**South Carolina General Assembly**

120th Session, 2013-2014

**H. 3564**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. M.S. McLeod, Bowen, Sabb, Rutherford, Southard, Bernstein, Alexander, Finlay, Hart and Howard

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Companion/Similar bill(s): 413, 3560

Introduced in the House on February 19, 2013

Currently residing in the House Committee on **Judiciary**

Summary: Handguns

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/19/2013 House Introduced and read first time ([House Journal‑page 44](file:///h:\HJ%20Archive\2013\02-19-13.docx))

2/19/2013 House Referred to Committee on **Judiciary** ([House Journal‑page 44](file:///h:\HJ%20Archive\2013\02-19-13.docx))

**VERSIONS OF THIS BILL**

[2/19/2013](file:///p:\pprever\2013-14\3564_20130219.docx)

**A** **BILL**

TO AMEND SECTION 16‑23‑30, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO, AMONG OTHER THINGS, INDIVIDUALS WHO ARE PROHIBITED FROM POSSESSING OR ACQUIRING A HANDGUN, SO AS TO INCLUDE INDIVIDUALS ADJUDICATED MENTALLY ILL AND INVOLUNTARILY COMMITTED TO A MENTAL INSTITUTION FOR INPATIENT OR OUTPATIENT TREATMENT, INDIVIDUALS FOUND NOT FIT TO STAND TRIAL, AND INDIVIDUALS FOR WHOM A VERDICT HAS BEEN RETURNED “NOT GUILTY BY REASON OF INSANITY” OR “GUILTY BUT MENTALLY ILL”; TO AMEND TO AMEND 44‑17‑580, AS AMENDED, RELATING TO THE INVOLUNTARY COMMITMENT OF INDIVIDUALS TO A MENTAL HEALTH INSTITUTION, SO AS TO REQUIRE THE PROBATE COURT TO NOTIFY THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION (SLED) IF SUCH A DETERMINATION IS MADE AND TO REQUIRE SLED TO TRANSMIT THIS INFORMATION TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM (NICS); TO AMEND SECTION 44-24-140 RELATING TO THE INVOLUNTARY COMMITMENT OF CHILDREN IN NEED OF MENTAL HEALTH TREATMENT, SO AS TO REQUIRE THE PROBATE COURT TO NOTIFY THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION (SLED) IF SUCH A DETERMINATION IS MADE AND TO REQUIRE SLED TO TRANSMIT THIS INFORMATION TO (NICS); TO AMEND SECTION 44-23-430, AS AMENDED, RELATING TO FINDING A DEFENDANT NOT FIT TO STAND TRIAL, SO AS TO REQUIRE THE COURT TO NOTIFY THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION THAT SUCH A FINDING WAS MADE AND TO REQUIRE THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION TO TRANSMIT THIS INFORMATION TO (NICS); TO AMEND SECTION 17-24-40, AS AMENDED, AND SECTION 17-24-70 RELATING, RESPECTIVELY, TO A DEFENDANT FOUND NOT GUILTY BY REASON OF INSANITY AND A DEFENDANT FOUND GUILTY BUT MENTALLY ILL, SO AS TO REQUIRE THE TRIAL JUDGE TO NOTIFY SLED THAT SUCH VERDICTS WERE RETURNED AND TO REQUIRE SLED TO TRANSMIT THIS INFORMATION TO (NICS); BY ADDING SECTION 23‑3‑180 SO AS TO REQUIRE SLED TO TRANSMIT INFORMATION RECEIVED FROM THE COURT TO NICS AND TO REQUIRE SLED TO CROSS REFERENCE THIS INFORMATION WITH SLED'S CONCEALED WEAPONS PERMIT DATABASE AND OTHER DATABASES THAT MAY CONTAIN INFORMATION WHICH MAY CONTRIBUTE TO THE SAFETY AND PROTECTION OF THE PUBLIC; AND BY ADDING SECTION 23‑31‑219 SO AS TO REQUIRE SLED TO CONDUCT A REVIEW OF ITS CONCEALED WEAPONS PERMIT DATABASE TO DETERMINE IF AN INDIVIDUAL REPORTED TO SLED BY THE COURT HAS A CURRENT PERMIT AND IF SO, TO REQUIRE SLED TO NOTIFY THE PERMITTEE AND THE SHERIFF OF THE COUNTY IN WHICH THE PERMIT WAS ISSUED THAT THE PERMIT HAS BEEN REVOKED AND MUST BE SURRENDERED.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 16‑23‑30(A)(1) of the 1976 Code, as last amended by Act 192 of 2008, is further amended to read:

“(1) a person who has been convicted of a crime of violence in any court of the United States, the several states, commonwealths, territories, possessions, or the District of Columbia or who is a fugitive from justice or a habitual drunkard or a drug addict~~,~~ or has been adjudicated mentally incompetent or has been committed to a mental institution pursuant to Section 44‑17‑580 or Section 44-24-140 or has been found unfit to stand trial pursuant to Section 44-23-430, or has had a verdict against him or her returned ‘not guilty by reason of insanity’ pursuant to Section 17-24-40 or ‘guilty but mentally ill’ pursuant to Section 17-24-70."

SECTION 2. Section 44‑17‑580 of the 1976 Code, as last amended by Act 120 of 2005, is further amended by adding:

“(C) The court, within ten days of an individual being committed to a mental institution pursuant to this section, shall report the name and other identifying information to the South Carolina Law Enforcement Division, which shall transmit this information to the National Instant Criminal Background Check System, as provided for and for the purposes set forth in the ‘Brady Handgun Violence Protection Act’, 18 U.S.C. Section 922. In reporting to SLED, the court must not include any information relating to the individual’s diagnosis or treatment.”

