



# MENTAL COMPETENCY (MECOM) DATABASE FREQUENTLY ASKED QUESTIONS JUNE 2, 2014

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### **[Section 790.065, F.S., Sale and Delivery of Firearms](#)**

## **STATE STATUTE**

### **1. What state law requires the submission of mental health data to the Florida Department of Law Enforcement (FDLE) for the purpose of firearm purchase approval?**

Section 790.065(2)(a)(4), Florida Statutes (F.S.), Sale and Delivery of Firearms, outlines the firearm purchase prohibition for persons “adjudicated as mentally defective or committed to a mental institution.” The terms are defined in law as:

“Adjudicated mentally defective”

Refers 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 to others or lacks the mental capacity to contract or manage his or her own affairs. The phrase includes a judicial finding of incapacity under s. 744.331(6)(a), F.S., an acquittal by reason of insanity of a person charged with a criminal offense, and a judicial finding that a criminal defendant is not competent to stand trial.

“Committed to a mental institution”

Refers to an involuntary commitment, commitment for mental defectiveness or mental illness, and commitment for substance abuse. The phrase includes involuntary inpatient placement as defined in s. 394.467, F.S., involuntary outpatient placement as defined in s. 394.4655, F.S., involuntary assessment and stabilization under s. 397.6818, F.S., and involuntary substance abuse treatment under s. 397.6957, F.S., but does not include a person in a mental institution for observation or discharged from a mental institution based upon the initial review by the physician or a voluntary admission to a mental institution; or...

[Chapter 2013-249, Laws of Florida](#), effective July 1, 2013, further amended the definition of “committed to mental institution” to include voluntary admission to a mental institution for outpatient or inpatient treatment of a person who had an involuntary examination under Section 394.463, F.S., based on the following conditions being met:

- An examining physician found that the person is an imminent danger to himself or herself or others;
- The examining physician certified that if the person did not agree to voluntary treatment, a petition for involuntary outpatient or inpatient treatment would have been filed under s. 394.463(2)(i)4, F.S., or the examining physician certified that a petition was filed and the person subsequently agreed to voluntary treatment prior to a court hearing on the petition;
- Before agreeing to voluntary treatment, the person received written notice of that finding and certification, and written notice that as a result of such finding, he or she may be prohibited from purchasing a firearm, and may not be eligible to apply for or retain a concealed weapon or firearm license under s. 790.06, F.S., and the person acknowledged such notice in writing;

- A judge or a magistrate has reviewed the record of the finding, certification, notice, and written acknowledgment classifying the person as an imminent danger to himself or herself or others, and ordered that such record be submitted to the department.

See the section on [Chapter 2013-249, Laws of Florida](#), for further details about the new requirements. A copy of the statute is included in the Appendix.

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## **2. What is the Mental Competency (MECOM) database?**

The law authorizes the Florida Department of Law Enforcement (FDLE) to establish and maintain “an automated database [designated as the Mental Competency (MECOM) database] of persons who are prohibited from purchasing a firearm based on court records of adjudications of mental defectiveness or commitments to mental institutions.” The database contains information submitted by the Clerks of Court.

FDLE is required to check this database before approving the sale of a firearm by a licensed dealer, to determine if the potential purchaser is prohibited by federal law from purchasing (or possessing) a firearm because he or she has been adjudicated mentally defective or committed to a mental institution. The data entered by the Clerks will be uploaded to the National Instant Criminal Background Check System (NICS), maintained by the Federal Bureau of Investigation (FBI), to comply with federal law requiring background checks on prospective firearm purchasers. The data is included in the NICS Index which is used nationwide in determining firearm purchase eligibility. The MECOM database is also used by the Florida Department of Agriculture and Consumer Services (DOACS), Division of Licensing, for the purpose of issuing or retaining a concealed weapon or firearm license.

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## **MECOM DATABASE**

## **3. Can the mental health data be submitted to FDLE in more than one way?**

Entry by the Clerks of Court directly into the MECOM database is the preferred method. FDLE has assisted Clerks by accepting faxes, and mailed or emailed submissions because of the criticality of the information. FDLE will continue to do so as resources permit; however, the responsibility to enter the data remains with the Clerks.

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## **4. What are the mandated fields for MECOM database entry?**

The fields necessary for entry into the MECOM database include: name, any known alias or former name, sex, date of birth and uniform case number (UCN). The MECOM database is designed to reject records not meeting the minimum identification requirements outlined in the law. Because the system is structured to allow for searching records based on name and other personal identifying information, the more information provided to FDLE, the easier it will be to identify an individual attempting to purchase a firearm. For this reason,

the Clerk of Courts' offices may receive calls requesting additional data to assist in making informed decisions.

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**5. What information would be beneficial as additional record subject identifiers?**

If available, the subject's social security number, place of birth, driver's license number, and last known address would be helpful as additional record subject identifiers.

