WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Enrolled
Committee Substitute
for

Senate Bill 338

BY SENATORS TRUMP, KESSLER, WOELFEL, PALUMBO,
ROMANO, STOLLINGS, PLYMALE AND YOST,
original sponsors

[Passed March 10, 2016; in effect 90 days from passage]
AN ACT to amend and reenact §61-7A-1, §61-7A-2, §61-7A-3 and §61-7A-4 of the Code of West Virginia, 1931, as amended, all relating generally to compiling and maintaining of West Virginia Central State Mental Health Registry; clarifying that only certain mental illness commitments are to be reported to registry; prohibiting reporting children under fourteen years of age to registry; requiring names to be reported to Administrator of the Supreme Court of Appeals; and making technical corrections.

Be it enacted by the Legislature of West Virginia:

That §61-7A-1, §61-7A-2, §61-7A-3 and §61-7A-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 7A. STATE MENTAL HEALTH REGISTRY; REPORTING OF PERSONS PROSCRIBED FROM FIREARM POSSESSION DUE TO MENTAL CONDITION TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM; LEGISLATIVE FINDINGS; DEFINITIONS; REPORTING REQUIREMENTS; REINSTATEMENT OF RIGHTS PROCEDURES.

§61-7A-1. Legislative intent.

It is the intention of the Legislature in the enactment of this article to clarify the persons whom it intends to proscribe from the possession of firearms due to mental illness; establish a process in reporting the names of persons proscribed from possession of firearms due to mental illness to the central state mental health registry; authorize reporting by registry to the National Instant Criminal Background Check System; and to prescribe a means for reinstating one's ability to lawfully possess a firearm.


As used in this article and as the terms are deemed to mean in 18 U. S. C. § 922(g) and section seven, article seven of this chapter as each exists as of January 31, 2008:
(1) "A person adjudicated as a mental defective" means a person who has been determined by a duly authorized court, tribunal, board or other entity to be mentally ill to the point where he or she has been found to be incompetent to stand trial due to mental illness or insanity, has been found not guilty in a criminal proceeding by reason of mental illness or insanity or has been determined to be unable to handle his or her own affairs due to mental illness or insanity. A child under fourteen years of age is not considered "a person adjudicated as a mental defective" for purposes of this article.

(2) "Committed to a mental institution" means to have been involuntarily committed for treatment pursuant to the provisions of chapter twenty-seven of this code. Children under fourteen years of age are not considered "committed to a mental institution" for purposes of this article. "Committed to a mental institution" does not mean voluntary admission for mental health treatment.

(3) "Mental institution" means any facility or part of a facility used for the treatment of persons committed for treatment of mental illness.

§61-7A-3. Persons whose names are to be supplied to the central state mental health registry.

(a) The Superintendent of the West Virginia State Police and the Secretary of the Department of Health and Human Resources, or their designees, shall cooperate with the circuit clerk of each county and Administrator of the West Virginia Supreme Court of Appeals in compiling and maintaining a database containing the names and identifying information of persons who have been adjudicated to be mentally defective or who have been committed to a mental institution. The registry shall be maintained by the Administrator of the Supreme Court of Appeals or the superintendent of the West Virginia State Police.

(b) The name of any person who has been adjudicated to be mentally defective or who has been committed to a mental institution shall be provided to the Administrator of the Supreme Court of Appeals or the Superintendent of the West Virginia State Police for inclusion in the central
state mental health registry. Upon receipt of the information being received by the central state mental health registry it may be transmitted to the National Instant Criminal Background Check System and to county sheriffs;

(c) The Secretary of Department of Human Resources and the circuit clerk of each county shall, as soon as practicable after the effective date of this article, supply to the Administrator of the Supreme Court of Appeals or the Superintendent of the West Virginia State Police for inclusion in the central state mental health registry the name and identifying information required by the provisions of subsection (d) of this section of all persons covered by the provisions of this article and shall on an ongoing basis continue to provide such information as it is developed;

(d) The central state mental health registry shall contain the name, address at the time of commitment or adjudication, date of birth, date of commitment or adjudication of all persons who have been adjudicated to be mentally defective or who have been committed to a mental institution.

(e) The central state mental health registry shall provide only such information about a person on the registry to county sheriffs and the National Instant Criminal Background Check System as is necessary to identify registrants; and

(f) On or before January 1, 2010, the central state mental health registry shall contain the name, address at the time of commitment or adjudication, date of birth, date of commitment or adjudication and any other identifying characteristics of all persons who have been adjudicated to be mentally defective or who have been committed to a mental institution. Under no circumstances shall the registry contain information relating to any diagnosis or treatment provided.

(g) To the extent the central state mental health registry contains the names of any children under fourteen years of age on the effective date of this article, the Administrator of the West Virginia Supreme Court of Appeals shall take whatever steps are necessary to remove those individuals from the central state mental health registry.

(a) Notwithstanding any provision of this code to the contrary, the Superintendent of the State Police, the Secretary of the Department of Health and Human Resources, the circuit clerks, and the Administrator of the Supreme Court of Appeals may provide notice to the central state mental health registry and the National Instant Criminal Background Check System established pursuant to Section 103(d) of the Brady Handgun Violence Protection Act, 18 U. S. C. §922, that a person: (i) Has been involuntarily committed to a mental institution; (ii) has been adjudicated as a mental defective; or (iii) has regained the ability to possess a firearm by order of a circuit court in a proceeding under section five of this article.

(b) The information contained in the central state mental health registry is to be used solely for the purpose of records checks related to firearms purchases and for eligibility for a state license or permit to possess or carry a concealed firearm.

(c) Whenever a person's name and other identifying information has been added to the central state mental health registry, a review of the state concealed handgun registry shall be undertaken and if such review reveals that the person possesses a current concealed handgun license, the sheriff of the county issuing the concealed handgun license shall be informed of the person's change in status.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signatures]

Chairman, Senate Committee
Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

[Signatures]

Clerk of the Senate
Clerk of the House of Delegates

[Signatures]

President of the Senate
Speaker of the House of Delegates

The within is approved this the 23rd Day of March, 2016.

[Signature]
Governor
PRESENTED TO THE GOVERNOR

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