

Department of Legislative Services
 Maryland General Assembly
 2013 Session

FISCAL AND POLICY NOTE

House Bill 809 (Delegate Simmons, *et al.*)
 Health and Government Operations and
 Judiciary

Firearms - Criminal Justice Information System Central Repository - Reporting, Qualifications for Possession, and Relief from Disqualification

This bill requires specified reports to be made to, and by, the Criminal Justice Information System (CJIS) Central Repository and modifies provisions of law prohibiting specified individuals from dealing and possessing firearms. In addition, the bill establishes procedures and requirements for a person who is subject to such prohibitions regarding possession of a firearm to apply for relief.

Fiscal Summary

State Effect: General fund expenditures increase by \$715,400 in FY 2014 for equipment, programming, and permanent staffing to support activities within several agencies. Out-year costs reflect annualization and inflation. Revenues are not likely affected.

(in dollars)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	715,400	567,000	591,700	617,500	644,500
Net Effect	(\$715,400)	(\$567,000)	(\$591,700)	(\$617,500)	(\$644,500)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Minimal. It is assumed that any necessary coordination with local law enforcement agencies can be handled with existing budgeted resources.

Small Business Effect: Minimal.

Analysis

Bill Summary: If, at any time, a court makes a finding (including a finding that there is probable cause to believe) that an individual is a danger to self or to the person or property of another, the court must immediately notify CJIS. Similarly, if a court appoints a guardian of the property of a disabled person under specified provisions of law, the court must immediately notify CJIS.

In addition, a facility (defined in current law as any public or private clinic, hospital, or other institution that provides treatment or other services for individuals who have mental disorders) must, immediately after an individual's voluntary or involuntary admission to the facility, submit to CJIS a report containing only an assessment of the individual's competence to possess, purchase, or transfer a firearm. However, a Veterans' Administration hospital is required to submit such a report with regard to involuntary admissions only.

In turn, CJIS must notify the National Instant Criminal Background Check System (NICS) if CJIS receives a notice of any of the types specified above.

The bill also disqualifies a person who has been confined to a facility for 1 day (rather than for 30 consecutive days, as is specified in current law) from purchasing or possessing a regulated firearm. In addition, in the case of such a person – as well as in the case of a person who suffers from a mental disorder and has a history of violent behavior – a physician's certificate can no longer be used to allow the person to possess a regulated firearm. Similarly, the bill disqualifies a person who has been confined to a facility for 1 day (rather than for 30 consecutive days) from purchasing or possessing a rifle or shotgun, unless the person possesses a physician's certificate that the person is capable of possessing a rifle or shotgun without undue danger to the person or to another.

The bill further prohibits a dealer from selling, renting, or transferring a regulated firearm to a purchaser, lessee, or transferee who the dealer or other person knows or has reasonable cause to believe has been confined by a facility for 1 day (rather than for 30 consecutive days, as is specified in current law). The bill also requires a firearm application to contain a statement that the applicant has never spent more than 1 day (rather than 30 days) in a medical institution for treatment of a mental disorder, unless a specified physician's certificate is attached to the application. If a dealer has been confined by a facility for 1 day (and the dealer's application does not include a physician's certificate), the dealer's license must be revoked.

In addition, the bill authorizes a person who is subject to the above prohibitions on purchase or possession to apply for relief under specified circumstances and establishes the procedures and requirements for doing so. Specifically, a person subject to

disqualification may be authorized to possess a firearm if (1) the person is not subject to another firearms restriction under State and federal law and (2) the Department of Health and Mental Hygiene (DHMH) determines that the person may possess a firearm. A person who seeks such relief must file with DHMH an application (including a physician's certification and using forms approved by the department), as specified by the bill.

The applicant must include the following information in the application: (1) the reason for the prohibition and why relief should be granted; (2) a signed certification on a DHMH-approved form from a State-licensed physician, certified as a psychiatrist, or a State-licensed psychologist who is also listed in the National Registry of Health Service Providers for Psychology that provides specified details; (3) a signed authorization for DHMH to access all relevant health care, mental health, disability, guardianship, and criminal justice records of the applicant; (4) three statements attesting to the applicant's reputation and character relevant to firearm ownership or possession; and (5) any other information DHMH requires. The psychological certification has to specify (1) that the certificate was issued within 30 days of the filing of the petition; (2) that the applicant has been evaluated and is competent to understand and comply with the rules, regulations, and laws of firearm ownership and possession as well as the inherent risks and responsibilities of ownership; (3) that there is no reason to believe the applicant will become incompetent in the foreseeable future; (4) an opinion as to whether the applicant is likely to act in a manner dangerous to self or public safety; and (5) an opinion on whether granting a firearm qualification would be contrary to the public interest. The bill further delineates the circumstances under which additional information must be included.

