.1.1 and to repeal R.S. 40:1379.1(G), relative to concealed handgun permits; to retain the authority of sheriffs to issue a concealed handgun permit for use within the boundaries of a parish; to authorize sheriffs to issue a concealed handgun permit pursuant to a reciprocity agreement entered into with a sheriff of a contiguous parish; to provide with respect to the validity of the permits; to provide for reciprocity between contiguous parishes; to provide for the qualifications for the issuance of such permit; to prohibit the release, dissemination, or publishing of information with respect to concealed handgun permit applications; to provide for exceptions; to provide for criminal penalties; to provide for the assessment of processing fees; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:1379.1.1 is hereby enacted to read as follows:

<u>§1379.1.1. Concealed handgun permit issued by sheriffs; reciprocity; contiguous parishes</u>

<u>A.(1) The sheriff of a parish shall have the authority to issue a concealed handgun permit to any person. The permit shall be valid only within the boundaries of the parish in which the sheriff has jurisdiction unless the sheriff has entered into a reciprocity agreement as provided for in Subsection B of this Section.</u>

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(2) Upon application, the sheriff 's office shall perform a standard criminal record check. The officer who performed the standard criminal record check shall not be liable for acts committed by the permittee, unless the officer had actual personal knowledge at the time he issued the permit that the permittee was mentally unstable or disqualified by law from possessing a firearm.

B.(1) A sheriff may enter into a reciprocity agreement with any sheriff of a contiguous parish which shall authorize both sheriffs to issue concealed handgun permits to persons meeting the criteria provided for in Subsection C of this Section. Those permits issued pursuant to this Subsection shall be valid within the boundaries of the participating contiguous parishes. The agreement shall specify the terms of use regarding the issuance of the concealed handgun permits and any other restrictions deemed appropriate by the sheriffs.

(2) If a sheriff enters into a reciprocity agreement with any sheriff in a contiguous parish, no concealed handgun permits shall be issued to any person pursuant to Subsection A of this Section.

(3) Any concealed handgun permit issued pursuant to this Subsection shall be null, void, and of no effect if the permittee does not meet the criteria provided for in Subsection C of this Section.

C. To qualify for a concealed handgun permit issued by a sheriff who has entered into a reciprocity agreement with a sheriff of a contiguous parish, the applicant shall do all of the following:

(1) Make sworn application to the sheriff. The providing of false or misleading information on the application or any documents submitted with the application shall be grounds for the denial or revocation of a concealed handgun permit. The application shall reflect training in pistols, revolvers, or both. Any permittee under this Section shall notify the sheriff's office of any address or name change within thirty days of the change. Failure to timely notify the sheriff's office of a name or address change may result in suspension of the permit for up to thirty days.

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(2) Agree in writing to hold harmless and indemnify the sheriff's office, for any and all liability arising out of the issuance or use of the concealed handgun permit.

(3) Be a resident of the parish.

(4) Be twenty-one years of age or older.

(5) Not suffer from a mental or physical infirmity due to disease, illness, or retardation which prevents the safe handling of a handgun.

(6) Not be ineligible to possess a firearm by virtue of having been convicted of a felony.

(7) Not have been committed, either voluntarily or involuntarily, for the abuse of a controlled dangerous substance, as defined by R.S. 40:961 and 964, or been found guilty of, or entered a plea of guilty or nolo contendere to a misdemeanor under the laws of this state or similar laws of any other state relating to a controlled dangerous substance within a five-year period immediately preceding the date on which the application is submitted, or be presently charged under indictment or a bill of information for such an offense.

(8) Not chronically and habitually use alcoholic beverages to the extent that his normal faculties are impaired. It shall be presumed that an applicant or permittee chronically and habitually uses alcoholic beverages to the extent that his normal faculties are impaired if the applicant has been found guilty of, or entered a plea of guilty or nolo contendere to operating a vehicle while intoxicated, or has been admitted, either voluntarily or involuntarily, for treatment as an alcoholic, within the five-year period immediately preceding the date on which the application is submitted, or at any time after the application has been submitted.

(9) Not have entered a plea of guilty or nolo contendere to or been found guilty of a crime of violence as defined in R.S. 14:2 at the misdemeanor level, unless five years have elapsed since completion of sentence or any other conditions set by the court have been fulfilled, or unless the conviction was set aside and the prosecution dismissed, prior to the date on which the application is submitted.

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(10) Not have been convicted of, have entered a plea of guilty or nolo contendere to, or not be charged under indictment or a bill of information for any crime of violence or any crime punishable by imprisonment for a term of one year or greater. A conviction, plea of guilty, or plea of nolo contendere under this Paragraph shall include an expungement of such conviction or a dismissal and conviction set-aside under the provisions of Code of Criminal Procedure Article 893.

