

THE CITY OF PROVIDENCE
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

RESOLUTION OF THE CITY COUNCIL

No.

Approved

WHEREAS, Many of Rhode Island's laws relating to firearms and public safety have not been reviewed or updated in decades; and

WHEREAS, It is of the utmost importance that our laws strike the proper balance between preserving the individual freedoms of responsible firearm ownership and addressing public safety concerns; and

WHEREAS, Recent mass shootings and other acts of violence have led to increased focus and concern for how our legal framework handles the intersection of mental health and firearm safety; and

WHEREAS, To ensure that these important and delicate issues are weighed carefully and appropriately, stakeholders, community leaders, and subject matter experts must be engaged throughout any review process; and

WHEREAS, Forming task forces and boards to research and make recommendations on these issues will help ensure that a comprehensive approach is taken and all voices are heard; and

WHEREAS, Senate Bill 861 and House Bill 5996 would, in accordance with the Brady Handgun Violence Prevention Act of 1993 and the National Instant Criminal Background Check System (NICS) Improvement Act of 2007, create a Mental Health Review Board or "Relief from Disqualifiers Board" to oversee petitions for relief from individuals disqualified by a NICS background check; and

WHEREAS, Senate Bill 862 and House Bill 5992 would establish a Behavioral Health and Firearms Safety Task Force, charged with reviewing Chapter 11-47 of the Rhode Island General Laws, Entitled "Weapons" and Chapter 40.1-5, Entitled "Mental Health Law," as well as researching best practices for compliance with the National Instant Criminal Background Check System; and

WHEREAS, Senate Bill 863 and House Bill 5995 would establish a Task Force on Firearms Statutes, charged with reviewing Chapter 11-47 of the Rhode Island General Laws, Entitled "Weapons" and with proposing appropriate amendments regarding purchases of and crimes involving firearms and ammunition; and

WHEREAS, As public servants and the elected representatives of the people of Providence, the City Council has a moral obligation to keep deadly weapons out of the hands of criminals and off of our streets.

NOW, THEREFORE, BE IT RESOLVED, That the Providence City Council does hereby urge the Rhode Island General Assembly to pass Senate Bills 861, 862, and 863, and House Bills 5992, 5995 and 5996.


BE IT FURTHER RESOLVED, That, upon passage, copies of this resolution be sent to the sponsors of the aforementioned bills and the entire Providence General Assembly delegation.

IN CITY COUNCIL

MAY 02 2013

READ AND *Failed*


PRES.


CLERK

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

A N A C T

RELATING TO BEHAVIORAL HEALTHCARE, DEVELOPMENTAL DISABILITIES AND
HOSPITALS – RELIEF FROM DISQUALIFIERS BOARD

Introduced By: Senators Nesselbush, Sosnowski, Cool Rumsey, Archambault, and Lombardi

Date Introduced: April 11, 2013

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 40.1 of the General Laws entitled "BEHAVIORAL HEALTHCARE,
2 DEVELOPMENTAL DISABILITIES AND HOSPITALS" is hereby amended by adding thereto
3 the following chapter:

4 CHAPTER 30

5 RELIEF FROM DISQUALIFIERS BOARD

6 40.1-30-1. Legislative findings. – It is found and declared as follows:

7 (1) Recent and well-publicized events, including the tragic shootings at Sandy Hook
8 Elementary School in neighboring Connecticut, have called into question how we as a society
9 deal with firearm violence, behavioral health, and public safety;

10 (2) Of particular concern is how the state of Rhode Island deals with the intersection of
11 behavioral health and firearms safety;

12 (3) The Brady Handgun Violence Prevention Act of 1993 (Brady Act) requires Federal
13 Firearms Licensees (FFLS) to use the National Instant Criminal Background Check System
14 (NICS) to determine if a person is disqualified from receiving or possessing firearms to conduct a
15 search of available records;

16 (4) The National Instant Criminal Background Check System (NICS) conducts records
17 searches in three (3) databases: the National Crime Information Center (NCIC), which contains
18 information on wanted persons and protection orders; the Interstate Identification Index (III),

1 which contains criminal history records; and the NICS Index, which contains the names of
2 prohibited persons as defined in the Brady Act;

3 (5) The NICS Index consists of individuals who are determined to be prohibited from
4 possessing a firearm when disqualifying information is not available through the NCIC or III
5 systems;

6 (6) The NICS Improvement Act of 2007 (NIAA) amends the Brady Act and was enacted
7 in the wake of the April 2007 shooting tragedy at Virginia Tech to address the gap in information
8 available to the NICS about prohibiting mental health adjudications and commitments and other
9 prohibiting backgrounds, which will better enable the system to operate as intended, to keep guns
10 out of the hands of persons prohibited by state or federal law from receiving or possessing
11 firearms.

12 (7) Pursuant to federal and state law the state of Rhode Island will contribute
13 disqualifying information on individuals to the NICS Index, including information on persons
14 with mental health adjudications or commitments or controlled substance abusers;

15 (8) The state of Rhode Island will review the records in the state records repositories and
16 make improvements where needed to ensure that information is accurate so that individuals with
17 disqualifying backgrounds are prohibited from receiving or possessing firearms.

