

By the Committee on Infrastructure and Security

596-02240-20

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1 A bill to be entitled
2 An act relating to public safety; amending s. 401.30,
3 F.S.; requiring emergency medical technicians and
4 paramedics to disclose certain confidential
5 communications to law enforcement agencies to
6 communicate a threat under certain circumstances;
7 requiring law enforcement agencies receiving such
8 notifications to take appropriate actions to reduce
9 the risk of harm to the potential victims; providing
10 emergency medical technicians and paramedics with
11 immunity from specified legal action or liability for
12 such disclosure; amending s. 456.059, F.S.; defining
13 the term "specified licensee"; requiring specified
14 licensees, rather than only psychiatrists, to disclose
15 certain confidential communications to law enforcement
16 agencies to communicate a threat under certain
17 circumstances; providing specified licensees with
18 immunity from specified legal action or liability for
19 such disclosure; amending s. 790.065, F.S.;
20 authorizing a person who is not a licensed importer, a
21 licensed manufacturer, or a licensed dealer and who
22 chooses to not use a licensed importer, a licensed
23 manufacturer, or a licensed dealer to facilitate a
24 private sale of his or her firearm to sell the firearm
25 if he or she complies with specified requirements;
26 providing criminal penalties; creating s. 790.0653,
27 F.S.; defining the term "property to which the public
28 has the right of access"; prohibiting a person from
29 selling, offering for sale, delivering, or

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30 transferring a firearm to another person for
31 consideration if any part of the transaction is
32 conducted on property to which the public has the
33 right of access, unless that person first meets
34 certain requirements; providing that a seller or
35 transferor who is not a licensed importer, a licensed
36 manufacturer, or a licensed dealer may comply by
37 requesting that a licensed importer, a licensed
38 manufacturer, or a licensed dealer meet certain
39 requirements on behalf of the seller or transferor;
40 authorizing a licensed importer, a licensed
41 manufacturer, or a licensed dealer to charge an
42 administrative fee; requiring unlicensed sellers or
43 transferors to prominently display specified
44 information next to firearms being sold on property to
45 which the public has the right of access; requiring
46 firearm transaction records to be maintained in
47 accordance with federal law; providing criminal
48 penalties; providing applicability; amending s.
49 790.0655, F.S.; conforming a provision to changes made
50 by the act; amending s. 790.174, F.S.; revising a
51 provision related to requiring a person who stores or
52 leaves a loaded firearm on a premises under his or her
53 control to keep the firearm securely stored; revising
54 applicability; redefining the term "minor"; amending
55 s. 943.0311, F.S.; requiring the Chief of Domestic
56 Security to oversee the development of a statewide
57 strategy for targeted violence prevention; requiring
58 the chief to coordinate with state and local law

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59 enforcement agencies in the development of the
60 statewide strategy and in its implementation;
61 requiring periodic evaluation of the statewide
62 strategy; providing construction; providing an
63 appropriation; providing effective dates.

64
65 Be It Enacted by the Legislature of the State of Florida:

66
67 Section 1. Present subsection (5) of section 401.30,
68 Florida Statutes, is redesignated as subsection (6), and a new
69 subsection (5) is added to that section, to read:

70 401.30 Records.—

71 (5) (a) Notwithstanding subsection (4), an emergency medical
72 technician or a paramedic must disclose confidential
73 communications to a law enforcement agency to the extent
74 necessary to communicate a threat if:

75 1. A person has received basic life support or advanced
76 life support from an emergency medical technician or a paramedic
77 within the scope of the emergency medical technician's or the
78 paramedic's employment pursuant to this part;

79 2. Such person has communicated to the emergency medical
80 technician or paramedic a specific threat to cause serious
81 bodily injury or death to an identified or a readily available
82 person; and

83 3. The emergency medical technician or paramedic in good
84 faith believes that the person has the apparent intent and
85 ability to imminently or immediately carry out such threat.

86 (b) A law enforcement agency that receives notification of
87 such threat under this subsection must take appropriate action

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88 to prevent the risk of harm, including, but not limited to,
89 notifying the potential victim of the threat or initiating a
90 risk protection order.

