



House Republican Staff Analysis

Bill: SF 456
Committee: Public Safety
Date: 4/12/11
Member: Rep. Worthan
Staff: Amanda Freel (1-5230)

Summary

SF 456 changes the reporting process for persons prohibited from possessing a firearm. Also, changes the process for removal from the national instant criminal background check system database.

Summary of Action

- Passed Senate (50-0)
 - Committee 3/25
 - Passed House (98-0) 4/12/11
 - Signed By Governor 4/19/11
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Section-by-Section Analysis

Section I- Persons Subject to Firearm Disabilities Due to Mental Health Commitments or Adjudication-Relief from Disabilities – Reports

1. When a person is judged mentally defective or committed to any mental institution, the clerk of court shall forward information necessary to identify person to the department of public safety who shall forward the information on to the FBI for inclusion in the national instant criminal background check system database. The clerk will also notify the person on the list.
2. A person who has been placed on the database may petition the court to have their name removed. A petition shall be served on the director of human services and the county attorney. Either may appear and support or oppose the petition and present evidence.
3. The Court, in a closed proceeding, will consider the following evidence:
 - a. Circumstances surrounding original order.
 - b. Petitioner’s record, including; petitioners mental health and criminal records
 - c. Petitioner’s reputation from; witness statements, testimony and other character evidence.
 - d. Changes in petitioners circumstances since the original order.
4. Court shall grant relief if they find by a preponderance of the evidence that the petitioner will not be likely to be a danger to public safety and granting relief would not be contrary to the public interest. The record will be kept confidential. Petitioner may appeal decision. Petition for relief under subsection 2 shall not be filed more than once every two years.
5. If a petition for relief is granted, the clerk of court shall notify the department of public safety and they shall update the petitions record in any data base DPS makes available to the national instant criminal background check system, and the department of justice.

Section II Applicability

Court administrator shall coordinate with DPS to forward only information that is necessary to identify a person who is subject to an order or judgment before January 1, 2011. DPS will forward the information

on to FBI for inclusion in the national instant criminal background check system database within four months. (This covers those who have been judged mentally incompetent before bill enactment)