If approved, DHMH must present a certificate of affirmation to the applicant and the Department of State Police (DSP) as evidence of eligibility to possess a regulated firearm. DHMH may not approve an application if the applicant supplied false information or made a false statement, the application was not properly completed, or the applicant did not show by clear and convincing evidence that he or she would be unlikely to act in a manner dangerous to self or public safety and that granting a permit would not be contrary to the public interest.

The bill also specifies a hearing procedure for an applicant aggrieved by the action of DHMH. The applicant may request such a hearing by writing to the Secretary of Health and Mental Hygiene within 30 days after the decision on the application is mailed to the applicant. The standard of proof at such a hearing before an administrative law judge is by clear and convincing evidence. The applicant may seek judicial review of a determination of an administrative law judge under current provisions of the State Government Article. After a determination on the merits of a requested hearing, an applicant may not request a subsequent hearing within one year after the completion of

the hearing process and any judicial review of the administrative decision. DHMH must enter into a memorandum of understanding with DSP to assist in clinical consultation and implementation of these features of the bill.

Information reported under the bill is not subject to public inspection under the Public Information Act.

Current Law:

Criminal Justice Information System Central Repository

The Criminal Procedure Article establishes CJIS in the Department of Public Safety and Correctional Services (DPSCS). The Secretary of Public Safety and Correctional Services has administrative control of the central repository and must operate the central repository with the advice of an advisory board.

Under Maryland law, a court is required to notify CJIS if the court finds that a defendant is incompetent to stand trial and orders the defendant committed to a facility designated by DHMH. The court must also notify CJIS of any release from a commitment made based on a finding that a defendant is incompetent to stand trial or a determination by the court that a defendant is no longer incompetent to stand trial. A court must notify CJIS if it orders a defendant committed based on a finding that the defendant is not criminally responsible.

Regulation of Firearms Generally

DSP regulates firearms and regulated firearms dealer licensees under provisions of the Public Safety Article. “Firearm” means a weapon that expels, is designed to expel, or may readily be converted to expel a projectile by the action of an explosive or the frame or receiver of such a weapon. It includes an antique firearm, handgun, rifle, shotgun, short-barreled rifle, short-barreled shotgun, starter gun, or any other firearm, whether loaded or unloaded. “Regulated firearm” is any handgun or any of the 45 assault weapons (or copies) identified under Title 5 of the Public Safety Article.

Among other restrictions, a person may not possess a regulated firearm in the State if the person was convicted of a “disqualifying crime,” or convicted of a violation classified as a common law crime and received a term of imprisonment of more than two years. A disqualifying crime means a crime of violence, a felony, or a misdemeanor that carries a statutory penalty of more than two years. Other disqualifying criteria for possession of a regulated firearm, or a rifle or shotgun, include (1) suffering from a mental disorder and having a history of violent behavior against the person or another, unless the person has a physician’s certificate that the person is capable of possessing a regulated firearm without

undue danger to the person or to another or (2) confinement for more than 30 consecutive days to a mental health facility, unless the person has a physician's certificate that the person is capable of possessing such a weapon without undue danger to the person or to another.

Under federal law, it is unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that the person has been adjudicated as a mental defective or has been committed to any mental institution.

Regulated Firearms Dealer's License

A person must lawfully possess a regulated firearms dealer's license issued by the Secretary of State Police before the person engages in the business of selling, renting, or transferring regulated firearms. An application for a dealer's license must contain the following information:

- the applicant's name, address, Social Security number, place and date of birth, height, weight, race, eye and hair color, and signature;
- a clear and recognizable photograph of the applicant, unless the photograph has been submitted with a prior year's application;
- a set of the applicant's fingerprints, unless the fingerprints have been submitted with a prior year's application; and
- a statement by the applicant that the applicant is a citizen of the United States, is 21 or older; has never been convicted of a disqualifying crime; has never been convicted of a common law crime and received a term of imprisonment of more than two years; is not a fugitive from justice; is not a habitual drunkard; is not addicted to a controlled dangerous substance or is not a habitual user; and has never spent more than 30 consecutive days in a medical institution for treatment of a mental disorder, unless a physician's certificate issued within 30 days before the date of application is attached to the application, certifying that the applicant is capable of possessing a regulated firearm without undue danger to the applicant or to another.

In addition, each application for a dealer's license must contain the following statement: "Any false information supplied or statement made in this application is a crime which may be punished by imprisonment for a period of not more than three years, or a fine of not more than \$5,000 or both."