91 (c) An emergency medical technician's or a paramedic's
92 disclosure of confidential communications pursuant to this
93 subsection may not be the basis of any legal action or criminal
94 or civil liability against the emergency medical technician or
95 paramedic.

96 Section 2. Section 456.059, Florida Statutes, is amended to
97 read:

98 456.059 Communications confidential; exceptions.—

99 (1) As used in this section, the term "specified licensee"
100 means any health care practitioner certified or licensed under
101 chapter 458, chapter 459, chapter 462, part I of chapter 464,
102 chapter 490, or chapter 491.

103 (2) Communications between a patient and a psychiatrist, as
104 defined in s. 394.455, shall be held confidential and may not be
105 disclosed except upon the request of the patient or the
106 patient's legal representative. Provision of psychiatric records
107 and reports is governed by s. 456.057.

108 (3) Notwithstanding subsection (2) or any other law
109 relating to the confidentiality of communications between a
110 specified licensee and a patient, if ~~provision of this section~~
111 ~~or s. 90.503, when:~~

112 (a) ~~(1)~~ A patient has received health care services provided
113 by a specified licensee is engaged in a treatment relationship
114 with a psychiatrist;

115 (b) ~~(2)~~ Such patient has communicated to the specified
116 licensee ~~psychiatrist~~ a specific threat to cause serious bodily

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117 injury or death to an identified or a readily available person;
118 and

119 (c)(3) The specified licensee in good faith believes
120 ~~treating psychiatrist makes a clinical judgment~~ that the patient
121 has the apparent intent and ability to imminently or immediately
122 carry out such threat,

123
124 the specified licensee ~~psychiatrist~~ may disclose patient
125 communications to the extent necessary to warn any potential
126 victim and must disclose patient communications to the extent
127 necessary to communicate the threat to a law enforcement agency.
128 A law enforcement agency that receives notification of a
129 specific threat under this section must take appropriate action
130 to prevent the risk of harm, including, but not limited to,
131 notifying the intended victim of such threat or initiating a
132 risk protection order. A specified licensee's ~~psychiatrist's~~
133 disclosure of confidential communications when communicating a
134 threat pursuant to this section may not be the basis of any
135 legal action or criminal or civil liability against the
136 specified licensee ~~psychiatrist~~.

137 Section 3. Present subsection (14) of section 790.065,
138 Florida Statutes, is redesignated as subsection (15), and a new
139 subsection (14) is added to that section, to read:

140 790.065 Sale and delivery of firearms.—

141 (14) (a) A person who is not a licensed importer, a licensed
142 manufacturer, or a licensed dealer and who chooses not to use a
143 licensed importer, a licensed manufacturer, or a licensed dealer
144 to facilitate a private sale may sell his or her firearm to
145 another person if all of the following requirements are met:

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146 1. The seller confirms by examining the purchaser's valid
 147 government-issued photo identification that the purchaser is 21
 148 years of age or older and is therefore of a lawful age to
 149 purchase a firearm.

150 2. The seller makes and preserves a dated record of the
 151 sale for each firearm which includes:

152 a. The make, model, and serial number of the firearm sold
 153 to the purchaser. This information about the firearm must match
 154 the information provided on the affidavit required under this
 155 paragraph for the private sale of a firearm;

156 b. The date of the sale;

157 c. The purchaser's name and date of birth and the
 158 identification number on the purchaser's valid government-issued
 159 photo identification. This information about the purchaser must
 160 match the information provided on the affidavit for private sale
 161 of a firearm; and

162 d. A copy of an affidavit for the private sale of a firearm
 163 signed by the purchaser and a notary public. At a minimum, the
 164 affidavit must be in substantially the following general form,
 165 but such form is not exclusive:

167 STATE OF FLORIDA

168 COUNTY OF

169
 170 Before the undersigned authority personally appeared ... (Firearm
 171 purchaser's full legal name) ..., who on oath does solemnly swear
 172 (or affirm) that she or he has knowledge of the matters stated
 173 herein; that a purchase of a firearm is being made for a
 174 ... (Manufacturer of firearm) ... (Model of firearm) ...