18 (9) A condition for participation in federal grant programs to support records
19 improvement is the creation and certification of a relief program under state law that permits a
20 person adjudicated as prohibited from receiving or possessing a firearm imposed by 18 U.S.C.
21 section 922 (d) (4) or g (4) to apply for relief.

22 **40.1-30-2. Relief board -- Appointment and terms of members. --** Within the
23 department of behavioral healthcare, developmental disabilities and hospitals there shall be a
24 relief board consisting of five (5) qualified electors of the state appointed by the governor, subject
25 to the advice and consent of the senate, who shall serve for a term of three (3) years.

26 **40.1-30-3. Qualification of board members. --** The five (5) electors to be named by the
27 governor shall have the following qualifications:

28 (1) Two (2) of the qualified electors one of whom shall be a psychiatrist and one of
29 whom shall be a psychologist, both licensed to practice medicine in the state of Rhode Island, and
30 one of which shall be either a forensic psychiatrist or forensic psychologist;

31 (2) One shall be an active member of law enforcement in the state of Rhode Island;

32 (3) One member shall be the director of the department of behavioral healthcare,
33 developmental disabilities and hospitals, or his/her designee.

34 (4) One member shall be the mental health advocate or his or designee.

1 40.1-30-4. Facilities and supplies for board. -- The director of the behavioral
2 healthcare, developmental disabilities and hospitals shall provide adequate quarters for the board
3 for the purpose of holding meetings and hearings and shall provide space and facilities for the
4 keeping of records for the board, together with the necessary equipment and supplies incident to
5 the maintenance of the board.

6 40.1-30-5. Petition for relief from disqualifiers. -- (a) Any person having a state
7 firearms disqualifier or a federal firearms disqualifier under 18 USC 922 (d) (4) or (g)(4), as a
8 result of an adjudication or commitment rendered in this state may petition the relief board for
9 relief from the firearms disqualifier that resulted from such adjudication or commitment.

10 (b) The petitioner shall submit to the relief board, together with the petition and the
11 release required by subsection (c) of this section, information in support of the petition, including,
12 but not limited to:

13 (1) Certified copies of medical records detailing the petitioner's psychiatric history where
14 applicable, including records pertaining to the specific adjudication or commitment that is the
15 subject of the petition;

16 (2) Certified copies of medical records from all of the petitioner's current treatment
17 providers, if the petitioner is receiving treatment;

18 (3) A certified copy of all criminal history information maintained on file by the state
19 bureau of criminal identification and the Federal Bureau of Investigation pertaining to the
20 petitioner or a copy of the response from said bureaus indicating there is no criminal history
21 information on file;

22 (4) Evidence of the petitioner's reputation, which may include notarized letters of
23 reference from current and past employers, letters and other forms of personal attestation from
24 family members or personal friends, affidavits from the petitioner or other character evidence;
25 and

26 (5) Any further information or documents specifically requested by the board which
27 documents shall be certified copies of original documents.

28 (6) Any other person determined by the board to have an interest in the matter may
29 present any and all relevant information at the board hearing and in any appeal to the superior
30 court.

31 (c) The petitioner shall provide for the release of all of the petitioner's records that may
32 relate to the petition, including, but not limited to, health, mental health, military, immigration,
33 juvenile court, mental health court, civil court and criminal records, on a form prescribed by the
34 relief board. The releases shall authorize the director of behavioral healthcare, developmental

1 disabilities and hospitals, or his/her designee, to obtain any of such records for use at the relief
2 board hearing or any appeal from the decision of the board. Releases of information for the
3 purposes of this section are limited to the relief board, the director, or his/her designee, and any
4 parties involved in the relief hearing as determined by the board. Except as expressly provided in
5 this section, no such release shall constitute a waiver of the confidentiality protections of the
6 petitioner under state and federal law and all parties to a relief hearing are bound by said
7 confidentiality laws.

8 (d) The petitioner shall ensure that all required information accompanies the petition at
9 the time it is submitted to the board. At the discretion of the board, information provided after
10 receipt of the petition by the board may be considered. Information specifically requested by the
11 board must be received by the board no later than fifteen (15) calendar days after the date of the
12 request in order for the information to be considered. The board may extend such time period for
13 good cause shown. Failure to provide the requested information within such time period may
14 result in a denial of the petition.

15 (e) Upon the filing of the petition, the relief board shall set a date, time and place for a
16 hearing within sixty (60) calendar days of receipt of the petition, and shall give notice of such
17 hearing to:

- 18 (1) The petitioner;
19 (2) the court that rendered the adjudication or commitment;
20 (3) the conservator appointed for the petitioner, if any; and
21 (4) any other person determined by the board to have an interest in the matter.

22 (f) The board shall cause a recording of the testimony given at such hearing to be made.
23 Such recording shall be transcribed only in the event of an appeal from the decision rendered by
24 the board under this section. A copy of such transcript shall be furnished without charge to any
25 appellant whom the board finds is unable to pay for such copy.

