

1 A bill to be entitled
 2 An act relating to firearms; amending s. 394.463,
 3 F.S.; deleting provisions authorizing the seizure of
 4 firearms from persons in certain circumstances;
 5 amending s. 394.4599, F.S.; conforming a cross-
 6 reference; repealing s. 790.064, F.S., relating to a
 7 prohibition on firearms ownership or possession until
 8 removal of the firearm possession and firearm
 9 ownership disability; amending s. 790.065, F.S.;
 10 conforming a cross-reference; deleting a prohibition
 11 on persons younger than 21 years of age from
 12 purchasing firearms; amending s. 790.0655, F.S.;
 13 deleting exemptions from a waiting period for firearms
 14 purchases for the purchase of a rifle or shotgun upon
 15 successful completion of a hunter safety course and
 16 purchase of a rifle or shotgun by a law enforcement or
 17 correctional officer; repealing s. 790.222, F.S.,
 18 relating to a ban on bump-fire stocks; repealing s.
 19 790.401, F.S., relating to risk protection orders;
 20 providing an effective date.

21
 22 Be It Enacted by the Legislature of the State of Florida:

23
 24 Section 1. Paragraphs (d) and (h) of subsection (2) of
 25 section 394.463, Florida Statutes, are amended to read:

26 394.463 Involuntary examination.—

27 (2) INVOLUNTARY EXAMINATION.—

28 ~~(d)1. A law enforcement officer taking custody of a person~~
 29 ~~under this subsection may seize and hold a firearm or any~~
 30 ~~ammunition the person possesses at the time of taking him or her~~
 31 ~~into custody if the person poses a potential danger to himself~~
 32 ~~or herself or others and has made a credible threat of violence~~
 33 ~~against another person.~~

34 ~~2. If the law enforcement officer takes custody of the~~
 35 ~~person at the person's residence and the criteria in~~
 36 ~~subparagraph 1. have been met, the law enforcement officer may~~
 37 ~~seek the voluntary surrender of firearms or ammunition kept in~~
 38 ~~the residence which have not already been seized under~~
 39 ~~subparagraph 1. If such firearms or ammunition are not~~
 40 ~~voluntarily surrendered, or if the person has other firearms or~~
 41 ~~ammunition that were not seized or voluntarily surrendered when~~
 42 ~~he or she was taken into custody, a law enforcement officer may~~
 43 ~~petition the appropriate court under s. 790.401 for a risk~~
 44 ~~protection order against the person.~~

45 ~~3. Firearms or ammunition seized or voluntarily~~
 46 ~~surrendered under this paragraph must be made available for~~
 47 ~~return no later than 24 hours after the person taken into~~
 48 ~~eustody can document that he or she is no longer subject to~~
 49 ~~involuntary examination and has been released or discharged from~~
 50 ~~any inpatient or involuntary outpatient treatment provided or~~

51 ~~ordered under paragraph (g), unless a risk protection order~~
52 ~~entered under s. 790.401 directs the law enforcement agency to~~
53 ~~hold the firearms or ammunition for a longer period or the~~
54 ~~person is subject to a firearm purchase disability under s.~~
55 ~~790.065(2), or a firearm possession and firearm ownership~~
56 ~~disability under s. 790.064. The process for the actual return~~
57 ~~of firearms or ammunition seized or voluntarily surrendered~~
58 ~~under this paragraph may not take longer than 7 days.~~

59 ~~4. Law enforcement agencies must develop policies and~~
60 ~~procedures relating to the seizure, storage, and return of~~
61 ~~firearms or ammunition held under this paragraph.~~

62 (h) A person for whom an involuntary examination has been
63 initiated who is being evaluated or treated at a hospital for an
64 emergency medical condition specified in s. 395.002 must be
65 examined by a facility within the examination period specified
66 in paragraph (f) ~~(g)~~. The examination period begins when the
67 patient arrives at the hospital and ceases when the attending
68 physician documents that the patient has an emergency medical
69 condition. If the patient is examined at a hospital providing
70 emergency medical services by a professional qualified to
71 perform an involuntary examination and is found as a result of
72 that examination not to meet the criteria for involuntary
73 outpatient services pursuant to s. 394.4655(2) or involuntary
74 inpatient placement pursuant to s. 394.467(1), the patient may
75 be offered voluntary services or placement, if appropriate, or

76 released directly from the hospital providing emergency medical
77 services. The finding by the professional that the patient has
78 been examined and does not meet the criteria for involuntary
79 inpatient services or involuntary outpatient placement must be
80 entered into the patient's clinical record. This paragraph is
81 not intended to prevent a hospital providing emergency medical
82 services from appropriately transferring a patient to another
83 hospital before stabilization if the requirements of s.
84 395.1041(3)(c) have been met.

