

SENATE BILL NO. 135

BY SENATORS RISER AND THOMPSON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To amend and reenact R.S. 28:54(B) and R.S. 40:1379.3(C)(13), and to enact R.S. 13:752 and R.S. 28:57, relative to possession of weapons and permits to carry concealed weapons; to provide relative to certain judicial proceedings and reports; to provide for mandatory reporting of certain information regarding persons ineligible to possess, ship, transport or receive firearms or to apply for a permit to carry a concealed weapon by virtue of certain state and federal law; to provide for mandatory reporting of involuntary judicial commitments or certain adjudications for certain offenses; to provide procedures by which such information shall be reported to the Louisiana Supreme Court and to the National Instant Criminal Background Check System database; to provide procedures by which certain persons may file a civil petition seeking adjudicated restoration of rights; to provide procedures by which such petitions shall be filed, heard, recorded, and reported to the Louisiana Supreme Court and to the National Instant Criminal Background Check System; to provide for the effects of judgments in such proceedings; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 13:752 is hereby enacted to read as follows:

§752. Reporting of information to Louisiana Supreme Court for NICS database; possession of firearm
A. Effective January 1, 2014, each district clerk of court shall report to the Louisiana Supreme Court for reporting to the National Instant Criminal Background Check System database the name and other identifying information of an adult who is prohibited from possessing a firearm pursuant

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

3 (1) Guilty of a crime listed in R.S. 14:95.1(A).

4 (2) Not guilty by reason of insanity for a crime listed in R.S. 14:95.1(A).

5 (3) Lacking mental capacity to proceed to trial for a crime listed in R.S.
 6 14:95.1(A).

7 (4) Ordered to be involuntarily committed to an inpatient mental health
 8 treatment facility pursuant to R.S. 28:54.

9 B. The report shall be submitted to the Louisiana Supreme Court, in the
 10 manner and form as directed by the supreme court, within ten business days of
 11 the date of conviction, adjudication, or order of involuntary commitment.

12 C. The Louisiana Supreme Court shall within fifteen business days of
 13 receipt of the report submit the information in the report to the National
 14 Instant Criminal Background Check System database.

15 D. Except in the case of willful or wanton misconduct or gross
 16 negligence, no district clerk of court shall be held civilly or criminally liable on
 17 the basis of the accuracy, availability, or unavailability of any information
 18 reported or required to be reported pursuant to this Section.

19 Section 2. R.S. 28:54(B) is hereby amended and reenacted to read as follows:

20 §54. Judicial commitment; procedure

21 * * *

22 B.(1) The petition shall contain the facts ~~which~~ **that** are the basis of the
 23 assertion and provide the respondent with adequate notice and knowledge relative
 24 to the nature of the proceedings.

25 (2) In addition, the petition shall contain the following information
 26 regarding the respondent:

27 (a) Name.

28 (b) Date of birth.

29 (c) Aliases, if any.

30 (d) Social security number.

1 (4) Changes in the petitioner's condition or circumstances since the
2 original adjudication or commitment relevant to the relief sought. If the court
3 determines the hearing should be open to the public, upon motion by the
4 petitioner for restoration, the court may allow for in camera inspection of any
5 mental health records.

6 F. The court shall render such judgment as the nature of the relief and
7 the law and evidence shall justify. The court shall grant the relief requested if
8 it finds, by a preponderance of the evidence, that the petitioner's record and
9 reputation are such that he will not be likely to act in a manner dangerous to
10 public safety and that the granting of the relief requested would not be contrary
11 to the public interest. A record of the proceedings shall be kept.

12 G. In the event of a closed hearing, the record of the proceedings shall
13 remain under seal and be disclosed only to an appellate court or the parties. The
14 district court order may be reviewed on appeal to the court of appeal under a
15 de novo standard of review. The appellate court shall maintain the
16 confidentiality of the records.

17 H. The petitioner for restoration in all cases shall pay the costs of the
18 proceedings.

19 I. After a judgment granting restoration of rights under this Section has
20 become final and definitive, the clerk of court in the district where the judgment
21 was rendered shall, as soon as is practicable, but in no case later than ten
22 business days after receipt of the final and definitive judgment, forward a copy
23 of the judgment to the Louisiana Supreme Court. The Louisiana Supreme
24 Court shall within fifteen business days after receipt of the judgment revise the
25 person's record in any information database that the Louisiana Supreme Court
26 makes available to the National Instant Criminal Background Check System
27 and shall notify the United States Attorney General for the purpose of reporting
28 to the National Instant Criminal Background Check System that the basis for
29 the disabilities imposed by 18 U.S.C. §922(d)(4) and (g)(4) no longer applies.

30 Section 4. R.S. 40:1379.3(C)(13) is hereby amended and reenacted to read as

1 follows:

2 §1379.3. Statewide permits for concealed handguns; application procedures;
3 definitions

4 * * *

5 C. To qualify for a concealed handgun permit, a Louisiana resident shall:

6 * * *

7 (13) Not have been adjudicated to be mentally deficient or been committed
8 to a mental institution, **unless the resident's right to possess a firearm has been**
9 **restored pursuant to R.S. 28:57.**

10 * * *

11 Section 5. This Act shall become effective on January 1, 2014.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____