

1 S.94

2 Introduced by Senators Sears, Ashe, Benning, Campbell, Hartwell, Kitchel,

3 McAllister, Nitka, and Starr

4 Referred to Committee on

5 Date:

6 Subject: Criminal procedures; firearms; Department of Mental Health

7 reporting

8 Statement of purpose of bill as introduced: This bill proposes to require the
9 Department of Mental Health to report to the National Instant Criminal
10 Background Check System established by the Brady Handgun Violence
11 Prevention Act of 1993 when a person is subject to a hospitalization order or
12 nonhospitalization order as the result of a mental illness which causes the
13 person to be a danger to him- or herself or others or when a person is found not
14 guilty of a crime by reason of insanity or incompetent to stand trial due to a
15 mental illness.

16 An act relating to reporting dangerous and mentally ill persons to the
17 National Instant Criminal Background Check System

18 It is hereby enacted by the General Assembly of the State of Vermont:

1 Sec. 1. 13 V.S.A. § 4822 is amended to read:

2 § 4822. FINDINGS AND ORDER; MENTALLY ILL PERSONS

3 (a) If the court finds that such person is a person in need of treatment or a
4 patient in need of further treatment as defined in 18 V.S.A. § 7101;

5 (1) ~~the~~ The court shall issue an order of commitment directed to the
6 ~~commissioner of developmental and mental health services~~ Commissioner of
7 Mental Health, which shall admit the person to the care and custody of the
8 ~~department of developmental and mental health services~~ Department of Mental
9 Health for an indeterminate period. In any case involving personal injury or
10 threat of personal injury, the committing court may issue an order requiring a
11 court hearing before a person committed under this section may be discharged
12 from custody.

13 (2) The Commissioner of Mental Health shall report the name of the
14 person subject to the order to the National Instant Criminal Background Check
15 System, established by Section 103 of the Brady Handgun Violence Prevention
16 Act of 1993, at the FBI Criminal Justice Information Services Division. The
17 report shall only include the person's name, the reason for the report, and a
18 statement that the report is made in accordance with 18 U.S.C. § 922(g)(4).

19 * * *

1 Sec. 2. 18 V.S.A. § 7103 is amended to read:

2 § 7103. DISCLOSURE OF INFORMATION

3 (a) All certificates, applications, records, and reports, other than an order of
4 a court made for the purposes of this part of this title, and directly or indirectly
5 identifying a patient or former patient or an individual whose hospitalization or
6 care has been sought or provided under this part, together with clinical
7 information relating to such persons shall be kept confidential and shall not be
8 disclosed by any person except insofar:

9 (1) as the individual identified, the individual's health care agent under
10 section 5264 of this title, or the individual's legal guardian, if any (or, if the
11 individual is an unemancipated minor, his or her parent or legal guardian),
12 shall consent in writing; ~~or~~

13 (2) as disclosure may be necessary to carry out any of the provisions of
14 this part; ~~or~~

15 (3) as a court may direct upon its determination that disclosure is
16 necessary for the conduct of proceedings before it and that failure to make
17 disclosure would be contrary to the public interest; or

18 (4) as the disclosure is made pursuant to section 7619a of this title or
19 13 V.S.A. § 4822(a)(2).

20 * * *

1 Sec. 3. 18 V.S.A. § 7619a is added to read:

2 § 7619a. REPORTING; NATIONAL INSTANT CRIMINAL

3 BACKGROUND CHECK SYSTEM

4 If the court issues a nonhospitalization order pursuant to section 7618 of
5 this title or a hospitalization order pursuant to section 7619 of this title, the
6 Commissioner shall report the name of the person subject to the order to the
7 National Instant Criminal Background Check System, established by
8 Section 103 of the Brady Handgun Violence Prevention Act of 1993, at the
9 FBI Criminal Justice Information Services Division. The report shall only
10 include the person's name, the reason for the report, and a statement that the
11 report is made in accordance with 18 U.S.C. § 922(g)(4).

12 Sec. 4. EFFECTIVE DATE

13 This act shall take effect on July 1, 2013.