

Department of Legislative Services
 Maryland General Assembly
 2013 Session

FISCAL AND POLICY NOTE

House Bill 810 (Delegate Simmons, *et al.*)
 Health and Government Operations and
 Judiciary

Mental Health Professionals - Duty to Report Risk of Serious Harm - Firearm Safety

This bill requires a mental health professional currently treating an individual to report to the Director of Mental Hygiene any determination that the individual is likely to engage in conduct that would result in serious harm to the individual or others. If the Director of Mental Hygiene agrees with this determination, then the director must promptly notify the Secretary of State Police and provide specified information to be used to make determinations with regard to the individual’s firearm application, handgun permit, or authority to possess a regulated firearm. If such information includes any threats of violence, the Secretary must report the threats to specified local law enforcement agencies, which must take specified appropriate action.

Fiscal Summary

State Effect: General fund expenditures increase by approximately \$216,800 in FY 2014, which reflects the cost of two full-time employees to handle the reports received by the Director of Mental Hygiene. Actual expenditures may be higher or lower, as discussed below.

(in dollars)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	216,800	283,300	296,200	309,700	323,800
Net Effect	(\$216,800)	(\$283,300)	(\$296,200)	(\$309,700)	(\$323,800)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local law enforcement can likely investigate and take appropriate action on reports from the Secretary of State Police with existing budgeted resources.

Small Business Effect: None.

Analysis

Bill Summary: The bill may not be construed to require a mental health professional to take any action that, in the exercise of reasonable professional judgment, would endanger the mental health professional or increase the danger to a potential victim or victims. Moreover, the decision of a mental health professional to report (or not report) information under the bill, when made reasonably in good faith, may not be the basis for any civil or criminal liability of the mental health professional.

Information provided to the Secretary of State Police by the Director of Mental Hygiene under the bill must be limited to names and other nonclinical information.

A local law enforcement agency that receives a report from the Secretary of State Police under the bill must promptly investigate the information reported. If the information is substantiated, the local law enforcement agency must take appropriate action to respond to any imminent threat and submit a copy of the investigative report to the Secretary of State Police for purposes of conducting investigations related to firearm applications and handgun permits.

Current Law/Background:

Mental Illness and Access to Firearms

Chapter 131 of 2012 (HB 618) established a Task Force to Study Access of Individuals with Mental Illness to Regulated Firearms, with three specified areas of concern to consider. The task force is staffed by the Governor's Office of Crime Control and Prevention and filed its report of findings and recommendations on December 31, 2012. The task force established three workgroups and assigned them specified tasks.

- The first workgroup studied the adequacy of State laws and policies relating to the access of law enforcement officers to mental health records and whether, and to what extent, the State should expand access of law enforcement officers to certain mental health records.
- The second workgroup studied whether existing statutory and regulatory provisions adequately protect the public, as well as the civil rights of individuals with mental illness.
- The third workgroup studied the adequacy of State laws and policies relating to the access of individuals with a history of mental illness to all regulated firearms.

The task force report has seven findings, with nine recommendations. The recommendations include the need for additional research, additional mandated reporting

by mental health professionals and law enforcement, mandatory firearm seizures under certain circumstances, additional training for law enforcement personnel and mental health professionals, expansion of crisis intervention teams, changes in funding allocations for continuing education and local jurisdictions, and the establishment of a process for full restoration of firearms possession and purchasing rights in accordance with specified federal standards. The detailed findings and recommendations of the task force are contained in the full task force report, which can be found online at: <http://www.goccp.maryland.gov/legislation/guns-mental-illness-task-force.php>.

A psychologist may petition for the emergency evaluation of an individual if the psychologist has reason to believe that the individual has a mental disorder and presents a danger to the life or safety of the individual or others. (A “psychologist” is an individual who is licensed under Title 18 of the Health Occupations Article and listed in the National Register of Health Service Providers in psychology.)

Under federal law, it is unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person has been adjudicated as a mental defective or has been committed to any mental institution.

For more information on federal and state laws relating to the possession of a firearm by the mentally ill, see **Appendix – Laws Relating to Possession of a Firearm by the Mentally Ill**.

State Regulation of Firearms

Generally, the State regulates firearms and crimes related to firearms under Title 5 of the Public Safety Article and Title 4 of the Criminal Law Article, respectively. The State preempts the right of any local jurisdiction to regulate the sale of firearms. The primary enforcement of the State’s firearms laws and any licensing requirements are handled by Department of State Police (DSP) and its Licensing Division.