85 Section 2. Paragraph (c) of subsection (2) of section
86 394.4599, Florida Statutes, is amended to read:

87 394.4599 Notice.—

88 (2) INVOLUNTARY ADMISSION.—

89 (c)1. A receiving facility shall give notice of the
90 whereabouts of a minor who is being involuntarily held for
91 examination pursuant to s. 394.463 to the minor's parent,
92 guardian, caregiver, or guardian advocate, in person or by
93 telephone or other form of electronic communication, immediately
94 after the minor's arrival at the facility. The facility may
95 delay notification for no more than 24 hours after the minor's
96 arrival if the facility has submitted a report to the central
97 abuse hotline, pursuant to s. 39.201, based upon knowledge or
98 suspicion of abuse, abandonment, or neglect and if the facility
99 deems a delay in notification to be in the minor's best
100 interest.

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101 2. The receiving facility shall attempt to notify the
102 minor's parent, guardian, caregiver, or guardian advocate until
103 the receiving facility receives confirmation from the parent,
104 guardian, caregiver, or guardian advocate, verbally, by
105 telephone or other form of electronic communication, or by
106 recorded message, that notification has been received. Attempts
107 to notify the parent, guardian, caregiver, or guardian advocate
108 must be repeated at least once every hour during the first 12
109 hours after the minor's arrival and once every 24 hours
110 thereafter and must continue until such confirmation is
111 received, unless the minor is released at the end of the 72-hour
112 examination period, or until a petition for involuntary services
113 is filed with the court pursuant to s. 394.463(2)(f) ~~s.~~
114 ~~394.463(2)(g)~~. The receiving facility may seek assistance from a
115 law enforcement agency to notify the minor's parent, guardian,
116 caregiver, or guardian advocate if the facility has not received
117 within the first 24 hours after the minor's arrival a
118 confirmation by the parent, guardian, caregiver, or guardian
119 advocate that notification has been received. The receiving
120 facility must document notification attempts in the minor's
121 clinical record.

122 Section 3. Section 790.064, Florida Statutes, is repealed.

123 Section 4. Paragraph (a) of subsection (2) and subsection
124 (13) of section 790.065, Florida Statutes, are amended to read:
125 790.065 Sale and delivery of firearms.—

126 (2) Upon receipt of a request for a criminal history
 127 record check, the Department of Law Enforcement shall, during
 128 the licensee's call or by return call, forthwith:

129 (a) Review any records available to determine if the
 130 potential buyer or transferee:

131 1. Has been convicted of a felony and is prohibited from
 132 receipt or possession of a firearm pursuant to s. 790.23;

133 2. Has been convicted of a misdemeanor crime of domestic
 134 violence, and therefore is prohibited from purchasing a firearm;

135 3. Has had adjudication of guilt withheld or imposition of
 136 sentence suspended on any felony or misdemeanor crime of
 137 domestic violence unless 3 years have elapsed since probation or
 138 any other conditions set by the court have been fulfilled or
 139 expunction has occurred; or

140 4. Has been adjudicated mentally defective or has been
 141 committed to a mental institution by a court or as provided in
 142 sub-sub-subparagraph b.(II), and as a result is prohibited by
 143 state or federal law from purchasing a firearm.

144 a. As used in this subparagraph, "adjudicated mentally
 145 defective" means a determination by a court that a person, as a
 146 result of marked subnormal intelligence, or mental illness,
 147 incompetency, condition, or disease, is a danger to himself or
 148 herself or to others or lacks the mental capacity to contract or
 149 manage his or her own affairs. The phrase includes a judicial
 150 finding of incapacity under s. 744.331(6)(a), an acquittal by

151 reason of insanity of a person charged with a criminal offense,
152 and a judicial finding that a criminal defendant is not
153 competent to stand trial.

