

1 AN ACT

2 RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;  
3 ALLOWING THE SECRETARY OF PUBLIC SAFETY TO MANAGE A  
4 COMPREHENSIVE CRIMINAL RECORDS DATABASE; REQUIRING THE  
5 ADMINISTRATIVE OFFICE OF THE COURTS AND OTHERS TO REPORT  
6 COURT PROCEEDINGS, ADJUDICATIONS AND REDETERMINATIONS  
7 RELATING TO THE ELIGIBILITY OF A PERSON TO RECEIVE OR POSSESS  
8 A FIREARM OR AMMUNITION OR TO OBTAIN A CONCEALED HANDGUN  
9 LICENSE TO THE FEDERAL BUREAU OF INVESTIGATION'S NATIONAL  
10 INSTANT CRIMINAL BACKGROUND CHECK SYSTEM; PROVIDING FOR A  
11 RIGHT TO INSPECT AND CORRECT RECORDS; REQUIRING RULEMAKING.

12  
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

14 SECTION 1. A new section of the Department of Public  
15 Safety Act is enacted to read:

16 "SECRETARY--POWER TO MANAGE A CRIMINAL RECORDS  
17 DATABASE.--The secretary may create, access, maintain and  
18 otherwise manage a criminal records database that merges  
19 criminal records data from multiple databases and gives  
20 courts and law enforcement agencies access to comprehensive  
21 criminal background records of criminal suspects and  
22 defendants."

23 SECTION 2. A new section of Chapter 34, Article 9 NMSA  
24 1978 is enacted to read:

25 "REPORTING TO THE NATIONAL INSTANT CRIMINAL BACKGROUND

1 CHECK SYSTEM.--

2 A. In any circumstance other than that described  
3 in Subsection B of this section, the administrative office of  
4 the courts shall obtain and electronically transmit  
5 information from court proceedings relating to a person's  
6 eligibility to receive or possess a firearm or ammunition  
7 pursuant to state or federal law to the federal bureau of  
8 investigation's national instant criminal background check  
9 system. The administrative office of the courts shall also  
10 be responsible for notifying, as soon as practicable within  
11 ten days of receipt of the information, the federal bureau of  
12 investigation to update, correct, modify or remove  
13 information affecting a person's eligibility to receive or  
14 possess a firearm or ammunition pursuant to state or federal  
15 law in the national instant criminal background check system.

16 B. The administrative office of the courts shall  
17 electronically transmit information about a court order,  
18 judgment or verdict to the federal bureau of investigation  
19 for entry into the national instant criminal background check  
20 system regarding each person who has been adjudicated as a  
21 mental defective or committed to a mental institution and is  
22 therefore, pursuant to federal law, disabled from receiving  
23 or possessing a firearm or ammunition.

24 C. Upon entry of a court order, judgment or  
25 verdict referred to in Subsection B of this section, the

1 administrative office of the courts shall transmit to the  
2 federal bureau of investigation only that information  
3 necessary to identify the person for the sole purpose of  
4 inclusion in the national instant criminal background check  
5 system. The administrative office of the courts, consistent  
6 with rules promulgated pursuant to Subsection L of this  
7 section, shall also notify the person that, as an adjudicated  
8 mental defective or as a person committed to a mental  
9 institution, the person is disabled pursuant to federal law  
10 from receiving or possessing a firearm or ammunition.

11 D. A person who has been adjudicated as a mental  
12 defective or committed to a mental institution and is  
13 therefore, pursuant to federal law, disabled from receiving  
14 or possessing a firearm or ammunition or, pursuant to state  
15 law, is ineligible for a concealed handgun license may  
16 petition the court that originated the order, judgment or  
17 verdict or another court of competent jurisdiction to remove  
18 that person's firearm-related disabilities and restore the  
19 person's right to receive and possess a firearm and  
20 ammunition and the right to be eligible for a concealed  
21 handgun license. A copy of the petition seeking relief from  
22 disabilities shall be served upon the office of the attorney  
23 general and upon all parties to the proceeding resulting in a  
24 court order, judgment or verdict described in Subsection B of  
25 this section.

1           E. The court shall conduct a hearing and receive  
2 and consider evidence on a petition for relief described in  
3 Subsection D of this section, including evidence offered by  
4 the petitioner, concerning:

5                   (1) the circumstances regarding the firearm  
6 disabilities from which relief is sought;

7                   (2) the petitioner's mental health and  
8 criminal history records, if any;

9                   (3) the petitioner's reputation, developed,  
10 at a minimum, through character witness statements, testimony  
11 or other character evidence; and

12                   (4) changes in the petitioner's condition or  
13 circumstances since the original court order, judgment or  
14 verdict that are relevant to the relief sought.

15           F. After conducting a hearing on the petition, the  
16 court shall grant the petition for relief from the disability  
17 reported pursuant to Subsection B of this section if the  
18 court finds by a preponderance of the evidence that the  
19 petitioner will not be likely to act in a manner dangerous to  
20 public safety and that granting the relief will not be  
21 contrary to the public interest.

22           G. A record shall be kept of the proceedings held  
23 pursuant to Subsection E of this section. The decision of  
24 the court may be appealed.

25           H. Regardless of whether an earlier decision has

1 been appealed, a person may petition for relief pursuant to  
2 Subsection D of this section not more than once every two  
3 years and, in the case of a person who was committed to a  
4 mental institution, not before the person has been discharged  
5 from that commitment.

6 I. Upon the entry of a court order granting relief  
7 from disabilities pursuant to Subsection F of this section,  
8 and as soon as practicable within ten days of receipt of the  
9 court order granting relief, the administrative office of the  
10 courts and any other state agency as applicable shall each be  
11 separately responsible for updating, correcting, modifying or  
12 removing the petitioner's record from their own databases  
13 that they make available to the national instant criminal  
14 background check system and each shall promptly notify the  
15 United States attorney general for the purpose of reporting  
16 to the national instant criminal background check system that  
17 the basis for the petitioner being disabled pursuant to  
18 federal law from receiving or possessing a firearm or  
19 ammunition no longer applies.

20 J. The administrative office of the courts is  
21 prohibited from disclosing information regarding a court  
22 order, judgment or verdict referred to in Subsection B of  
23 this section or regarding a petitioner or proceedings under  
24 this section, except as otherwise provided by law.

25 Information compiled and transmitted under this section is

1 not a public record and is not subject to disclosure pursuant  
2 to the Inspection of Public Records Act.

3 K. A person who is the subject of information  
4 compiled or transmitted by the administrative office of the  
5 courts pursuant to this section, or the person's authorized  
6 representative, has a right to obtain, inspect and correct  
7 information compiled or transmitted.

8 L. The administrative office of the courts shall  
9 promulgate rules relating to the inspection and correction of  
10 information contained in its records and relating to the  
11 transmission of corrected information by the office for  
12 inclusion in the national instant criminal background check  
13 system database and other rules as necessary to implement the  
14 provisions of this section.

15 M. As used in this section, the terms "adjudicated  
16 as a mental defective" and "committed to a mental institution"  
17 have the same meaning as those terms are defined in federal  
18 regulations at 27 C.F.R. Section 478.11, as amended or  
19 renumbered." \_\_\_\_\_

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