The State regulates the possession and sale of assault weapons in the same manner as the possession and sale of handguns, both of which are defined together as “regulated firearms.” Assault weapons are defined as a list of 45 specific semiautomatic weapons and their copies (mostly types of semiautomatic rifles and shotguns). Before a person purchases, rents, or transfers a regulated firearm in the State, the person must submit to DSP or other designated law enforcement agency a firearm application that identifies the applicant and the firearm that is the subject of the transaction. Applications are investigated by DSP and are subject to a seven-day waiting period before the transaction may take place.

A person may not possess a regulated firearm if the person was convicted of a crime of violence or a violation of specified controlled dangerous substances offenses. A violator is guilty of a felony and subject to a nonsuspendable, nonparolable mandatory minimum sentence of five years. Each violation of this prohibition is a separate offense. Chapter 164 of 2011 (SB 174) similarly prohibits the possession of a rifle or a shotgun if a person was previously convicted of a crime of violence or drug-related felony. A violator is guilty of a felony and subject to a maximum sentence of 15 years. Each violation must be considered a separate offense.

Other disqualifying criteria for possession of a regulated firearm, or a rifle or shotgun, include (1) suffering from a mental disorder as defined in § 10-101(f)(2) of the Health-General Article and having a history of violent behavior against the person or another, unless the person has a physician's certificate that the person is capable of possessing a regulated firearm without undue danger to the person or to another or (2) confinement for more than 30 consecutive days to a mental health "facility," as defined in the Health-General Article, unless the person has a physician's certificate that the person is capable of possessing such a weapon without undue danger to the person or to another.

To be issued a permit to carry a handgun by the Secretary of State Police, an applicant (1) must be 18 or older; (2) must not have been convicted of a felony or misdemeanor for which a sentence of imprisonment for more than one year has been imposed or, if convicted, must have been pardoned or been granted relief under federal law; (3) if younger than 30, must not have been committed to a facility for juveniles for longer than one year or adjudicated delinquent for a crime of violence, a felony, or misdemeanor that carries a statutory penalty of more than two years; (4) must not have been convicted of a controlled dangerous substance violation and must not presently be an addict, a habitual user of a controlled dangerous substance, or an alcoholic; (5) must not exhibit a propensity for violence or instability which may reasonably render possession of a handgun a danger to the applicant or another; and (6) must have a good and substantial reason to wear, carry, or transport a handgun. "Good and substantial reason" includes a finding that the permit is necessary as a reasonable precaution against apprehended danger. The Secretary may limit the geographic area; circumstances; or times of day, week, month, or year in which a permit is effective.

A handgun permit application costs \$75; two years after the initial permit and every three years thereafter, a \$50 renewal fee is due. In addition, the applicant must pay for fingerprint-based federal and State criminal history background checks for initial applications and renewals.

Federal Regulation of Firearms

The Brady Handgun Violence Prevention Act went into effect in 1994. The Brady Act requires that background checks be conducted on individuals before a firearm may be purchased from a federally licensed dealer, manufacturer, or importer – unless an exception applies. It does not apply to private transactions, including those which occur at gun shows. If there are no additional state restrictions, a firearm may be transferred to an individual upon approval by the National Instant Criminal Background Check System (NICS). In some states, proof of a previous background check can be used to bypass the NICS check.

NICS was launched by the Federal Bureau of Investigation (FBI) on November 30, 1998. It is used to quickly determine whether a prospective buyer is eligible to buy firearms or explosives from a licensee. Before a sale may be made, cashiers must call in a criminal history records check to the FBI (or other designated agency) to nationally check criminal records or other ineligibility criteria (such as mental health records). According to the FBI, over the last decade, more than 100 million such checks have been made, leading to more than 700,000 denials. The total number of firearm background checks via NICS has also steadily increased nationally and in Maryland. Noting that the number of NICS checks does not represent the number of firearm sales, FBI data shows 88,162 NICS checks from Maryland in 2010, 103,020 in 2011, and 136,604 in 2012.

On January 16, 2013, President Obama signed 23 executive actions to strengthen existing gun laws and to take related steps addressing mental health and school safety. The President also asked Congress to reinstate and strengthen the assault weapons ban that expired in 2004, to restrict ammunition magazines to no more than 10 rounds, and to expand background checks to virtually all gun transactions. All of these Presidential Actions can be found online at: <http://www.whitehouse.gov/briefing-room/presidential-actions>.

