

HB451 INTRODUCED



1 FBAT5D-1
2 By Representatives Ensler, Rafferty
3 RFD: Public Safety and Homeland Security
4 First Read: 09-May-23
5
6 2023 Regular Session



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SYNOPSIS:

Under existing law, certain persons may not purchase firearms.

This bill would create the Voluntary Alabama Firearms Do-Not-Sell List which would allow an individual to restrict his or her ability to purchase a firearm by voluntarily adding his or her name to the list when there is a fear that he or she may become a risk to himself or herself or others, without penalizing a listed person in possession of a firearm.

This bill would provide for the application of the Voluntary Alabama Firearms Do-Not-Sell List.

This bill would establish a process by which an individual may remove his or her name from the Voluntary Alabama Firearms Do-Not-Sell List.

This bill would provide certain actions that may not be taken in regard to an individual registered on the Voluntary Alabama Firearms Do-Not-Sell List.

This bill would provide penalties for certain violations.

Section 111.05 of the Constitution of Alabama of 2022, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3



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29 vote unless: it comes within one of a number of
30 specified exceptions; it is approved by the affected
31 entity; or the Legislature appropriates funds, or
32 provides a local source of revenue, to the entity for
33 the purpose.

34 The purpose or effect of this bill would be to
35 require a new or increased expenditure of local funds
36 within the meaning of the amendment. However, the bill
37 does not require approval of a local governmental
38 entity or enactment by a 2/3 vote to become effective
39 because it comes within one of the specified exceptions
40 contained in the amendment.

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A BILL

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TO BE ENTITLED

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AN ACT

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47 Relating to firearms; to create the Voluntary Alabama
48 Firearms Do-Not-Sell List; to allow an individual to
49 voluntarily add himself or herself to the list; to establish
50 procedures for an individual to be removed from the list; to
51 prohibit certain actions regarding individuals on the list; to
52 provide penalties for certain violations; and in connection
53 therewith would have as its purpose or effect the requirement
54 of a new or increased expenditure of local funds within the
55 meaning of Section 111.05 of the Constitution of Alabama of
56 2022.



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57 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

58 Section 1. (a) By June 1, 2024, the Department of
59 Mental Health shall create the Voluntary Alabama Firearms
60 Do-Not-Sell List.

61 (b) By June 1, 2024, the department shall develop and
62 distribute a paper copy form to provide a method by which any
63 individual in this state may register to add his or her name
64 to the list. The department shall also develop a similar paper
65 copy form by which a registered individual may request his or
66 her name be removed from the list. The forms shall be provided
67 at all Alabama State Law Enforcement Agency offices open to
68 the public, circuit clerk's offices, and in an easily
69 identifiable location on the department's website. The forms
70 may be submitted to the department in any of the following
71 manners:

72 (1) In person at a circuit clerk's office with a
73 government-issued photo identification. The clerk shall
74 immediately transmit any form received by him or her to the
75 department.

76 (2)a. In person at a health care provider's office with
77 a government-issued photo identification. A health care
78 provider shall immediately transmit any form received by him
79 or her to the department.

80 b. For purposes of this act, "health care provider"
81 includes any person who is licensed, certified, registered, or
82 otherwise authorized by the laws of this state to administer
83 or provide health care in the ordinary course of business or
84 in the practice of a profession.



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85 (3) By mail to the department with a copy of a
86 government-issued photo identification.

87 (4) Electronically to the department by short message
88 service or multimedia messaging service with a copy of a
89 government-issued photo identification and a photographic
90 portrait of the individual that contains exchangeable image
91 file format data proving that the photographic portrait was
92 taken within one hour prior to transmission to the department.

93 (c) (1) The department shall ensure that the
94 registration form provides each registrant with an email
95 notification option that allows registered individuals, at the
96 time of registration or thereafter, to provide one or more
97 email addresses by which to contact him or her.

98 (2) The department shall send a notification to all
99 email addresses provided if the individual subsequently seeks
100 to remove his or her name from the list.

101 (3) Providing an email address under this subsection
102 constitutes an express authorization of the use of the email
103 address for purposes of this subsection.

104 (d) (1) It shall be unlawful for an individual to
105 knowingly make a false statement or representation regarding
106 his or her identity when registering to be added to the
107 Voluntary Alabama Firearms Do-Not-Sell List.

108 (2) A violation of this subsection is a Class A
109 misdemeanor punishable by a fine of up to six thousand dollars
110 (\$6,000) or imprisonment for not more than one year, or by
111 both fine and imprisonment.

112 Section 2. (a) An individual who has registered with



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113 the Voluntary Alabama Firearms Do-Not-Sell List may
114 subsequently request that his or her name be removed from the
115 list by any one of the methods provided in subdivisions (1)
116 through (4) of subsection (b) of Section 1. The department
117 shall remove the individual's name from the list 21 days after
118 receiving the request for removal.

