

SUBJECT: Revising background check reporting requirements for certain individuals

COMMITTEE: Community Safety, Select — favorable, without amendment

VOTE: 9 ayes — Guillen, Jarvis Johnson, Bowers, Burrows, Goodwin, T. King,
Landgraf, Moody, Troxclair

2 nays — Canales, Dorazio

2 absent — Harless, Holland

SENATE VOTE: On final passage (March 8) — 31 - 0

WITNESSES: None (*considered in a formal meeting on April 27*)

BACKGROUND: Some have suggested that reporting certain information on juveniles with
disqualifying mental health records to the Department of Public Safety
and the FBI would align state law with federal standards on firearms
background checks.

DIGEST: SB 728 would revise the definition of "federal prohibited person
information" to specify that a prohibited person was at least 16 years old.
SB 728 would add to the definition of "federal prohibited person
information" any information that identified a child who was at least 16
years old and had been:

- found unfit to proceed as a result of mental illness or an intellectual disability;
- found not responsible for the child's conduct as a result of mental illness or an intellectual disability;
- ordered by a court to receive inpatient mental health services as a result of mental illness; or
- committed by a court to a residential care facility as a result of an intellectual disability.

The bill would apply to a child who was at least 16 years of age the requirements that the clerk of the court prepare and forward to the Department of Public Safety (DPS) for use in federal firearms background checks certain identifying information of the prohibited person within 30 days of the court performing any of the actions listed above.

With the exception of the appointment of a guardian for an incapacitated adult based on certain determinations of mental capacity, the bill would also amend reporting requirements for certain established actions of the court related to a person's mental condition to apply to an individual who was at least 16 years of age.

Upon request of DPS, the clerk of the court would be required to forward a signed court order containing federal prohibited person information to DPS for an audit of records provided to the FBI for use with the National Instant Criminal Background Check System. If DPS determined that such a record was incomplete or invalid, DPS would be required to notify the clerk of the court, and the clerk would have to forward any additional information needed to DPS. The bill also would exempt records under the bill from certain record confidentiality provisions.

The bill would take effect September 1, 2023, and would apply only to a finding, order, or commitment that occurred on or after that date.