Handgun Permits

Maryland law requires a person to be issued a handgun permit before the person may wear, carry, or transport a handgun. To be issued a permit to carry a handgun by the Secretary of State Police, an applicant (1) must be 18 or older; (2) must not have been convicted of a felony or misdemeanor for which a sentence of imprisonment for more than one year has been imposed or, if convicted, must have been pardoned or been granted relief under federal law; (3) if the person is younger than 30, must not have been committed to a facility for juveniles for longer than one year or adjudicated delinquent for a crime of violence, a felony, or misdemeanor that carries a statutory penalty of more than two years; (4) must not have been convicted of a controlled dangerous substance violation and must not presently be an addict, a habitual user of a controlled dangerous substance, or an alcoholic; (5) must not exhibit a propensity for violence or instability which may reasonably render possession of a handgun a danger to the applicant or another; and (6) must have a good and substantial reason to wear, carry, or transport a handgun. "Good and substantial reason" includes a finding that the permit is necessary as a reasonable precaution against apprehended danger.

Incompetent to Stand Trial and Not Criminally Responsible

Under Maryland law, a person is incompetent to stand trial if the person is unable to understand the nature or object of the proceeding or to assist in the person's own defense. A defendant is not criminally responsible for criminal conduct if, at the time of that conduct, the defendant, because of a mental disorder or mental retardation (intellectual disability), lacks substantial capacity to appreciate the criminality of that conduct or to conform that conduct to the requirements of law.

Appointment of Guardians

A court may appoint a guardian of the property of a disabled person if the court determines that the person is unable to manage his or her property and affairs effectively because of physical or mental disability, disease, habitual drunkenness, addiction to drugs, imprisonment, compulsory hospitalization, confinement, detention by a foreign power, or disappearance and the person has or may be entitled to property or benefits which require proper management.

A court may appoint a guardian of the person of a disabled person if the court determines by clear and convincing evidence that the person lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person, including provisions for health care, food, clothing, or shelter, because of any mental disability, disease, habitual drunkenness, or addition to drugs. To appoint a guardian of the person,

the court must also find that there is no less restrictive form of intervention available which is consistent with the person's welfare and safety.

Health Facility Admissions

A facility may admit an individual voluntarily requesting admission to the facility if (1) the individual is 16 or older; (2) the individual has a mental disorder; (3) the mental disorder is susceptible to care or treatment; (4) the individual understands the nature of the request for admission; (5) the individual is able to give continuous assent to retention by the facility; and (6) the individual is able to ask for release. In addition to these limitations, a State facility may not admit an individual who is 65 or older unless a geriatric evaluation team determines that there is no available, less restrictive form of care or treatment that is adequate for the needs of the individual. A facility may admit a minor on request of the minor's parent or guardian if (1) the minor has a mental disorder; (2) the mental disorder is susceptible to care or treatment; (3) the applicant understands the nature of a request for admission; and (4) assent to the admission has been given by the admitting physician of the facility or, for a child or adolescent unit of a State facility, by a physician and psychologist or by two physicians. Admission of a child by the child's parents may not exceed 20 days.

A facility or Veterans' Administration hospital may involuntarily admit an individual if (1) the individual has a mental disorder; (2) the individual needs inpatient care or treatment; (3) the individual presents a danger to the life or safety of the individual or of others; (4) the individual is unable or unwilling to be admitted voluntarily; and (5) there is no available, less restrictive form of intervention that is consistent with the welfare and safety of the individual. In addition to these limitations, a State facility may not admit an individual who is 65 or older unless a geriatric evaluation team determines that there is no available, less restrictive form of care or treatment that is adequate for the needs of the individual.

Background: The Center for Gun Policy and Research at the Johns Hopkins Bloomberg School of Public Health estimates that more than 31,000 people a year in the United States die from gunshot wounds. In addition, in 2010, approximately 337,960 nonfatal violent crimes were committed with guns, with 73,505 persons treated in hospital emergency rooms for nonfatal gunshot wounds. A two-day, January 2013 *Gun Policy Summit* at the Bloomberg School, with participation from scientists and researchers from several disciplines, was held in Baltimore City. A report of this symposium is scheduled to be released in early 2013.

Chapter 131 of 2012 (HB 618) established a Task Force to Study Access of Individuals with Mental Illness to Regulated Firearms, with three specified areas of concern to consider. The task force is staffed by the Governor's Office of Crime Control and

Prevention and filed its report of findings and recommendations on December 31, 2012. The task force established three workgroups and assigned them specified tasks.