26 (g) The petitioner shall have the burden of establishing by clear and convincing evidence
27 that:

- 28 (1) The petitioner is not likely to act in a manner that is dangerous to public safety; and
29 (2) Granting relief from the federal and state firearms disqualifier is not contrary to the
30 public interest.

31 (h) In determining whether to grant relief under this section, the board shall consider the
32 following:

- 33 (1) The circumstances regarding the firearms disqualifier imposed by state law, 18 USC
34 922(d)(4) or 18 USC 922(g)(4);

1 (2) The petitioner's record, which shall include, at a minimum, the petitioner's mental
2 health records and criminal history records, if any;

3 (3) The petitioner's reputation, which the petitioner must demonstrate through character
4 witness statements, testimony or other character evidence; and

5 (4) Any other relevant information provided by the petitioner or any other person
6 determined by the board to have an interest in the matter.

7 (i) The board shall grant relief under this section if it finds by clear and convincing
8 evidence that:

9 (1) The petitioner will not be likely to act in a manner dangerous to public safety, and
10 (2) Granting the relief will not be contrary to the public interest.

11 (j) The board shall include in its decision the specific findings of fact on which it bases its
12 decision.

13 (k) The petitioner may appeal the final decision of the relief board for the denial of relief
14 to the superior court for review:

15 (1) Review must include the record of the relief board pertaining to the petitioner;
16 (2) Review may include additional evidence necessary to conduct an adequate review;
17 (3) Notwithstanding any provision of the general statutes, any review of the decision of
18 the relief board by the superior court shall be de novo.

19 (l) As soon as practicable after receiving notice of the decision of the board granting
20 relief, the director of behavioral healthcare, developmental disabilities and hospitals, or his/her
21 designee, shall:

22 (1) Coordinate the removal or cancellation of the record in the National Instant Criminal
23 Background Check System (NICS), and

24 (2) Notify the attorney general of the United States that the basis of the record no longer
25 applies.

26 (m) All proceedings of the relief board under the provisions of this section shall be closed
27 to the public and all records of the proceedings shall be confidential and not subject to disclosure
28 except to the petitioner and/or his or her counsel, unless the relief board, after notice to the parties
29 and a hearing, determines that such records should be disclosed for good cause shown.

30 **40.1-30-6. Rules and regulations. --** The director of behavioral healthcare,
31 developmental disabilities and hospitals shall promulgate rules and regulations governing the
32 application and granting and denial of relief imposed under state law, 18 U.S.C. 922 (d)(4) or
33 (g)(4).

1 SECTION 2. This act shall take effect upon passage.

LC02369

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO BEHAVIORAL HEALTHCARE, DEVELOPMENTAL DISABILITIES AND
HOSPITALS – RELIEF FROM DISQUALIFIERS BOARD

- 1 This act would create the relief from disqualifier board which would hear petitions from
- 2 person seeking relief from a federal firearms disability.
- 3 This act would take effect upon passage.

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LC02369
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

JOINT RESOLUTION

CREATING A BEHAVIORAL HEALTH AND FIREARMS SAFETY TASK FORCE TO
REVIEW, AND MAKE RECOMMENDATIONS FOR, STATUTES RELATING TO
FIREARMS AND BEHAVIORAL HEALTH ISSUES

Introduced By: Senators Cool Rumsey, Goldin, Walaska, Archambault, and Lombardi

Date Introduced: April 11, 2013

Referred To: Senate Judiciary

1 WHEREAS, Recent and well-publicized events, including the tragic shootings at Sandy
2 Hook Elementary School in neighboring Connecticut, have called into question how we as a
3 society deal with firearm violence and public safety; and

4 WHEREAS, The Rhode Island General Assembly seeks to ensure that the laws of our
5 State strike an appropriate balance between preserving the individual freedoms and liberties of
6 responsible firearm ownership, on one hand, and acknowledging that matters of public safety are
7 recognized, on the other hand; and

8 WHEREAS, Many of the current laws enacted in our State relating to firearms have not
9 been reviewed for decades, and though various governmental stakeholders have come together
10 during the 2013 legislative session to propose ways to strengthen these laws, the General
11 Assembly believes that it is appropriate to conduct a comprehensive review of these laws; and

12 WHEREAS, It is of particular concern how the Rhode Island statutory framework deals
13 with the intersection of behavioral health and firearms safety; and

14 WHEREAS, It is in the best interest of the citizens of Rhode Island to convene a task
15 force composed of representatives from the legislative, executive, judicial branches of
16 government and behavioral health community to conduct a review of current law and make
17 recommendations on legislation to improve public safety by developing a more comprehensive
18 approach addressing the nexus between behavioral health and firearms safety; now, therefore be it

19 RESOLVED, That the Behavioral Health And Firearms Safety Task Force (hereinafter

1 referred to as the "Task Force") shall consist of the following members (it being understood that
2 any member of the Task Force may appoint a designee to attend Task Force meetings in his/her
3 absence, and a quorum of the Task Force shall consist of a majority of its current membership):

4 (1) Three (3) members of the House of Representatives to be appointed by the Speaker of
5 the House, not more than two (2) from the same political party;

6 (2) Three (3) members of the Senate to be appointed by the President of the Senate, not
7 more than two (2) from the same political party;