Gun Violence in the United States

The Center for Gun Policy and Research at the Johns Hopkins Bloomberg School of Public Health estimates that more than 31,000 people a year in the United States die from gunshot wounds. In addition, in 2010, approximately 337,960 nonfatal violent crimes were committed with guns, with 73,505 persons treated in hospital emergency rooms for nonfatal gunshot wounds. A two-day, January 2013 *Gun Policy Summit* at the Bloomberg School, with participation from scientists and researchers from several disciplines, was held in Baltimore City. A report of this symposium is scheduled to be released in early 2013.

State Expenditures: The Department of Health and Mental Hygiene (DHMH) advises that it expects a significant influx of reports (potentially numbering in the thousands)

from mental health professionals under the bill. Accordingly, DHMH advises that four additional full-time employees are needed to implement the bill.

The Department of Legislative Services (DLS) advises that the number of reports likely to be received by the department is, in fact, unknown. However, DLS assumes that DHMH will receive some number of reports under the bill and that some additional staff is, therefore, needed to process and review those reports. Thus, general fund expenditures increase by approximately \$216,775 in fiscal 2014, which accounts for the bill's October 1, 2013 effective date. This estimate reflects the cost of hiring one full-time psychologist to review the reports and make relevant determinations and one full-time administrator to communicate with DSP and provide general administrative support. This represents the likely level of staffing necessary to implement the bill. If a significant amount of reports is received under the bill, expenditures increase accordingly (and may, in fact, as much as double). Likewise, if fewer reports are received, the bill may require a lower level of staffing. The estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	2
Salaries and Fringe Benefits	\$206,682
One-time Start-up Costs	9,230
Ongoing Operating Expenses	<u>863</u>
Total FY 2014 State Expenditures	\$216,775

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

DSP advises that it can use existing budgeted resources to handle its responsibilities under the bill.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City, Montgomery County, Department of Health and Mental Hygiene, Department of State Police, Judiciary (Administrative Office of the Courts), National Conference of State Legislatures, Federal Bureau of Investigation, whitehouse.gov, The Johns Hopkins University, Department of Legislative Services

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Appendix – Laws Relating to Possession of a Firearm by the Mentally Ill

Federal Law

Under 18 U.S.C. § 922(d), it is unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person has been adjudicated as a mental defective or has been committed to any mental institution.

State Laws

Arizona	Ariz. Rev. Stat. §§ 13-3101 - 02, 13-925	A person may not possess a firearm if found to constitute a danger to themselves or others pursuant to court order under § 36-540, and whose right to possess a firearm has not been restored pursuant to § 13-925.
Arkansas	Ark. Code § 5-73-103	A person may not possess or own any firearm if the person has been: <ul style="list-style-type: none"> • adjudicated mentally ill; or • committed involuntarily to any mental institution.
California	Cal. Welfare and Inst. Code §§ 8100 - 8108	A person may not possess, purchase, receive, attempt to purchase or receive, or have control or custody of any firearm if the person: <ul style="list-style-type: none"> • is receiving in-patient treatment for a mental illness at a mental health facility and the attending professional opines that the patient is a danger to self or others. The prohibition applies even if the person has consented to the treatment, and ends when the patient is discharged; • has been adjudicated to be a danger to others as a result of a mental disorder or mental illness or has been adjudicated to be a mentally disordered sex offender. The prohibition does not apply, if the court issues, upon release, a certificate stating that the person may possess a firearm without endangering others; • has been found not guilty by reason of insanity of enumerated violent felonies. A person who is found not guilty by reason of insanity of other crimes is barred from possessing firearms unless a court finds that the person has recovered sanity; • has been found mentally incompetent to stand trial, unless there is a subsequent finding that the person has become competent; or • is currently under a court-ordered conservatorship because the person is gravely disabled as a result of a mental disorder or impaired by chronic alcoholism.