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175 ...(Type of firearm)... with a serial number of ...(Firearm
176 serial number)..., and who has provided a yes or no response to
177 each of the following questions:

178
179 1. Are you the actual purchaser of the firearm listed on this
180 affidavit? Yes No

181 2. Are you under indictment or information in any court for a
182 felony, or any other crime for which the judge could imprison
183 you for more than 1 year? Yes No

184 3. Have you ever been convicted in any court of a felony, or any
185 other crime for which the judge could have imprisoned you for
186 more than 1 year, even if you received a shorter sentence,
187 including probation, and not had your rights restored pursuant
188 to law? Yes No

189 4. Are you a fugitive from justice? Yes No

190 5. Are you an unlawful user of, or addicted to, marijuana or any
191 depressant, stimulant, narcotic drug, or any other controlled
192 substance? Yes No

193 6. Have you ever been adjudicated as mentally defective or have
194 you ever been committed to a mental institution and not had a
195 petition for relief from the firearm disabilities imposed by
196 such adjudication or commitment approved? Yes No

197 7. Have you been discharged from the United States Armed Forces
198 under dishonorable conditions? Yes No

199 8. Are you subject to a court order restraining you from
200 harassing, stalking, or threatening your child or an intimate
201 partner or child of such partner? Yes No

202 9. Have you ever been convicted in any court of a misdemeanor
203 crime of domestic violence? Yes No

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204 10. Are you under indictment or information in any court for a
 205 crime of domestic violence? Yes No
 206 11. Have you ever renounced your United States citizenship? Yes
 207 No
 208 12. Are you an alien illegally or unlawfully in the United
 209 States? Yes No
 210 13. Are you an alien who has been admitted to the United States
 211 under a nonimmigrant visa? Yes No
 212
 213 ...(Firearm purchaser's full legal name)... has a valid
 214 government-issued photo identification in the form of a ...(Type
 215 of valid government photo identification)... with an
 216 identification number of ...(Identification number of valid
 217 government photo identification)..., which indicates the
 218 purchaser's date of birth as ...(Date of birth on valid
 219 government photo identification)..., has indicated the physical
 220 address of the purchaser's current residence as ...(Physical
 221 address of current residence)..., and will provide a copy of
 222 this affidavit to ...(Firearm seller's full legal name)....
 223
 224 I, ...(Firearm purchaser's full legal name)..., understand that
 225 I am swearing or affirming under oath to the truthfulness of the
 226 above information and statements made in this affidavit, and
 227 that the punishment for knowingly making a false statement may
 228 include fines or imprisonment, or both.
 229
 230 Dated ...(Day, month, year)...
 231 Signed ...(Signature of firearm purchaser)...
 232 _____

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Sworn to (or affirmed) and subscribed before me this day of
...(Month)..., ...(Year)..., by ...(Firearm purchaser's full
legal name)....

...(Signature of Notary Public - State of Florida)...
...(Print, type, or stamp Commissioned Name of Notary Public)...

Personally Known or Produced Identification

Type of Identification Produced

3. The seller has confirmed the purchaser's answer to each
question on the affidavit for private sale of a firearm is "No."

4. The seller has no knowledge or reason to believe that
the purchaser is of unsound mind.

(b) A seller who violates this subsection commits a
misdemeanor of the second degree, punishable as provided in s.
775.082 or s. 775.083.

Section 4. Section 790.0653, Florida Statutes, is created
to read:

790.0653 Sale, delivery, or transfer of firearms conducted
on property to which the public has the right of access.-

(1) As used in this section, the term "property to which
the public has the right of access" means any property that is
open for public access, regardless of whether an admission fee
is charged, and includes, but is not limited to, a flea market,
a gun show, or a firearm exhibit.

