

CHAPTER 268

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 21-1298

BY REPRESENTATIVE(S) Amabile and Woodrow, McCormick, Bacon, Benavidez, Bennett, Bird, Boesenecker, Caraveo, Cutter, Daugherty, Duran, Exum, Froelich, Gonzales-Gutierrez, Gray, Herod, Hooton, Jackson, Jodeh, Kennedy, Kipp, Lontine, McCluskie, Michaelson Jenet, Mullica, Ortiz, Ricks, Sirota, Snyder, Sullivan, Tipper, Titone, Valdez A., Weissman, Garnett, Valdez D.;

also SENATOR(S) Gonzales and Pettersen, Bridges, Buckner, Danielson, Fenberg, Fields, Ginal, Jaquez Lewis, Kolker, Lee, Moreno, Story, Winter, Zenzinger.

AN ACT

CONCERNING THE CONDITIONS UNDER WHICH A FIREARM TRANSFER MAY BE PROHIBITED FOLLOWING A BACKGROUND CHECK, AND, IN CONNECTION THEREWITH, REQUIRING APPROVAL OF A FIREARM TRANSFER PRIOR TO A TRANSFER BY A LICENSED DEALER, ESTABLISHING GROUNDS FOR DENYING A TRANSFER, AND CLARIFYING THE PROCESS TO APPEAL A DENIED TRANSFER.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** 18-12-112.5 as follows:

18-12-112.5. Firearms transfers by licensed dealers - background check required - penalty - definitions. (1) (a) IT IS UNLAWFUL FOR A LICENSED GUN DEALER TO TRANSFER A FIREARM TO A TRANSFEREE UNTIL THE DEALER HAS OBTAINED APPROVAL FOR THE FIREARMS TRANSFER FROM THE BUREAU AFTER THE BUREAU HAS COMPLETED ANY BACKGROUND CHECK REQUIRED BY STATE OR FEDERAL LAW.

(b) TRANSFERRING A FIREARM IN VIOLATION OF THIS SUBSECTION (1) IS A CLASS 1 MISDEMEANOR.

(2) THIS SECTION DOES NOT APPLY TO THE SALE OF AN ANTIQUE FIREARM, AS DEFINED IN 18 U.S.C. SEC. 921(a)(16), AS AMENDED, OR A CURIO OR RELIC, AS DEFINED IN 27 CFR 478.11, AS AMENDED.

(3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(a) "LICENSED GUN DEALER" HAS THE SAME MEANING SET FORTH IN SECTION 18-12-506.

(b) "TRANSFER" HAS THE SAME MEANING SET FORTH IN SECTION 24-33.5-424.

SECTION 2. In Colorado Revised Statutes, 24-33.5-424, **amend** (5)(b) introductory portion and (5)(b)(II); **repeal** (5)(c); and **add** (3)(b.3) and (3)(b.5) and as follows:

24-33.5-424. National instant criminal background check system - state point of contact - fee - grounds for denial of firearm transfer - appeal - rule-making - unlawful acts - instant criminal background check cash fund - creation.

(3) (b.3) IN ADDITION TO THE GROUNDS FOR DENIAL SPECIFIED IN SUBSECTIONS (3)(a) AND (3)(b) OF THIS SECTION, THE BUREAU SHALL DENY A TRANSFER OF A FIREARM IF THE PROSPECTIVE TRANSFEREE HAS BEEN CONVICTED OF ANY OF THE FOLLOWING OFFENSES COMMITTED ON OR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (3)(b.3), IF THE OFFENSE IS CLASSIFIED AS A MISDEMEANOR, OR IF THE PROSPECTIVE TRANSFEREE HAS BEEN CONVICTED IN ANOTHER STATE OR JURISDICTION, INCLUDING A MILITARY OR FEDERAL JURISDICTION, OF AN OFFENSE THAT, IF COMMITTED IN COLORADO, WOULD CONSTITUTE ANY OF THE FOLLOWING OFFENSES CLASSIFIED AS A MISDEMEANOR OFFENSE, WITHIN FIVE YEARS PRIOR TO THE TRANSFER:

(I) ASSAULT IN THE THIRD DEGREE, AS DESCRIBED IN SECTION 18-3-204;

(II) SEXUAL ASSAULT, AS DESCRIBED IN SECTION 18-3-402 (1)(e);

(III) UNLAWFUL SEXUAL CONTACT, AS DESCRIBED IN SECTION 18-3-404;

(IV) CHILD ABUSE, AS DESCRIBED IN SECTION 18-6-401;

(V) VIOLATION OF A PROTECTION ORDER, AS DESCRIBED IN SECTION 18-6-803.5 (1)(a) AND (1)(c)(I);

(VI) A CRIME AGAINST AN AT-RISK PERSON, AS DESCRIBED IN SECTION 18-6.5-103;

(VII) HARASSMENT, AS DESCRIBED IN SECTION 18-9-111 (1)(a);

(VIII) A BIAS-MOTIVATED CRIME, AS DESCRIBED IN SECTION 18-9-121;

(IX) CRUELTY TO ANIMALS, AS DESCRIBED IN SECTION 18-9-202 (1)(a) AND (1.5);

(X) POSSESSION OF AN ILLEGAL WEAPON, AS DESCRIBED IN SECTION 18-12-102 (4); OR

(XI) UNLAWFULLY PROVIDING A FIREARM OTHER THAN A HANDGUN TO A JUVENILE, AS DESCRIBED IN SECTION 18-12-108.7 (3).

(b.5) THE BUREAU SHALL NOT APPROVE A TRANSFER OF A FIREARM UNTIL THE BUREAU DETERMINES THAT ITS BACKGROUND INVESTIGATION IS COMPLETE AND THAT THE TRANSFER WOULD NOT VIOLATE 18 U.S.C. SEC. 922 (g) OR (n) OR RESULT

IN THE VIOLATION OF STATE LAW.

(5) (b) Upon denial of a firearm transfer, the transferor shall provide the transferee with written information prepared by the bureau concerning the procedure by which the transferee, within thirty days after the denial, may request a review of the denial and of the instant criminal background check records that prompted the denial. Within ~~thirty~~ SIXTY days ~~of~~ AFTER receiving such a request, the bureau shall:

(II) Render a final administrative decision regarding the denial. ~~within thirty days after receiving information from the transferee that alleges the transfer was improperly denied.~~

(c) ~~In the case of any transfer denied pursuant to paragraph (b) of subsection (3) of this section, the inability of the bureau to obtain the final disposition of a case that is no longer pending shall not constitute the basis for the continued denial of the transfer.~~

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: June 19, 2021