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**6. What timeframe does the information need to be entered or submitted into the MECOM database?**

By law, "Clerks of Court are required to submit these records to the department within 1 month after the rendition of the adjudication or commitment." These records would include:

- Ordered to Involuntarily Substance Abuse Assessment and Stabilization (s. 397.6818, F.S.)
- Ordered to Involuntary Substance Abuse Treatment (s. 397.6957, F.S.)
- Ordered to Involuntary Inpatient Placement (s. 394.467, F.S.)
- Ordered to Involuntary Outpatient Placement (s. 394.4655, F.S.)
- Adjudicated incapacitated (s. 744.331, F.S.)
- Acquittal by reason of insanity of a person charged with a criminal offense
- Judicial finding that a criminal defendant is not competent to stand trial

However, when persons are committed to a mental institution following an involuntary examination under s. 394.463, F.S. and satisfying the conditions under Chapter 2013-249, Laws of Florida, Clerks must submit the record to FDLE within 24 hours of the order. See the section on [Chapter 2013-249, Laws of Florida](#), for further details about the new reporting requirements.

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**7. If a person is the subject of more than one qualifying adjudication of mental defectiveness or commitment to a mental institution, should data on the later adjudications or commitments continue to be entered in the MECOM database?**

Yes. The most recent data will be displayed when the database is queried. It is important for all persons involved in the firearm purchase background check process to have access to the most complete, current, and accurate information. This information will be vital in making the correct decisions at the initial approval stage, during any appeal of a denial, and when removal of a name from the database is requested.

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**8. How do Clerks of Court and their employees access the MECOM database?**

The MECOM database is available through the Florida Criminal Justice Network (CJNet). The access form found on the first page of the database must be completed and then faxed, mailed, or e-mailed to FDLE, after which a password and username will be assigned to the individual. As a security precaution, the password and user (logon) name should not be shared with anyone else. Whenever information is added or updated in the database, the system automatically records the date and identifies the person that updated or added the information by his or her logon name.

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**9. If an error is found in the MECOM database, should the Clerks of Court correct the error?**

If an error is identified, contact the FDLE Firearm Purchase Program at (850) 410-8139 for correction.

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**10. Is the data in the MECOM database public record?**

FDLE understands civil orders (adjudication or commitment) to be confidential. Under the law, if the records submitted by the Clerks of Court are confidential or exempt from disclosure in the custody of the courts, they will retain that status in the MECOM database. See the Florida Attorney General's Government-In-The-Sunshine Manual (available online), Part II, D, 11. FDLE is authorized by the law to disclose information to the Department of Agriculture and Consumer Services for determining the eligibility of an applicant for a concealed weapon or firearm license. FDLE is also authorized to disclose data to federal or state agencies with regard to the lawfulness of the sale or transfer of a firearm.

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**11. Who should be called with questions about the MECOM database?**

Questions should be directed to the FDLE Firearm Purchase Program at (850) 410-8139.

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## **SUBSTANCE ABUSE**

**12. Does the law apply to substance abuse?**

Yes, the definition of "committed to a mental institution" in the law includes "commitment for substance abuse" and refers to "involuntary assessment and stabilization under s. 397.6818, F.S., and involuntary substance abuse treatment under s. 397.6957, F.S."

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**13. Should data on persons who voluntarily admit themselves for substance abuse treatment be entered into the database?**

No, unless there is further action by a physician and court under the process established by Chapter 2013-249, Laws of Florida. See the section on [Chapter 2013-249, Laws of Florida](#), for further details about the new requirements.

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**14. Should all persons detained or held under the Baker or Marchman Acts be reported to FDLE?**

Only persons who are “committed to a mental institution or adjudicated mentally defective” should be entered into the MECOM database, unless there is further action by a physician and court under the process established by [Chapter 2013-249, Laws of Florida](#).

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**15. Should defendants who have been referred to Drug Court be entered in the database?**

Referral to Drug Court, alone, is not a sufficient basis to enter a person in the MECOM database. See Question 12.

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**16. Where a Petition for Involuntary Treatment for Substance Abuse is filed under Chapter 397, Florida Statutes, and the Respondent signed a Waiver of Hearing authorizing the Court to enter an Order for Involuntary Treatment, should such an order be entered into the database?**

A court order placing someone in a substance abuse treatment program under the authority of s. 397.6957, Florida Statutes, is a prohibitor for the purchase of a firearm and should be entered into the database. The waiver of hearing does not negate the effect of the order.

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## **JUVENILES**

**17. Should juveniles who are not able to stand trial because of their age be entered into the MECOM database?**

No. If a minor defendant is found to be “incompetent” to proceed solely because of his or her age, the resulting order is not considered to be an adjudication of mental incompetency and does not qualify for entry into the MECOM database.

