

1 HB462
2 217068-1
3 By Representatives Rafferty and Farley
4 RFD: Public Safety and Homeland Security
5 First Read: 08-MAR-22

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8 SYNOPSIS: Under existing law, a person convicted for
9 certain crimes may not possess, purchase, or
10 transfer firearms. Existing law does not provide a
11 method for an individual to restrict his or her own
12 legal ability to receive, transport, or possess
13 firearms due to a fear that he or she may become a
14 risk to himself or herself or others.

15 This bill would create the Voluntary Alabama
16 Firearms Do-Not-Sell List and would allow an
17 individual to restrict his or her ability to
18 purchase or possess a firearm by voluntarily adding
19 his or her own name to the Voluntary Alabama
20 Firearms Do-Not-Sell List when there is a fear that
21 he or she may become a risk to himself or herself
22 or others.

23 This bill would also provide methods by
24 which an individual on the Voluntary Alabama
25 Firearms Do-Not-Sell List may remove his or her own
26 name from the list.

1 This bill would also provide for criminal
2 penalties for violations.

3
4 A BILL
5 TO BE ENTITLED
6 AN ACT

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8 Relating to firearms; to create the Voluntary
9 Alabama Firearms Do-Not-Sell List; to allow an individual to
10 voluntarily add himself or herself to the Voluntary Alabama
11 Firearms Do-Not-Sell List under certain conditions; to
12 establish methods of verified registration; to provide civil
13 and criminal penalties for violations; and to establish a
14 campaign to educate the public about its purpose.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. (a) By June 1, 2023, the Department of
17 Mental Health shall create the Voluntary Alabama Firearms
18 Do-Not-Sell List.

19 (b) By June 1, 2023, the department shall develop
20 and widely distribute pursuant to Section 6 a hard copy form
21 to allow any individual in the state to register to add his or
22 her name to the Voluntary Alabama Firearms Do-Not-Sell List
23 and a similar form by which a registered individual may
24 request removal. The department shall also prominently display
25 the form on its website. The department shall ensure that the
26 form may be submitted in any of the following manners:

1 (1) Submitted in person at a circuit clerk's office
2 with government-issued photo identification. A county clerk
3 shall immediately transmit any received registration form to
4 the department.

5 (2) Mailed to the department with a copy of the
6 registering individual's government-issued photo
7 identification.

8 (3) Submitted electronically to the department by
9 short message service or multimedia messaging service along
10 with a copy of government-issued photo identification and a
11 photographic portrait of the individual that contains
12 exchangeable image file format data proving that the
13 photographic portrait was taken within one hour prior to
14 transmission to the department.

15 (c) By January 1, 2024, the department shall develop
16 and launch a secure Internet-based platform by which any
17 resident of this state may register to add his or her name to
18 the list. The department shall ensure that this Internet-based
19 platform does all of the following:

20 (1) Verifies the identity of any individual who
21 registers or attempts to register.

22 (2) Prevents unauthorized disclosures of the
23 identity of or any sensitive personally identifying
24 information of any registering individual. For purposes of
25 this subdivision, "sensitive personally identifying
26 information" shall have the same meaning as given in Section
27 8-38-2, Code of Alabama 1975.

1 (3) Informs the registering individual of the legal
2 effects of registration.

3 (d) (1) In addition, the department shall ensure that
4 the Internet-based platform and hard copy registration form
5 provides each registrant with an email notification option
6 that allows registered individuals, at the time of
7 registration or thereafter, to identify one or more email
8 addresses.

9 (2) The department shall send a notification to each
10 of those email addresses if the individual subsequently seeks
11 to remove his or her name from the list.

12 (3) Email contact information provided under this
13 subsection constitutes an express authorization of the use of
14 that information pursuant to this subsection.

15 Section 2. (a) By June 1, 2023, any individual may
16 request that he or she be added to the Voluntary Alabama
17 Firearms Do-Not-Sell List.

18 (b) (1) An individual who has registered with the
19 Voluntary Alabama Firearms Do-Not-Sell List may subsequently
20 request that his or her name be removed from the list by one
21 of the same methods as provided in Section 1 for registration.