- The first workgroup studied the adequacy of State laws and policies relating to the access of law enforcement officers to mental health records and whether, and to what extent, the State should expand access of law enforcement officers to certain mental health records.
- The second workgroup studied whether existing statutory and regulatory provisions adequately protect the public, as well as the civil rights of individuals with mental illness.
- The third workgroup studied the adequacy of State laws and policies relating to the access of individuals with a history of mental illness to all regulated firearms.

The task force report has seven findings, with nine recommendations. The recommendations include the need for additional research, additional mandated reporting by mental health professionals and law enforcement, mandatory firearm seizures under certain circumstances, additional training for law enforcement personnel and mental health professionals, expansion of crisis intervention teams, changes in funding allocations for continuing education and local jurisdictions, and the establishment of a process for full restoration of firearms possession and purchasing rights in accordance with specified federal standards. The detailed findings and recommendations of the task force are contained in the full task force report, which can be found online at: <http://www.goccp.maryland.gov/legislation/guns-mental-illness-task-force.php>.

For more information on federal and state laws relating to the possession of a firearm by the mentally ill, see **Appendix – Laws Relating to Possession of a Firearm by the Mentally Ill**.

State Expenditures: General fund expenditures increase by \$715,433 in fiscal 2014 for equipment, programming, and other activities within several agencies. As described below, this estimate includes \$145,000 in one-time programming and related costs for DPSCS, \$432,593 in mostly ongoing costs (including permanent staffing) for DHMH, and \$137,840 in one-time programming costs for the Judiciary.

Department of Public Safety and Correctional Services

The bill impacts the workload of CJIS as operated by the Information Technology and Communication Division of DPSCS primarily due to reprogramming needs, including secure data storage costs. The bill requires that a court and mental health care facilities report certain information via a secure data portal approved by DPSCS. Costs to

establish such portals are estimated at \$145,000 (for programming and the purchase of a secure server). This estimate assumes a vendor contract for 700 hours to provide programming services at a rate of \$150 per hour.

Accordingly, assuming all programming and related costs for DPSCS occur in fiscal 2014, one-time costs for DPSCS are estimated at \$145,000 in fiscal 2014.

Department of Health and Mental Hygiene

General fund expenditures increase for the Mental Hygiene Administration (MHA) within DHMH by \$432,593 in fiscal 2014, which accounts for the bill's October 1, 2013 effective date. This estimate reflects the cost of hiring one senior program manager, one administrator, one computer specialist, one office secretary, and two contractual evaluators to maintain a database of mental health care patients affected under the bill, process information, attend evaluation hearings and challenges, work with DSP, and provide staff training. It includes salaries, fringe benefits, contractual salaries and benefits, one-time start-up costs, and ongoing operating expenses.

Positions (Permanent and Contractual)	6
Salaries and Fringe Benefits	\$304,435
Contractual Salaries and Benefits	81,945
Additional Equipment	19,775
Fixed Charges	12,600
Other Operating Expenses	<u>13,838</u>
Total DHMH FY 2014 State Expenditures	\$432,593

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

The Department of Legislative Services (DLS) notes that State-run adult psychiatric facilities that continue to operate under MHA include Clifton T. Perkins Hospital Center, Eastern Shore Hospital Center, Springfield Hospital Center, Spring Grove Hospital Center, and Thomas B. Finan Hospital Center, plus two child/juvenile facilities. There are fewer than 3,800 admissions to State and private mental health care facilities statewide annually. Of that number, about 1,000 (many of whom have been referred to the facility via a court proceeding) are admitted to State-operated facilities.

Judiciary

Under the bill, a court is required to report the name and identifying information of specified persons and the date of the applicable determination or finding promptly to NICS through a secure data portal approved by DPSCS. It is estimated that

implementing appropriate programming changes requires at least 2,304 hours at an approximate cost of \$137,840 for the Judiciary, not including costs to create and maintain the secure portal, which are assumed by DPSCS.

Office of Administrative Hearings

The Office of Administrative Hearings advises that any additional hearings resulting from the bill can likely be handled with existing budgeted resources, including any potential additional travel costs.

Department of State Police

DSP did not respond to requests for information for purposes of this fiscal and policy note. DLS notes that DSP may incur additional responsibilities associated with assessing the eligibility of currently licensed dealers to retain their licenses under the bill but assumes that DSP can handle these responsibilities with existing budgeted resources. Moreover, DLS assumes that the number of licensees (and fee revenues) is not materially affected.