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**18. Should juveniles who have been found mentally incompetent be entered into the MECOM database?**

The federal law which prohibits a person “who has been adjudicated as a mental defective or who has been committed to a mental institution” from purchasing a firearm, 18 U.S.C. Section 922(g)(4), does not mention an age limit for such adjudication or commitment, nor does the expanded definition of this phrase, found at 27 C.F.R. Section 478.11. Accordingly, it has been concluded that an adjudication or commitment of a minor meeting the requirements of the law should be reported.

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## **CAPACITY/COMPETENCY**

**19. Should an order determining someone totally incapacitated, which does not refer to Section 744.331, Florida Statutes, be entered into the database?**

An order determining someone to be totally incapacitated as authorized under s. 744.331, F.S., would qualify for entry, even if a different (or no) statute is cited.

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**20. If a defendant is found incompetent to stand trial, should he or she be entered into the database? What happens if the defendant is later found competent to stand trial?**

If a defendant is found incompetent to stand trial by the court, he or she should be entered in the MECOM database. If the defendant is later determined to be competent to proceed to trial, that fact alone will not authorize the removal of his or her name from the database. The law authorizes a process for restoration of firearm rights following loss due to, for example, a finding of incompetency to stand trial. The outcome of the trial may or may not impose a separate firearm purchase prohibitor (such as a felony conviction).

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## **RELIEF**

**21. How can a person be removed from the MECOM database?**

A process for restoration of firearm rights, also referred to as “Relief from Firearm Disabilities” is authorized in s. 790.065(2)(a)4.d, F.S., which could allow for the removal of persons from the MECOM database.

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**22. Is the process for removal from the MECOM database automatic following the restoration of firearm rights?**

No, “upon receipt of proper notice of relief from firearm disabilities granted [by a court]” FDLE will remove the subject from the database; the process is not automatic.

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**23. If a person believes his or her name should be removed from the database, or needs information in this regard, to whom should the Clerk of Courts’ office direct him or her?**

Contact the FDLE Firearm Purchase Program at (850) 410-8139. The person should be referred to s. 790.065, F.S., for the legal basis for removal.

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## **NEW PROVISIONS OF CHAPTER 2013-249, LAWS OF FLORIDA**

**24. How did this law amend Section 790.065, Florida Statutes, Sale and Delivery of Firearms?**

Chapter 2013-249, Laws of Florida, amended the definition of “committed to mental institution” to include voluntary admission to a mental institution for outpatient or inpatient treatment of a person who had an involuntary examination under s. 394.463, F.S., based on the following conditions being met:

- An examining physician found that the person is an imminent danger to himself or herself or others;
- The examining physician certified that if the person did not agree to voluntary treatment, a petition for involuntary outpatient or inpatient treatment would have been filed under s. 394.463(2)(i)4, F.S., or the examining physician certified that a petition was filed and the person subsequently agreed to voluntary treatment prior to a court hearing on the petition;
- Before agreeing to voluntary treatment, the person received written notice of that finding and certification, and written notice that as a result of such finding, he or she may be prohibited from purchasing a firearm, and may not be eligible to apply for or retain a concealed weapon or firearm license under s. 790.06, F.S., and the person acknowledged such notice in writing;
- A judge or a magistrate has reviewed the record of the finding, certification, notice, and written acknowledgment classifying the person as an imminent danger to himself or herself or others, and ordered that such record be submitted to the department.

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## **25. What are examples where the new provisions do NOT apply?**

The law does not apply to persons in the following circumstances:

- Persons entering a facility on voluntary status and remaining on voluntary status regardless of their potential imminent dangerousness. The Baker Act law and multiple appellate cases place no duty on mental health professionals to initiate involuntary status even if the criteria for involuntary status are documented.
- Persons entering a facility on involuntary status on the basis of self-neglect instead of active danger, regardless of the severity of their mental illnesses.
- Persons on involuntary examination status who are discharged because they fail to meet any one of the involuntary placement criteria, without being converted to voluntary status.
- Persons whose potential for “dangerousness” is not considered by a physician as “imminent.”
- Persons whose hearing on involuntary placement takes place and the petition is dismissed by the court because a less restrictive setting is found, regardless of the criteria related to active danger.
- Persons on involuntary examination status, who are first taken to hospitals, not designated by the Department of Children and Families (DCF) as receiving facilities, for examination or treatment of medical conditions and are released directly by a physician or psychologist or are transferred by such hospitals to voluntary status before transfer to a designated receiving facility.
- Persons subject to the involuntary provisions of the Marchman Act (s. 397, F.S.) unless ordered by the court to undergo involuntary assessment and stabilization or involuntary treatment.

