

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 defining the term "handgun"; limiting the mandatory
14 waiting period for firearms purchases to handgun
15 purchases; repealing s. 790.222, F.S., relating to a
16 ban on bump-fire stocks; repealing s. 790.401, F.S.,
17 relating to risk protection orders; providing an
18 effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Paragraphs (d) and (h) of subsection (2) of
23 section 394.463, Florida Statutes, are amended to read:

24 394.463 Involuntary examination.—

25 (2) INVOLUNTARY EXAMINATION.—

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

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

43 ~~3. Firearms or ammunition seized or voluntarily~~
44 ~~surrendered under this paragraph must be made available for~~
45 ~~return no later than 24 hours after the person taken into~~
46 ~~eustody can document that he or she is no longer subject to~~
47 ~~involuntary examination and has been released or discharged from~~
48 ~~any inpatient or involuntary outpatient treatment provided or~~
49 ~~ordered under paragraph (g), unless a risk protection order~~
50 ~~entered under s. 790.401 directs the law enforcement agency to~~

51 ~~hold the firearms or ammunition for a longer period or the~~
52 ~~person is subject to a firearm purchase disability under s.~~
53 ~~790.065(2), or a firearm possession and firearm ownership~~
54 ~~disability under s. 790.064. The process for the actual return~~
55 ~~of firearms or ammunition seized or voluntarily surrendered~~
56 ~~under this paragraph may not take longer than 7 days.~~

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

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

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

83 | Section 2. Paragraph (c) of subsection (2) of section
84 | 394.4599, Florida Statutes, is amended to read:

85 | 394.4599 Notice.—

86 | (2) INVOLUNTARY ADMISSION.—

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

99 | 2. The receiving facility shall attempt to notify the
100 | minor's parent, guardian, caregiver, or guardian advocate until

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

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

121 Section 4. Paragraph (a) of subsection (2) and subsection
122 (13) of section 790.065, Florida Statutes, are amended to read:

123 790.065 Sale and delivery of firearms.—

124 (2) Upon receipt of a request for a criminal history
125 record check, the Department of Law Enforcement shall, during

126 the licensee's call or by return call, forthwith:

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

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

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

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

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

142 a. As used in this subparagraph, "adjudicated mentally
143 defective" means a determination by a court that a person, as a
144 result of marked subnormal intelligence, or mental illness,
145 incompetency, condition, or disease, is a danger to himself or
146 herself or to others or lacks the mental capacity to contract or
147 manage his or her own affairs. The phrase includes a judicial
148 finding of incapacity under s. 744.331(6)(a), an acquittal by
149 reason of insanity of a person charged with a criminal offense,
150 and a judicial finding that a criminal defendant is not

151 competent to stand trial.

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

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

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

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

171 (B) The examining physician certified that if the person
172 did not agree to voluntary treatment, a petition for involuntary
173 outpatient or inpatient treatment would have been filed under s.
174 394.463(2)(f)4. ~~s. 394.463(2)(g)4.~~, or the examining physician
175 certified that a petition was filed and the person subsequently

176 | agreed to voluntary treatment prior to a court hearing on the
177 | petition.

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

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

197 | (D) A judge or a magistrate has, pursuant to sub-sub-
198 | subparagraph c.(II), reviewed the record of the finding,
199 | certification, notice, and written acknowledgment classifying
200 | the person as an imminent danger to himself or herself or

201 others, and ordered that such record be submitted to the
202 department.

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

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

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

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

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

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

270 e. Upon receipt of proper notice of relief from firearm
271 disabilities granted under sub-subparagraph d., the department
272 shall delete any mental health record of the person granted
273 relief from the automated database of persons who are prohibited
274 from purchasing a firearm based on court records of
275 adjudications of mental defectiveness or commitments to mental

276 institutions.

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

297 ~~(13) A person younger than 21 years of age may not~~
298 ~~purchase a firearm. The sale or transfer of a firearm to a~~
299 ~~person younger than 21 years of age may not be made or~~
300 ~~facilitated by a licensed importer, licensed manufacturer, or~~

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

308 Section 5. Section 790.0655, Florida Statutes, is amended
309 to read:

310 790.0655 Purchase and delivery of handguns ~~firearms~~;
311 mandatory waiting period; exceptions; penalties.—

312 (1) (a) A mandatory waiting period is imposed between the
313 purchase and delivery of a handgun ~~firearm~~. The mandatory
314 waiting period is 3 days, excluding weekends and legal holidays,
315 or expires upon the completion of the records checks required
316 under s. 790.065, whichever occurs later. "Handgun" means a
317 firearm capable of being carried and used by one hand, such as a
318 pistol or revolver. "Purchase" means the transfer of money or
319 other valuable consideration to the retailer. "Retailer" means
320 and includes a licensed importer, licensed manufacturer, or
321 licensed dealer engaged in the business of making firearm sales
322 at retail or for distribution, or use, or consumption, or
323 storage to be used or consumed in this state, as defined in s.
324 212.02(13).

325 (b) Records of handgun ~~firearm~~ sales must be available for

326 inspection by any law enforcement agency, as defined in s.
327 934.02, during normal business hours.

328 (2) The waiting period does not apply in the following
329 circumstances:

330 (a) When a handgun ~~firearm~~ is being purchased by a holder
331 of a concealed weapons permit as defined in s. 790.06.

332 (b) To a trade-in of another handgun ~~firearm~~.

333 ~~(c) To the purchase of a rifle or shotgun, upon a person's~~
334 ~~successfully completing a minimum of a 16-hour hunter safety~~
335 ~~course and possessing a hunter safety certification card issued~~
336 ~~under s. 379.3581. A person who is exempt from the hunter safety~~
337 ~~course requirements under s. 379.3581 and holds a valid Florida~~
338 ~~hunting license is exempt from the mandatory waiting period~~
339 ~~under this section for the purchase of a rifle or shotgun.~~

340 ~~(d) When a rifle or shotgun is being purchased by a law~~
341 ~~enforcement officer or correctional officer, as those terms are~~
342 ~~defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9), or a~~
343 ~~servicemember as defined in s. 250.01.~~

344 (3) It is a felony of the third degree, punishable as
345 provided in s. 775.082, s. 775.083, or s. 775.084:

346 (a) For any retailer, or any employee or agent of a
347 retailer, to deliver a handgun ~~firearm~~ before the expiration of
348 the waiting period, subject to the exceptions provided in
349 subsection (2).

350 (b) For a purchaser to obtain delivery of a handgun

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351 | ~~firearm~~ by fraud, false pretense, or false representation.

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

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

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