8 (3) Two (2) members selected by the Governor;

9 (4) Attorney General;

10 (5) State Court Administrator;

11 (6) Director of the Department of Public Safety;

12 (7) Director of the Department of Environmental Management;

13 (8) Director of the Department of Behavioral Healthcare, Developmental Disabilities and
14 Hospitals;

15 (9) President of the Police Chiefs' Association;

16 (10) Mental Health Advocate;

17 (11) A public member representing mental health service providers, to be appointed by
18 the President of the Senate; and

19 (12) A public member representing substance abuse service providers, to be appointed by
20 the Speaker of House and be it further;

21 RESOLVED, That the Representative appointed from the political party of the Speaker
22 of House and the Senator appointed from the political party of the President of the Senate shall
23 call the first meeting of the Task Force, and the members of the Task Force shall, at their first
24 meeting, elect a Chairperson, a Secretary, and any other officers they may find necessary; and be
25 it further

26 RESOLVED, That the Task Force shall assemble no less than two (2) times per month,
27 or more often at the call of the Chairperson or upon petition of a majority of its members; and be
28 it further

29 RESOLVED, That the Task Force shall perform the following functions with respect to
30 the National Instant Criminal Background Check System ("NICS"):

31 (1) Conduct a review of different states' approaches for compliance with the NICS Index
32 (which includes information contributed by federal and state agencies identifying persons
33 prohibited from possessing firearms because of mental health or substance abuse history) to
34 ensure that the state conforms to best practices nationally;

1 (2) Propose legislation and recommendations to support the state's full participation in the
2 NICS Index; and

3 (3) Act in an advisory capacity to the relief board, under chapter 40.1-30 of the Rhode
4 Island General Laws, until it is fully operational; and be it further

5 RESOLVED, That the Task Force shall review chapter 11-47 of the Rhode Island
6 General Laws entitled "Weapons" and chapter 40.1-5 of the Rhode Island General Laws entitled
7 "Mental Health Law" and make recommendations to revise such chapters consistent with this
8 Joint Resolution, which recommendations shall include, but not be limited to, ensuring (i) The
9 privacy of information identifying persons with disqualifying behavioral health adjudications or
10 commitments; and (ii) That the definitions used in such chapters related to mental health and
11 substance abuse (or in contemporaneous legislation proposed by the Task Force or the Task Force
12 on Firearms Statutes) are consistent; and be it further

13 RESOLVED, That the Task Force shall transmit such recommendations to the Governor,
14 the Speaker of the House and the President of the Senate on or before January 1, 2014; and be it
15 further

16 RESOLVED, That before transmitting such recommendations to the Governor, the
17 Speaker of the House and the President of the Senate, the Task Force shall have conferred with
18 the Task Force on Firearms Statutes to ensure that their proposed recommendations for revising
19 the Rhode Island General Laws do not conflict; and be it further

20 RESOLVED, That the Secretary of State be, and hereby is, authorized and directed to
21 transmit duly certified copies of this resolution to the Governor, the President of the Senate, and
22 the Speaker of the House.

LC02368

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

JOINT RESOLUTION

CREATING A TASK FORCE ON FIREARMS STATUTES TO REVIEW, AND MAKE
RECOMMENDATIONS FOR, REVISING THE STATUTORY FRAMEWORK RELATING
TO FIREARMS

Introduced By: Senators McCaffrey, Jabour, and Walaska

Date Introduced: April 11, 2013

Referred To: Senate Judiciary

1 WHEREAS, Many of the current laws enacted in our State relating to firearms have not
2 been reviewed for decades, and though various governmental stakeholders have come together
3 during the 2013 legislative session to propose ways to strengthen these laws, the General
4 Assembly believes that it is appropriate to conduct a comprehensive review of the overarching
5 statutory framework for these laws; and

6 WHEREAS, It is in the best interest of the citizens of Rhode Island to convene a task
7 force composed of representatives from the legislative and executive branches of government to
8 conduct a review of current law, and make recommendations on the statutory framework relating
9 to responsible gun ownership, on the one hand, and crimes involving firearms, on the other hand;
10 now, therefore be it

11 RESOLVED, That the Task Force on Firearms Statutes (hereinafter referred to as the
12 "Task Force") shall consist of the following members (it being understood that each member of
13 the Task Force may appoint a designee to attend Task Force meetings in his/her absence, and a
14 quorum of the Task Force shall consist of a majority of its current membership):

15 (1) Three (3) members of the House of Representatives appointed by the Speaker of the
16 House, not more than two (2) from the same political party;

17 (2) Three (3) members of the Senate appointed by the President, not more than two (2)
18 from the same political party;

19 (3) Two (2) members selected by the Governor;

1 (4) Attorney General;

2 (5) Director of the Department of Public Safety; and

3 (6) Director of the Department of Environmental Management; and be it further

4 RESOLVED, That the Representative appointed from the political party of the Speaker
5 of the House and the Senator appointed from the political party of the President of the Senate
6 shall call the first meeting of the Task Force, and the members of the Task Force shall, at their
7 first meeting, elect a Chairperson, a Secretary, and any other officers they may find necessary;
8 and be it further

