
DIGEST

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HB 408 Original

2024 Regular Session

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Abstract: Enacts the "La. Voluntary Do Not Sell Firearms Act".

Proposed law may be referred to and may be cited as the "La. Voluntary Do Not Sell Firearms Act".

Proposed law provides that a person may submit a form to the clerk of court in the parish of the person's residence requesting to be added to the La. Voluntary Do Not Sell List ("the list") and as a result shall be prohibited from receiving or possessing a firearm. Further provides that the clerk shall request a valid government-issued photo identification to verify the person's identity prior to accepting the form.

Proposed law provides that by the end of the business day on which the form was received, the clerk shall transmit the accepted form to the DPS&C, office of state police.

Proposed law provides that a person may submit a form to any healthcare provider requesting to be added to the list. Further provides that the healthcare provider shall verify the person's identity before accepting the form and may not accept a form from someone other than the person named on the form.

Proposed law provides that by the end of the business day on which the form was received, the provider shall electronically deliver the person's completed form to the DPS&C, office of state police.

Proposed law provides that a person may submit a form by mail to the office of state police requesting to be added to the list. Further provides that the form shall be accompanied by a photocopy of a government-issued form of identification to verify the person's identity prior to accepting the form.

Proposed law provides that a person may submit a form by electronic mail, short message service, or multimedia messaging service to the office of state police requesting to be added to the list. Further provides that the form shall be accompanied by a copy of a government-issued photo identification and a photographic portrait of the person that contains an exchangeable image file format data proving that the photographic portrait was taken within one hour prior to transmission to the office of state police.

Proposed law provides that the office of state police shall enter the person requesting to be added to the list into the National Instant Criminal Background Check System (NICS) and other federal or

state computer-based systems used by law enforcement agencies to identify prohibited purchasers and possessors of firearms within 24 hours of receipt of the form.

Proposed law provides that no sooner than seven calendar days after submitting a form, a person may submit a form requesting to be removed from the list by any of the methods provided in proposed law.

Proposed law provides that unless the person is otherwise prohibited from possessing or purchasing a firearm under state or federal law, the office of state police shall do all of the following on the 21st day after receipt of the request for removal:

- (1) Remove the person and all of his information from the NICS and other federal or state computer-based systems used by law enforcement to identify prohibited possessors and purchasers of firearms in which the person's information was entered.
- (2) Destroy all records related to the person being added and removed from the list.

Proposed law provides that at any time, a person on the list may file a signed expedited removal request form with the district court located in the parish of the person's residence.

Proposed law provides that there shall be no filing fees for a removal request and that the court, within 48 hours of receipt of the request, shall hold a hearing after adequate notice has been provided to the person. Further provides that the court shall determine by a preponderance of the evidence whether the request for removal is voluntary, knowing, and intelligent.

Proposed law provides that no later than 24 hours after the conclusion of the hearing, the court shall inform the person of the court's determination. Further provides that if the court determines that the request for removal is voluntary, knowing, and intelligent, the court shall instruct the office of state police to immediately remove the person from the list, unless the person is otherwise prohibited from possessing or purchasing a firearm under state or federal law.

Proposed law provides that if the court determines that the request is not voluntary, knowing, and intelligent, the person may request removal pursuant to proposed law.

Proposed law provides that a person who knowingly makes a false statement regarding a person's addition to or removal from the list shall be subjected to criminal prosecution as provided in present law (R.S. 14:123).

Proposed law provides that a person's addition to, placement on, or removal from the list shall not be considered by any court in a legal proceeding in which the person executing the form is a party, unless the proceeding involves a violation of proposed law (R.S. 14:95.1.4(B)(2)).

Proposed law provides that records obtained and produced under proposed law are confidential and shall not be a public record, except that such information may be disclosed to any of the following:

- (1) A law enforcement officer acting in the performance of his official duties.

- (2) Either of the parties in the course of a criminal prosecution
- (3) A person requesting to be added to the list with respect to his own information.

Proposed law provides that the office of state police shall develop the following request forms relative to the list:

- (1) An addition form.
- (2) A removal form.
- (3) An expedited removal form.

Proposed law provides that each form shall contain the following:

- (1) A signature line for the requesting person.
- (2) A provision that states that the form is signed under penalty of perjury.
- (3) All information necessary for identification and entry of the person into the NICS to identify prohibited possessors or purchasers of firearms.

