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Chapter No. 384
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SENATE BILL NO. 2647

Originated in Senate Liz Welch Secretary

SENATE BILL NO. 2647

AN ACT TO CREATE THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM IMPROVEMENT ACT; TO FACILITATE REPORTING TO THE FEDERAL BUREAU OF INVESTIGATION CERTAIN INFORMATION SOLELY FOR THE PURPOSE OF INCLUSION IN THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM DATABASE; TO ENACT DEFINITIONS; TO IMPOSE DUTIES ON CIRCUIT AND CHANCERY CLERKS; TO IMPOSE DUTIES ON CIRCUIT AND CHANCERY COURTS; TO AMEND SECTION 97-37-5, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR REHABILITATION FROM THE DISABILITY OF BEING ABLE TO PURCHASE A FIREARM UNDER FEDERAL LAW; TO AMEND SECTION 41-21-101, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

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

SECTION 1. The following shall be codified as Section 45-9-103, Mississippi Code of 1972:

45-9-103. **Federal firearm reporting.** (1) In this section, "federal prohibited-person information" means information that identifies an individual as:

(a) A person who has been judicially determined by a court as a mentally ill or mentally retarded person under Title 41, Chapter 21, Mississippi Code of 1972, whether ordered for

inpatient treatment, outpatient treatment, day treatment, night treatment or home health services treatment;

(b) A person acquitted in a criminal case by reason of insanity or on a ground of intellectual disability, without regard to whether the person is ordered by a court to receive inpatient treatment or residential care under Section 99-13-7;

(c) An adult individual for whom a court has appointed a guardian or conservator under Title 93, Chapter 13, based on the determination that the person is incapable of managing his own estate due to mental weakness; or

(d) A person determined to be incompetent to stand trial by a court pursuant to Rule 9.06 of the Mississippi Rules of Circuit and County Court Practice.

(2) The Department of Public Safety by rule shall establish a procedure to provide federal prohibited-person information to the Federal Bureau of Investigation for use with the National Instant Criminal Background Check System. Except as otherwise provided by state law, the department may disseminate federal prohibited-person information under this subsection only to the extent necessary to allow the Federal Bureau of Investigation to collect and maintain a list of persons who are prohibited under federal law from engaging in certain activities with respect to a firearm.

(3) The department shall grant access to a person's own federal prohibited-person information to the person who is the subject of the information.

(4) Federal prohibited-person information maintained by the department is confidential information for the use of the department and, except as otherwise provided by this section and other state law, is not a public record and may not be disseminated by the department.

(5) The department by rule shall establish a procedure to correct department records and transmit those corrected records to the Federal Bureau of Investigation when a person provides:

(a) A copy of a judicial order or finding under Section 93-13-151 that a person has been restored to reason;

(b) Proof that the person has obtained notice of relief from disabilities under 18 USC, Section 925; or

(c) A copy of a judicial order of relief from a firearms disability under Section 97-37-5(4).

SECTION 2. The following shall be codified as Section 9-1-49, Mississippi Code of 1972:

9-1-49. **Report concerning certain persons' access to firearms.** (1) The clerk of the court shall prepare and forward to the Department of Public Safety the information described by subsection (2) of this section not later than the thirtieth day after the date the court:

(a) Judicially determines that a person is a mentally ill or mentally retarded person under Title 41, Chapter 21, Mississippi Code of 1972, whether ordered for inpatient treatment, outpatient treatment, day treatment, night treatment or home health services treatment;

(b) Acquits a person in a criminal case by reason of insanity or on a ground of intellectual disability, without regard to whether the person is ordered by a court to receive inpatient treatment or residential care under Section 99-13-7;

(c) Appoints a guardian or conservator under Title 93, Chapter 13, based on the determination that the person is incapable of managing his own estate due to mental weakness;

(d) Determines that a person is incompetent to stand trial pursuant to Rule 9.06 of the Mississippi Rules of Circuit and County Court Practice;

(e) Finds under Section 93-13-151 that a person has been restored to reason; or

(f) Enters an order of relief from a firearms disability under Section 97-37-5(4).

(2) The clerk of the court shall prepare and forward the following information:

(a) The complete name, race, and sex of the person;

(b) Any known identifying number of the person, including social security number, driver's license number, or state identification card number;

(c) The person's date of birth; and

(d) The federal prohibited-person information that is the basis of the report required by this section.

(3) If practicable, the clerk of the court shall forward to the Department of Public Safety the information described by subsection (2) of this section in an electronic format prescribed by the department.

(4) If an order previously reported to the department under subsection (1) of this section is reversed by order of any court, the clerk shall notify the department of the reversal not later than thirty (30) days after the clerk receives the court order or the mandate from the appellate court.

(5) The duty of a clerk to prepare and forward information under this section is not affected by:

(a) Any subsequent appeal of the court order;

(b) Any subsequent modification of the court order; or

(c) The expiration of the court order.

SECTION 3. Section 97-37-5, Mississippi Code of 1972, is amended as follows:

97-37-5. (1) It shall be unlawful for any person who has been convicted of a felony under the laws of this state, any other state, or of the United States to possess any firearm or any bowie knife, dirk knife, butcher knife, switchblade knife, metallic knuckles, blackjack, or any muffler or silencer for any firearm unless such person has received a pardon for such felony, has

received a relief from disability pursuant to Section 925(c) of Title 18 of the United States Code, or has received a certificate of rehabilitation pursuant to subsection (3) of this section.

(2) Any person violating this section shall be guilty of a felony and, upon conviction thereof, shall be fined not more than Five Thousand Dollars (\$5,000.00), or committed to the custody of the State Department of Corrections for not less than one (1) year nor more than ten (10) years, or both.

(3) A person who has been convicted of a felony under the laws of this state may apply to the court in which he was convicted for a certificate of rehabilitation. The court may grant such certificate in its discretion upon a showing to the satisfaction of the court that the applicant has been rehabilitated and has led a useful, productive and law-abiding life since the completion of his sentence and upon the finding of the court that he will not be likely to act in a manner dangerous to public safety.

(4) (a) A person who is discharged from court-ordered mental health treatment may petition the court which entered the commitment order for an order stating that the person qualifies for relief from a firearms disability.

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

(i) The circumstances that led to imposition of the firearms disability under 18 USC, Section 922(d)(4);

(ii) The person's mental history;

(iii) The person's criminal history; and

(iv) The person's reputation.

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

(i) That the person is no longer likely to act in a manner dangerous to public safety; and

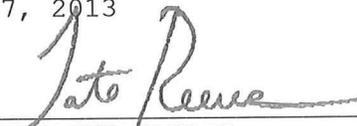
(ii) Removing the person's disability to purchase a firearm is not against the public interest.

SECTION 4. Section 41-21-101, Mississippi Code of 1972, is amended as follows:

41-21-101. No admission or commitment to a treatment facility under Sections 41-21-61 through 41-21-107 or any finding of need for treatment, or any authorization of continued treatment under said sections (a) is an adjudication of legal incompetency, or (b), except as provided in Sections 45-9-101 and 45-9-103, deprives the person of his right to exercise his civil rights, including, but not limited to, civil service status, the right to vote, rights relating to the granting renewal, forfeiture or denial of a license, permit, privilege or benefit pursuant to any law, or the right to enter into contractual relationships and to manage his property; nor does * * * an admission, hospitalization, finding or authorization of continued hospitalization create any presumption that * * * the person is incompetent.

SECTION 5. This act shall take effect and be in force from and after July 1, 2013.

PASSED BY THE SENATE
February 7, 2013



PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 7, 2013



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR

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