(2) A person may not sell, offer for sale, deliver, or

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262 transfer a firearm to another person for consideration if any
263 part of the transaction is conducted on property to which the
264 public has the right of access, unless he or she first meets the
265 requirements that apply to a licensed importer, a licensed
266 manufacturer, or a licensed dealer under s. 790.065(1)(a)1., 3.,
267 and 4.

268 (a) A seller or transferor who is not a licensed importer,
269 a licensed manufacturer, or a licensed dealer may comply with
270 this subsection by requesting that a licensed importer, a
271 licensed manufacturer, or a licensed dealer, on behalf of the
272 seller or transferor, for the purpose of a sale or transfer,
273 perform the functions required under s. 790.065(1)(a). The
274 licensed importer, licensed manufacturer, or licensed dealer may
275 charge the unlicensed seller or transferor an administrative fee
276 to cover the costs associated with the performance of those
277 functions. The unlicensed seller or transferor shall prominently
278 display next to any firearms being sold on property to which the
279 public has the right of access the following information:

280 1. The full legal name of the seller or transferor; and
281 2. The full legal name and the license number of the
282 licensed importer, licensed manufacturer, or licensed dealer who
283 will be completing a transaction on behalf of the seller or
284 transferor.

285 (b) A licensed importer, a licensed manufacturer, or a
286 licensed dealer who conducts a criminal history records check
287 pursuant to this subsection shall maintain the firearms
288 transaction records in accordance with federal law and shall
289 provide a copy of the firearms transaction record to the seller
290 or transferor if he or she is not a licensed importer, a

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291 licensed manufacturer, or a licensed dealer.

292 (3) A person who violates subsection (2):

293 (a) Commits a misdemeanor of the first degree, punishable
294 as provided in s. 775.082 or s. 775.083 for a first offense.

295 (b) Commits a felony of the third degree, punishable as
296 provided in s. 775.082, s. 775.083, or s. 775.084 for a second
297 or subsequent offense.

298 (4) The mandatory waiting period, exceptions, and penalties
299 of s. 790.0655 apply to this section.

300 Section 5. Paragraph (b) of subsection (3) of section
301 790.0655, Florida Statutes, is redesignated as paragraph (c) of
302 that subsection, a new paragraph (b) is added to that
303 subsection, and subsections (1) and (2) of that section are
304 republished, to read:

305 790.0655 Purchase and delivery of firearms; mandatory
306 waiting period; exceptions; penalties.—

307 (1) (a) A mandatory waiting period is imposed between the
308 purchase and delivery of a firearm. The mandatory waiting period
309 is 3 days, excluding weekends and legal holidays, or expires
310 upon the completion of the records checks required under s.
311 790.065, whichever occurs later. "Purchase" means the transfer
312 of money or other valuable consideration to the retailer.
313 "Retailer" means and includes a licensed importer, licensed
314 manufacturer, or licensed dealer engaged in the business of
315 making firearm sales at retail or for distribution, or use, or
316 consumption, or storage to be used or consumed in this state, as
317 defined in s. 212.02(13).

318 (b) Records of firearm sales must be available for
319 inspection by any law enforcement agency, as defined in s.

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320 934.02, during normal business hours.

321 (2) The waiting period does not apply in the following
322 circumstances:

323 (a) When a firearm is being purchased by a holder of a
324 concealed weapons permit as defined in s. 790.06.

325 (b) To a trade-in of another firearm.

326 (c) To the purchase of a rifle or shotgun, upon a person's
327 successfully completing a minimum of a 16-hour hunter safety
328 course and possessing a hunter safety certification card issued
329 under s. 379.3581. A person who is exempt from the hunter safety
330 course requirements under s. 379.3581 and holds a valid Florida
331 hunting license is exempt from the mandatory waiting period
332 under this section for the purchase of a rifle or shotgun.

333 (d) When a rifle or shotgun is being purchased by a law
334 enforcement officer or correctional officer, as those terms are
335 defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9), or a
336 servicemember as defined in s. 250.01.

337 (3) It is a felony of the third degree, punishable as
338 provided in s. 775.082, s. 775.083, or s. 775.084:

339 (a) For any retailer, or any employee or agent of a
340 retailer, to deliver a firearm before the expiration of the
341 waiting period, subject to the exceptions provided in subsection
342 (2).

