

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

March 4, 2013
Date

Committee on State, Veterans, & Military Affairs.

After consideration on the merits, the Committee recommends the following:

HB13-1229 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend reengrossed bill, page 3, line 5, strike "**penalty.**" and substitute
- 2 "**penalty - definitions.**".
- 3 Page 3, line 5, after "(1)" insert "(a)".
- 4 Page 3, line 9, strike "(a)" and substitute "(I)".
- 5 Page 3, line 12, strike "(b)" and substitute "(II)".
- 6 Page 3, after line 14 insert:
 - 7 "(b) AS USED IN THIS SECTION, UNLESS THE CONTEXT REQUIRES
 - 8 OTHERWISE, "TRANSFEREE" MEANS A PERSON WHO DESIRES TO RECEIVE OR
 - 9 ACQUIRE A FIREARM FROM A TRANSFEROR. IF A TRANSFEREE IS NOT A
 - 10 NATURAL PERSON BUT A CORPORATION, ASSOCIATION, PARTNERSHIP, OR
 - 11 LIMITED LIABILITY COMPANY OR TRUST, THE REQUIREMENT DESCRIBED IN
 - 12 THIS SUBSECTION (1) SHALL BE INTERPRETED TO REQUIRE A BACKGROUND
 - 13 CHECK OF EACH MEMBER, PARTNER, OFFICER, OR OTHER PERSON WHO
 - 14 HOLDS A BENEFICIAL INTEREST IN THE CORPORATION, ASSOCIATION,
 - 15 PARTNERSHIP, OR LIMITED LIABILITY COMPANY OR TRUST."
- 16 Page 4, line 2, after "TRANSFEROR" insert "AND TRANSFEREE".
- 17 Page 5, strike lines 3 through 6 and substitute:

1 "(b) A TRANSFER THAT IS A BONA FIDE GIFT BETWEEN IMMEDIATE
2 FAMILY MEMBERS, WHICH ARE LIMITED TO SPOUSES, PARENTS, CHILDREN,
3 SIBLINGS, GRANDPARENTS, GRANDCHILDREN, NIECES, NEPHEWS, FIRST
4 COUSINS, AUNTS, AND UNCLES;"

5 Page 6, line 7, strike "OR".

6 Page 6, strike line 11 and substitute:

7 "A RESULT OF THE TRANSFER MAY LEGALLY POSSESS A FIREARM; OR

8 (g) ANY TEMPORARY TRANSFER THAT OCCURS WHILE IN THE
9 CONTINUOUS PRESENCE OF THE OWNER OF THE FIREARM; OR

10 (h) A TEMPORARY TRANSFER FOR NOT MORE THAN SEVENTY-TWO
11 HOURS. A PERSON WHO TRANSFERS A FIREARM PURSUANT TO THIS
12 PARAGRAPH (h) MAY BE JOINTLY AND SEVERALLY LIABLE FOR DAMAGES
13 PROXIMATELY CAUSED BY THE TRANSFEREE'S SUBSEQUENT USE OF THE
14 FIREARM.

15 (7) NOTHING IN SUBSECTION (6) OF THIS SECTION SHALL BE
16 INTERPRETED TO LIMIT OR OTHERWISE ALTER THE APPLICABILITY OF
17 SECTION 18-12-111 CONCERNING THE UNLAWFUL PURCHASE OR TRANSFER
18 OF FIREARMS."

19 Renumber succeeding subsection accordingly.

20 Page 6, line 18, strike "CLERK OF THE COURT" and substitute "STATE
21 COURT ADMINISTRATOR".

22 Page 6, strike lines 26 and 27 and substitute:

23 "**SECTION 2.** In Colorado Revised Statutes, 13-5-142, **amend**
24 (1) introductory portion, (2), (3) introductory portion, (3) (a), and (3) (b)
25 (II); and **add** (1.5) and (4) as follows:

26 **13-5-142. National instant criminal background check system**
27 **- reporting.** (1) ~~Beginning July 1, 2002~~ ON AND AFTER THE EFFECTIVE
28 DATE OF THIS SECTION, the ~~clerk of the court of every judicial district in~~
29 ~~the~~ state COURT ADMINISTRATOR shall ~~periodically report~~ SEND
30 ELECTRONICALLY the following information to the ~~national instant~~
31 ~~criminal background check system created by the federal "Brady~~
32 ~~Handgun Violence Prevention Act" (Pub.L. 103-159), the relevant portion~~
33 ~~of which is codified at 18 U.S.C. sec. 922 (t)~~ COLORADO BUREAU OF
34 INVESTIGATION CREATED PURSUANT TO SECTION 24-33.5-401, C.R.S.,
35 REFERRED TO WITHIN THIS SECTION AS THE "BUREAU":

1 (1.5) NOT MORE THAN FORTY-EIGHT HOURS AFTER RECEIVING
2 NOTIFICATION OF A PERSON WHO SATISFIES THE DESCRIPTION IN
3 PARAGRAPH (a), (b), OR (c) OF SUBSECTION (1) OF THIS SECTION, THE
4 STATE COURT ADMINISTRATOR SHALL REPORT SUCH FACT TO THE BUREAU.

5 (2) Any report made by the ~~clerk of the court of every judicial~~
6 ~~district in the~~ state COURT ADMINISTRATOR pursuant to this section shall
7 describe the reason for the report and indicate that the report is made in
8 accordance with 18 U.S.C. sec. 922 (g) (4).

