

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 21-1005.01 Conrad Imel x2313

HOUSE BILL 21-1298

HOUSE SPONSORSHIP

Amabile and Woodrow, McCormick

SENATE SPONSORSHIP

Gonzales and Pettersen,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE CONDITIONS UNDER WHICH A FIREARM TRANSFER
102 MAY BE PROHIBITED FOLLOWING A BACKGROUND CHECK, AND,
103 IN CONNECTION THEREWITH, REQUIRING APPROVAL OF A
104 FIREARM TRANSFER PRIOR TO A TRANSFER BY A LICENSED
105 DEALER, ESTABLISHING GROUNDS FOR DENYING A TRANSFER,
106 AND CLARIFYING THE PROCESS TO APPEAL A DENIED TRANSFER.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Under existing federal law, a licensed gun dealer may transfer a

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

firearm to another person prior to receiving the results of a required background check if 3 days have elapsed since the dealer initiated the background check; state law does not generally require a background check prior to a transfer by a licensed gun dealer. The bill establishes a state requirement for a licensed gun dealer to obtain approval for a firearms transfer from the Colorado bureau of investigation (bureau) prior to transferring a firearm.

The bill prohibits the bureau from approving the transfer of a firearm to a person who was convicted of specified misdemeanor offenses. The bill also prohibits the bureau from approving a firearms transfer until the bureau determines that its background investigation is complete and that the transfer would not violate federal prohibitions on firearms possession or result in a violation of state law.

Under existing law, a person who has been denied a firearms transfer following a background check can appeal the denial. The bureau is required to review background check records that prompted the denial and render a final administrative decision regarding the denial within 30 days. The bill establishes a 60-day deadline for the bureau to conduct the review and render a final administrative decision.

A person may be denied a firearms transfer if there has not been a final disposition in criminal proceedings for certain offenses for which the prospective transferee, if convicted, would be prohibited from purchasing, receiving, or possessing a firearm. Under existing law, the inability of the bureau to obtain the final disposition of a case that is no longer pending cannot constitute the basis for the continued denial of the transfer. The bill removes this restriction and permits continued denial of the transfer when the bureau is unable to obtain the final disposition of a case that is no longer pending.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 18-12-112.5 as
3 follows:

4 **18-12-112.5. Firearms transfers by licensed dealers -**
5 **background check required - penalty - definitions.** (1) (a) IT IS
6 UNLAWFUL FOR A LICENSED GUN DEALER TO TRANSFER A FIREARM TO A
7 TRANSFEREE UNTIL THE DEALER HAS OBTAINED APPROVAL FOR THE
8 FIREARMS TRANSFER FROM THE BUREAU AFTER THE BUREAU HAS
9 COMPLETED ANY BACKGROUND CHECK REQUIRED BY STATE OR FEDERAL

1 LAW.

2 (b) TRANSFERRING A FIREARM IN VIOLATION OF THIS SUBSECTION
3 (1) IS A CLASS 1 MISDEMEANOR.

4 (2) THIS SECTION DOES NOT APPLY TO THE SALE OF AN ANTIQUE
5 FIREARM, AS DEFINED IN 18 U.S.C. SEC. 921(a)(16), AS AMENDED, OR A
6 CURIO OR RELIC, AS DEFINED IN 27 CFR 478.11, AS AMENDED.

7 (3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
8 REQUIRES:

9 (a) "LICENSED GUN DEALER" HAS THE SAME MEANING SET FORTH
10 IN SECTION 18-12-506.

11 (b) "TRANSFER" HAS THE SAME MEANING SET FORTH IN SECTION
12 24-33.5-424.

