

May 28, 2008

S 2081. FIREARMS/MENTAL INCOMPETENCE (=H 2747). Filed 5/27/08. *REQUIRING THE COURT AFTER JUDICIAL DETERMINATION OF INVOLUNTARY COMMITMENT TO REPORT THE FACT OF THE COMMITMENT TO THE NATIONAL CRIMINAL BACKGROUND SYSTEM.*

Identical to H 2747, filed 5/27/08.

Intro. by Rand.

GS 14, 122C, APPROP

June 12, 2008

S 2081. NICS REPORTING/RESTORATION (NEW). Filed 5/27/08. Senate committee substitute makes the following changes to 1st edition. Changes proposed new subsection (d1) of GS 122C-54 to clarify that the clerk of superior court in the county where the judicial determination was made must cause a report or update of involuntary commitment to the National Instant Criminal Background Check System (NICS) rather than be directly responsible for transmitting the report or update. Removes the Department of Health and Human Services as one of the agencies responsible for establishing protocols to transmit information to NICS which instead will be performed solely by the Administrative Office of the Courts. Makes technical changes.

Amends the proposed new GS 122C-54.1 by changing the caption to reflect that the section describes the restoration process to remove a mental commitment bar (was, restoration of the right to purchase firearm). An individual may make a petition for the removal of the bar once the individual no longer suffers from the condition that resulted in involuntary commitment and the individual is no longer a danger to himself or to others. Makes technical, conforming, and clarifying changes throughout. Removes the requirement that a petitioner file an affidavit by a psychiatrist or psychologist at the same time as filing the petition. Provides for court procedures to protect the confidentiality of mental health records, including allowing a motion by the petitioner to close the hearing to the public, unless the court finds it is in the public interest to be an open proceeding. Requires that the court must include specific findings of fact in its decision. Clarifies that the superior court clerk must forward a judicial order to grant a petition, under this section, to NICS.

Makes clarifying changes to new subsections in GS 14-404 and GS 14-415.12 (adds that this statute relates to receiving a concealed carry permit).

Makes conforming changes to title to read: *AN ACT TO REQUIRE REPORTING OF INVOLUNTARY MENTAL COMMITMENT TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM; AND TO PROVIDE FOR A RESTORATION PROCESS TO REMOVE THE COMMITMENT BAR TO THE PURCHASE, POSSESSION, AND TRANSFER OF FIREARMS.*

July 9, 2008

S 2081. NICS REPORTING/RESTORATION. Filed 5/27/08. Senate committee substitute makes the following changes to 2nd edition. Deletes the \$25,000 appropriation to the Administrative Office of the Courts (AOC) and instead allows AOC to use up to \$25,000 of the funds in its 2008-09 budget to carry out the provisions of the act.

July 10, 2008

S 2081. NICS REPORTING/ RESTORATION. Filed 5/27/08. Senate amendments make the following changes to 3rd edition.

Amendment #1 amends proposed new subsection GS 122C-54(d1) to require that the involuntary commitment of an individual to outpatient mental health treatment be reported to the National Instant Criminal Background Check System (NICS) only if the individual is found to be a danger to self or others.

Amendment #2 amends proposed new GS 122C-54.1 to provide that the applicable standard in a petition for the removal of the mental health commitment bar to purchasing, possessing, or transferring a firearm is for the petitioner to establish by a preponderance of the evidence (was, by clear and convincing evidence) that the petitioner (1) no longer suffers from the condition that resulted in commitment and (2) no longer poses a danger to self or others.

Amendment #3 directs that the hearing on the petition be closed to the public, unless the court finds that conducting a public hearing is in the public interest (was, directed that the hearing be open to the public unless the court closed the hearing; permitted the court to close the hearing to the public upon a motion by the petitioner). Provides that if the court determines that the hearing should be open to the public, then upon a motion by the petitioner, the court may allow the petitioner's mental health records to be inspected in camera (privately by the court and not open to the public). Requires the court to restrict the mental health record from public disclosure unless the court finds that it would better serve the public interest to make the record public.

August 20, 2008

SL 2008-210 (S 2081). NICS REPORTING/RESTORATION. AN ACT TO REQUIRE REPORTING OF INVOLUNTARY MENTAL COMMITMENT TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM; AND TO PROVIDE FOR A RESTORATION PROCESS TO REMOVE THE COMMITMENT BAR TO THE PURCHASE, POSSESSION, AND TRANSFER OF FIREARMS. Summarized in *Daily Bulletin* 5/28/08, 6/12/08, 7/9/08, and 7/10/08. Enacted August 9, 2008. Sections 1–3 are effective December 1, 2008. Section 4 is effective July 1, 2008. The remainder is effective August 9, 2008.