9 RESOLVED, That the Task Force shall assemble no less than two (2) times per month,
10 or more often at the call of the Chairperson or upon petition of a majority of its members; and be
11 it further

12 RESOLVED, That the Task Force shall review chapter 11-47 of the Rhode Island
13 General Laws entitled "Weapons" and make recommendations to revise such chapter consistent
14 with this Joint Resolution which shall include, at a minimum, legislative proposals that
15 structurally differentiate between: (1) Purchases and ownership of firearms and ammunition; and
16 (2) Crimes involving firearms and ammunition ; and be it further

17 RESOLVED, That the Task Force shall transmit such recommendations to the Governor,
18 the Speaker of the House and the President of the Senate on or before January 1, 2014; and be it
19 further

20 RESOLVED, That before transmitting such recommendations to the Governor, the
21 Speaker of the House and the President of the Senate, the Task Force shall have conferred with
22 the Behavioral Health and Firearms Task Force to ensure that their proposed recommendations
23 for revising the Rhode Island General Laws do not conflict; and be it further

24 RESOLVED, That the Secretary of State be, and hereby is, authorized and directed to
25 transmit duly certified copies of this resolution to the Governor, the President of the Senate and
26 the Speaker of the House.

LC02367

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

JOINT RESOLUTION

CREATING A BEHAVIORAL HEALTH AND FIREARMS SAFETY TASK FORCE TO
REVIEW, AND MAKE RECOMMENDATIONS FOR, STATUTES RELATING TO
FIREARMS AND BEHAVIORAL HEALTH ISSUES

Introduced By: Representatives Ruggiero, Gallison, Martin, E Coderre, and McNamara

Date Introduced: April 11, 2013

Referred To: House Judiciary

1 WHEREAS, Recent and well-publicized events, including the tragic shootings at Sandy
2 Hook Elementary School in neighboring Connecticut, have called into question how we as a
3 society deal with firearm violence and public safety; and

4 WHEREAS, The Rhode Island General Assembly seeks to ensure that the laws of our
5 State strike an appropriate balance between preserving the individual freedoms and liberties of
6 responsible firearm ownership, on one hand, and acknowledging that matters of public safety are
7 recognized, on the other hand; and

8 WHEREAS, Many of the current laws enacted in our State relating to firearms have not
9 been reviewed for decades, and though various governmental stakeholders have come together
10 during the 2013 legislative session to propose ways to strengthen these laws, the General
11 Assembly believes that it is appropriate to conduct a comprehensive review of these laws; and

12 WHEREAS, It is of particular concern how the Rhode Island statutory framework deals
13 with the intersection of behavioral health and firearms safety; and

14 WHEREAS, It is in the best interest of the citizens of Rhode Island to convene a task
15 force composed of representatives from the legislative, executive, judicial branches of
16 government and behavioral health community to conduct a review of current law and make
17 recommendations on legislation to improve public safety by developing a more comprehensive
18 approach addressing the nexus between behavioral health and firearms safety; now, therefore be it

19 RESOLVED, That the Behavioral Health And Firearms Safety Task Force (hereinafter

1 referred to as the "Task Force") shall consist of the following members (it being understood that
2 any member of the Task Force may appoint a designee to attend Task Force meetings in his/her
3 absence, and a quorum of the Task Force shall consist of a majority of its current membership):

4 (1) Three (3) members of the House of Representatives to be appointed by the Speaker of
5 the House, not more than two (2) from the same political party;

6 (2) Three (3) members of the Senate to be appointed by the President of the Senate, not
7 more than two (2) from the same political party;

8 (3) Two (2) members selected by the Governor;

9 (4) Attorney General;

10 (5) State Court Administrator;

11 (6) Director of the Department of Public Safety;

12 (7) Director of the Department of Environmental Management;

13 (8) Director of the Department of Behavioral Healthcare, Developmental Disabilities and
14 Hospitals;

15 (9) President of the Police Chiefs' Association;

16 (10) Mental Health Advocate;

17 (11) A public member representing mental health service providers, to be appointed by
18 the President of the Senate; and

19 (12) A public member representing substance abuse service providers, to be appointed by
20 the Speaker of House and be it further;

21 RESOLVED, That the Representative appointed from the political party of the Speaker
22 of House and the Senator appointed from the political party of the President of the Senate shall
23 call the first meeting of the Task Force, and the members of the Task Force shall, at their first
24 meeting, elect a Chairperson, a Secretary, and any other officers they may find necessary; and be
25 it further

26 RESOLVED, That the Task Force shall assemble no less than two (2) times per month,
27 or more often at the call of the Chairperson or upon petition of a majority of its members; and be
28 it further

29 RESOLVED, That the Task Force shall perform the following functions with respect to
30 the National Instant Criminal Background Check System ("NICS"):

31 (1) Conduct a review of different states' approaches for compliance with the NICS Index
32 (which includes information contributed by federal and state agencies identifying persons
33 prohibited from possessing firearms because of mental health or substance abuse history) to
34 ensure that the state conforms to best practices nationally;

1 (2) Propose legislation and recommendations to support the state's full participation in the
2 NICS Index; and