22 (2) The department shall wait 21 days after receipt
23 of a request for removal before notifying the Federal Bureau
24 of Investigation to update the requesting individual's
25 eligibility to purchase, possess, or transport a firearm on
26 the National Instant Criminal Background Check System. Upon
27 notifying the Federal Bureau of Investigation to update an

1 individual's eligibility information on the National Instant
2 Criminal Background Check System, the agency shall purge any
3 and all records of the sign-up, transactions, and removal.

4 (c) (1) An individual who has registered with the
5 Voluntary Alabama Firearms Do-Not-Sell List may remove his or
6 her name from the list by applying to the district court of
7 the county of his or her residence and proving by a
8 preponderance of the evidence that he or she is not likely to
9 act in a manner dangerous to public safety or to himself or
10 herself. Any public official or interested party may also
11 present evidence during a proceeding under this subsection.

12 (2) A district court, no later than 24 hours
13 following a proceeding under this subsection, shall determine
14 whether or not the individual is likely to act in a manner
15 dangerous to public safety or to himself or herself. The
16 district court shall immediately transmit notice of that
17 determination to the department. The department, no later than
18 24 hours following receipt of a determination made under this
19 subsection, shall remove the individual from the list.

20 (d) (1) The department shall continuously forward
21 registry information to the Federal Bureau of Investigation to
22 be entered into the National Instant Criminal Background Check
23 System, and to any other state that adopts an analogous
24 Do-Not-Sell List.

25 (2)a. No later than one business day from receipt of
26 notice from any other state that has implemented an analogous
27 Do-Not-Sell List that an individual has registered on that

1 list, the department shall add that name to the Voluntary
2 Alabama Firearms Do-Not-Sell List.

3 b. No later than one business day from receipt of
4 notice from any other state that has implemented an analogous
5 Do-Not-Sell List that an individual has removed his or her
6 name from that state's list, the department shall remove that
7 individual's name from the Voluntary Alabama Firearms
8 Do-Not-Sell List.

9 Section 3. (a) Receipt, transport, or possession of
10 a firearm in this state by an individual registered in the
11 Voluntary Alabama Firearms Do-Not-Sell List or on an analogous
12 Do-Not-Sell List within any other state is a Class C
13 misdemeanor punishable by a fine of up to one thousand dollars
14 (\$1,000).

15 (b) Transfer of a firearm to an individual
16 registered on the Voluntary Alabama Firearms Do-Not-Sell List
17 by any person or entity required to perform a background check
18 prior to transferring a firearm, either knowingly or due to a
19 failure to perform a background check, is a Class A
20 misdemeanor punishable by a fine of up to ten thousand dollars
21 (\$10,000) per violation or imprisonment for not more than one
22 year, or by both fine and imprisonment.

23 Section 4. An individual who knowingly makes a false
24 statement or representation regarding his or her identity on
25 the Internet-based platform or on any hard copy form is guilty
26 of a Class A misdemeanor punishable by a fine of up to ten

1 thousand dollars (\$10,000) or imprisonment for not more than
2 one year, or by both fine and imprisonment.

3 Section 5. (a) (1)a. An insurer as defined in Section
4 27-1-2, Code of Alabama 1975, may not inquire whether an
5 individual is on the Voluntary Alabama Firearms Do-Not-Sell
6 List or an another state's analogous Do-Not-Sell List.

7 b. An insurer may not modify the terms of any
8 insurance policy of any individual due to that individual
9 being on the Voluntary Alabama Firearms Do-Not-Sell list or
10 another state's analogous Do-Not-Sell-List, or having
11 requested to be added to or removed from either list.

12 (2)a. An employer may not inquire whether an
13 employee or applicant is on the Voluntary Alabama Firearms
14 Do-Not-Sell list or another state's analogous
15 Do-Not-Sell-List, unless possession of a firearm is a
16 requirement of the employment position.

17 b. An employer may not dismiss, discharge, demote,
18 deny employment, or otherwise alter the terms of employment of
19 any employee or applicant due to the employee or applicant
20 being on the Voluntary Alabama Firearms Do-Not-Sell List or
21 another state's analogous Do-Not-Sell List, or having
22 requested to be added to or removed from either list, unless
23 possession of a firearm is a requirement of the employment
24 position.

