Mental Health Firearm Disqualifiers Section 790.065, F.S.

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

Implementation Workgroup

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.

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.

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.

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.)

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.)

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.

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.

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.

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.

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...'

New Reporting Requirements

Condition A

Examining physician finds the person is an <u>imminent</u> <u>danger</u> 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.

New Reporting Requirements

Condition C

Before agreeing to voluntary treatment the person:

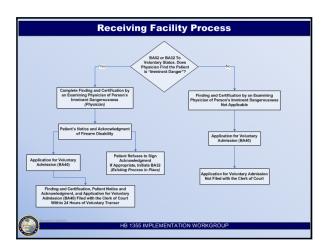
- Received written notice of the <u>finding and</u> <u>certification</u>;
- Received written notice that as a result of the finding, he or she may be <u>prohibited from</u> <u>purchasing a firearm and may not be eligible to</u> <u>apply for or retain a concealed weapon license;</u>
- Acknowledged the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

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.



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.

	Firearm Prohibition
	Cover Sheet
	Confidential Information
	Submission to Clock of Court of Statisticity Required Decuments for Review by Judge or Magistrate Regarding Parchase of Researcs of Applying Intelluing Concented Wespons or Forentse License by Persons who have a Montal Resea and are Decembed Immissionity Dangercore
	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 Intersect Congerousness (If not applicable, do not file)
	Platent's Notice and Acknowledgment (Purchase of Finance and Application for or Retention of a Concealed Weapons or Finance License)
Ϋ́	Application for Voluntary Admission of an Adult (Receiving Facility)
Cover Sheet	Medication to Cost of Windowsii of Petition for Hearing on Involuntary Ingulant or Involuntary Output and Placament
ove	Signature of Administrator or Designee Date Time
8	Printed Name of Administrator or Designee Hame of Receiving or Treatment Facility
	Pinted Name of Pident Gender
_	Date of Birth Race
	Social Security Number

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	Social Security Number

)		
	I, do hereby	
-	(Full printed name of person whose admission is being requested)	
∜' ■	confirm I have received written notice of the finding and certification from an examining physician	
6	advising if I do not agree to voluntary admission, a petition for involuntary outpatient or impatient	
	treatment will be filed under s. 394.463(2)(i)4, F.S., or the examining physician certified a petition was	
₹	Red and I have subsequently agreed to voluntary treatment prior to a court hearing on the petition.	
2 1	I further acknowledge I understand the doctor who examined me believes I am an imminent danger to	
2	myself or to others. I understand if I do not agree to voluntary treatment, a petition will be filed in	
5	court to require me to receive involuntary treatment. I understand if that position is flied, I have the	
	right to contest it. I understand by agreeing to voluntary treatment in either of these situations, I may	
7	be prohibited from purchasing finances and from applying for, or retaining, a concealed weapons or	
∠	firearms license until I apply for, and receive, relef from that restriction under Florida law.	
5	I understand the Finding and Certification by an Examining Physician of Person's Immeret	
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	Application for Voluntary Admission of an Adult (Receiving Facility)
_	Full protect name of part on whose admission to being requested do hereby apply for admission to
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·Ω	for observation, diagnosis, care, and treatment of a mental timese, and I certify that the information given on this application in the and correct to the best of my knowledge and belief.
is Si	I am making this application for vibratary advises on other sufficient explanation and disclosure to make a knowing and willful discussion without any witnessed of force, haud, decet, durses, or other form of constant or operation. The reason for my admission to this facility is:
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a a	I are a competed adult with the capacity to make well-maximum, wilful, and knowing decisions concerning my swedcal or mental health tractiment. I do not have a quantian, guardian advocate, or currently have a health care surrangularlymary making health care decisions for me.
훋	I ☐ have ☐ have not provided a copy of advance directive(s).
Application for Voluntary Admissior	If in, the advance interview reluctive rep:
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<u>ō</u>	I understand that I may be billed for the cost of my treatment.
Ħ	Signature of Competent Adult Dale Tone are per
.≝	Printed Name of Witness Signature of Witness Date Time am pm
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	Sec. 304 43305, 304 435, 304 4423 Parish Decise

	IN THE CRICUIT COURT OF THELUDICAL CRICUIT IN AND FORCOUNTY, FLORIDA	
	NRECASENO	
Petition for Hearing	Notification to Court of Withdrawal of Petition for Hearing on Involuntary Ingatient or Involuntary Cutpatient Placement	
	YOUARE HEREBY INFORMED THAT Name of Person	
	Facility florie and Address	
	tax made application by express and informed consent for voluntary admission, due to an improvement in his/her condition.	
O D	□ was discharged on Date 10 Destination (if known)	
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a	Signature of Administrator or Designee Date Time	
	Profesi Name of Administrator or Designee	
_	cc: Gues of the Court Probate Division) Person Garden Assistant State Attenty Representative Person's Attorney	
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	Printed Name of Patent Gender	
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	Confidential Information	

Clerks of Court

- Enter pleadings into the Clerk's office management system and assign a uniform case number.
 - These cases do not get reported as a new case filing.
- Submit the petition and other related documents to a judge or magistrate for review within 24 hours of the filing from receiving facilities.
- If ordered by a judge or magistrate, submit the record to the Florida Department of Law Enforcement within 24 hours of the order.

