SENATE BILL NO. 135

1

24

BY SENATORS RISER AND THOMPSON

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

AN ACT

2	To amend and reenact R.S. 28:54(B) and R.S. 40:1379.3(C)(13), and to enact R.S. 13:752
3	and R.S. 28:57, relative to possession of weapons and permits to carry concealed
4	weapons; to provide relative to certain judicial proceedings and reports; to provide
5	for mandatory reporting of certain information regarding persons ineligible to
6	possess, ship, transport or receive firearms or to apply for a permit to carry a
7	concealed weapon by virtue of certain state and federal law; to provide for
8	mandatory reporting of involuntary judicial commitments or certain adjudications
9	for certain offenses; to provide procedures by which such information shall be
10	reported to the Louisiana Supreme Court and to the National Instant Criminal
11	Background Check System database; to provide procedures by which certain persons
12	may file a civil petition seeking adjudicated restoration of rights; to provide
13	procedures by which such petitions shall be filed, heard, recorded, and reported to
14	the Louisiana Supreme Court and to the National Instant Criminal Background
15	Check System; to provide for the effects of judgments in such proceedings; and to
16	provide for related matters.
17	Be it enacted by the Legislature of Louisiana:
18	Section 1. R.S. 13:752 is hereby enacted to read as follows:
19	§752. Reporting of information to Louisiana Supreme Court for NICS
20	database; possession of firearm
21	A. Effective January 1, 2014, each district clerk of court shall report to
22	the Louisiana Supreme Court for reporting to the National Instant Criminal
23	Background Check System database the name and other identifying

information of an adult who is prohibited from possessing a firearm pursuant

	SB NO. 135 ENROLLED
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	<u>14:95.1(A).</u>
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 or
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.

(c) Aliases, if any.

(d) Social security number.

29

30

SB NO. 135 ENROLLED

1	(e) Sex.
2	(f) Race.
3	If the petitioner is unable to provide any of the information listed in this
4	Paragraph, the petitioner shall include in the petition the reasons why that
5	information cannot be provided.
6	* * *
7	Section 3. R.S. 28:57 is hereby enacted to read as follows:
8	§57. Petition for restoration of right to possess firearm and to apply for permit
9	for concealed handgun; procedure
10	A. A person who is subject to the disabilities of 18 U.S.C. §922(d)(4) and
11	(g)(4) or of R.S. 40:1379.3(C)(13) because of an adjudication or commitment
12	that occurred under the laws of this state may, upon release from involuntary
13	commitment, file a civil petition seeking judgment ordering the removal of such
14	disabilities.
15	B. The petition for restoration shall be filed in the form of a rule to show
16	cause and shall be filed in the district in which the adjudication or order of
17	commitment occurred.
18	C. The hearing on the petition shall be a contradictory proceeding with
19	the attorney who represented the state in the original proceeding, or the
20	attorney's successor, who shall represent the interests of the state and be served
21	with a copy of the petition and citation to answer it not less than thirty days
22	prior to the hearing.
23	D. The hearing shall be in chambers, unless the court determines that
24	it is in the best interest of the public that the hearing be in open court.
25	E. At the hearing, the court shall consider evidence concerning:
26	(1) The circumstances regarding the firearm disabilities from which
27	relief is sought.
28	(2) The petitioner's mental health and criminal history records, if any.
29	(3) The petitioner's reputation, developed at a minimum through
30	character witness statements, testimony, or other character evidence.

SB NO. 135 ENROLLED	
(4) Changes in the petitioner's condition or circumstances since the	1
original adjudication or commitment relevant to the relief sought. If the court	2
determines the hearing should be open to the public, upon motion by the	3
petitioner for restoration, the court may allow for in camera inspection of any	4
mental health records.	5
F. The court shall render such judgment as the nature of the relief and	6
the law and evidence shall justify. The court shall grant the relief requested if	7
it finds, by a preponderance of the evidence, that the petitioner's record and	8
reputation are such that he will not be likely to act in a manner dangerous to	9
public safety and that the granting of the relief requested would not be contrary	10
to the public interest. A record of the proceedings shall be kept.	11
G. In the event of a closed hearing, the record of the proceedings shall	12

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

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

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

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 to a mental institution, unless the resident's right to possess a firearm has been 8 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

ENROLLED

SB NO. 135

APPROVED: _____