25 c. For purposes of this subdivision, an applicant is
26 any individual considered for, or who requests to be
27 considered for, employment or any employee considered for, or

1 who requests to be considered for, another employment position
2 sought by the employer.

3 (3)a. A person may not conduct any unlawful
4 discriminatory housing practice as defined in Section 24-8-4,
5 Code of Alabama 1975, against any individual who is on the
6 Voluntary Alabama Firearms Do-Not-Sell List or another state's
7 analogous Do-Not-Sell List, or has requested to be added to or
8 removed from either list.

9 b. For purposes of this subdivision, an individual
10 being on a list or having requested to be added to or removed
11 from a list shall be considered a handicap as that term is
12 used in the Alabama Fair Housing Law, Sections 24-8-1 et seq.,
13 Code of Alabama 1975.

14 (4) The State of Alabama, its agencies, or political
15 subdivisions may not condition or alter any governmental
16 benefits due to an individual being on the Voluntary Alabama
17 Firearms Do-Not-Sell List or another state's analogous
18 Do-Not-Sell List, or having requested to be added to or
19 removed from either list.

20 (5) An educational institution or state educational
21 institution as defined in Section 16-17-1, Code of Alabama
22 1975, may not inquire whether an individual is on the
23 Voluntary Alabama Firearms Do-Not-Sell List or another state's
24 analogous Do-Not-Sell List unless it is acting as a employer
25 and is in compliance with subdivision (2).

26 (6)a. A health care provider may not deny any
27 service to an individual due to that individual being on the

1 Voluntary Alabama Firearms Do-Not-Sell List or another state's
2 analogous Do-Not-Sell List, or having requested to be added to
3 or removed from either list.

4 b. For purposes of this subdivision, "health care
5 provider" includes any person who is licensed, certified,
6 registered, or otherwise authorized by the law of this state
7 to administer or provide health care in the ordinary course of
8 business or in the practice of a profession.

9 (b) Any person who learns the identity of an
10 individual who is on the Voluntary Alabama Firearms
11 Do-Not-Sell List or another state's analogous Do-Not-Sell
12 List, or who has requested to be added to or removed from
13 either list, may not disclose that information to another
14 unless the person receives prior written authorization from
15 the individual to share that information. A violation of this
16 subsection shall be a Class C misdemeanor punishable by a fine
17 of up to one thousand dollars (\$1,000).

18 (c) A violation of subsection (a) shall be a Class A
19 misdemeanor punishable by a fine of up to ten thousand dollars
20 (\$10,000).

21 Section 6. (a) All Alabama State Law Enforcement
22 Agency offices open to the public shall provide hard copy
23 forms developed by the Department of Mental Health by which an
24 individual may register on the Voluntary Alabama Firearms
25 Do-Not-Sell List.

26 (b) The Board of Examiners in Counseling, Board of
27 Medical Examiners, Board of Nursing, and Board of Examiners in

1 Psychology shall adopt rules to encourage licensees to inform
2 the public about the Voluntary Alabama Firearms Do-Not-Sell
3 List created by this act.

4 (c) Each circuit clerk shall provide hard copy forms
5 developed by the Department of Mental Health by which an
6 individual may register on the Voluntary Alabama Firearms
7 Do-Not-Sell List.

8 Section 7. No later than June 1, 2023, the
9 Department of Mental Health shall develop and implement a
10 publicity and advertising campaign that, at a minimum,
11 provides the public with information about the Voluntary
12 Alabama Firearms Do-Not-Sell List, how an individual may
13 register, and contacts for additional information regarding
14 the list.

15 Section 8. Information relating to the Voluntary
16 Alabama Firearms Do-Not-Sell list or another state's analogous
17 Do-Not-Sell-List shall not be subject to state open public
18 records laws, including, but not limited to, Sections 36-12-40
19 and 36-12-41, Code of Alabama 1975.

20 Section 9. The Department of Mental Health may adopt
21 rules to implement this act.

22 Section 10. This act shall become effective
23 immediately following its passage and approval by the
24 Governor, or its otherwise becoming law.