13 **SECTION 2.** In Colorado Revised Statutes, 24-33.5-424, **amend**
14 (5)(b) introductory portion and (5)(b)(II); **repeal** (5)(c); and **add** (3)(b.3)
15 and (3)(b.5) and as follows:

16 **24-33.5-424. National instant criminal background check**
17 **system - state point of contact - fee - grounds for denial of firearm**
18 **transfer - appeal - rule-making - unlawful acts - instant criminal**
19 **background check cash fund - creation.** (3) (b.3) IN ADDITION TO THE
20 GROUNDS FOR DENIAL SPECIFIED IN SUBSECTIONS (3)(a) AND (3)(b) OF
21 THIS SECTION, THE BUREAU SHALL DENY A TRANSFER OF A FIREARM IF THE
22 PROSPECTIVE TRANSFEREE HAS BEEN CONVICTED OF ANY OF THE
23 FOLLOWING OFFENSES, IF THE OFFENSE IS CLASSIFIED AS A MISDEMEANOR,
24 OR IF THE PROSPECTIVE TRANSFEREE HAS BEEN CONVICTED IN ANOTHER
25 STATE OR JURISDICTION, INCLUDING A MILITARY OR FEDERAL
26 JURISDICTION, OF AN OFFENSE THAT, IF COMMITTED IN COLORADO, WOULD
27 CONSTITUTE ANY OF THE FOLLOWING OFFENSES CLASSIFIED AS A

1 MISDEMEANOR OFFENSE, WITHIN FIVE YEARS PRIOR TO THE TRANSFER:

2 (I) ASSAULT IN THE THIRD DEGREE, AS DESCRIBED IN SECTION
3 18-3-204;

4 (II) MENACING, AS DESCRIBED IN SECTION 18-3-206;

5 (III) SEXUAL ASSAULT, AS DESCRIBED IN SECTION 18-3-402 (1)(e);

6 (IV) UNLAWFUL SEXUAL CONTACT, AS DESCRIBED IN SECTION
7 18-3-404;

8 (V) CHILD ABUSE, AS DESCRIBED IN SECTION 18-6-401;

9 (VI) VIOLATION OF A PROTECTION ORDER, AS DESCRIBED IN
10 SECTION 18-6-803.5;

11 (VII) A CRIME AGAINST AN AT-RISK PERSON, AS DESCRIBED IN
12 SECTION 18-6.5-103;

13 (VIII) HARASSMENT, AS DESCRIBED IN SECTION 18-9-111 (1)(a);

14 (IX) A BIAS-MOTIVATED CRIME, AS DESCRIBED IN SECTION
15 18-9-121;

16 (X) CRUELTY TO ANIMALS, AS DESCRIBED IN SECTION 18-9-202;

17 (XI) POSSESSION OF AN ILLEGAL WEAPON, AS DESCRIBED IN
18 SECTION 18-12-102 (4); OR

19 (XII) UNLAWFULLY PROVIDING A FIREARM OTHER THAN A
20 HANDGUN TO A JUVENILE, AS DESCRIBED IN SECTION 18-12-108.7 (3).

21 (b.5) THE BUREAU SHALL NOT APPROVE A TRANSFER OF A FIREARM
22 UNTIL THE BUREAU DETERMINES THAT ITS BACKGROUND INVESTIGATION
23 IS COMPLETE AND THAT THE TRANSFER WOULD NOT VIOLATE 18 U.S.C.
24 SEC. 922 (g) OR (n) OR RESULT IN THE VIOLATION OF STATE LAW.

25 (5) (b) Upon denial of a firearm transfer, the transferor shall
26 provide the transferee with written information prepared by the bureau
27 concerning the procedure by which the transferee, within thirty days after

1 the denial, may request a review of the denial and of the instant criminal
2 background check records that prompted the denial. Within ~~thirty~~ SIXTY
3 days ~~of~~ AFTER receiving such a request, the bureau shall:

4 (II) Render a final administrative decision regarding the denial.
5 ~~within thirty days after receiving information from the transferee that~~
6 ~~alleges the transfer was improperly denied.~~

7 (c) ~~In the case of any transfer denied pursuant to paragraph (b) of~~
8 ~~subsection (3) of this section, the inability of the bureau to obtain the final~~
9 ~~disposition of a case that is no longer pending shall not constitute the~~
10 ~~basis for the continued denial of the transfer.~~

11 **SECTION 3. Safety clause.** The general assembly hereby finds,
12 determines, and declares that this act is necessary for the immediate
13 preservation of the public peace, health, or safety.