3 (3) Act in an advisory capacity to the relief board, under chapter 40.1-30 of the Rhode
4 Island General Laws, until it is fully operational; and be it further

5 RESOLVED, That the Task Force shall review chapter 11-47 of the Rhode Island
6 General Laws entitled "Weapons" and chapter 40.1-5 of the Rhode Island General Laws entitled
7 "Mental Health Law" and make recommendations to revise such chapters consistent with this
8 Joint Resolution, which recommendations shall include, but not be limited to, ensuring (i) The
9 privacy of information identifying persons with disqualifying behavioral health adjudications or
10 commitments; and (ii) That the definitions used in such chapters related to mental health and
11 substance abuse (or in contemporaneous legislation proposed by the Task Force or the Task Force
12 on Firearms Statutes) are consistent; and be it further

13 RESOLVED, That the Task Force shall transmit such recommendations to the Governor,
14 the Speaker of the House and the President of the Senate on or before January 1, 2014; and be it
15 further

16 RESOLVED, That before transmitting such recommendations to the Governor, the
17 Speaker of the House and the President of the Senate, the Task Force shall have conferred with
18 the Task Force on Firearms Statutes to ensure that their proposed recommendations for revising
19 the Rhode Island General Laws do not conflict; and be it further

20 RESOLVED, That the Secretary of State be, and hereby is, authorized and directed to
21 transmit duly certified copies of this resolution to the Governor, the President of the Senate, and
22 the Speaker of the House.

LC02272

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

JOINT RESOLUTION

CREATING A TASK FORCE ON FIREARMS STATUTES TO REVIEW, AND MAKE
RECOMMENDATIONS FOR, REVISING THE STATUTORY FRAMEWORK RELATING
TO FIREARMS

Introduced By: Representatives Tanzi, Cimini, E Coderre, Canario, and Finn

Date Introduced: April 11, 2013

Referred To: House Judiciary

1 WHEREAS, Many of the current laws enacted in our State relating to firearms have not
2 been reviewed for decades, and though various governmental stakeholders have come together
3 during the 2013 legislative session to propose ways to strengthen these laws, the General
4 Assembly believes that it is appropriate to conduct a comprehensive review of the overarching
5 statutory framework for these laws; and

6 WHEREAS, It is in the best interest of the citizens of Rhode Island to convene a task
7 force composed of representatives from the legislative and executive branches of government to
8 conduct a review of current law, and make recommendations on the statutory framework relating
9 to responsible gun ownership, on the one hand, and crimes involving firearms, on the other hand;
10 now, therefore be it

11 RESOLVED, That the Task Force on Firearms Statutes (hereinafter referred to as the
12 "Task Force") shall consist of the following members (it being understood that each member of
13 the Task Force may appoint a designee to attend Task Force meetings in his/her absence, and a
14 quorum of the Task Force shall consist of a majority of its current membership):

15 (1) Three (3) members of the House of Representatives appointed by the Speaker of the
16 House, not more than two (2) from the same political party;

17 (2) Three (3) members of the Senate appointed by the President, not more than two (2)
18 from the same political party;

19 (3) Two (2) members selected by the Governor;

1 (4) Attorney General;

2 (5) Director of the Department of Public Safety; and

3 (6) Director of the Department of Environmental Management; and be it further

4 RESOLVED, That the Representative appointed from the political party of the Speaker
5 of the House and the Senator appointed from the political party of the President of the Senate
6 shall call the first meeting of the Task Force, and the members of the Task Force shall, at their
7 first meeting, elect a Chairperson, a Secretary, and any other officers they may find necessary;
8 and be it further

9 RESOLVED, That the Task Force shall assemble no less than two (2) times per month,
10 or more often at the call of the Chairperson or upon petition of a majority of its members; and be
11 it further

12 RESOLVED, That the Task Force shall review chapter 11-47 of the Rhode Island
13 General Laws entitled "Weapons" and make recommendations to revise such chapter consistent
14 with this Joint Resolution which shall include, at a minimum, legislative proposals that
15 structurally differentiate between: (1) Purchases and ownership of firearms and ammunition; and
16 (2) Crimes involving firearms and ammunition ; and be it further

17 RESOLVED, That the Task Force shall transmit such recommendations to the Governor,
18 the Speaker of the House and the President of the Senate on or before January 1, 2014; and be it
19 further

20 RESOLVED, That before transmitting such recommendations to the Governor, the
21 Speaker of the House and the President of the Senate, the Task Force shall have conferred with
22 the Behavioral Health and Firearms Task Force to ensure that their proposed recommendations
23 for revising the Rhode Island General Laws do not conflict; and be it further

24 RESOLVED, That the Secretary of State be, and hereby is, authorized and directed to
25 transmit duly certified copies of this resolution to the Governor, the President of the Senate and
26 the Speaker of the House.

