

HOUSE BILL No. 5278

October 17, 2001, Introduced by Reps. Patterson, Woronchak, Kuipers, Vander Veen, Birkholz, Allen, Meyer, Middaugh, Cassis, Newell, Jelinek, Pumford, Richardville, Toy, Gilbert, Scranton, Sanborn and DeVuyst and referred to the Committee on Criminal Justice.

A bill to amend 1927 PA 372, entitled

"An act to regulate and license the selling, purchasing, possessing, and carrying of certain firearms and gas ejecting devices; to prohibit the buying, selling, or carrying of certain firearms and gas ejecting devices without a license or other authorization; to provide for the forfeiture of firearms under certain circumstances; to provide for penalties and remedies; to provide immunity from civil liability under certain circumstances; to prescribe the powers and duties of certain state and local agencies; to prohibit certain conduct against individuals who apply for or receive a license to carry a concealed pistol; to make appropriations; to prescribe certain conditions for the appropriations; and to repeal all acts and parts of acts inconsistent with this act,"

by amending section 2b (MCL 28.422b), as added by 1994 PA 338.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2b. (1) ~~Upon~~ EXCEPT AS PROVIDED IN SUBSECTION (6),
2 UPON entry of an order or disposition into the law enforcement
3 information network under any provision of law described in
4 section 2(3)(a), the department of state police shall immediately
5 send written notice of that entry to the person who is the

1 subject of the order or disposition. The notice shall be sent by
2 first-class mail to the last known address of the person. The
3 notice shall include at least all of the following:

4 (a) The name of the person.

5 (b) The date the order or disposition was entered into the
6 law enforcement information network.

7 (c) A statement that the person cannot obtain a license to
8 purchase a pistol or obtain a concealed weapon license until the
9 order or disposition is removed from the law enforcement informa-
10 tion network.

11 (d) A statement that the person may request that the state
12 police correct or expunge inaccurate information entered into the
13 law enforcement information network.

14 (2) A person who is the subject of an order entered into the
15 law enforcement information network under any provision of law
16 described in section 2(3)(a) may request that the department of
17 state police do either of the following:

18 (a) Amend an inaccuracy in the information entered into the
19 law enforcement information network under any provision of law
20 described in section 2(3)(a).

21 (b) Expunge the person's name and other information concern-
22 ing the person from the law enforcement information network
23 regarding 1 or more specific entries in the law enforcement
24 information network under any provision of law described in
25 section 2(3)(a) because 1 or more of the following circumstances
26 exist:

HB5278, As Passed House, October 29, 2001

3

1 (i) The person is not subject to an order of involuntary
2 commitment in an inpatient or outpatient setting due to mental
3 illness.

4 (ii) The person is not subject to an order or disposition
5 determining that the person is legally incapacitated.

6 (iii) The person is not subject to an injunctive order that
7 prohibits the purchase or possession of a firearm by the person
8 issued under any of the following:

9 (A) Section 2950 of the revised judiciary act of 1961, ~~Act~~
10 ~~No. 236 of the Public Acts of 1961, being section 600.2950 of the~~
11 ~~Michigan Compiled Laws~~ 1961 PA 236, MCL 600.2950.

12 (B) Section 2950a of ~~Act No. 236 of the Public Acts of~~
13 ~~1961, being section 600.2950a of the Michigan Compiled Laws~~ THE
14 REVISED JUDICIARY ACT OF 1961, 1961 PA 236, MCL 600.2950A.

15 (C) Section 14 of ~~chapter 84 of the Revised Statutes of~~
16 ~~1846, being section 552.14 of the Michigan Compiled Laws~~ 1846 RS
17 84, MCL 552.14.

18 (iv) The person is not subject to an order for release
19 subject to protective conditions that prohibits the purchase or
20 possession of a firearm by the person issued under section 6b of
21 chapter V of ~~Act No. 175 of the Public Acts of 1927, being sec-~~
22 ~~tion 765.6b of the Michigan Compiled Laws~~ THE CODE OF CRIMINAL
23 PROCEDURE, 1927 PA 175, MCL 765.6B.

24 (3) Before the expiration of 30 days after a request is made
25 to amend an inaccuracy in the law enforcement information network
26 under subsection (2)(a) or to expunge 1 or more specific entries
27 from the law enforcement information network under subsection

1 (2)(b)(i) to (iv), the department of state police shall conduct
2 an investigation concerning the accuracy of the information con-
3 tained in the law enforcement information network, either grant
4 or deny the request and provide the person with written notice of
5 that grant or denial. A notice of denial shall include a state-
6 ment specifying the basis of the denial, and that a person may
7 appeal the denial pursuant to the administrative procedures act
8 of 1969, ~~Act No. 306 of the Public Acts of 1969, being~~
9 ~~sections 24.201 to 24.328 of the Michigan Compiled Laws~~ 1969 PA
10 306, MCL 24.201 TO 24.328.

11 (4) If the department of state police refuses a request by a
12 person for amendment or expunction under subsection (2), or fails
13 to act within 30 days after receiving the request under subsec-
14 tion (2), the person may request a hearing before a hearing offi-
15 cer appointed by the department of state police for a determina-
16 tion of whether information entered into the law enforcement
17 information network should be amended or expunged because it is
18 inaccurate or false. The department of state police shall con-
19 duct the hearing pursuant to ~~Act No. 306 of the Public Acts of~~
20 ~~1969~~ THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL
21 24.201 TO 24.328.

22 (5) Information contained in an order or disposition filed
23 with the department of state police under any provision of law
24 described in section 2(3)(a)(i) to (vii) is exempt from public
25 disclosure under the freedom of information act, ~~Act No. 442 of~~
26 ~~the Public Acts of 1976, being sections 15.231 to 15.246 of the~~
27 ~~Michigan Compiled Laws~~ 1976 PA 442, MCL 15.231 TO 15.246.

HB5278, As Passed House, October 29, 2001

HB 5278 as amended October 25, 2001

5

1 (6) THE DEPARTMENT OF STATE POLICE SHALL NOT SEND WRITTEN
2 NOTICE OF AN ENTRY OF AN ORDER OR DISPOSITION INTO THE LAW
3 ENFORCEMENT INFORMATION NETWORK AS REQUIRED FOR A PERSONAL PRO-
4 TECTION ORDER ISSUED UNDER SECTION 2950 OR 2950A OF THE REVISED
5 JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.2950 AND 600.2950A,
6 UNTIL THAT DEPARTMENT HAS RECEIVED NOTICE THAT THE RESPONDENT OF
7 THE ORDER HAS BEEN SERVED WITH OR HAS RECEIVED NOTICE OF THE PER-
8 SONAL PROTECTION ORDER.

 [Enacting section 1. This amendatory act takes effect April 1,
2002.]