

**Mental Health Firearm Disqualifiers**  
**Section 790.065, F.S.**

Purchase of Firearms by Mentally Ill Persons  
 HB 1355 (2013 Legislative Session)  
 Chapter 2013-249, Laws of Florida

Implementation Workgroup

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**Background**

**Florida Department of Law Enforcement (FDLE) Firearm Purchase Program (FPP)**

Conducts required background checks to prevent purchase of firearms by persons who are ineligible under federal and state law to receive them.

**Brady Handgun Violence Prevention Act of 1993**

Created the National Instant Criminal Background Check System (NICS) to quickly provide information used to make determinations for eligibility to purchase firearms. NICS is a national system maintained by the FBI.

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**Background**

**Mental Competency (MECOM) Database**

- Established by FDLE in 2007 to receive and store orders entered by the Clerks of Court on persons 'adjudicated mentally defective' or 'committed to a mental institution' or a judicial finding of incapacity.
- Information is uploaded to National Instant Criminal Background Check System (NICS).
- Used in determination process for firearm sales nationwide.
- Shared with the Florida Department of Agriculture and Consumer Services for the issuance and retention of concealed weapon licenses.

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### Reporting Requirements Since 2007

#### F.S. 790.065 (2)(a)

- Defines who should be entered into MECOM.
- Requires FDLE to ‘compile and maintain an automated database.’
- Requires the Clerks of Court to submit records within 1 month after the rendition of the adjudication or commitment.
- Requires at a minimum the reporting of name (along with alias or former name), sex, and date of birth of subject.

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### Who Does This Apply To?

‘...a determination by a court that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition or disease is...’

- A danger to himself or herself or others; or
- Lacks the mental capacity to manage his or her own affairs;
- This includes a judicial finding of incapacity (guardianship per s. 744.331, F.S.); and
- Acquittal by reason of insanity or finding that the defendant is not competent to stand trial (s. 916.12, s. 916.13, and s. 916.15, F.S.)

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### Who Does This Apply To?

- Involuntary commitment;
- Commitment for mental defectiveness, mental illness or substance abuse;
- Involuntary inpatient or outpatient placement (Baker Act, s. 394.467 or 394.4655, F.S.);
- Involuntary assessment and stabilization (Marchman Act, s. 397.6818, F.S.);
- Involuntary substance abuse treatment (Marchman Act, s. 397.6597, F.S.)

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### Who This Does Not Apply To?

...but does not include a person

- In a mental institution for observation;
- Discharged from a mental institution after an initial review by a physician;
- Voluntary admission to a mental institution.

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### New Reporting Requirements

#### HB 1355 (2013 Legislative Session)

Became law on July 1, 2013, amending s. 790.065, F.S., providing conditions under which an individual who has been allowed to transfer to voluntary status in lieu of court-ordered involuntary commitment after being admitted for involuntary examination at a Baker Act receiving facility and is certified by a physician to be of imminent danger, may be prohibited from purchasing firearms or retaining or applying for a concealed weapon or firearm license.

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### Who This Does Not Apply To?

- Persons entering and remaining on voluntary status regardless of potential dangerousness.
- Persons entering on basis of self-neglect.
- Persons discharged because they fail to meet involuntary placement criteria.
- Persons whose potential for 'dangerousness' is not considered by a physician as 'imminent.'
- Persons whose petition is dismissed by the court because a less restrictive setting is found.

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### Who This Does Not Apply To?

- Persons taken to a facility not designated by DCF as a receiving facility and are released or transferred to voluntary status before transfer to a DCF designated receiving facility.
- Persons subject to the involuntary provisions of the Marchman Act unless ordered to undergo involuntary assessment and stabilization or involuntary treatment.
- Law applies to future gun purchases and retaining or obtaining concealed weapons or firearms license.

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### New Reporting Requirements

Chapter 2013-249, Laws of Florida (HB 1355) amended s. 790.065, F.S., effective 7/1/2013, to include:

‘...voluntary admission (*transfer*) to a mental institution for outpatient or inpatient treatment of a person who had an involuntary examination under s. 394.463, F.S., where each of the following conditions have been met...’

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### New Reporting Requirements

#### Condition A

Examining physician finds the person is an imminent danger to himself or herself or others;

#### Condition B

Examining physician certifies that if the person had not agreed to transfer from involuntary to voluntary treatment:

- A petition for involuntary outpatient or inpatient treatment would have been filed (s. 394.463(2), F.S.); or
- A petition was filed and the person subsequently agreed to voluntary treatment prior to a court hearing on the petition.

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## New Reporting Requirements

**Condition C**

Before agreeing to voluntary treatment the person:

- Received written notice of the **finding and certification**;
- Received written notice that as a result of the finding, he or she may be **prohibited from purchasing a firearm and may not be eligible to apply for or retain a concealed weapon license**;
- **Acknowledged** the notice in writing.

