

2016 Regular Session

HOUSE BILL NO. 322

BY REPRESENTATIVE IVEY

WEAPONS/FIREARMS: Provides with respect to the reporting of certain judicial proceedings regarding the possession of firearms

1 AN ACT

2 To amend and reenact R.S. 13:753(A)(introductory paragraph), (B), (C), and (D) and to
3 enact R.S. 13:753(A)(6) and (E), relative to firearms; to require city and parish
4 clerks of court to provide certain information to the Louisiana Supreme Court; to
5 provide for mandatory reporting of convictions of certain offenses and judicial
6 determinations which would prohibit persons from possessing, shipping,
7 transporting, or receiving firearms pursuant to state and federal law; to provide
8 relative to limitations of liability; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 13:753(A)(introductory paragraph), (B), (C), and (D) are hereby
11 amended and reenacted and R.S. 13:753(A)(6) and (E) are hereby enacted to read as follows:

12 §753. Reporting of information to Louisiana Supreme Court for NICS database;
13 possession of a firearm

14 A. Effective January 1, 2014, each district clerk of court shall report to the
15 Louisiana Supreme Court for reporting to the National Instant Criminal Background
16 Check System database the name and other identifying information of any adult who
17 is prohibited from possessing a firearm pursuant to the laws of this state or 18 U.S.C.
18 922(d)(4) and (g)(4), (8), and (9), by reason of a conviction or adjudication in a court
19 of that district for any of the following:

20 * * *

1 (6) A conviction for a violation of domestic abuse battery (R.S. 14:35.3)
2 which is a felony.

3 B. Effective January 1, 2017, each city and parish clerk of court shall report
4 to the Louisiana Supreme Court for reporting to the National Instant Criminal
5 Background Check System database the name and other identifying information of
6 any adult who is prohibited from possessing a firearm pursuant to the laws of this
7 state or 18 U.S.C. 922(d)(4), (g)(4), (8), and (9), by reason of a conviction or
8 adjudication in a court of that district for any of the following:

9 (1) A conviction for a violation of domestic abuse battery (R.S. 14:35.3)
10 which is a misdemeanor.

11 (2) A verdict of an acquittal of a misdemeanor crime by reason of insanity
12 pursuant to the provisions of Chapter 2 of Title XXI of the Code of Criminal
13 Procedure.

14 (3) A court determination that a person does not have the mental capacity to
15 proceed with a criminal trial for a misdemeanor crime pursuant to the provisions of
16 Chapter 1 of Title XXI of the Code of Criminal Procedure.

17 (4) A court order prohibiting a person from possessing a firearm or
18 restricting a person in the use of a firearm.

19 B.C. The report shall be submitted to the Louisiana Supreme Court, in the
20 manner and form as directed by the supreme court, within ten business days of the
21 date of conviction, adjudication, or order of involuntary commitment.

22 C.D. The Louisiana Supreme Court shall, within fifteen business days of
23 receipt of the report, submit the information in the report to the National Instant
24 Criminal Background Check System database.

25 D.E. Except in the case of willful or wanton misconduct or gross negligence,
26 no city, parish, or district clerk of court shall be held civilly or criminally liable on
27 the basis of the accuracy, availability, or unavailability of any information reported
28 or required to be reported pursuant to this Section.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 322 Original

2016 Regular Session

Ivey

Abstract: Requires the reporting of certain information to the La. Supreme Court regarding the possession or carrying of firearms and procedures for the restoration of firearms rights.

Present law (R.S. 14:95.1) provides that it is unlawful for any person to possess a firearm or to carry a concealed weapon who has been convicted of a crime of violence which is a felony or simple burglary, burglary of a pharmacy, burglary of an inhabited dwelling, unauthorized entry of an inhabited dwelling, felony illegal use of weapons or dangerous instrumentalities, manufacture or possession of a delayed action incendiary device, manufacture or possession of a bomb, or possession of a firearm while in the possession of or during the sale or distribution of a controlled dangerous substance, or any violation of the Uniform Controlled Dangerous Substances Law which is a felony, or a sex offense, or any crime defined as an attempt to commit one of the above-enumerated offenses under the laws of this state, or who has been convicted under the laws of any other state or of the United States or of any foreign government or country of a crime which, if committed in this state, would be one of the above-enumerated crimes.

Present law provides that this prohibition shall not apply if the person has not been convicted of any felony for a period of 10 years from the date of completion of sentence, probation, parole, or suspension of sentence.

Proposed law retains present law.

Present law provides for a reporting requirement for district clerks of court. Requires that each district clerk of court report to the La. Supreme Court for reporting to the National Instant Criminal Background Check System (NICS) database the name and other identifying information of an adult who is prohibited from possessing a firearm under state or federal law, by reason of one of the following convictions or adjudications in a court of that clerk's district:

- (1) A conviction of a crime listed in present law (R.S. 14:95.1(A)).
- (2) A verdict of an acquittal of a crime listed in present law (R.S. 14:95.1(A)) by reason of insanity.
- (3) A court determination that a person does not have the mental capacity to proceed with a criminal trial for a crime listed in present law (R.S. 14:95.1(A)).
- (4) A court order requiring that a person be involuntarily committed to an inpatient mental health treatment facility.
- (5) A court order prohibiting a person from possessing a firearm or restricting a person in the use of a firearm.

Proposed law retains these provisions of present law and adds a conviction of domestic abuse battery to the list of reported convictions.

Present law requires the clerk of court to submit this report to the La. Supreme Court within 10 business days of the date of conviction, adjudication, or order of involuntary

commitment, and requires the supreme court to, within 15 business days of the receipt of that report, submit that information to the NICS database. Present law further provides for a limitation of liability except in the case of willful or wanton misconduct or gross negligence.

Proposed law retains present law.

Proposed law provides for a similar reporting requirement for each city and parish clerk of court, effective January 1, 2017. Requires that each city and parish clerk of court report to the La. Supreme Court for reporting to the National Instant Criminal Background Check System (NICS) database the name and other identifying information of an adult who is prohibited from possessing a firearm under state or federal law, by reason of one of the following convictions or adjudications in a court of that clerk's district:

- (1) A conviction of domestic abuse battery which is a misdemeanor.
- (2) A verdict of an acquittal of a misdemeanor crime by reason of insanity.
- (3) A court determination that a person does not have the mental capacity to proceed with a criminal trial for a misdemeanor crime.
- (4) A court order prohibiting a person from possessing a firearm or restricting a person in the use of a firearm.

Proposed law further provides for a similar limitation of liability for city and parish clerks of court.

(Amends R.S. 13:753(A)(intro. para.), (B), (C), and (D); Adds R.S. 13:753(A)(6) and (E))