*Note: This answer is provided by the Department of Children and Families (DCF). Any questions should be directed to DCF at (850) 488-8304.*

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## **26. What is meant by the term “receiving or treatment facility” as used in the new requirements?**

The term is defined in s. 394.455(10), (26), and (32), F.S. As used in this document, the term refers to facilities providing the initial examination, regardless of whether the facility provides treatment.

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## **27. What is the duty of physicians at receiving facilities?**

The physician or clinical psychologist must, without unnecessary delay, conduct and document the Mandatory Initial Involuntary Examination, including:

- Review of person’s recent behavior;
- Review “Transportation to Receiving Facility” form (#3100);

- Review one of the following:
  - “Ex Parte Order for Involuntary Examination” or
  - “Report of Law Enforcement Officer Initiating Involuntary Examination” or
  - “Certificate of Professional Initiating Involuntary Examination”
- Conduct a brief psychiatric history; and
- Conduct a face-to-face examination to determine if person meets criteria for release.

*Note: This answer is provided by the Department of Children and Families (DCF). Any questions should be directed to DCF at (850) 488-8304.*

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## **28. What is the meant by the term “imminent danger”?**

The term “imminent danger” is referenced in the new requirements, and now in s. 790.065, F.S.; however, it is not defined within statute. A physician makes an assessment of “imminent danger,” and it is determined according to the physician's clinical judgment. Thus, the physician is performing a thorough risk assessment as would be done for the evaluation following a Petition for Involuntary Examination or for a Petition for Involuntary Placement.

According to s. 394.467, F.S., one criterion for involuntary examination or for involuntary placement is dangerousness to self or others, specifically, “substantial likelihood that in the near future he or she will inflict serious bodily harm on himself or herself or another person, as evidenced by recent behavior causing, attempting, or threatening such harm.” This could be considered to be an example of “imminent danger,” but there may be other situations in which a physician would decide, in his/her clinical judgment, that a person posed a risk of “imminent danger” to himself/herself or others.

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## **29. Under the new requirements of the law, what forms must the receiving facility file with the Clerk of Court?**

Upon meeting the conditions, the administrator of the receiving facility must file the following forms with the Clerk of Court for the county in which the involuntary examination occurred:

- Finding and Certification by an Examining Physician of Person’s Imminent Dangerousness;
- Patient’s Notice and Acknowledgement of firearm disabilities.
- If applicable, Notification to Court of Withdrawal of Petition for Hearing on Involuntary Inpatient or Involuntary Outpatient Placement.

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### **30. When must the receiving facility file the forms with the Clerk of Court?**

Forms must be filed with the Clerk of Court within 24 hours of the patient's certification as an imminent danger and agreement to transfer to voluntary status.

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### **31. What if the receiving facility does not file the required forms within 24 hours?**

Pending legislative amendment or a contrary judicial interpretation, the Clerk of Court and the judge or magistrate should continue the process, as if the records were filed in a timely manner.

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### **32. When must the Clerk of Court present the filed records to a judge or magistrate?**

The Clerk of Court is required to present the records to a judge or magistrate within 24 hours after receipt of such records from the receiving facility.

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### **33. How long does the judge or magistrate have to review the record?**

Current law does not provide a time limit within which a judge or magistrate should review the record. However, as a suggestion for best practice, it is noted that some judicial circuits have issued an administrative order providing a timeframe.

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### **34. If a judge or magistrate issues an order, when must the Clerk of Court enter the information into the MECOM database?**

The law requires the Clerk of Court to submit the record to FDLE, by entering the information directly into the MECOM database, within 24 hours of the order.

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### **35. What is meant by the timeframe of 24 hours for the Courts?**

Rule 2.514, Rules of Judicial Administration, defines how hours and days are computed for court use when a statute doesn't specify how it is to be done (*only applies to courts – not to mental health facilities*). When a law states a period of time in "hours," the computation of hours is as follows:

- Begin counting immediately on the occurrence of the event that triggers the period;
- Count every hour, including hours during intermediate Saturdays, Sundays, and legal holidays; and
- If the period would end on a Saturday, Sunday, or legal holiday, or during any period of time extended through an order of the chief justice, the period continues

to run until the same time on the next day that is not a Saturday, Sunday, or legal holiday and does not fall within any period of time extended through an order of the chief justice.

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### **36. What must the patient's notice and acknowledgment include?**

Law provides the notice must include the following language:

"I understand that the doctor who examined me believes I am a danger to myself or to others. I understand that if I do not agree to voluntary treatment, a petition will be filed in court to require me to receive involuntary treatment. I understand that if that petition is filed, I have the right to contest it. In the event a petition has been filed, I understand that I can subsequently agree to voluntary treatment prior to a court hearing. I understand that by agreeing to voluntary treatment in either of these situations, I may be prohibited from buying firearms and from applying for or retaining a concealed weapons or firearms license until I apply for and receive relief from that restriction under Florida law."