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## New Reporting Requirements

**Condition D**

A judge or magistrate has:

- Reviewed the record classifying the person as an imminent danger; and
- Ordered such record be submitted to the Florida Department of Law Enforcement.

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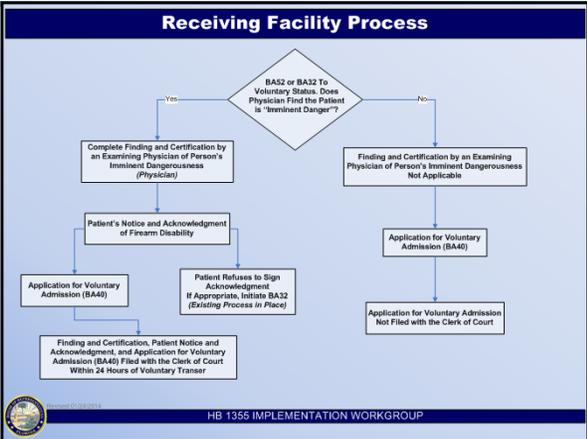
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## Baker Act Receiving Facilities

- Filing of forms with the Clerk of Court
  - Cover Sheet (Optional);
  - Physician's Finding and Certification;
  - Patient's Notice and Acknowledgment Form;
  - Application for Voluntary Admission;
  - If a petition was filed, Notification to the Court of Withdrawal of Petition.
  
- Administrator must file forms with the Clerk of Court for the county in which the involuntary examination occurred ***within 24 hours*** of the person's agreement to voluntary admission.

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Cover Sheet

**Firearm Prohibition  
Cover Sheet**

Confidential Information

Submission to Clerk of Court of Substantively Required Documents for Review by Judge or Magistrate Regarding Purchase of Firearms or Applying / Holding Concealed Weapons or Firearms License by Persons who have a Mental Illness and are Deemed Imminently Dangerous

Attached are the following forms regarding the determination an individual in this receiving or treatment facility has been found to be an imminent danger to self or others:

- Finding and Certification by an Examining Physician of Person's Imminent Dangerousness (if not applicable, do not file)
- Patient's Notice and Acknowledgment (Purchase of Firearms and Application for or Retention of a Concealed Weapons or Firearms License)
- Application for Voluntary Admission of an Adult (Receiving Facility)
- Notification to Court of Withdrawal of Petition for Hearing on Involuntary Inpatient or Involuntary Outpatient Placement

Signature of Administrator or Designee \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_

Printed Name of Administrator or Designee \_\_\_\_\_ Name of Receiving or Treatment Facility \_\_\_\_\_

Printed Name of Patient \_\_\_\_\_ Gender \_\_\_\_\_

Date of Birth \_\_\_\_\_ Race \_\_\_\_\_

Social Security Number \_\_\_\_\_

See s. 394.453(2)(a), 394.06 and 394.065 Florida Statutes  
Confidential Information  
Revised 10/07/13

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Finding and Certification

**Finding and Certification by an Examining Physician  
of Person's Imminent Dangerousness**

I, \_\_\_\_\_ a physician licensed pursuant to chapter 458 or 459, Florida Statutes, examined \_\_\_\_\_ a patient in \_\_\_\_\_ (name of receiving or treatment facility) on \_\_\_\_\_ (M/D) at \_\_\_\_\_ A.M./P.M.

I determined this individual is an imminent danger to self or others based on the following:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Please Check One**

- I certify if the person had not agreed to voluntary treatment, a petition for involuntary outpatient or inpatient treatment would have been filed.
- I certify a petition was filed and the person subsequently agreed to voluntary treatment prior to a court hearing on the petition.

I have found this person has the capacity to make well-reasoned, willful, and knowing decisions concerning his or her medical or mental health treatment and therefore is compliant to transfer to voluntary status and to consent to treatment.

Signature of Examining Physician \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_

Printed Name of Examining Physician \_\_\_\_\_ License Number \_\_\_\_\_

Printed Name of Patient \_\_\_\_\_ Gender \_\_\_\_\_

Date of Birth \_\_\_\_\_ Race \_\_\_\_\_

Social Security Number \_\_\_\_\_

See s. 394.06 and 394.065 Florida Statutes  
Confidential Information  
Revised 10/07/13

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### Submission of Records into MECOM

- Mandated fields for MECOM entry
  - Name, sex, date of birth, and uniform case number (UCN).
- Record searches are based on name and other personal identifying information.
- Additional record subject identifiers
  - Includes social security number, place of birth, driver's license number, last known address, and others listed in the MECOM database.
- Providing additional identifiers further assists with the identification of an individual prohibited from purchasing a firearm.

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### Resources

- Department of Children and Families  
(850) 488-8304
- Florida Court Clerks and Comptrollers  
(850) 921-0808
- Office of the State Courts Administrator  
(850) 922-5081
- Florida Psychiatric Society  
(800) 521-7465
- Florida Council for Community Mental Health  
(850) 224-6048
- Florida Department of Law Enforcement  
Firearm Purchase Program  
(850) 410-8139

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