343 (b) For a seller or transferor under s. 790.0653, or an
344 employee or agent of such seller or transferor, to deliver a
345 firearm before the expiration of the waiting period, subject to
346 the exceptions provided in subsection (2).

347 (c) For a purchaser to obtain delivery of a firearm by
348 fraud, false pretense, or false representation.

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349 Section 6. Section 790.174, Florida Statutes, is amended to
350 read:

351 790.174 Safe storage of firearms required.-

352 (1) A person who stores or leaves, on a premises ~~premise~~
353 under his or her control, a loaded firearm, as defined in s.
354 790.001, and who has actual knowledge that a person of unsound
355 mind or who knows or reasonably should know that a minor is
356 likely to gain access to the firearm without the lawful
357 permission of the minor's parent or the person having charge of
358 the minor, or without the supervision required by law, shall
359 keep the firearm in a securely locked box or container or in a
360 location which a reasonable person would believe to be secure or
361 shall secure it with a trigger lock, except when the person is
362 carrying the firearm on his or her body or within such close
363 proximity thereto that he or she can retrieve and use it as
364 easily and quickly as if he or she carried it on his or her
365 body.

366 (2) It is a misdemeanor of the second degree, punishable as
367 provided in s. 775.082 or s. 775.083, if a person violates
368 subsection (1) by failing to store or leave a firearm in the
369 required manner and as a result thereof a person of unsound mind
370 or a minor gains access to the firearm, without the lawful
371 permission of the minor's parent or the person having charge of
372 the minor, and possesses or exhibits it, without the supervision
373 required by law:

374 (a) In a public place; or

375 (b) In a rude, careless, angry, or threatening manner in
376 violation of s. 790.10.

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378 This subsection does not apply if the person of unsound mind or
379 minor obtains the firearm as a result of an unlawful entry by
380 any person.

381 (3) As used in this section ~~act~~, the term "minor" means any
382 person under 18 years of ~~the age of 16~~.

383 Section 7. Effective upon the same date that SB 7030 or
384 similar legislation takes effect, only if such legislation is
385 adopted in the same legislative session or an extension thereof
386 and becomes a law, present subsection (7) of section 943.0311,
387 Florida Statutes, is redesignated as subsection (10), and a new
388 subsection (7) and subsections (8) and (9) are added to that
389 section, to read:

390 943.0311 Chief of Domestic Security; duties of the
391 department with respect to domestic security.—

392 (7) The chief shall oversee the development of a statewide
393 strategy for targeted violence prevention to develop a
394 comprehensive threat assessment strategy and appropriate
395 training to be used by state and local law enforcement agencies.
396 The chief shall coordinate with state and local law enforcement
397 agencies in the development of the statewide strategy and its
398 implementation.

399 (8) Any statewide strategy for targeted violence prevention
400 shall be evaluated periodically, as determined by the
401 department, and after any event of targeted violence, to
402 incorporate changes needed to address deficiencies and improve
403 effectiveness.

404 (9) Subsections (7) and (8) may not be construed to
405 abrogate or diminish any person's right to be secure in their
406 persons, houses, papers, and effects against unreasonable

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407 seizures and searches as provided in the United States and
408 Florida Constitutions, and in the laws of this state and the
409 Federal Government, including, but not limited to, s. 933.04.

410 Section 8. Effective upon the same date that SB 7030 or
411 similar legislation takes effect, only if such legislation is
412 adopted in the same legislative session or an extension thereof
413 and becomes a law, for the 2020-2021 fiscal year, 37 full-time
414 equivalent positions with an associated total salary rate of
415 2,045,705 are authorized and the recurring sum of \$4,827,538 and
416 the nonrecurring sum of \$1,043,415 are appropriated from the
417 General Revenue Fund to the Department of Law Enforcement for
418 the purpose of implementing a statewide strategy for targeted
419 violence prevention.

420 Section 9. Except as otherwise expressly provided in this
421 act, this act shall take effect July 1, 2020.