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### **37. Am I required to use the sample forms developed for the new provisions?**

Sample forms related to the new provisions were developed and disseminated by the implementation workgroup. These forms are simply provided as examples and are not products of the Florida Supreme Court or a Rules Committee. Receiving facilities can use the sample forms or develop their own forms.

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### **38. Who should I contact with questions about this law?**

Department of Children and Families  
(850) 488-8304

Florida Psychiatric Society  
(800) 521-7465

Florida Court Clerks and Comptrollers  
(850) 921-0808

Florida Council for Community Mental Health  
(850) 224-6048

Office of the State Courts Administrator  
(850) 922-5081

Florida Department of Law Enforcement  
Firearm Purchase Program  
(850) 410-8139

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## **APPENDIX**

### **Section 790.065, F.S., Sale and Delivery of Firearms**

790.065 Sale and delivery of firearms.—

(1)(a) A licensed importer, licensed manufacturer, or licensed dealer may not sell or deliver from her or his inventory at her or his licensed premises any firearm to another person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, until she or he has:

1. Obtained a completed form from the potential buyer or transferee, which form shall have been promulgated by the Department of Law Enforcement and provided by the licensed importer, licensed manufacturer, or licensed dealer, which shall include the name, date of birth, gender, race, and social security number or other identification number of such potential buyer or transferee and has inspected proper identification including an identification containing a photograph of the potential buyer or transferee.

<sup>2</sup>2. Collected a fee from the potential buyer for processing the criminal history check of the potential buyer. The fee shall be established by the Department of Law Enforcement and may not exceed \$8 per transaction. The Department of Law Enforcement may reduce, or suspend collection of, the fee to reflect payment received from the Federal Government applied to the cost of maintaining the criminal history check system established by this section as a means of facilitating or supplementing the National Instant Criminal Background Check System. The Department of Law Enforcement shall, by rule, establish procedures for the fees to be transmitted by the licensee to the Department of Law Enforcement. All such fees shall be deposited into the Department of Law Enforcement Operating Trust Fund, but shall be segregated from all other funds deposited into such trust fund and must be accounted for separately. Such segregated funds must not be used for any purpose other than the operation of the criminal history checks required by this section. The Department of Law Enforcement, each year prior to February 1, shall make a full accounting of all receipts and expenditures of such funds to the President of the Senate, the Speaker of the House of Representatives, the majority and minority leaders of each house of the Legislature, and the chairs of the appropriations committees of each house of the Legislature. In the event that the cumulative amount of funds collected exceeds the cumulative amount of expenditures by more than \$2.5 million, excess funds may be used for the purpose of purchasing soft body armor for law enforcement officers.

3. Requested, by means of a toll-free telephone call, the Department of Law Enforcement to conduct a check of the information as reported and reflected in the Florida Crime Information Center and National Crime Information Center systems as of the date of the request.

4. Received a unique approval number for that inquiry from the Department of Law Enforcement, and recorded the date and such number on the consent form.

(b) However, if the person purchasing, or receiving delivery of, the firearm is a holder of a valid concealed weapons or firearms license pursuant to the provisions of s. 790.06 or holds an active certification from the Criminal Justice Standards and Training Commission as a “law enforcement officer,” a “correctional officer,” or a “correctional probation officer” as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9), this subsection does not apply.

(c) This subsection does not apply to the purchase, trade, or transfer of a rifle or shotgun by a resident of this state when the resident makes such purchase, trade, or transfer from a licensed importer, licensed manufacturer, or licensed dealer in another state.

(2) Upon receipt of a request for a criminal history record check, the Department of Law Enforcement shall, during the licensee’s call or by return call, forthwith:

(a) Review any records available to determine if the potential buyer or transferee:

1. Has been convicted of a felony and is prohibited from receipt or possession of a firearm pursuant to s. 790.23;
2. Has been convicted of a misdemeanor crime of domestic violence, and therefore is prohibited from purchasing a firearm;
3. Has had adjudication of guilt withheld or imposition of sentence suspended on any felony or misdemeanor crime of domestic violence unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled or expunction has occurred; or
4. Has been adjudicated mentally defective or has been committed to a mental institution by a court or as provided in sub-sub-subparagraph b.(II), and as a result is prohibited by state or federal law from purchasing a firearm.
  - a. As used in this subparagraph, “adjudicated mentally defective” means 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 to others or lacks the mental capacity to contract or manage his or her own affairs. The phrase includes a judicial finding of incapacity under s. 744.331(6)(a), an acquittal by reason of insanity of a person charged with a criminal offense, and a judicial finding that a criminal defendant is not competent to stand trial.
  - b. As used in this subparagraph, “committed to a mental institution” means:
    - (I) Involuntary commitment, commitment for mental defectiveness or mental illness, and commitment for substance abuse. The phrase includes involuntary inpatient placement as defined in s. 394.467, involuntary outpatient placement as defined in s. 394.4655, involuntary assessment and stabilization under s. 397.6818, and involuntary substance abuse treatment under s. 397.6957, but does not include a person in a mental institution for observation or discharged from a mental institution based upon the initial review by the physician or a voluntary admission to a mental institution; or
    - (II) Notwithstanding sub-sub-subparagraph (I), voluntary admission to a mental institution for outpatient or inpatient treatment of a person who had an involuntary examination under s. 394.463, where each of the following conditions have been met:
      - (A) An examining physician found that the person is an imminent danger to himself or herself or others.
      - (B) The examining physician certified that if the person did not agree to voluntary treatment, a petition for involuntary outpatient or inpatient treatment would have been filed under s. 394.463(2)(i)4., or the examining physician certified that a petition was filed and the person subsequently agreed to voluntary treatment prior to a court hearing on the petition.
      - (C) Before agreeing to voluntary treatment, the person received written notice of that finding and certification, and written notice that as a result of such finding, he or she may be prohibited from purchasing a firearm, and may not be eligible to apply for or retain a concealed weapon or firearms license under s. 790.06 and the person acknowledged such notice in writing, in substantially the following form:

“I understand that the doctor who examined me believes I am a danger to myself or to others. I understand that if I do not agree to voluntary treatment, a petition will be filed in court to require me to receive involuntary treatment. I understand that if that petition is filed, I have the right to contest it. In the event a petition has been filed, I understand that I can subsequently agree to voluntary treatment prior to a court hearing. I understand that by agreeing to voluntary treatment in either of these situations, I may be prohibited from buying firearms and from applying for or retaining a concealed weapons or firearms license until I apply for and receive relief from that restriction under Florida law.”



(D) A judge or a magistrate has, pursuant to sub-sub-subparagraph c.(II), reviewed the record of the finding, certification, notice, and written acknowledgment classifying the person as an imminent danger to himself or herself or others, and ordered that such record be submitted to the department.

c. In order to check for these conditions, the department shall compile and maintain an automated database of persons who are prohibited from purchasing a firearm based on court records of adjudications of mental defectiveness or commitments to mental institutions.

(I) Except as provided in sub-sub-subparagraph (II), clerks of court shall submit these records to the department within 1 month after the rendition of the adjudication or commitment. Reports shall be submitted in an automated format. The reports must, at a minimum, include the name, along with any known alias or former name, the sex, and the date of birth of the subject.

(II) For persons committed to a mental institution pursuant to sub-sub-subparagraph b.(II), within 24 hours after the person's agreement to voluntary admission, a record of the finding, certification, notice, and written acknowledgment must be filed by the administrator of the receiving or treatment facility, as defined in s. 394.455, with the clerk of the court for the county in which the involuntary examination under s. 394.463 occurred. No fee shall be charged for the filing under this sub-sub-subparagraph. The clerk must present the records to a judge or magistrate within 24 hours after receipt of the records. A judge or magistrate is required and has the lawful authority to review the records ex parte and, if the judge or magistrate determines that the record supports the classifying of the person as an imminent danger to himself or herself or others, to order that the record be submitted to the department. If a judge or magistrate orders the submittal of the record to the department, the record must be submitted to the department within 24 hours.

d. A person who has been adjudicated mentally defective or committed to a mental institution, as those terms are defined in this paragraph, may petition the circuit court that made the adjudication or commitment, or the court that ordered that the record be submitted to the department pursuant to sub-sub-subparagraph c.(II), for relief from the firearm disabilities imposed by such adjudication or commitment. A copy of the petition shall be served on the state attorney for the county in which the person was adjudicated or committed. The state attorney may object to and present evidence relevant to the relief sought by the petition. The hearing on the petition may be open or closed as the petitioner may choose. The petitioner may present evidence and subpoena witnesses to appear at the hearing on the petition. The petitioner may confront and cross-examine witnesses called by the state attorney. A record of the hearing shall be made by a certified court reporter or by court-approved electronic means. The court shall make written findings of fact and conclusions of law on the issues before it and issue a final order. The court shall grant the relief requested in the petition if the court finds, based on the evidence presented with respect to the petitioner's reputation, the petitioner's mental health record and, if applicable, criminal history record, the circumstances surrounding the firearm disability, and any other evidence in the record, that the petitioner will not be likely to act in a manner that is dangerous to public safety and that granting the relief would not be contrary to the public interest. If the final order denies relief, the petitioner may not petition again for relief from firearm disabilities until 1 year after the date of the final order. The petitioner may seek judicial review of a final order denying relief in the district court of appeal having jurisdiction over the court that issued the order. The review shall be conducted de novo. Relief from a firearm disability granted under this sub-subparagraph has no effect on the loss of civil rights, including firearm rights, for any reason other than the particular adjudication of mental defectiveness or commitment to a mental institution from which relief is granted.