Judiciary

- Reviews the record of the finding, certification, notice, and written acknowledgment classifying the person as an imminent danger.
- Determines records support classification.
- Issues order requiring the Clerks of Court to submit record to the Florida Department of Law Enforcement.

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Order of Court (Page 2)	D	Circuit Court Judge Deneral Magnetone		

Petition for Relief from Firearm Disability

- Petition for Relief Packet will include:
 - Petition for Relief from Firearm Disability
 - Notice of Hearing
- May be provided by the receiving facility staff to the individual at time of providing notice and obtaining acknowledgment of firearm disability.
- Petition for Relief Packet will be available from the Clerk of Court in the county the adjudication or commitment was made.

Petition for Relief from Firearm Disability

- Petition is filed with the Clerk of Court for each order.
- A Notice of Hearing is prepared containing the date, time and location.
- A copy of the petition and notice of hearing must be provided to the State Attorney.

IN RECASE #
DMSION
PETITION FOR RELIEF FROM FIREARM
DISABILITIES IMPOSED BY THE COURT
THIS MATTER is presented to the Court on
on a Petition for Relief from Fireure Disabilities Imposed by the Court on
2. The Petitioner wait:
Ordered to Involuntary Substance Abuse Assessment and Stabilization (s. 397 6818, F.S.) on
Contened to Involuntary Substance Abuse Treatment (s. 397.6957, F.S.) on
Ordered to Involuntary Inpatient Placement (s. 394.667, F.S.) on
Ordered to Involuntary Outpatient Placement (s. 394.4655, F.S.) on
[1] Found by Court to be of Imminent Danger but permitted by physician to transfer to voluntary status in feu of
involuntary placement order above (s. 790.005, F.S.) on
Adjudicated incapacitated (s. 744.331, F.S.) or any similar law of any other state on
Acquitted of criminal charge by reason of insanity (s. 916.15, F.S.) on
Found by Court to be not competent to stand bial in criminal case (s. 916.12, F.S.) on
[] C00+r
 The Petitioner will not be likely to act in a manner that is dangerous to public safety and granting the relief requested
would not be contrary to the public interest for the following reasons:

1	 Based upon these facts, THE FOLLOWING IS REQU 				est t
	a. That, pursuant to a '790 055, F.S., the Court based on the evidence presented with respect to and, if applicable, coleveral history vectori, the evidence in the record, that the Pittioner will in and that granting the relief would not be contrary	o the Petitioner's proumstances is of be likely to ac	regulation, the Per surrounding the fire of in a manner that	ltioner's mental health re sem disability, and any o	cont.
	b. The firearm disability imposed, dated	, be set	aside and of no fu	ther force and effect.	
	 That, pursuent to s. 700.055, F.S., the Flonds record which was the basis for the freams dis automated database of persons who are prohibit 	ability, imposed	on (date)	, from	
	5. Under penalties of perjury, I declare that I have re-		g Petition for Relief	from the Firearm Disab	ites
	Imposed by the Court and that the facts stated in it a	e true.			
	Imposed by the Court and that the facts stated in it a Signature of Petitioner.		ane of Petitioner		
	8. 3	Printed Na			
	Signature of Petitioner	Printed Na Maling Ad	ddws	2	
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Petition for Relief from Firearm Disability

- Evidentiary hearing
- Record of hearing by Court Reporter or other court approved electronic means.
- Written findings of fact and conclusions of law.
- Final order issued by the Court
 - · Petitioner's reputation;
 - Mental health record;
 - Circumstances surrounding firearm disability and any other evidence;
 - Petitioner not likely to act in a manner dangerous to public safety.

	IN THE CIRCUIT COURT OF THEJUDICIAL CIRCUIT
	IN AND FOR COUNTY, FLORIDA
ge 1)	IN RE: CASE #
rder on Petition for Relief (Page	ORDER ON PETITION FOR RELIEF FROM FIREARM DISABILITIES
<u>a</u>	THIS MATTER was presented to the Court by Petitioner, on a
<u>=</u>	Petition for Relief from Firearm Disabilities Imposed by the Court as a result of the
Ř	order issued by the Court on(date).
ō	The Court, having heard testimony and having received other evidence, finds as follows:
7	1 was ordered to
ō	2 successfully
温	3 currently lives with
ē	works at, and
n F	Based on the evidence presented and the Court's conclusions derived therefrom, IT IS THEREFORE
市	ORDERED AND ADJUDGED that:
ğ	The firearm disability imposed on shall remain in force and effect
ō	and the Petition filed on(date) is DENIED.
	The firearm disability imposed onon(date)
	is SETASIDE and is of no further force and effect.

Pursuant to s. 700 006, FS, the Court grants the neider requested in the Pletton. With respect to evolution-presented as its Plettoner's regulation, mental health, the absence of lary communifercoult that would precise the record the Court grants the neider of the country to the country to the country to the country to the public sterent. Pursuant to x. 700 006, FS, the Plettoner of the country to the public sterent. Pursuant to x. 700 006, FS, the Plettoner of the country to the public sterent. Pursuant to x. 700 006, FS, the Pletton Department of Law Enforcement who doubte the nextest health record which was the Laws to the Season to the Season that the Sea

Petition for Relief from Firearm Disability

- Firearm disability relief granted:
 - · Proper notice of relief;
 - FDLE shall delete records from the MECOM database.
- Firearm disability relief denied:
 - Petitioner may not petition for relief again for one year.
 - Petitioner can seek judicial review from the District Court of Appeals.

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.

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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