		A person may not possess, have custody or control, or purchase or receive, or attempt to purchase or receive, any firearms or any other deadly weapon for a period of six months whenever the person communicates to a licensed psychotherapist a serious threat of physical violence against a reasonably identifiable victim(s). Licensed psychotherapists are required to immediately report to a local law enforcement agency the identity of such a person [see § 8105(c)].
Connecticut	Conn. Gen. Stat. § 53a-217c	A person may not obtain a handgun eligibility certificate if the person: <ul style="list-style-type: none"> • has been discharged from custody within the preceding 20 years after having been found not guilty of a crime due to mental disease or defect pursuant to § 53a-13; • has been confined in a mental hospital for persons with psychiatric disabilities within the preceding 12 months by order of a probate court.
Delaware	Del. Code Title 11, § 1448	A person may not purchase, own, possess, or control a firearm or ammunition if the person was ever committed for a mental disorder to any hospital, mental institution, or sanitarium, unless the person possesses a certificate from a medical doctor or psychiatrist licensed in Delaware stating that the person is no longer suffering from a mental disorder which interferes or handicaps the person from handling deadly weapons.
District of Columbia	D.C. Code § 7-2502.03	An applicant for a firearms registration certificate must pass a background check conducted by the Chief of Police (in addition to the NICS check required under <i>Brady</i> when purchasing from a federally licensed dealer). Section 7-2502.03 requires that the chief confirm that the applicant within the five years immediately preceding the application: <ul style="list-style-type: none"> • has not been acquitted of any criminal charge by reason of insanity or has not been adjudicated a chronic alcoholic by any court; or • has not been voluntarily or involuntarily committed to any mental hospital or institution.
Florida	Fla. Stat. § 790.065 and § 790.06	Florida follows federal law regarding gun sales, but will not issue a license to carry a concealed weapon if the applicant has been committed to a mental institution under Chapter 394, or similar laws of any other state, unless the applicant produces a certificate from a licensed psychiatrist stating that the person has not suffered from disability for at least five years prior to the date of the application.

Georgia	Ga. Code § 16-11-129	A person may not be issued a license to carry a firearm if the person has been hospitalized as an inpatient in any mental hospital or alcohol or drug treatment center within five years of the application date.
Hawaii	Haw. Rev. Stat. § 134-7	<p>A person may not own, possess, or control any firearm or ammunition if the person:</p> <ul style="list-style-type: none"> • has been acquitted of a crime on the grounds of mental disease, disorder, or defect; or is or has been diagnosed as having a significant behavioral, emotional, or mental disorder, or for treatment for organic brain syndromes; • is a minor who (1) is or has been under treatment for addiction to any dangerous drug, intoxicating compound, or intoxicating liquor or (2) has been determined not to have been responsible for a criminal act or has been committed to any institution on account of a mental disease, disorder, or defect; or • is or has been diagnosed as having a significant behavioral, emotional, or mental disorder as defined by the most current diagnostic manual of the American Psychiatric Association or for treatment for organic brain syndromes. <p>An exception exists if the person has been medically documented to be no longer adversely affected by the addiction, abuse, dependence, mental disease, disorder, or defect.</p>
Idaho	Idaho Code § 18-3302(1)	<p>A license to carry a concealed weapon <u>must</u> be issued to an applicant <i>unless</i> the person is currently suffering, or has been adjudicated as, based on substantial evidence as:</p> <ul style="list-style-type: none"> • lacking mental capacity, per Idaho Code Ann. § 18-210; • mentally ill, per § 66-317; • gravely disabled, per § 66-317; or • an incapacitated person, per § 15-5-101(a).
Illinois	Ill. Rev. Stat. Ch. 720, § 5/24-3.1	<p>A person commits the offense of unlawful possession of firearms or firearm ammunition when the person:</p> <ul style="list-style-type: none"> • has been a patient in a mental hospital within the past five years and possesses any firearms or firearm ammunition; or • is mentally retarded and possesses any firearms or firearm ammunition.
Indiana	Ind. Code § 35-47-2-7	A person may not transfer a handgun to an individual who the person has reasonable cause to believe is mentally incompetent.