119 (b) (1) An individual may request his or her name be
120 removed from the list in fewer than 21 days by delivering a
121 removal request form to the district court of the county in
122 which the individual requesting removal resides. The court,
123 within 48 hours of receiving a removal request, shall hold a
124 hearing and determine, by a preponderance of evidence, whether
125 the individual requesting to be removed from the list is
126 likely to act in a manner dangerous to public safety or to
127 himself or herself. The individual, a public official, or any
128 otherwise interested party may present evidence at the
129 hearing.

130 (2) The court, no later than 24 hours following the
131 hearing, shall issue an order determining whether the
132 individual is likely to act in a manner dangerous to public
133 safety or to himself or herself. The court shall immediately
134 provide the department with its determination.

135 (c) At the time of removal the department shall do all
136 of the following:

137 (1) Remove the individual from the list.

138 (2) Remove all department records of the individual
139 regarding the list.

140 (3) Notify the Federal Bureau of Investigation that the



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141 individual's eligibility to purchase a firearm has been
142 restored, who shall then update the National Instant Criminal
143 Background Check System accordingly.

144 (d) The department shall continuously forward registry
145 information to the Federal Bureau of Investigation to be
146 entered into the National Instant Criminal Background Check
147 System.

148 Section 3. (a) An insurer as defined in Section 27-1-2,
149 Code of Alabama 1975, may not inquire as to whether an
150 individual is on the Voluntary Alabama Firearms Do-Not-Sell
151 List. An insurer also may not modify the terms of any
152 insurance policy of any individual due to that individual
153 being on the list or having requested to be added to or
154 removed from the list.

155 (b) An employer may not inquire whether an employee or
156 applicant is on the list unless possession of a firearm is a
157 requirement of the employment position. An employer also may
158 not dismiss, discharge, demote, deny employment, or otherwise
159 alter the terms of employment of any employee or applicant due
160 to the employee or applicant being on the list or having
161 requested to be added to or removed from the list, unless
162 possession of a firearm is a requirement of the employment
163 position.

164 (c) (1) A person may not conduct any unlawful
165 discriminatory housing practice as provided in the Alabama
166 Fair Housing Law, Section 24-8-1, et seq., Code of Alabama
167 1975, against any individual who is on the list or has
168 requested to be added to or removed from the list.



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169 (2) For purposes of this subdivision, an individual
170 being on the list or having requested to be added to or
171 removed from the list shall be considered a "handicap" as
172 defined in the Alabama Fair Housing Law, Sections 24-8-1, et
173 seq., Code of Alabama 1975.

174 (d) The State of Alabama, its agencies, or political
175 subdivisions may not condition or alter any governmental
176 benefits due to an individual being on the list or having
177 requested to be added to or removed from the list.

178 (e) An educational institution or state educational
179 institution as defined in Section 16-17-1, Code of Alabama
180 1975, may not inquire whether an individual is on the list
181 unless it is acting as an employer and is in compliance with
182 subsection (b).

183 (f) A health care provider may not deny any service to
184 an individual due to that individual being on the list or
185 having requested to be added to or removed from the list.

186 (g) A violation of this subsection is a Class A
187 misdemeanor punishable by a fine of up to six thousand dollars
188 (\$6,000).

189 Section 4. (a)(1) It shall be unlawful for any person
190 or entity that is required to perform a background check prior
191 to transferring a firearm to transfer a firearm either
192 knowingly or due to a failure to perform a background check to
193 an individual registered on the Voluntary Alabama Firearms
194 Do-Not-Sell List.

195 (2) A violation of this subsection is a Class A
196 misdemeanor punishable by a fine of up to six thousand dollars



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197 (\$6,000) per violation or imprisonment for not more than one
198 year, or by both fine and imprisonment.

199 (b)(1) It shall be unlawful for any person who learns
200 the identity of an individual registered on the Voluntary
201 Alabama Firearms Do-Not-Sell List, or who has requested to be
202 added to or removed from the list, to disclose that
203 information to another unless the person receives prior
204 written authorization from the individual to share that
205 information.

206 (2) A violation of this subsection shall be a Class C
207 misdemeanor punishable by a fine of up to five hundred dollars
208 (\$500).

209 Section 5. The Board of Examiners in Counseling,
210 Board of Medical Examiners, Board of Nursing, and Board of
211 Examiners in Psychology shall adopt rules to encourage
212 licensees to inform the public about the Voluntary Alabama
213 Firearms Do-Not-Sell List created by this act.

214 Section 6. Information relating to the Voluntary
215 Alabama Firearms Do-Not-Sell List shall not be subject to
216 state open public records laws, including Article 3 of Chapter
217 12 of Title 36, Code of Alabama 1975.

218 Section 7. The Department of Mental Health may adopt
219 rules to implement this act.

220 Section 8. Although this bill would have as its
221 purpose or effect the requirement of a new or increased
222 expenditure of local funds, the bill is excluded from further
223 requirements and application under Section 111.05 of the



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224 Constitution of Alabama of 2022, because the bill defines a
225 new crime or amends the definition of an existing crime.

226 Section 9. This act shall become effective on the
227 first day of the third month following its passage and
228 approval by the Governor, or its otherwise becoming law.