Programming Costs, Generally

Finally, DLS advises that, if other legislation is passed requiring computer reprogramming changes, economies of scale could be realized, thereby reducing the costs associated with this bill and other legislation affecting any or all of the agencies mentioned above.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Carroll, Cecil, Harford, Montgomery, Queen Anne's, and St. Mary's counties; Department of Health and Mental Hygiene; Judiciary (Administrative Office of the Courts); Office of Administrative Hearings; Department of Public Safety and Correctional Services; Department of Veterans Affairs; The Johns Hopkins University; Department of Legislative Services

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Appendix – Laws Relating to Possession of a Firearm by the Mentally Ill

Federal Law

Under 18 U.S.C. § 922(d), it is unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person has been adjudicated as a mental defective or has been committed to any mental institution.

State Laws

Arizona	Ariz. Rev. Stat. §§ 13-3101 - 02, 13-925	A person may not possess a firearm if found to constitute a danger to themselves or others pursuant to court order under § 36-540, and whose right to possess a firearm has not been restored pursuant to § 13-925.
Arkansas	Ark. Code § 5-73-103	A person may not possess or own any firearm if the person has been: <ul style="list-style-type: none"> • adjudicated mentally ill; or • committed involuntarily to any mental institution.
California	Cal. Welfare and Inst. Code §§ 8100 - 8108	A person may not possess, purchase, receive, attempt to purchase or receive, or have control or custody of any firearm if the person: <ul style="list-style-type: none"> • is receiving in-patient treatment for a mental illness at a mental health facility and the attending professional opines that the patient is a danger to self or others. The prohibition applies even if the person has consented to the treatment, and ends when the patient is discharged; • has been adjudicated to be a danger to others as a result of a mental disorder or mental illness or has been adjudicated to be a mentally disordered sex offender. The prohibition does not apply, if the court issues, upon release, a certificate stating that the person may possess a firearm without endangering others; • has been found not guilty by reason of insanity of enumerated violent felonies. A person who is found not guilty by reason of insanity of other crimes is barred from possessing firearms unless a court finds that the person has recovered sanity; • has been found mentally incompetent to stand trial, unless there is a subsequent finding that the person has become competent; or • is currently under a court-ordered conservatorship because the person is gravely disabled as a result of a mental disorder or impaired by chronic alcoholism.

		A person may not possess, have custody or control, or purchase or receive, or attempt to purchase or receive, any firearms or any other deadly weapon for a period of six months whenever the person communicates to a licensed psychotherapist a serious threat of physical violence against a reasonably identifiable victim(s). Licensed psychotherapists are required to immediately report to a local law enforcement agency the identity of such a person [see § 8105(c)].
Connecticut	Conn. Gen. Stat. § 53a-217c	A person may not obtain a handgun eligibility certificate if the person: <ul style="list-style-type: none"> • has been discharged from custody within the preceding 20 years after having been found not guilty of a crime due to mental disease or defect pursuant to § 53a-13; • has been confined in a mental hospital for persons with psychiatric disabilities within the preceding 12 months by order of a probate court.
Delaware	Del. Code Title 11, § 1448	A person may not purchase, own, possess, or control a firearm or ammunition if the person was ever committed for a mental disorder to any hospital, mental institution, or sanitarium, unless the person possesses a certificate from a medical doctor or psychiatrist licensed in Delaware stating that the person is no longer suffering from a mental disorder which interferes or handicaps the person from handling deadly weapons.
District of Columbia	D.C. Code § 7-2502.03	An applicant for a firearms registration certificate must pass a background check conducted by the Chief of Police (in addition to the NICS check required under <i>Brady</i> when purchasing from a federally licensed dealer). Section 7-2502.03 requires that the chief confirm that the applicant within the five years immediately preceding the application: <ul style="list-style-type: none"> • has not been acquitted of any criminal charge by reason of insanity or has not been adjudicated a chronic alcoholic by any court; or • has not been voluntarily or involuntarily committed to any mental hospital or institution.
Florida	Fla. Stat. § 790.065 and § 790.06	Florida follows federal law regarding gun sales, but will not issue a license to carry a concealed weapon if the applicant has been committed to a mental institution under Chapter 394, or similar laws of any other state, unless the applicant produces a certificate from a licensed psychiatrist stating that the person has not suffered from disability for at least five years prior to the date of the application.