9 (3) The ~~clerk of the court of every judicial district in the~~ state
10 COURT ADMINISTRATOR shall take all necessary steps to cancel a record
11 made by ~~that clerk~~ THE STATE COURT ADMINISTRATOR in the national
12 instant criminal background check system if:

13 (a) The person to whom the record pertains makes a written
14 request to the ~~clerk~~ STATE COURT ADMINISTRATOR; and

15 (b) No less than three years before the date of the written request:

16 (II) The period of commitment of the most recent order of
17 commitment or recommitment expired, or ~~the~~ A court entered an order
18 terminating the person's incapacity or discharging the person from
19 commitment in the nature of habeas corpus, if the record in the national
20 instant criminal background check system is based on an order of
21 commitment to the custody of the unit in the department of human
22 services that administers behavioral health programs and services,
23 including those related to mental health and substance abuse; except that
24 the ~~clerk~~ STATE COURT ADMINISTRATOR shall not cancel any record
25 pertaining to a person with respect to whom two recommitment orders
26 have been entered under section 27-81-112 (7) and (8), C.R.S., or who
27 was discharged from treatment under section 27-81-112 (11), C.R.S., on
28 the grounds that further treatment will not be likely to bring about
29 significant improvement in the person's condition; or".

30 Page 7, strike lines 1 through 9.

31 Page 7, line 13, strike "CLERK OF THE COURT" and substitute "STATE
32 COURT ADMINISTRATOR".

33 Page 10, strike lines 3 through 16 and substitute:

34 "(III) IN REVIEWING A DENIAL, THE COURT OF APPEALS HAS
35 DISCRETION, BUT IS NOT REQUIRED, TO RECEIVE ADDITIONAL EVIDENCE
36 NECESSARY TO CONDUCT AN ADEQUATE REVIEW.

1 **SECTION 4.** In Colorado Revised Statutes, 13-9-123, **amend** (1)
2 introductory portion, (2), (3) introductory portion, (3) (a), and (3) (b) (II);
3 and **add** (1.5) and (4) as follows:

4 **13-9-123. National instant criminal background check system**
5 **- reporting.** (1) ~~Beginning July 1, 2002~~ ON AND AFTER THE EFFECTIVE
6 DATE OF THIS SECTION, the ~~clerk of the probate court~~ STATE COURT
7 ADMINISTRATOR shall ~~periodically report~~ SEND ELECTRONICALLY the
8 following information to the ~~national instant criminal background check~~
9 ~~system created by the federal "Brady Handgun Violence Prevention Act",~~
10 ~~Pub.L. 103-159, the relevant portion of which is codified at 18 U.S.C.~~
11 ~~sec. 922 (t)~~ COLORADO BUREAU OF INVESTIGATION CREATED PURSUANT
12 TO SECTION 24-33.5-401, C.R.S., REFERRED TO WITHIN THIS SECTION AS
13 THE "BUREAU":

14 (1.5) NOT MORE THAN FORTY-EIGHT HOURS AFTER RECEIVING
15 NOTIFICATION OF A PERSON WHO SATISFIES THE DESCRIPTION IN
16 PARAGRAPH (a), (b), OR (c) OF SUBSECTION (1) OF THIS SECTION, THE
17 STATECOURT ADMINISTRATOR SHALL REPORT SUCH FACT TO THE BUREAU.

18 (2) Any report made by the ~~clerk of the probate court~~ STATE
19 COURT ADMINISTRATOR pursuant to this section shall describe the reason
20 for the report and indicate that the report is made in accordance with 18
21 U.S.C. sec. 922 (g) (4).

22 (3) The ~~clerk of the probate court~~ STATE COURT ADMINISTRATOR
23 shall take all necessary steps to cancel a record made by ~~that clerk~~ THE
24 STATECOURT ADMINISTRATOR in the national instant criminal background
25 check system if:

26 (a) The person to whom the record pertains makes a written
27 request to the ~~clerk~~ STATE COURT ADMINISTRATOR; and

28 (b) No less than three years before the date of the written request:

29 (II) The period of commitment of the most recent order of
30 commitment or recommitment expired, or the court entered an order
31 terminating the person's incapacity or discharging the person from
32 commitment in the nature of habeas corpus, if the record in the national
33 instant criminal background check system is based on an order of
34 commitment to the custody of the unit in the department of human
35 services that administers behavioral health programs and services,
36 including those related to mental health and substance abuse; except that
37 the ~~clerk~~ STATE COURT ADMINISTRATOR shall not cancel any record
38 pertaining to a person with respect to whom two recommitment orders
39 have been entered under section 27-81-112 (7) and (8), C.R.S., or who
40 was discharged from treatment under section 27-81-112 (11), C.R.S., on

1 the grounds that further treatment will not be likely to bring about
2 significant improvement in the person's condition; or".

3 Page 10, line 20, strike "CLERK OF THE COURT" and substitute "STATE
4 COURT ADMINISTRATOR".

5 Page 13, strike lines 10 through 12 and substitute:

6 "(III) IN REVIEWING A DENIAL, THE COURT OF APPEALS HAS
7 DISCRETION, BUT IS NOT REQUIRED, TO RECEIVE ADDITIONAL EVIDENCE
8 NECESSARY TO CONDUCT AN ADEQUATE REVIEW."

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