

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 12-0455.01 Richard Sweetman x4333

HOUSE BILL 12-1048

HOUSE SPONSORSHIP

Waller,

SENATE SPONSORSHIP

Tochtrop,

House Committees

Judiciary
Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING RELIEVING THE COLORADO BUREAU OF INVESTIGATION**
102 **OF ITS STATUTORY DUTIES AS A POINT OF CONTACT FOR THE**
103 **NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM IN**
104 **CASES OF FIREARM TRANSFERS, AND IN CONNECTION**
105 **THEREWITH, REDUCING APPROPRIATIONS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Current federal law requires a licensed transferor of firearms to

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
April 16, 2012

complete a background check of a prospective transferee through the national instant criminal background check system before transferring a firearm to him or her. Current state law requires the Colorado bureau of investigation (CBI) to perform such background checks as a point of contact for the federal bureau of investigation. The bill eliminates this requirement of the CBI and makes conforming amendments as necessary.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **repeal**
3 24-33.5-412 (1) (l) and 24-33.5-424.

4 **SECTION 2.** In Colorado Revised Statutes, 12-26.1-101, **amend**
5 (1) (a) and (1) (b) as follows:

6 **12-26.1-101. Background checks at gun shows - penalty.**

7 (1) Before a gun show vendor transfers or attempts to transfer a firearm
8 at a gun show, he or she shall:

9 (a) ~~require that CONTACT THE FEDERAL BUREAU OF INVESTIGATION~~
10 ~~FOR THE PURPOSE OF COMPLETING a background check in accordance with~~
11 ~~section 24-33.5-424, C.R.S., be conducted OF THE PROSPECTIVE~~
12 ~~TRANSFEREE THROUGH THE NATIONAL INSTANT CRIMINAL BACKGROUND~~
13 ~~CHECK SYSTEM, AS DESCRIBED IN 18 U.S.C. SEC. 922 (t); and~~

14 (b) ~~obtain approval of a transfer from the Colorado Bureau of~~
15 ~~Investigation after a background check has been requested by a licensed~~
16 ~~gun dealer, in accordance with section 24-33.5-424, C.R.S. VERIFY THE~~
17 ~~IDENTITY OF THE TRANSFEREE BY EXAMINING A VALID IDENTIFICATION~~
18 ~~DOCUMENT, AS DEFINED IN 18 U.S.C. 1028 (d) (3), OF THE TRANSFEREE~~
19 ~~CONTAINING A PHOTOGRAPH OF THE TRANSFEREE.~~

20 **SECTION 3.** In Colorado Revised Statutes, 18-4-412, **amend** (4)
21 as follows:

22 **18-4-412. Theft of medical records or medical information -**

1 **penalty.** (4) The obtaining, accessing, use, or disclosure of relevant
2 medical records or medical information pursuant to 18 U.S.C. sec. 922 (t)
3 and sections ~~24-33.5-424~~, 13-5-142 and 13-9-123, C.R.S., by the
4 Colorado bureau of investigation, the clerk of the court of any judicial
5 district in the state, the clerk of the probate court of the city and county
6 of Denver, or by any of their employees and accessing such records and
7 information through the NICS system shall not constitute theft of a
8 medical record or medical information under this section.

9 **SECTION 4.** In Colorado Revised Statutes, 18-12-205, **amend**
10 (4) (c) as follows:

11 **18-12-205. Sheriff - application - procedure - background**
12 **check.** (4) (c) After receipt of a permit application and the items
13 specified in this section, the sheriff shall verify that the applicant meets
14 the criteria specified in section 18-12-203 (1) and is not a danger as
15 described in section 18-12-203 (2). The verification at a minimum shall
16 include ~~requesting the bureau to conduct~~ CONTACTING THE FEDERAL
17 BUREAU OF INVESTIGATION FOR THE PURPOSE OF COMPLETING a search of
18 the national instant criminal background check system, and REQUESTING
19 THE BUREAU TO CONDUCT a search of the state integrated criminal justice
20 information system to determine whether the applicant meets the criteria
21 specified in section 18-12-203 (1). In addition, if the applicant resides in
22 a municipality or town, the sheriff shall consult with the police
23 department of the municipality or town in which the applicant resides,
24 and the sheriff may consult with other local law enforcement agencies.

25 **SECTION 5.** In Colorado Revised Statutes, 18-12-209, **amend**
26 (2) as follows:

27 **18-12-209. Issuance by sheriffs of temporary emergency**

1 **permits.** (2) (a) To receive a temporary emergency permit, a person shall
2 submit to the sheriff of the county or city and county in which the person
3 resides or in which the circumstances giving rise to the emergency exist
4 the items specified in section 18-12-205; except that an applicant for a
5 temporary emergency permit need not submit documentary evidence
6 demonstrating competence with a handgun as required under section
7 18-12-205 (3) (a), and the applicant shall submit a temporary permit fee
8 not to exceed twenty-five dollars, as set by the sheriff.

9 (b) Upon receipt of the documents and fee DESCRIBED IN
10 PARAGRAPH (a) OF THIS SUBSECTION (2), the sheriff shall:

11 (I) Request that the bureau conduct a criminal history record
12 check of the bureau files; and ~~a search of~~

13 (II) CONTACT THE FEDERAL BUREAU OF INVESTIGATION FOR THE
14 PURPOSE OF COMPLETING A BACKGROUND CHECK OF THE PERSON
15 THROUGH the national instant criminal background check system.

16 (c) The sheriff may issue a temporary emergency permit to the
17 applicant if the sheriff determines the person may be in immediate danger
18 and the criminal history record check shows that the applicant meets the
19 criteria specified in section 18-12-203; except that the applicant need not
20 demonstrate competence with a handgun and the applicant may be
21 eighteen years of age or older.

22 (d) A temporary emergency permit issued pursuant to this section
23 is valid for a period of ninety days after the date of issuance. Prior to or
24 within ten days after expiration of a temporary emergency permit, the
25 permittee may apply to the issuing sheriff for renewal of the permit. The
26 issuing sheriff may renew a temporary emergency permit once for an
27 additional ninety-day period; except that, if the permittee is younger than

1 twenty-one years of age, the sheriff may renew the temporary emergency
2 permit for subsequent ninety-day periods until the permittee reaches
3 twenty-one years of age.

4 **SECTION 6. Appropriation - adjustments in 2012 long bill.**

5 (1) For the implementation of this act, appropriations made in the annual
6 general appropriation act to the department of public safety for the fiscal
7 year beginning July 1, 2012, are adjusted as follows:

8 (a) The appropriation for the executive director's office is
9 decreased by \$219,894. Of this amount, \$197,709 is from the general
10 fund and \$22,185 is from cash funds.

11 (b) The appropriation for the Colorado bureau of investigation is
12 decreased by \$1,633,054 and 26.4 FTE. Of this amount, \$1,349,168 is
13 from the general fund and \$283,886 is from cash funds.

14 **SECTION 7. Safety clause.** The general assembly hereby finds,
15 determines, and declares that this act is necessary for the immediate
16 preservation of the public peace, health, and safety.