Georgia	Ga. Code § 16-11-129	A person may not be issued a license to carry a firearm if the person has been hospitalized as an inpatient in any mental hospital or alcohol or drug treatment center within five years of the application date.
Hawaii	Haw. Rev. Stat. § 134-7	<p>A person may not own, possess, or control any firearm or ammunition if the person:</p> <ul style="list-style-type: none"> • has been acquitted of a crime on the grounds of mental disease, disorder, or defect; or is or has been diagnosed as having a significant behavioral, emotional, or mental disorder, or for treatment for organic brain syndromes; • is a minor who (1) is or has been under treatment for addiction to any dangerous drug, intoxicating compound, or intoxicating liquor or (2) has been determined not to have been responsible for a criminal act or has been committed to any institution on account of a mental disease, disorder, or defect; or • is or has been diagnosed as having a significant behavioral, emotional, or mental disorder as defined by the most current diagnostic manual of the American Psychiatric Association or for treatment for organic brain syndromes. <p>An exception exists if the person has been medically documented to be no longer adversely affected by the addiction, abuse, dependence, mental disease, disorder, or defect.</p>
Idaho	Idaho Code § 18-3302(1)	<p>A license to carry a concealed weapon <u>must</u> be issued to an applicant <i>unless</i> the person is currently suffering, or has been adjudicated as, based on substantial evidence as:</p> <ul style="list-style-type: none"> • lacking mental capacity, per Idaho Code Ann. § 18-210; • mentally ill, per § 66-317; • gravely disabled, per § 66-317; or • an incapacitated person, per § 15-5-101(a).
Illinois	Ill. Rev. Stat. Ch. 720, § 5/24-3.1	<p>A person commits the offense of unlawful possession of firearms or firearm ammunition when the person:</p> <ul style="list-style-type: none"> • has been a patient in a mental hospital within the past five years and possesses any firearms or firearm ammunition; or • is mentally retarded and possesses any firearms or firearm ammunition.
Indiana	Ind. Code § 35-47-2-7	A person may not transfer a handgun to an individual who the person has reasonable cause to believe is mentally incompetent.

Iowa	Iowa Code § 724.15	Any person who acquires ownership of any pistol or revolver must first obtain an annual permit. An annual permit must be issued to any person unless prohibited by federal law from shipping, transporting, possessing, or receiving a firearm.
Kansas	Kans. Stat. § 21-4204	A person may not possess a firearm if the person is or has been a mentally ill person subject to involuntary commitment for care and treatment as defined in § 59-2946, or a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment as defined in § 59-29B46, unless the person has received a “certificate of restoration.”
Louisiana	La. Rev. Stat. § 40:1379.3	A carry permit may not be issued to a person who: <ul style="list-style-type: none"> • suffers from “mental or physical infirmity due to disease, illness, or retardation” which prevents the safe handling of a handgun; • has been adjudicated to be mentally deficient or has been committed to a mental institution.
Maine	Me. Rev. Stat. Title 15, § 393	A person may not own, possess, or have under that person’s control a firearm if the person has been convicted of committing, or found not criminally responsible by reason of insanity of committing certain enumerated crimes.
Maryland	Md. Pub. Safety Code § 5-133	A person may not possess a regulated firearm if the person: <ul style="list-style-type: none"> • suffers from a mental disorder as defined in § 10-101(f)(2) of the Health-General Article and has a history of violent behavior against the person or another, unless the person has a physician’s certificate that the person is capable of possessing a regulated firearm without undue danger to the person or to another; or • has been confined for more than 30 consecutive days to a facility as defined in § 10-101 of the Health-General Article, unless the person has a physician’s certificate that the person is capable of possessing a regulated firearm without undue danger to the person or to another.
Massachusetts	Mass. Gen. Laws Ch. 140, § 131	A Class A or B license to carry a firearm may be issued if the applicant has been confined to any hospital or institution for mental illness, unless the applicant submits a physician’s affidavit attesting that the person is familiar with the applicant and that the applicant is not disabled by such an illness in a manner that would prevent the person from possessing a firearm.

Michigan	Mich. Comp. Laws § 28.422	A person may not purchase, carry, possess, or transport a pistol without a license to do so. A person may qualify for a license if the person has not been adjudged insane or legally incapacitated and is not under an order of involuntary commitment in an inpatient or outpatient setting due to mental illness.
Minnesota	Minn. Stat. § 624.713	A person may not possess a firearm if the person: <ul style="list-style-type: none"> • is, or has ever been, confined to a treatment facility as a person who is mentally ill, mentally retarded, or mentally ill and dangerous to the public; or • has ever been found incompetent to stand trial or not guilty by reason of mental illness, unless there is satisfactory proof that the person no longer suffers from this disability.
Mississippi	Miss. Stat. Rev. § 45-9-101	A license to carry concealed handguns <u>must</u> be issued by the Department of Public Safety, pursuant to § 45-9-101(2), if the applicant: <ul style="list-style-type: none"> • has not been adjudicated mentally incompetent, or has waited five years from the date of restoration of mental capacity by court order; • has not been voluntarily or involuntarily committed to a mental institution or mental health treatment facility unless the person possesses a certificate from a psychiatrist licensed in Mississippi stating that the person has not suffered from disability for a period of five years.
Missouri	Mo. Rev. Stat. § 571.070	A person commits the crime of unlawful possession of a firearm if such person knowingly has any firearm in his or her possession and is currently adjudged as mentally incompetent.
Montana	Mont. Code § 45-8-321	A permit to carry a concealed weapon may be denied to a person who has been adjudicated in any state or federal court to be mentally ill, defective, or disabled, and remains subject to a disposition order.
Nebraska	Neb. Rev. Stat. § 69-2433	An applicant for a permit to carry a concealed handgun must not have been found in the previous 10 years to be a mentally ill and dangerous person and not be currently adjudged mentally incompetent.
Nevada	Nev. Rev. Stat. § 202.360	A person may not own or possess a firearm if the person has been adjudicated mentally ill or has been committed to any mental health facility.
New Jersey	N.J. Rev. Stat. § 2c:58-3	A person may not be issued a handgun purchase permit or firearms purchaser identification card if the person: <ul style="list-style-type: none"> • is confined for a mental disorder to a hospital, mental institution or sanitarium, or is presently an habitual drunkard;