154 b. As used in this subparagraph, "committed to a mental
155 institution" means:

156 (I) Involuntary commitment, commitment for mental
157 defectiveness or mental illness, and commitment for substance
158 abuse. The phrase includes involuntary inpatient placement as
159 defined in s. 394.467, involuntary outpatient placement as
160 defined in s. 394.4655, involuntary assessment and stabilization
161 under s. 397.6818, and involuntary substance abuse treatment
162 under s. 397.6957, but does not include a person in a mental
163 institution for observation or discharged from a mental
164 institution based upon the initial review by the physician or a
165 voluntary admission to a mental institution; or

166 (II) Notwithstanding sub-sub-subparagraph (I), voluntary
167 admission to a mental institution for outpatient or inpatient
168 treatment of a person who had an involuntary examination under
169 s. 394.463, where each of the following conditions have been
170 met:

171 (A) An examining physician found that the person is an
172 imminent danger to himself or herself or others.

173 (B) The examining physician certified that if the person
174 did not agree to voluntary treatment, a petition for involuntary
175 outpatient or inpatient treatment would have been filed under s.

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176 | 394.463(2)(f)4. ~~s. 394.463(2)(g)4.~~, or the examining physician
177 | certified that a petition was filed and the person subsequently
178 | agreed to voluntary treatment prior to a court hearing on the
179 | petition.

180 | (C) Before agreeing to voluntary treatment, the person
181 | received written notice of that finding and certification, and
182 | written notice that as a result of such finding, he or she may
183 | be prohibited from purchasing a firearm, and may not be eligible
184 | to apply for or retain a concealed weapon or firearms license
185 | under s. 790.06 and the person acknowledged such notice in
186 | writing, in substantially the following form:

187 | "I understand that the doctor who examined me believes I am a
188 | danger to myself or to others. I understand that if I do not
189 | agree to voluntary treatment, a petition will be filed in court
190 | to require me to receive involuntary treatment. I understand
191 | that if that petition is filed, I have the right to contest it.
192 | In the event a petition has been filed, I understand that I can
193 | subsequently agree to voluntary treatment prior to a court
194 | hearing. I understand that by agreeing to voluntary treatment in
195 | either of these situations, I may be prohibited from buying
196 | firearms and from applying for or retaining a concealed weapons
197 | or firearms license until I apply for and receive relief from
198 | that restriction under Florida law."

199 | (D) A judge or a magistrate has, pursuant to sub-sub-
200 | subparagraph c.(II), reviewed the record of the finding,

201 certification, notice, and written acknowledgment classifying
202 the person as an imminent danger to himself or herself or
203 others, and ordered that such record be submitted to the
204 department.

205 c. In order to check for these conditions, the department
206 shall compile and maintain an automated database of persons who
207 are prohibited from purchasing a firearm based on court records
208 of adjudications of mental defectiveness or commitments to
209 mental institutions.

210 (I) Except as provided in sub-sub-subparagraph (II),
211 clerks of court shall submit these records to the department
212 within 1 month after the rendition of the adjudication or
213 commitment. Reports shall be submitted in an automated format.
214 The reports must, at a minimum, include the name, along with any
215 known alias or former name, the sex, and the date of birth of
216 the subject.

217 (II) For persons committed to a mental institution
218 pursuant to sub-sub-subparagraph b.(II), within 24 hours after
219 the person's agreement to voluntary admission, a record of the
220 finding, certification, notice, and written acknowledgment must
221 be filed by the administrator of the receiving or treatment
222 facility, as defined in s. 394.455, with the clerk of the court
223 for the county in which the involuntary examination under s.
224 394.463 occurred. No fee shall be charged for the filing under
225 this sub-sub-subparagraph. The clerk must present the records to

226 a judge or magistrate within 24 hours after receipt of the
227 records. A judge or magistrate is required and has the lawful
228 authority to review the records ex parte and, if the judge or
229 magistrate determines that the record supports the classifying
230 of the person as an imminent danger to himself or herself or
231 others, to order that the record be submitted to the department.
232 If a judge or magistrate orders the submittal of the record to
233 the department, the record must be submitted to the department
234 within 24 hours.

235 d. A person who has been adjudicated mentally defective or
236 committed to a mental institution, as those terms are defined in
237 this paragraph, may petition the court that made the
238 adjudication or commitment, or the court that ordered that the
239 record be submitted to the department pursuant to sub-sub-
240 subparagraph c.(II), for relief from the firearm disabilities
241 imposed by such adjudication or commitment. A copy of the
242 petition shall be served on the state attorney for the county in
243 which the person was adjudicated or committed. The state
244 attorney may object to and present evidence relevant to the
245 relief sought by the petition. The hearing on the petition may
246 be open or closed as the petitioner may choose. The petitioner
247 may present evidence and subpoena witnesses to appear at the
248 hearing on the petition. The petitioner may confront and cross-
249 examine witnesses called by the state attorney. A record of the
250 hearing shall be made by a certified court reporter or by court-