(11) Not be a fugitive from justice.

(12) Not be an unlawful user of, or addicted to, marijuana, depressants, stimulants, or narcotic drugs.

(13) Not have been adjudicated to be mentally deficient or been committed to a mental institution.

(14) Not be an illegal alien in the United States.

(15) Not have been discharged from the armed forces of the United States with a discharge characterized as "Under Other than Honorable Conditions", a "Bad Conduct Discharge", or a "Dishonorable Discharge". In the case of Commissioned Officers and Warrant Officers of the United States Armed Forces, the punishment of "Dismissal" rendered subject to a verdict of "guilty" at a trial by military court-martial is deemed to be disqualifying under this Paragraph. For the purposes of this Paragraph, the United States Coast Guard is considered an armed force.

(16) Not have a history of engaging in violent behavior. There shall be a rebuttable presumption that an applicant has a history of engaging in violent behavior upon proof that, within a ten-year period immediately preceding the date of the application, the applicant has been arrested or charged on three or more occasions for any crime of violence as defined in R.S. 14:2(B), or has been arrested or charged on two or more occasions for any crime of violence that may be punished by death.

(17) Not be ineligible to possess a firearm under 18 U.S.C. 922(g).

D.(1) Any information in an application for a concealed handgun permit or any information provided in connection with the application submitted to the sheriff's office pursuant to the provisions of this Section shall be held confidential and shall

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not be subject to any public records request nor shall the information be considered as a public record pursuant to R.S. 44:1 et seq. The sheriff shall not be required to release any list of persons who applied for or received a permit for a concealed handgun pursuant to this Section; however, nothing in this Section shall limit or impede the exchange of information between law enforcement agencies, prohibit the sheriff from releasing information necessary to perform a background investigation, provide statistical information which does not identify individual applicants or permittees, or release information in response to an appropriate law enforcement function as determined by the issuing sheriff.

(2) Absent a valid court order requiring the release of information, it shall be unlawful for any employee of the sheriff's office to intentionally disseminate for publication any information contained in an application for a concealed handgun permit or any information regarding the identity of any person who applied for or received a concealed handgun permit issued pursuant to this Section. A person who violates the provisions of this Paragraph shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

(3) Subject to the provisions of Paragraph (2) of this Subsection, it shall be unlawful for any person to disseminate, or make public in any manner any information contained in an application for a concealed handgun permit or any information regarding the identity of any person who applied for or received a concealed handgun permit issued pursuant to this Section. Any person, except as provided for in Paragraph (2) of this Subsection, who violates the provisions of this Paragraph shall be fined not more than five thousand dollars, imprisoned, with or without hard labor, for not more than two years, or both.

E. The sheriff may assess a reasonable processing fee for the issuance of the permit authorized by the provisions of this Section.

F. The provisions of this Section shall not invalidate any permit to carry a concealed handgun which was issued by a sheriff prior to August 1, 2013.

Section 2. R.S. 40:1379.1(G) is hereby repealed in its entirety.

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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)]

Thompson HB No. 98

Abstract: Provides for the issuance of concealed handgun permits by the sheriff and authorizes reciprocity agreements between contiguous parishes.

Present law authorizes a sheriff to issue a concealed handgun permit which is valid within the boundaries of a parish.

Proposed law retains this provision of present law.

Proposed law authorizes a sheriff to enter into a reciprocity agreement with a sheriff of a contiguous parish to issue concealed handgun permits which are valid in both participating parishes. Further establishes qualifications and criteria for the issuance of such concealed handgun permits.

Proposed law provides that any information in any application for a concealed handgun permit or any information provided in connection with the application submitted to the sheriff's office shall be held confidential and shall not be subject to any public records request nor shall the information be considered as a public record. Further provides that the sheriff shall not be required to release any list of persons who applied for or received a permit for a concealed handgun.

Proposed law provides that absent a valid court order requiring the release of information, it shall be unlawful for any employee of the sheriff's office to intentionally disseminate for publication any information contained in an application for a concealed handgun permit or any information regarding the identity of any person who applied for or received a concealed handgun permit. Proposed law provides penalties for violations of a fine of not more than $500 imprisonment for not more than six months, or both.

Proposed law further provides penalties for a person (other than a sheriff's employee) who releases or disseminates the information contained in a concealed handgun application or permit including a fine of not more than $5,000, imprisonment for not more than two years, or both.

Proposed law provides that the sheriff may assess a reasonable processing fee for the issuance of a concealed handgun permit.

Provides that proposed law shall not be construed to invalidate any concealed handgun permit issued by the sheriff prior to Aug. 1, 2013.

(Adds R.S. 40:1379.1.1; Repeals R.S. 40:1379.1(G))

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