

SENATE FLOOR AMENDMENTS

2018 Regular Session

Amendments proposed by Senator White to Engrossed Senate Bill No. 411 by Senator White

1 AMENDMENT NO. 1

2 On page 1, line 2, after "Art. 655(A)" delete the remainder of the line and insert ", the
3 introductory paragraph of R.S. 13:753(A), the introductory paragraph of (B) and (B)(1), (C),
4 and (E), and R.S. 14:95.1(A) and (C) and to enact R.S. 13:753(F), (G), (H), (I), (J), and (K),"

5 AMENDMENT NO. 2

6 On page 1, line 8, after "concealed weapon;" insert "to provide a procedure by which the
7 person's firearm rights may be restored under certain circumstances;"

8 AMENDMENT NO. 3

9 On page 2, between lines 18 and 19, insert the following:

10 "Section 2. The introductory paragraph of R.S. 13:753(A), the introductory
11 paragraph of (B) and (B)(1), (C), and (E) are hereby amended and reenacted and R.S.
12 13:753(F), (G), (H), (I), (J), and (K) are hereby enacted to read as follows:

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

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

21 * * *

22 B. ~~Effective January 1, 2017, each~~ **Each** city and parish clerk of court shall
23 report to the Louisiana Supreme Court for reporting to the National Instant Criminal
24 Background Check System database the name and other identifying information of
25 any adult who is prohibited from possessing a firearm pursuant to the laws of this
26 state or 18 U.S.C. 922(d)(4), (g)(4), (8), and (9), by reason of a conviction or
27 adjudication in a court of that district for any of the following:

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

30 * * *

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

35 * * *

36 E. **In accordance with rules promulgated pursuant to Subsection H of**
37 **this Section, each district clerk of court and city and parish clerk of court**
38 **reporting information pursuant to Paragraphs (A)(2), (A)(3), and (A)(4) and**
39 **Paragraphs (B)(2) and (B)(3) of this Section shall notify each person for whom**
40 **the information is reported that, as an adjudicated mental defective or as a**
41 **person committed to a mental institution, the person is prohibited, pursuant to**
42 **federal law, from receiving or possessing a firearm or ammunition.**

43 F. **(1) A person who has been adjudicated as a mental defective or**
44 **committed to a mental institution and is therefore, pursuant to federal law,**
45 **prohibited from receiving or possessing a firearm or ammunition or, pursuant**
46 **to state law, is ineligible to possess a firearm or obtain a concealed handgun**
47 **permit, may petition the court that originated the order, judgment, or verdict,**
48 **or any other court of competent jurisdiction, to remove the person's**
49 **firearm-related disabilities and restore the person's right to receive and possess**

1 a firearm and ammunition and the right to be eligible to obtain a concealed
2 handgun permit.

3 (2) A copy of the petition seeking relief from disabilities shall be served
4 upon the office of the attorney general and upon all parties to the proceeding
5 that resulted in a court order, judgment, or verdict described in Paragraphs
6 (A)(2), (A)(3), or (A)(4) or Paragraphs (B)(2) or (B)(3) of this Section.

7 (3) The court shall conduct a hearing and receive and consider evidence
8 on a petition seeking relief from disabilities, including evidence offered by the
9 petitioner concerning the following:

10 (a) The circumstances regarding the firearm disabilities from which
11 relief is sought.

12 (b) The petitioner's mental health and criminal history record.

13 (c) The petitioner's reputation, developed, at a minimum, through
14 character witness statements, testimony, or other character evidence.

15 (d) Changes in the petitioner's condition or circumstances since the
16 original court order, judgment, or verdict that are relevant to the relief sought.

17 (4) After conducting a hearing on the petition, the court shall grant the
18 petition for relief from the firearm-related disabilities if the court finds by a
19 preponderance of the evidence that the petitioner will not be likely to act in a
20 manner dangerous to public safety and that granting the relief will not be
21 contrary to the public interest.

22 (5) A record shall be kept of the court proceedings held pursuant to this
23 Subsection.

24 (6) The decision of the court on the petition for relief from disabilities
25 shall be appealable as any civil judgment.

26 (7) Regardless of whether an earlier decision has been appealed, a person
27 may petition for relief pursuant to this Subsection not more than once every two
28 years and, in the case of a person who has been committed to a mental
29 institution, not before the person has been discharged from that commitment.

30 (8) Upon the entry of a court order granting relief from disabilities
31 pursuant to this Subsection, and as soon as practicable but in no case longer
32 than ten days from receipt of the court order granting relief, the clerk of court
33 and any other state agency as applicable shall each be responsible for updating,
34 correcting, modifying, or removing the petitioner's records from the respective
35 databases that are used for transmitting information to the Louisiana Supreme
36 Court for reporting to the National Instant Criminal Background Check System
37 database.

38 (9) Each clerk of court or other state agency shall promptly notify the
39 United States attorney general of the court order granting relief from
40 disabilities for the purpose of reporting to the National Instant Criminal
41 Background Check System that the basis for the petitioner being disabled
42 pursuant to federal law from receiving or possessing a firearm or ammunition
43 no longer applies.

44 (10) The clerk of court is prohibited from disclosing information
45 regarding a court order, judgment, or verdict referred to in this Subsection, or
46 regarding a petitioner or proceedings under this Subsection, except as otherwise
47 provided by law.

48 G. Information compiled and transmitted under this Section is not a
49 public record and is not subject to disclosure pursuant to the Public Records
50 Law.

51 H. A person who is the subject of information compiled or transmitted
52 by the clerk of court pursuant to this Section, or the person's authorized
53 representative, shall have the right to obtain, inspect, or correct information
54 compiled or transmitted.

55 I. Each clerk of court shall promulgate rules relating to the inspection
56 and correction of information contained in its records and relating to the
57 transmission of corrected information to the Louisiana Supreme Court for
58 inclusion in the National Instant Criminal Background Check System database,
59 and other rules necessary to implement the provisions of this Section.

1 **J. As used in this Section, the terms "adjudicated as a mental defective"**
2 **and "committed to a mental institution" shall have the same meaning as those**
3 **terms are defined in 27 C.F.R. Section 478.11.**

4 **K.** Except in the case of willful or wanton misconduct or gross negligence,
5 no city, parish, or district clerk of court shall be held civilly or criminally liable on
6 the basis of the accuracy, availability, or unavailability of any information reported
7 or required to be reported pursuant to this Section."

8 AMENDMENT NO. 4

9 On page 2, at the beginning of line 19, change "Section 2." to "Section 3."