Iowa	Iowa Code § 724.15	Any person who acquires ownership of any pistol or revolver must first obtain an annual permit. An annual permit must be issued to any person unless prohibited by federal law from shipping, transporting, possessing, or receiving a firearm.
Kansas	Kans. Stat. § 21-4204	A person may not possess a firearm if the person is or has been a mentally ill person subject to involuntary commitment for care and treatment as defined in § 59-2946, or a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment as defined in § 59-29B46, unless the person has received a “certificate of restoration.”
Louisiana	La. Rev. Stat. § 40:1379.3	A carry permit may not be issued to a person who: <ul style="list-style-type: none"> • suffers from “mental or physical infirmity due to disease, illness, or retardation” which prevents the safe handling of a handgun; • has been adjudicated to be mentally deficient or has been committed to a mental institution.
Maine	Me. Rev. Stat. Title 15, § 393	A person may not own, possess, or have under that person’s control a firearm if the person has been convicted of committing, or found not criminally responsible by reason of insanity of committing certain enumerated crimes.
Maryland	Md. Pub. Safety Code § 5-133	A person may not possess a regulated firearm if the person: <ul style="list-style-type: none"> • suffers from a mental disorder as defined in § 10-101(f)(2) of the Health-General Article and has a history of violent behavior against the person or another, unless the person has a physician’s certificate that the person is capable of possessing a regulated firearm without undue danger to the person or to another; or • has been confined for more than 30 consecutive days to a facility as defined in § 10-101 of the Health-General Article, unless the person has a physician’s certificate that the person is capable of possessing a regulated firearm without undue danger to the person or to another.
Massachusetts	Mass. Gen. Laws Ch. 140, § 131	A Class A or B license to carry a firearm may be issued if the applicant has been confined to any hospital or institution for mental illness, unless the applicant submits a physician’s affidavit attesting that the person is familiar with the applicant and that the applicant is not disabled by such an illness in a manner that would prevent the person from possessing a firearm.

Michigan	Mich. Comp. Laws § 28.422	A person may not purchase, carry, possess, or transport a pistol without a license to do so. A person may qualify for a license if the person has not been adjudged insane or legally incapacitated and is not under an order of involuntary commitment in an inpatient or outpatient setting due to mental illness.
Minnesota	Minn. Stat. § 624.713	A person may not possess a firearm if the person: <ul style="list-style-type: none"> • is, or has ever been, confined to a treatment facility as a person who is mentally ill, mentally retarded, or mentally ill and dangerous to the public; or • has ever been found incompetent to stand trial or not guilty by reason of mental illness, unless there is satisfactory proof that the person no longer suffers from this disability.
Mississippi	Miss. Stat. Rev. § 45-9-101	A license to carry concealed handguns <u>must</u> be issued by the Department of Public Safety, pursuant to § 45-9-101(2), if the applicant: <ul style="list-style-type: none"> • has not been adjudicated mentally incompetent, or has waited five years from the date of restoration of mental capacity by court order; • has not been voluntarily or involuntarily committed to a mental institution or mental health treatment facility unless the person possesses a certificate from a psychiatrist licensed in Mississippi stating that the person has not suffered from disability for a period of five years.
Missouri	Mo. Rev. Stat. § 571.070	A person commits the crime of unlawful possession of a firearm if such person knowingly has any firearm in his or her possession and is currently adjudged as mentally incompetent.
Montana	Mont. Code § 45-8-321	A permit to carry a concealed weapon may be denied to a person who has been adjudicated in any state or federal court to be mentally ill, defective, or disabled, and remains subject to a disposition order.
Nebraska	Neb. Rev. Stat. § 69-2433	An applicant for a permit to carry a concealed handgun must not have been found in the previous 10 years to be a mentally ill and dangerous person and not be currently adjudged mentally incompetent.
Nevada	Nev. Rev. Stat. § 202.360	A person may not own or possess a firearm if the person has been adjudicated mentally ill or has been committed to any mental health facility.
New Jersey	N.J. Rev. Stat. § 2c:58-3	A person may not be issued a handgun purchase permit or firearms purchaser identification card if the person: <ul style="list-style-type: none"> • is confined for a mental disorder to a hospital, mental institution or sanitarium, or is presently an habitual drunkard;