251 approved electronic means. The court shall make written findings
252 of fact and conclusions of law on the issues before it and issue
253 a final order. The court shall grant the relief requested in the
254 petition if the court finds, based on the evidence presented
255 with respect to the petitioner's reputation, the petitioner's
256 mental health record and, if applicable, criminal history
257 record, the circumstances surrounding the firearm disability,
258 and any other evidence in the record, that the petitioner will
259 not be likely to act in a manner that is dangerous to public
260 safety and that granting the relief would not be contrary to the
261 public interest. If the final order denies relief, the
262 petitioner may not petition again for relief from firearm
263 disabilities until 1 year after the date of the final order. The
264 petitioner may seek judicial review of a final order denying
265 relief in the district court of appeal having jurisdiction over
266 the court that issued the order. The review shall be conducted
267 de novo. Relief from a firearm disability granted under this
268 sub-subparagraph has no effect on the loss of civil rights,
269 including firearm rights, for any reason other than the
270 particular adjudication of mental defectiveness or commitment to
271 a mental institution from which relief is granted.

272 e. Upon receipt of proper notice of relief from firearm
273 disabilities granted under sub-subparagraph d., the department
274 shall delete any mental health record of the person granted
275 relief from the automated database of persons who are prohibited

276 from purchasing a firearm based on court records of
277 adjudications of mental defectiveness or commitments to mental
278 institutions.

279 f. The department is authorized to disclose data collected
280 pursuant to this subparagraph to agencies of the Federal
281 Government and other states for use exclusively in determining
282 the lawfulness of a firearm sale or transfer. The department is
283 also authorized to disclose this data to the Department of
284 Agriculture and Consumer Services for purposes of determining
285 eligibility for issuance of a concealed weapons or concealed
286 firearms license and for determining whether a basis exists for
287 revoking or suspending a previously issued license pursuant to
288 s. 790.06(10). When a potential buyer or transferee appeals a
289 nonapproval based on these records, the clerks of court and
290 mental institutions shall, upon request by the department,
291 provide information to help determine whether the potential
292 buyer or transferee is the same person as the subject of the
293 record. Photographs and any other data that could confirm or
294 negate identity must be made available to the department for
295 such purposes, notwithstanding any other provision of state law
296 to the contrary. Any such information that is made confidential
297 or exempt from disclosure by law shall retain such confidential
298 or exempt status when transferred to the department.

299 ~~(13) A person younger than 21 years of age may not~~
300 ~~purchase a firearm. The sale or transfer of a firearm to a~~

301 ~~person younger than 21 years of age may not be made or~~
302 ~~facilitated by a licensed importer, licensed manufacturer, or~~
303 ~~licensed dealer. A person who violates this subsection commits a~~
304 ~~felony of the third degree, punishable as provided in s.~~
305 ~~775.082, s. 775.083, or s. 775.084. The prohibitions of this~~
306 ~~subsection do not apply to the purchase of a rifle or shotgun by~~
307 ~~a law enforcement officer or correctional officer, as those~~
308 ~~terms are defined in s. 943.10(1), (2), (3), (6), (7), (8), or~~
309 ~~(9), or a servicemember as defined in s. 250.01.~~

310 Section 5. Paragraphs (c) and (d) of subsection (2) of
311 section 790.0655, Florida Statutes, are amended to read:

312 790.0655 Purchase and delivery of firearms; mandatory
313 waiting period; exceptions; penalties.—

314 (2) The waiting period does not apply in the following
315 circumstances:

316 ~~(c) To the purchase of a rifle or shotgun, upon a person's~~
317 ~~successfully completing a minimum of a 16-hour hunter safety~~
318 ~~course and possessing a hunter safety certification card issued~~
319 ~~under s. 379.3581. A person who is exempt from the hunter safety~~
320 ~~course requirements under s. 379.3581 and holds a valid Florida~~
321 ~~hunting license is exempt from the mandatory waiting period~~
322 ~~under this section for the purchase of a rifle or shotgun.~~

323 ~~(d) When a rifle or shotgun is being purchased by a law~~
324 ~~enforcement officer or correctional officer, as those terms are~~
325 ~~defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9), or a~~

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326 | ~~servicemember as defined in s. 250.01.~~

327 | Section 6. Section 790.222, Florida Statutes, is repealed.

328 | Section 7. Section 790.401, Florida Statutes, is repealed.

329 | Section 8. This act shall take effect upon becoming a law.