

## SENATE SUMMARY OF HOUSE AMENDMENTS

SB 411

2018 Regular Session

White

## KEYWORD AND SUMMARY AS RETURNED TO THE SENATE

CRIMINAL PROCEDURE. Provides relative to persons found not guilty by reason of insanity. (8/1/18)

## SUMMARY OF HOUSE AMENDMENTS TO THE SENATE BILL

1. Removes the requirement that the clerk of court notify each person for whom information is reported pursuant to proposed law that the person is prohibited from receiving or possessing a firearm or ammunition.
2. Removes the proposed law procedure by which a person who has been adjudicated as a mental defective or committed to a mental institution may petition the court to have his firearm-related disabilities removed and to restore his right to receive and possess a firearm and ammunition and his eligibility to obtain a concealed handgun permit.
3. Rewrites changes made to present law relative to persons who are prohibited from possessing a firearm or carrying a concealed weapon.
4. Adds a person found not guilty by reason of insanity of any felony to the list of people who may petition the court for restoration of his right to possess a firearm under present law with some exceptions.
5. Adds a medical psychologist to list of people eligible to serve on the discharge or release review panel.
6. Makes technical changes.

## DIGEST OF THE SENATE BILL AS RETURNED TO THE SENATE

SB 411 Reengrossed

2018 Regular Session

White

Present law (C.Cr.P. Art. 655) provides that when the superintendent of a mental institution is of the opinion that a person committed pursuant to present law can be discharged or can be released on probation, without danger to others or to himself, he is to recommend the discharge or release of the person in a report to a review panel comprised of the person's treating physician, the clinical director of the facility to which the person is committed, and a physician, medical psychologist, or psychologist who served on the sanity commission that recommended commitment of the person.

Proposed law retains present law and adds that a recommendation that the person be discharged or released on probation requires a unanimous vote of the panel. Proposed law further provides that the panel must render specific findings of fact in support of its recommendation.

Present law (R.S. 13:753) requires each district clerk of court and each city and parish clerk of court to report to the Supreme Court for reporting to the National Instant Criminal Background Check System (NICS) the name and other identifying information of any adult who is prohibited from possessing a firearm pursuant to federal or state laws, by reason of a conviction or adjudication in a court within their respective jurisdictions for any of the following:

- (1) A conviction of a crime listed in the provision of present law (R.S. 14:95.1) that prohibits the possession of a firearm or carrying of a concealed weapon by a person convicted of certain felonies.
- (2) A verdict of an acquittal of a crime listed in present law (R.S. 14:95.1) by reason of insanity.

- (3) A court determination that a person does not have the mental capacity to proceed with a criminal trial for a crime listed in present law (R.S. 14:95.1).
- (4) A court order requiring that a person be involuntarily committed to an inpatient mental health treatment facility.
- (5) A court order prohibiting a person from possessing a firearm or restricting a person in the use of a firearm.
- (6) A conviction for a felony violation of the crime of domestic abuse battery.

Proposed law retains present law.

Proposed law provides that a person who has been adjudicated as a mental defective or committed to a mental institution and is therefore, pursuant to federal law, prohibited from receiving or possessing a firearm or ammunition or, pursuant to state law, is ineligible to possess a firearm or obtain a concealed handgun permit, may petition the court for restoration of his firearm rights pursuant to present law (R.S. 28:57).

Present law (R.S. 28:57) provides the procedure by which a person who is prohibited from possessing a firearm or is ineligible to be issued a concealed handgun permit pursuant to present federal law may, upon release from involuntary commitment, file a civil petition seeking judgment ordering the removal of that prohibition.

Proposed law retains present law but expands its application to authorize persons who have been found not guilty by reason of insanity for any felony to file the same petition if at least ten years have passed since the person was discharged from probation or custody, or discharged from a mental institution, by a court of competent jurisdiction. Proposed law excludes from application of present and proposed law any person on conditional release or conditional discharge under the provisions of present law (C.Cr.P. Art. 657.1 and 658) or a person who has been convicted or found not guilty by reason of insanity of any felony enumerated in present law (R.S. 14:95.1) in the ten years prior to the filing of the petition.

Present law (R.S. 14:95.1) provides that it is unlawful for any person who has been convicted of a crime of violence that is a felony, or certain other enumerated present law crimes, or any crime defined as a sex offense, or any crime defined as an attempt to commit one of the enumerated present law offenses, or who has been convicted under the laws of any other state or the U.S. or any foreign government or country of a crime that, if committed in this state, would be one of these enumerated present law crimes, to possess a firearm or carry a concealed weapon.

Proposed law retains present law and makes present law applicable to persons found not guilty by reason of insanity of any of the crimes provided for in the present law (R.S. 14:95.1).

Present law provides that present law prohibiting the possession of firearms and carrying concealed weapons by persons who have been convicted of certain felonies does not apply to any person who has not been convicted of any felony for a period of 10 years from the date of completion of sentence, probation, parole, or suspension of sentence.

Proposed law retains present law and adds that the 10-year "cleansing period" contained in present law applies to persons found not guilty by reason of insanity of the crimes provided for in present law (R.S. 14:95.1).

Effective August 1, 2018.

(Amends C.Cr.P. Art. 655(A), R.S. 13:753(A)(intro para), (B)(intro para), (B)(1), and (C), R.S. 14:95.1(A) and (C), and R.S. 28:57(A); adds R.S. 13:753(F) and R.S. 28:57(J))