Proposed law provides that the forms shall be made available to the public on the website of the office of state police, the La. Dept. of Health, office of behavioral health, and each judicial district court. Further provides that the forms shall be distributed to all clerks of court and to all facilities in which healthcare providers provide healthcare or professional services related to healthcare within the scope of the provider's license, certification, practice, education, or training.

Proposed law provides that the office of state police shall ensure that the form requesting a person's addition to the list provides an email notification option that allows the requesting person to be added at the time of the request or thereafter. Further provides that the form shall also provide an option for one or more email addresses of another person or persons to be notified by the office of state police within 24 hours if the person on the list subsequently requests removal.

Proposed law provides that providing an email address under proposed law shall constitute an express authorization of the use of the email address for purposes of proposed law only.

Proposed law provides that the office of state police may promulgate and adopt rules and regulations, in accordance with the Administrative Procedure Act, as are necessary to implement the provisions of proposed law.

Proposed law provides that whoever coerces another person to add or remove his name from the list shall be imprisoned for not more than one year.

Proposed law provides that an insurer, as defined in present law (R.S. 22:46), shall not inquire as to

whether a person is on the list. Further provides that an insurer shall also not modify the terms of any insurance policy of any individual due to that person's status on the list or that person's request to be added to or removed from the list.

Proposed law provides that an employer shall not inquire whether an employee or applicant is on the list unless possession of a firearm is a requirement of the employment position.

Proposed law provides that an employer also shall not dismiss, discharge, demote, deny employment, or otherwise alter the terms of employment of any employee or applicant due to the employee or applicant being on the list or having requested to be added to or removed from the list, unless possession of a firearm is a requirement of the employment position.

Proposed law provides that a person may not conduct any unlawful discriminatory housing practice as provided in present law (R.S. 51:2606) against any person who is on the list or has requested to be added to or removed from the list.

Proposed law provides that it shall be a violation of present law (R.S. 51:2603(A)(6)) if a person is subject to any discriminatory housing practice for being on the list or having requested to be added to or removed from the list. Further provides for a fine of not more than \$100,000.

Proposed law provides that the state, its agencies, or political subdivisions shall not condition or alter any governmental benefits due to a person being on the list or having requested to be added to or removed from the list.

Proposed law provides that a public educational institution shall not inquire as to whether an individual is on the list unless it is acting as an employer and is in compliance with proposed law.

Proposed law provides that a healthcare provider may not deny any service to an individual due to that individual being on the list or having requested to be added to or removed from the list.

Proposed law provides that whoever violates the provisions of proposed law shall be fined not more than \$40,000 dollars.

Present law (R.S. 14:95.1.4) provides for the crime of illegal transfer of a firearm to a prohibited possessor.

Proposed law amends present law to also make it unlawful to intentionally give, sell, donate, lend, deliver, or otherwise transfer a firearm to any person whose names appears on the La. Voluntary Do Not Sell List.

Present law provides that whoever commits the crime of illegal transfer of a firearm to a prohibited possessor shall be fined not more than \$2,500, imprisoned with or without hard labor for not more than one year, or both.

Proposed law retains present law and provides that a person on the La. Voluntary Do Not Sell List

who knowingly receives or possesses a firearm shall be fined not more than \$100 or sentenced to four hours of community service.

Present law (R.S. 44:4.1(B)(8)) provides for a listing of exemptions from public disclosure of certain information contained in present law (Title 13 of the La. R.S.).

Proposed law adds proposed law (R.S. 13:753.1) to list of exceptions to the Public Records Law in present law (R.S. 44:4.1(B)(8)).

Proposed law provides that pursuant to present laws (R.S. 37:969, 1105, 1270, 2353) the La. State Board of Practical Nurse Examiners, the La. Licensed Professional Counselors Board of Examiners, the La. State Board of Medical Examiners, and the La. State Board of Examiners of Psychologists shall adopt rules to encourage licensees to inform the public about the La. Voluntary Do Not Sell List.

Proposed law provides that it shall be a non-binding best practice for healthcare providers to explain the La. Voluntary Do Not Sell List and to offer it as an option to any recipient of their services whom the healthcare provider knows has attempted suicide or is at elevated risk of suicide for another reason or reasons.

(Amends R.S. 14:95.1.4 and R.S. 44:4.1(B)(6); Adds R.S. 13:753.1)