e. Upon receipt of proper notice of relief from firearm disabilities granted under sub-subparagraph d., the department shall delete any mental health record of the person granted relief from the automated database of persons who are prohibited from purchasing a firearm based on court records of adjudications of mental defectiveness or commitments to mental institutions.

f. The department is authorized to disclose data collected pursuant to this subparagraph to agencies of the Federal Government and other states for use exclusively in determining the lawfulness of a firearm sale or transfer. The department is also authorized to disclose this data to the Department of Agriculture and Consumer

Services for purposes of determining eligibility for issuance of a concealed weapons or concealed firearms license and for determining whether a basis exists for revoking or suspending a previously issued license pursuant to s. 790.06(10). When a potential buyer or transferee appeals a nonapproval based on these records, the clerks of court and mental institutions shall, upon request by the department, provide information to help determine whether the potential buyer or transferee is the same person as the subject of the record. Photographs and any other data that could confirm or negate identity must be made available to the department for such purposes, notwithstanding any other provision of state law to the contrary. Any such information that is made confidential or exempt from disclosure by law shall retain such confidential or exempt status when transferred to the department.

(b) Inform the licensee making the inquiry either that records demonstrate that the buyer or transferee is so prohibited and provide the licensee a nonapproval number, or provide the licensee with a unique approval number.

(c)1. Review any records available to it to determine whether the potential buyer or transferee has been indicted or has had an information filed against her or him for an offense that is a felony under either state or federal law, or, as mandated by federal law, has had an injunction for protection against domestic violence entered against the potential buyer or transferee under s. 741.30, has had an injunction for protection against repeat violence entered against the potential buyer or transferee under s. 784.046, or has been arrested for a dangerous crime as specified in s. 907.041(4)(a) or for any of the following enumerated offenses:

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|---|--|
| a. Criminal anarchy under ss. <u>876.01</u> and <u>876.02</u> . | f. Weapons and firearms violations under this chapter.       |
| b. Extortion under s. <u>836.05</u> .                           | g. Treason under s. <u>876.32</u> .                          |
| c. Explosives violations under s. <u>552.22(1)</u> and (2).     | h. Assisting self-murder under s. <u>782.08</u> .            |
| d. Controlled substances violations under chapter 893.          | i. Sabotage under s. <u>876.38</u> .                         |
| e. Resisting an officer with violence under s. <u>843.01</u> .  | j. Stalking or aggravated stalking under s. <u>784.048</u> . |

If the review indicates any such indictment, information, or arrest, the department shall provide to the licensee a conditional nonapproval number.

2. Within 24 working hours, the department shall determine the disposition of the indictment, information, or arrest and inform the licensee as to whether the potential buyer is prohibited from receiving or possessing a firearm. For purposes of this paragraph, "working hours" means the hours from 8 a.m. to 5 p.m. Monday through Friday, excluding legal holidays.

3. The office of the clerk of court, at no charge to the department, shall respond to any department request for data on the disposition of the indictment, information, or arrest as soon as possible, but in no event later than 8 working hours.

4. The department shall determine as quickly as possible within the allotted time period whether the potential buyer is prohibited from receiving or possessing a firearm.

5. If the potential buyer is not so prohibited, or if the department cannot determine the disposition information within the allotted time period, the department shall provide the licensee with a conditional approval number.

6. If the buyer is so prohibited, the conditional nonapproval number shall become a nonapproval number.

7. The department shall continue its attempts to obtain the disposition information and may retain a record of all approval numbers granted without sufficient disposition information. If the department later obtains disposition information which indicates:

