

SENATE BILL NO. 411

BY SENATOR WHITE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

AN ACT

To amend and reenact Code of Criminal Procedure Art. 655(A), the introductory paragraph of R.S. 13:753(A), the introductory paragraph of (B), (B)(1), and (C), R.S. 14:95.1(A) and (C), and R.S. 28:57(A), and to enact R.S. 13:753(F) and R.S. 28:57(J), relative to persons found not guilty by reason of insanity; to provide relative to insanity proceedings; to provide relative to the discharge or release on probation of a defendant found not guilty by reason of insanity; to require the unanimous recommendation of a three-member panel before the court can release the defendant from a mental institution; to prohibit persons found not guilty by reason of insanity from possessing firearms or carrying a concealed weapon; to provide relative to the procedure by which the person's firearm rights may be restored under certain circumstances; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Art. 655(A) is hereby amended and reenacted to read as follows:

Art. 655. Application for discharge or release on probation; review panel

A.(1) When the superintendent of a mental institution is of the opinion that a person committed pursuant to Article 654 can be discharged or can be released on probation, without danger to others or to himself, he shall 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 which recommended commitment of the person. If any member of the panel is unable to serve, a physician, **medical psychologist**, or a psychologist engaged in the practice of clinical or counseling psychology with at

1 least three years' experience in the field of mental health shall be appointed by the
 2 remaining members.

3 (2) The panel shall review all reports received promptly. After review, the
 4 panel shall make a recommendation to the court by which the person was committed
 5 as to the person's mental condition and whether he can be discharged, conditionally
 6 or unconditionally, or placed on probation, without being a danger to others or
 7 himself. If the review panel recommends to the court that the person be discharged,
 8 conditionally or unconditionally, or placed on probation, the court shall conduct a
 9 contradictory hearing following notice to the district attorney.

10 (3) A recommendation that the person be discharged or released on
 11 probation shall require a unanimous vote of the panel.

12 (4) The panel shall render specific findings of fact in support of its
 13 recommendation.

14 * * *

15 Section 2. The introductory paragraph of R.S. 13:753(A), the introductory paragraph
 16 of (B), (B)(1), and (C) are hereby amended and reenacted and R.S. 13:753(F) is hereby
 17 enacted to read as follows:

18 §753. Reporting of information to Louisiana Supreme Court for NICS database;
 19 possession of a firearm

20 A. ~~Effective January 1, 2014, each~~ **Each** district clerk of court shall report to
 21 the Louisiana Supreme Court for reporting to the National Instant Criminal
 22 Background Check System database the name and other identifying information of
 23 any adult who is prohibited from possessing a firearm pursuant to the laws of this
 24 state or 18 U.S.C. 922(d)(4) and (g)(4), (8), and (9), by reason of a conviction or
 25 adjudication in a court of that district for any of the following:

26 * * *

27 B. ~~Effective January 1, 2017, each~~ **Each** city and parish clerk of court shall
 28 report to the Louisiana Supreme Court for reporting to the National Instant Criminal
 29 Background Check System database the name and other identifying information of
 30 any adult who is prohibited from possessing a firearm pursuant to the laws of this

1 state or 18 U.S.C. 922(d)(4), (g)(4), (8), and (9), by reason of a conviction or
2 adjudication in a court of that district for any of the following:

3 (1) A conviction for a violation of domestic abuse battery (R.S. 14:35.3)
4 ~~which~~ that is a misdemeanor.

5 * * *

6 C. The report reports required by Subsections A and B of this Section
7 shall be submitted to the Louisiana Supreme Court, in the manner and form as
8 directed by the supreme court, within ten business days of the date of conviction,
9 adjudication, or order of involuntary commitment.

10 * * *

11 F. A person who has been adjudicated as a mental defective or
12 committed to a mental institution and is therefore, pursuant to federal law,
13 prohibited from receiving or possessing a firearm or ammunition or, pursuant
14 to state law, is ineligible to possess a firearm or obtain a concealed handgun
15 permit, may petition the court for restoration of firearm rights pursuant to R.S.
16 28:57.

17 Section 3. R.S. 14:95.1(A) and (C) are hereby amended and reenacted to read as
18 follows:

19 §95.1. Possession of firearm or carrying concealed weapon by a person convicted of
20 certain felonies

21 A. It is unlawful for any person who has been convicted of, or has been
22 found not guilty by reason of insanity for, a crime of violence as defined in R.S.
23 14:2(B) which is a felony or simple burglary, burglary of a pharmacy, burglary of an
24 inhabited dwelling, unauthorized entry of an inhabited dwelling, felony illegal use
25 of weapons or dangerous instrumentalities, manufacture or possession of a delayed
26 action incendiary device, manufacture or possession of a bomb, or possession of a
27 firearm while in the possession of or during the sale or distribution of a controlled
28 dangerous substance, or any violation of the Uniform Controlled Dangerous
29 Substances Law which is a felony, or any crime which is defined as a sex offense in
30 R.S. 15:541, or any crime defined as an attempt to commit one of the above-

1 enumerated offenses under the laws of this state, or who has been convicted under
 2 the laws of any other state or of the United States or of any foreign government or
 3 country of a crime which, if committed in this state, would be one of the above-
 4 enumerated crimes, to possess a firearm or carry a concealed weapon.

5 * * *

6 C. The provisions of this Section prohibiting the possession of firearms and
 7 carrying concealed weapons by persons who have been convicted of, or who have
 8 been found not guilty by reason of insanity for, certain felonies shall not apply to
 9 any person who has not been convicted of, or who has not been found not guilty
 10 by reason of insanity for, any felony for a period of ten years from the date of
 11 completion of sentence, probation, parole, or suspension of sentence, or discharge
 12 from a mental institution by a court of competent jurisdiction.

13 * * *

14 Section 4. R.S. 28:57(A) is hereby amended and reenacted and R.S. 28:57(J) is
 15 hereby enacted to read as follows:

16 §57. Petition for restoration of right to possess a firearm and to apply for permit for
 17 concealed handgun; procedures

18 A. (1) Except as provided in Paragraph (2) of this Subsection, a person
 19 who is prohibited from possessing a firearm or is ineligible to be issued a concealed
 20 handgun permit pursuant to the provisions of 18 U.S.C. 922(d)(4) and (g)(4) or of
 21 R.S. 40:1379.3(C)(13) because of an adjudication or commitment that occurred
 22 under the laws of this state may, upon release from involuntary commitment, file a
 23 civil petition seeking a judgment ordering the removal of that prohibition.

24 (2) A person found not guilty by reason of insanity of any felony may file
 25 a civil petition seeking a judgment ordering the removal of the prohibition
 26 described in Paragraph (1) of this Subsection provided that at least ten years
 27 have passed since the person was discharged from probation or custody, or
 28 discharged from a mental institution, by a court of competent jurisdiction.

29 * * *

30 J. This provisions of this Section shall not apply to:

1 (1) A person on conditional release or conditional discharge pursuant
2 to Code of Criminal Procedure Article 657.1 or 658.

3 (2) A person who has been convicted or found not guilty by reason of
4 insanity of any felony enumerated in R.S. 14:95.1 in the ten years prior to the
5 filing of a petition under this Section.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____