LC02271

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

A N A C T

RELATING TO BEHAVIORAL HEALTHCARE, DEVELOPMENTAL DISABILITIES AND
HOSPITALS – RELIEF FROM DISQUALIFIERS BOARD

Introduced By: Representatives E Coderre, Naughton, Blazejewski, Ferri, and Ucci

Date Introduced: April 11, 2013

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 40.1 of the General Laws entitled "BEHAVIORAL HEALTHCARE,
2 DEVELOPMENTAL DISABILITIES AND HOSPITALS" is hereby amended by adding thereto
3 the following chapter:

4 CHAPTER 30

5 RELIEF FROM DISQUALIFIERS BOARD

6 40.1-30-1. Legislative findings. -- It is found and declared as follows:

7 (1) Recent and well-publicized events, including the tragic shootings at Sandy Hook
8 Elementary School in neighboring Connecticut, have called into question how we as a society
9 deal with firearm violence, behavioral health, and public safety;

10 (2) Of particular concern is how the state of Rhode Island deals with the intersection of
11 behavioral health and firearms safety;

12 (3) The Brady Handgun Violence Prevention Act of 1993 (Brady Act) requires Federal
13 Firearms Licensees (FFLS) to use the National Instant Criminal Background Check System
14 (NICS) to determine if a person is disqualified from receiving or possessing firearms to conduct a
15 search of available records;

16 (4) The National Instant Criminal Background Check System (NICS) conducts records
17 searches in three (3) databases: the National Crime Information Center (NCIC), which contains
18 information on wanted persons and protection orders; the Interstate Identification Index (III),

1 which contains criminal history records; and the NICS Index, which contains the names of
2 prohibited persons as defined in the Brady Act;

3 (5) The NICS Index consists of individuals who are determined to be prohibited from
4 possessing a firearm when disqualifying information is not available through the NCIC or III
5 systems;

6 (6) The NICS Improvement Act of 2007 (NIAA) amends the Brady Act and was enacted
7 in the wake of the April 2007 shooting tragedy at Virginia Tech to address the gap in information
8 available to the NICS about prohibiting mental health adjudications and commitments and other
9 prohibiting backgrounds, which will better enable the system to operate as intended, to keep guns
10 out of the hands of persons prohibited by state or federal law from receiving or possessing
11 firearms.

12 (7) Pursuant to federal and state law the state of Rhode Island will contribute
13 disqualifying information on individuals to the NICS Index, including information on persons
14 with mental health adjudications or commitments or controlled substance abusers;

15 (8) The state of Rhode Island will review the records in the state records repositories and
16 make improvements where needed to ensure that information is accurate so that individuals with
17 disqualifying backgrounds are prohibited from receiving or possessing firearms.

18 (9) A condition for participation in federal grant programs to support records
19 improvement is the creation and certification of a relief program under state law that permits a
20 person adjudicated as prohibited from receiving or possessing a firearm imposed by 18 U.S.C.
21 section 922 (d) (4) or g (4) to apply for relief.

22 **40.1-30-2. Relief board -- Appointment and terms of members. --** Within the
23 department of behavioral healthcare, developmental disabilities and hospitals there shall be a
24 relief board consisting of five (5) qualified electors of the state appointed by the governor, subject
25 to the advice and consent of the senate, who shall serve for a term of three (3) years.

26 **40.1-30-3. Qualification of board members. --** The five (5) electors to be named by the
27 governor shall have the following qualifications:

28 (1) Two (2) of the qualified electors one of whom shall be a psychiatrist and one of
29 whom shall be a psychologist, both licensed to practice medicine in the state of Rhode Island, and
30 one of which shall be either a forensic psychiatrist or forensic psychologist;

31 (2) One shall be an active member of law enforcement in the state of Rhode Island;

32 (3) One member shall be the director of the department of behavioral healthcare,
33 developmental disabilities and hospitals, or his/her designee.

34 (4) One member shall be the mental health advocate or his or designee.

1 40.1-30-4. Facilities and supplies for board. -- The director of the behavioral
2 healthcare, developmental disabilities and hospitals shall provide adequate quarters for the board
3 for the purpose of holding meetings and hearings and shall provide space and facilities for the
4 keeping of records for the board, together with the necessary equipment and supplies incident to
5 the maintenance of the board.

6 40.1-30-5. Petition for relief from disqualifiers. -- (a) Any person having a state
7 firearms disqualifier or a federal firearms disqualifier under 18 USC 922 (d) (4) or (g)(4), as a
8 result of an adjudication or commitment rendered in this state may petition the relief board for
9 relief from the firearms disqualifier that resulted from such adjudication or commitment.

10 (b) The petitioner shall submit to the relief board, together with the petition and the
11 release required by subsection (c) of this section, information in support of the petition, including,
12 but not limited to:

13 (1) Certified copies of medical records detailing the petitioner's psychiatric history where
14 applicable, including records pertaining to the specific adjudication or commitment that is the
15 subject of the petition;

16 (2) Certified copies of medical records from all of the petitioner's current treatment
17 providers, if the petitioner is receiving treatment;

18 (3) A certified copy of all criminal history information maintained on file by the state
19 bureau of criminal identification and the Federal Bureau of Investigation pertaining to the
20 petitioner or a copy of the response from said bureaus indicating there is no criminal history
21 information on file;

22 (4) Evidence of the petitioner's reputation, which may include notarized letters of
23 reference from current and past employers, letters and other forms of personal attestation from
24 family members or personal friends, affidavits from the petitioner or other character evidence;
25 and

26 (5) Any further information or documents specifically requested by the board which
27 documents shall be certified copies of original documents.