		<ul style="list-style-type: none"> has ever been confined for a mental disorder, or is an alcoholic unless producing a certificate of a medical doctor or psychiatrist licensed in New Jersey, or other satisfactory proof, that the person is no longer suffering from that particular disability in such a manner that would interfere with or handicap the person in the handling of firearms.
New Mexico	N.M. Stat. § 29-19-4	The New Mexico Department of Public Safety must issue a license to an applicant who has not been adjudicated mentally incompetent or committed to a mental institution.
New York	N.Y. Pen. Law § 400.00; Mental Health Law Art. 9, 10 & 15; Crim. Proc. Law Art. 730, § 330.20; Corr. Law §§ 402 & 508; Fam. Ct. Act §§ 322.2 & 353.4	<p>No person may be issued a license to carry, possess, or dispose of a firearm unless the person:</p> <ul style="list-style-type: none"> has stated whether they have ever suffered any mental illness; has not been involuntarily committed to a facility under the jurisdiction of an office of the Department of Mental Hygiene in accordance with state law; or has not been civilly confined in a secure treatment facility.
North Carolina	N.C. Gen. Stat. § 14-404	A person may not obtain a permit to purchase a handgun if the person has been adjudicated mentally incompetent or has been committed to a mental institution.
North Dakota	N.D. Cent. Code § 62.1-02	A person who is or has ever been diagnosed and confined or committed to a hospital or other institution in North Dakota or elsewhere by a court of competent jurisdiction, other than a person who has had the petition that provided the basis for the diagnosis, confinement, or commitment dismissed under § 25-03.1-17, 25-03.1-18, or 25-03.1-19, or equivalent statutes of another jurisdiction, as a mentally ill person as defined in § 25 03.1-02, or as a mentally deficient person as defined in § 25-01-01, is prohibited from purchasing a firearm or having one in possession or under control. This limitation does not apply to a person who has not suffered from the disability for the previous three years.
Ohio	Ohio Rev. Stat. § 2923.125	A person may not acquire, possess, carry, or use any firearm if the person is under adjudication for mental incompetence, has been adjudicated as a mental defective, is committed to a mental institution, has been found to be mentally ill subject to hospitalization by court order, or is an involuntary mentally ill patient.
Oklahoma	Okla. Stat. § 21-1289.10	A person may not knowingly transfer a firearm to a mentally or emotionally unbalanced person.
Oregon	O.R.S. § 166.250	<p>A person may not possess a firearm if the person:</p> <ul style="list-style-type: none"> was committed to the Oregon Health Authority under ORS 426.130;