SECTION 3. Section 44-24-140 of the 1976 Code is amended by adding at the end:

“(C) Within ten days of the court determining that a child is in need of judicial admission pursuant to this section, the court shall report the name and other identifying information to the South Carolina Law Enforcement Division, which shall transmit this information to the National Instant Criminal Background Check System, as provided for and as set forth in the ‘Brady Handgun Violence Protection Act’, 18 U.S.C. Section 922. In reporting to SLED, the court must not include any information relating to the individual’s diagnosis or treatment.”

SECTION 4. Section 44‑23‑430 of the 1976 Code, as last amended by Act 47 of 2011, is further amended to read:

“Section 44‑23‑430. (A) Upon receiving the report of the designated examiners, the court shall set a date for and notify the person and his counsel of a hearing on the issue of his fitness to stand trial. If, in the judgment of the designated examiners or the superintendent of the facility if the person has been detained, the person is in need of hospitalization, the court with criminal jurisdiction over the person may authorize his detention in a suitable facility until the hearing. The person shall be entitled to be present at the hearings and to be represented by counsel. If upon completion of the hearing and consideration of the evidence the court finds that:

(1) the person is fit to stand trial, it shall order the criminal proceedings resumed; or

(2) the person is unfit to stand trial for the reasons set forth in Section 44‑23‑410 and is unlikely to become fit to stand trial in the foreseeable future, the solicitor responsible for the criminal prosecution shall initiate judicial admission proceedings pursuant to Sections 44‑17‑510 through 44‑17‑610 or Section 44‑20‑450 within fourteen days, excluding Saturdays, Sundays, and holidays, during which time the court may order the person hospitalized, may order the person to continue in detention if detained, or, if on bond, may permit the person to remain on bond; or

(3) the person is unfit to stand trial but likely to become fit in the foreseeable future, the court shall order him hospitalized up to an additional sixty days. If the person is found to be unfit at the conclusion of the additional period of treatment, the solicitor responsible for the criminal prosecution shall initiate judicial admission proceedings pursuant to Sections 44‑17‑510 through 44‑17‑610 or Section 44‑20‑450 within fourteen days, excluding Saturdays, Sundays, and holidays, during which time the person shall remain hospitalized.

(B)(1) Subject to the provisions of Section 44‑23‑460, persons against whom criminal charges are pending ~~shall~~ have all the rights and privileges of other involuntarily hospitalized persons.

(2) Persons against whom criminal charges are pending but who are not involuntarily committed following judicial admission proceedings ~~shall~~ must be released.

(C) Within ten days of the court determining a person is unfit to stand trial, the court shall report the name and other identifying information to the South Carolina Law Enforcement Division which shall transmit this information to the National Instant Criminal Background Check System, as provided for and for the purposes set forth in the ‘Brady Handgun Violence Protection Act’, 18 U.S.C. Section 922. In reporting to SLED, the court must not include any information relating to the individual’s diagnosis or treatment.”

SECTION 5. Section 17‑24‑40(A) of the 1976 Code, as last amended by Act 348 of 2002, is further amended to read:

“(A)(1) ~~In the event~~ If a verdict of ‘not guilty by reason of insanity’ is returned, the trial judge must order the person who was the defendant committed to the South Carolina State Hospital for a period not to exceed one hundred twenty days. During that time, an examination must be made of the person to determine the need for hospitalization of the person pursuant to the standards set forth in Section 44‑17‑580.

(2) Within ten days after a verdict of 'not guilty by reason of insanity' is returned, the trial court, notwithstanding the examination to be conducted pursuant to subsection (A)(1), shall report the defendant's name and other identifying information to the South Carolina Law Enforcement Division, which shall transmit this information to the National Instant Criminal Background Check System, as provided for in and for the purposes set forth in the 'Brady Handgun Violence Protection Act’, 18 U.S.C. Section 922. In reporting to SLED, the court must not include any information relating to the individual’s diagnosis or treatment.”

SECTION 6. Section 17-24-70 of the 1976 Code is amended by adding at the end:

“Within ten days after a verdict of ‘guilty but mentally ill’ is returned, the court, whether the sentence includes incarceration or probation, shall report the defendant’s name and other identifying information to the South Carolina Law Enforcement Division, which shall transmit this information to the National Instant Criminal Background Check System, as provided for and for the purposes set forth in the ‘Brady Handgun Violence Protection Act’, 18 U.S.C. Section 922. In reporting to SLED, the court must not include any information relating to the individual’s diagnosis or treatment.”

SECTION 7. Article 3, Chapter 3, Title 23 of the 1976 Code is amended by adding:

“Section 23‑3‑185. Within five days of receiving a report pursuant to Sections 17‑24‑40, 17-24-70, 44‑17‑580, 44‑23‑430, or 44-24-140, SLED shall transmit the information to the National Instant Criminal Background Check System, as provided for and for the purposes set forth in the ‘Brady Handgun Violence Protection Act’, 18 U.S.C. Section 922. SLED also shall cross reference this information with SLED’s concealed weapons permit database and other databases, which may contain information that may contribute to the safety and protection of the public.”

SECTION 8. Article 4, Chapter 31, Title 23 of the 1976 Code is amended by adding:

“Section 23‑31‑219. Within five days of receiving a report pursuant to Sections 17‑24‑40, 17-24-70, 44‑17‑580, 44‑23‑430, or 44-24-140, SLED shall conduct a review of its concealed weapons permit database. If the individual holds a current concealed weapons permit, the permit is immediately revoked, and SLED shall notify the permittee and the sheriff of the county in which the permit was issued that the permit has been revoked and that the permittee shall surrender the permit.”

SECTION 9. This act takes effect January 1, 2014.

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