28 (6) Any other person determined by the board to have an interest in the matter may
29 present any and all relevant information at the board hearing and in any appeal to the superior
30 court.

31 (c) The petitioner shall provide for the release of all of the petitioner's records that may
32 relate to the petition, including, but not limited to, health, mental health, military, immigration,
33 juvenile court, mental health court, civil court and criminal records, on a form prescribed by the
34 relief board. The releases shall authorize the director of behavioral healthcare, developmental

1 disabilities and hospitals, or his/her designee, to obtain any of such records for use at the relief
2 board hearing or any appeal from the decision of the board. Releases of information for the
3 purposes of this section are limited to the relief board, the director, or his/her designee, and any
4 parties involved in the relief hearing as determined by the board. Except as expressly provided in
5 this section, no such release shall constitute a waiver of the confidentiality protections of the
6 petitioner under state and federal law and all parties to a relief hearing are bound by said
7 confidentiality laws.

8 (d) The petitioner shall ensure that all required information accompanies the petition at
9 the time it is submitted to the board. At the discretion of the board, information provided after
10 receipt of the petition by the board may be considered. Information specifically requested by the
11 board must be received by the board no later than fifteen (15) calendar days after the date of the
12 request in order for the information to be considered. The board may extend such time period for
13 good cause shown. Failure to provide the requested information within such time period may
14 result in a denial of the petition.

15 (e) Upon the filing of the petition, the relief board shall set a date, time and place for a
16 hearing within sixty (60) calendar days of receipt of the petition, and shall give notice of such
17 hearing to:

- 18 (1) The petitioner;
19 (2) the court that rendered the adjudication or commitment;
20 (3) the conservator appointed for the petitioner, if any; and
21 (4) any other person determined by the board to have an interest in the matter.

22 (f) The board shall cause a recording of the testimony given at such hearing to be made.
23 Such recording shall be transcribed only in the event of an appeal from the decision rendered by
24 the board under this section. A copy of such transcript shall be furnished without charge to any
25 appellant whom the board finds is unable to pay for such copy.

26 (g) The petitioner shall have the burden of establishing by clear and convincing evidence
27 that:

- 28 (1) The petitioner is not likely to act in a manner that is dangerous to public safety; and
29 (2) Granting relief from the federal and state firearms disqualifier is not contrary to the
30 public interest.

31 (h) In determining whether to grant relief under this section, the board shall consider the
32 following:

- 33 (1) The circumstances regarding the firearms disqualifier imposed by state law, 18 USC
34 922(d)(4) or 18 USC 922(g)(4);

1 (2) The petitioner's record, which shall include, at a minimum, the petitioner's mental
2 health records and criminal history records, if any;
3 (3) The petitioner's reputation, which the petitioner must demonstrate through character
4 witness statements, testimony or other character evidence; and
5 (4) Any other relevant information provided by the petitioner or any other person
6 determined by the board to have an interest in the matter.
7 (i) The board shall grant relief under this section if it finds by clear and convincing
8 evidence that:
9 (1) The petitioner will not be likely to act in a manner dangerous to public safety, and
10 (2) Granting the relief will not be contrary to the public interest.
11 (j) The board shall include in its decision the specific findings of fact on which it bases its
12 decision.
13 (k) The petitioner may appeal the final decision of the relief board for the denial of relief
14 to the superior court for review:
15 (1) Review must include the record of the relief board pertaining to the petitioner;
16 (2) Review may include additional evidence necessary to conduct an adequate review;
17 (3) Notwithstanding any provision of the general statutes, any review of the decision of
18 the relief board by the superior court shall be de novo.
19 (l) As soon as practicable after receiving notice of the decision of the board granting
20 relief, the director of behavioral healthcare, developmental disabilities and hospitals, or his/her
21 designee, shall:
22 (1) Coordinate the removal or cancellation of the record in the National Instant Criminal
23 Background Check System (NICS), and
24 (2) Notify the attorney general of the United States that the basis of the record no longer
25 applies.
26 (m) All proceedings of the relief board under the provisions of this section shall be closed
27 to the public and all records of the proceedings shall be confidential and not subject to disclosure
28 except to the petitioner and/or his or her counsel, unless the relief board, after notice to the parties
29 and a hearing, determines that such records should be disclosed for good cause shown.
30 40.1-30-6. Rules and regulations. — The director of behavioral healthcare,
31 developmental disabilities and hospitals shall promulgate rules and regulations governing the
32 application and granting and denial of relief imposed under state law, 18 U.S.C. 922 (d)(4) or
33 (g)(4).

1 SECTION 2. This act shall take effect upon passage.

LC02273

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO BEHAVIORAL HEALTHCARE, DEVELOPMENTAL DISABILITIES AND
HOSPITALS -- RELIEF FROM DISQUALIFIERS BOARD

- 1 This act would create the relief from disqualifier board which would hear petitions from
- 2 person seeking relief from a federal firearms disability.
- 3 This act would take effect upon passage.

LC02273