		<ul style="list-style-type: none"> • was found to be mentally ill and subject to an order under ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of that mental illness; or • has been found guilty except for insanity under ORS 161.295 of a felony.
Pennsylvania	Pa. Con Stat. Title 18, § 6105(c)	A person may not possess a firearm if ever having been adjudicated as incompetent or involuntarily committed to a mental institution.
Rhode Island	R.I. Gen. Laws § 11-47-6	A person who is under guardianship or treatment or confinement by virtue of being a mental incompetent, ... may not purchase, own, carry, transport, or possess or personally control any firearm. Any person affected by these provisions, other than a person who has been pronounced criminally insane by competent medical authority, after the lapse of a period of five years from the date of being pronounced cured by competent medical authority, may, upon presentation of an affidavit issued by competent medical authority to the effect that the person is a mentally stable person and a proper person to possess firearms, make application for the purchase of the firearm(s).
South Carolina	S.C. Code §§ 16-23-30, 44-23-1080	A person may not possess or acquire a handgun if the person has been adjudicated mentally incompetent. In addition, patients and prisoners under the jurisdiction of the South Carolina Department of Mental Health may not have access to firearms.
South Dakota	S.D. Codified Laws § 23-7-7.1	The sheriff of the county in which the applicant resides <u>must</u> issue a permit to carry a concealed weapon if the applicant has not been found in the previous 10 years to be a “danger to others” or a “danger to self” as defined in § 27A-1-1, or is not currently adjudged mentally incompetent.
Tennessee	Tenn. Code Ann. § 39-17-1351	A carry permit may not be issued to any person who has been adjudicated as a mental defective; has not been judicially committed to or hospitalized in a mental institution pursuant to Title 33; has not had a court appoint a conservator for the applicant by reason of a mental defect; has not been judicially determined to be disabled by reason of mental illness, developmental disability, or other mental incapacity; and has not, within seven years from the date of application, been found by a court to pose an immediate substantial likelihood of serious harm, as defined in Title 33, Chapter 6, Part 5, because of mental illness.
Texas	Tex. Gov’t Code § 411.172	A person is ineligible for a license to carry a concealed weapon if the person:

		<ul style="list-style-type: none"> • has been diagnosed by a licensed physician as suffering from a psychiatric disorder or condition that causes or is likely to cause substantial impairment in judgment, mood, perception, impulse control, or intellectual ability; • suffers from a psychiatric disorder or condition described above that (1) is in remission but is reasonably likely to redevelop at a future time or (2) requires continuous medical treatment to avoid redevelopment; • has been diagnosed by a licensed physician, determined by a review board or similar authority, or declared by a court to be incompetent to manage the person’s own affairs; or • has entered in a criminal proceeding a plea of not guilty by reason of insanity. <p>The following constitutes evidence that a person has a psychiatric disorder or condition described above:</p> <p>(1) involuntary psychiatric hospitalization;</p> <p>(2) psychiatric hospitalization;</p> <p>(3) inpatient or residential substance abuse treatment in the preceding five-year period;</p> <p>(4) diagnosis in the preceding five-year period by a licensed physician that the person is dependent on alcohol, a controlled substance, or a similar substance; or</p> <p>(5) diagnosis at any time by a licensed physician that the person suffers or has suffered from a psychiatric disorder or condition consisting of or relating to:</p> <p>(a) schizophrenia or delusional disorder;</p> <p>(b) bipolar disorder;</p> <p>(c) chronic dementia, whether caused by illness, brain defect, or brain injury;</p> <p>(d) dissociative identity disorder;</p> <p>(e) intermittent explosive disorder; or</p> <p>(f) antisocial personality disorder.</p>
Utah	Utah Code § 53-5-704	A person 21 or older may be issued a permit to carry a concealed firearm for lawful self defense, unless the person has been adjudicated by a state or federal court as mentally incompetent (unless the adjudication has been withdrawn or reversed).
Virginia	Va. Code §§ 18.2-308.1:2-:3	<p>A person is prohibited from the:</p> <ul style="list-style-type: none"> • purchase, possession, or transportation of any firearm by any person adjudicated “legally incompetent,” “mentally incapacitated,” or “incapacitated,” whose competency or capacity has not been restored; and

		<ul style="list-style-type: none"> • purchase, possession, or transportation of a firearm by a person who has been involuntarily committed, during the period of commitment.
Washington	Wash. Rev. Code § 9.41.040	A person may not own, possess, or have in their control any firearm, if that person has been involuntarily committed for mental health treatment and their right to own a firearm has not been restored.
West Virginia	W. Va. Code § 61-7-7	A person may not possess a firearm if the person has been adjudicated as a mental defective or has been involuntarily committed to a mental institution.
Wisconsin	Wis. Stat. § 941.29	<p>Any handgun transfer may not be approved if the recipient has been:</p> <ul style="list-style-type: none"> • found not guilty of a felony in Wisconsin by reason of mental disease or defect; • found not guilty or not responsible for a crime elsewhere that would be a felony in Wisconsin by reason of insanity or mental disease, defect, or illness; or • committed to a treatment facility (because the individual is mentally ill, drug dependent, or developmentally disabled) and ordered not to possess a firearm.
Wyoming	Wyo. Stat. § 6-8-404	<p>To possess a personal firearm, a firearm accessory, or ammunition that is manufactured commercially or privately in Wyoming and that remains exclusively within the borders of Wyoming, a person must not:</p> <ul style="list-style-type: none"> • currently be adjudicated to be legally incompetent; and • have been committed to a mental institution.

Source: National Conference of State Legislatures, January 2013