- a. That the potential buyer is not prohibited from owning a firearm, it shall treat the record of the transaction in accordance with this section; or
- b. That the potential buyer is prohibited from owning a firearm, it shall immediately revoke the conditional approval number and notify local law enforcement.
8. During the time that disposition of the indictment, information, or arrest is pending and until the department is notified by the potential buyer that there has been a final disposition of the indictment, information, or arrest, the conditional nonapproval number shall remain in effect.
- (3) In the event of scheduled computer downtime, electronic failure, or similar emergency beyond the control of the Department of Law Enforcement, the department shall immediately notify the licensee of the reason for, and estimated length of, such delay. After such notification, the department shall forthwith, and in no event later than the end of the next business day of the licensee, either inform the requesting licensee if its records demonstrate that the buyer or transferee is prohibited from receipt or possession of a firearm pursuant to Florida and Federal law or provide the licensee with a unique approval number. Unless notified by the end of said next business day that the buyer or transferee is so prohibited, and without regard to whether she or he has received a unique approval number, the licensee may complete the sale or transfer and shall not be deemed in violation of this section with respect to such sale or transfer.
- (4)(a) Any records containing any of the information set forth in subsection (1) pertaining to a buyer or transferee who is not found to be prohibited from receipt or transfer of a firearm by reason of Florida and federal law which records are created by the Department of Law Enforcement to conduct the criminal history record check shall be confidential and exempt from the provisions of s. 119.07(1) and may not be disclosed by the Department of Law Enforcement or any officer or employee thereof to any person or to another agency. The Department of Law Enforcement shall destroy any such records forthwith after it communicates the approval and nonapproval numbers to the licensee and, in any event, such records shall be destroyed within 48 hours after the day of the response to the licensee's request.
- (b) Notwithstanding the provisions of this subsection, the Department of Law Enforcement may maintain records of NCIC transactions to the extent required by the Federal Government, and may maintain a log of dates of requests for criminal history records checks, unique approval and nonapproval numbers, license identification numbers, and transaction numbers corresponding to such dates for a period of not longer than 2 years or as otherwise required by law.
- (c) Nothing in this chapter shall be construed to allow the State of Florida to maintain records containing the names of purchasers or transferees who receive unique approval numbers or to maintain records of firearm transactions.
- (d) Any officer or employee, or former officer or employee of the Department of Law Enforcement or law enforcement agency who intentionally and maliciously violates the provisions of this subsection commits a felony of the third degree punishable as provided in s. 775.082 or s. 775.083.
- (5) The Department of Law Enforcement shall establish a toll-free telephone number which shall be operational 7 days a week with the exception of Christmas Day and New Year's Day, for a period of 12 hours a day beginning at 9 a.m. and ending at 9 p.m., for purposes of responding to inquiries as described in this section from licensed manufacturers, licensed importers, and licensed dealers. The Department of Law Enforcement shall employ and train such personnel as are necessary expeditiously to administer the provisions of this section.
- (6) Any person who is denied the right to receive or purchase a firearm as a result of the procedures established by this section may request a criminal history records review and correction in accordance with the rules promulgated by the Department of Law Enforcement.

- (7) It shall be unlawful for any licensed dealer, licensed manufacturer, or licensed importer willfully and intentionally to request criminal history record information under false pretenses, or willfully and intentionally to disseminate criminal history record information to any person other than the subject of such information. Any person convicted of a violation of this subsection commits a felony of the third degree punishable as provided in s. 775.082 or s. 775.083.
- (8) The Department of Law Enforcement shall promulgate regulations to ensure the identity, confidentiality, and security of all records and data provided pursuant to this section.
- (9) This section shall become effective at such time as the Department of Law Enforcement has notified all licensed importers, licensed manufacturers, and licensed dealers in writing that the procedures and toll-free number described in this section are operational. This section shall remain in effect only during such times as the procedures described in subsection (2) remain operational.
- (10) A licensed importer, licensed manufacturer, or licensed dealer is not required to comply with the requirements of this section in the event of:
- (a) Unavailability of telephone service at the licensed premises due to the failure of the entity which provides telephone service in the state, region, or other geographical area in which the licensee is located to provide telephone service to the premises of the licensee due to the location of said premises; or the interruption of telephone service by reason of hurricane, tornado, flood, natural disaster, or other act of God, war, invasion, insurrection, riot, or other bona fide emergency, or other reason beyond the control of the licensee; or
  - (b) Failure of the Department of Law Enforcement to comply with the requirements of subsections (2) and (3).
- (11) Compliance with the provisions of this chapter shall be a complete defense to any claim or cause of action under the laws of any state for liability for damages arising from the importation or manufacture, or the subsequent sale or transfer to any person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year, of any firearm which has been shipped or transported in interstate or foreign commerce. The Department of Law Enforcement, its agents and employees shall not be liable for any claim or cause of action under the laws of any state for liability for damages arising from its actions in lawful compliance with this section.
- (12)(a) Any potential buyer or transferee who willfully and knowingly provides false information or false or fraudulent identification commits a felony of the third degree punishable as provided in s. 775.082 or s. 775.083.
- (b) Any licensed importer, licensed manufacturer, or licensed dealer who violates the provisions of subsection (1) commits a felony of the third degree punishable as provided in s. 775.082 or s. 775.083.
- (c) Any employee or agency of a licensed importer, licensed manufacturer, or licensed dealer who violates the provisions of subsection (1) commits a felony of the third degree punishable as provided in s. 775.082 or s. 775.083.
- (d) Any person who knowingly acquires a firearm through purchase or transfer intended for the use of a person who is prohibited by state or federal law from possessing or receiving a firearm commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.
- (13) This section does not apply to employees of sheriff's offices, municipal police departments, correctional facilities or agencies, or other criminal justice or governmental agencies when the purchases or transfers are made on behalf of an employing agency for official law enforcement purposes.

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