		<ul style="list-style-type: none"> has ever been confined for a mental disorder, or is an alcoholic unless producing a certificate of a medical doctor or psychiatrist licensed in New Jersey, or other satisfactory proof, that the person is no longer suffering from that particular disability in such a manner that would interfere with or handicap the person in the handling of firearms.
New Mexico	N.M. Stat. § 29-19-4	The New Mexico Department of Public Safety must issue a license to an applicant who has not been adjudicated mentally incompetent or committed to a mental institution.
New York	N.Y. Pen. Law § 400.00; Mental Health Law Art. 9, 10 & 15; Crim. Proc. Law Art. 730, § 330.20; Corr. Law §§ 402 & 508; Fam. Ct. Act §§ 322.2 & 353.4	<p>No person may be issued a license to carry, possess, or dispose of a firearm unless the person:</p> <ul style="list-style-type: none"> has stated whether they have ever suffered any mental illness; has not been involuntarily committed to a facility under the jurisdiction of an office of the Department of Mental Hygiene in accordance with state law; or has not been civilly confined in a secure treatment facility.
North Carolina	N.C. Gen. Stat. § 14-404	A person may not obtain a permit to purchase a handgun if the person has been adjudicated mentally incompetent or has been committed to a mental institution.
North Dakota	N.D. Cent. Code § 62.1-02	A person who is or has ever been diagnosed and confined or committed to a hospital or other institution in North Dakota or elsewhere by a court of competent jurisdiction, other than a person who has had the petition that provided the basis for the diagnosis, confinement, or commitment dismissed under § 25-03.1-17, 25-03.1-18, or 25-03.1-19, or equivalent statutes of another jurisdiction, as a mentally ill person as defined in § 25 03.1-02, or as a mentally deficient person as defined in § 25-01-01, is prohibited from purchasing a firearm or having one in possession or under control. This limitation does not apply to a person who has not suffered from the disability for the previous three years.
Ohio	Ohio Rev. Stat. § 2923.125	A person may not acquire, possess, carry, or use any firearm if the person is under adjudication for mental incompetence, has been adjudicated as a mental defective, is committed to a mental institution, has been found to be mentally ill subject to hospitalization by court order, or is an involuntary mentally ill patient.
Oklahoma	Okla. Stat. § 21-1289.10	A person may not knowingly transfer a firearm to a mentally or emotionally unbalanced person.
Oregon	O.R.S. § 166.250	<p>A person may not possess a firearm if the person:</p> <ul style="list-style-type: none"> was committed to the Oregon Health Authority under ORS 426.130;

		<ul style="list-style-type: none"> • was found to be mentally ill and subject to an order under ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of that mental illness; or • has been found guilty except for insanity under ORS 161.295 of a felony.
Pennsylvania	Pa. Con Stat. Title 18, § 6105(c)	A person may not possess a firearm if ever having been adjudicated as incompetent or involuntarily committed to a mental institution.
Rhode Island	R.I. Gen. Laws § 11-47-6	A person who is under guardianship or treatment or confinement by virtue of being a mental incompetent, ...may not purchase, own, carry, transport, or possess or personally control any firearm. Any person affected by these provisions, other than a person who has been pronounced criminally insane by competent medical authority, after the lapse of a period of five years from the date of being pronounced cured by competent medical authority, may, upon presentation of an affidavit issued by competent medical authority to the effect that the person is a mentally stable person and a proper person to possess firearms, make application for the purchase of the firearm(s).
South Carolina	S.C. Code §§ 16-23-30, 44-23-1080	A person may not possess or acquire a handgun if the person has been adjudicated mentally incompetent. In addition, patients and prisoners under the jurisdiction of the South Carolina Department of Mental Health may not have access to firearms.
South Dakota	S.D. Codified Laws § 23-7-7.1	The sheriff of the county in which the applicant resides <u>must</u> issue a permit to carry a concealed weapon if the applicant has not been found in the previous 10 years to be a “danger to others” or a “danger to self” as defined in § 27A-1-1, or is not currently adjudged mentally incompetent.
Tennessee	Tenn. Code Ann. § 39-17-1351	A carry permit may not be issued to any person who has been adjudicated as a mental defective; has not been judicially committed to or hospitalized in a mental institution pursuant to Title 33; has not had a court appoint a conservator for the applicant by reason of a mental defect; has not been judicially determined to be disabled by reason of mental illness, developmental disability, or other mental incapacity; and has not, within seven years from the date of application, been found by a court to pose an immediate substantial likelihood of serious harm, as defined in Title 33, Chapter 6, Part 5, because of mental illness.
Texas	Tex. Gov’t Code § 411.172	A person is ineligible for a license to carry a concealed weapon if the person:

		<ul style="list-style-type: none"> • has been diagnosed by a licensed physician as suffering from a psychiatric disorder or condition that causes or is likely to cause substantial impairment in judgment, mood, perception, impulse control, or intellectual ability; • suffers from a psychiatric disorder or condition described above that (1) is in remission but is reasonably likely to redevelop at a future time or (2) requires continuous medical treatment to avoid redevelopment; • has been diagnosed by a licensed physician, determined by a review board or similar authority, or declared by a court to be incompetent to manage the person’s own affairs; or • has entered in a criminal proceeding a plea of not guilty by reason of insanity. <p>The following constitutes evidence that a person has a psychiatric disorder or condition described above:</p> <p>(1) involuntary psychiatric hospitalization;</p> <p>(2) psychiatric hospitalization;</p> <p>(3) inpatient or residential substance abuse treatment in the preceding five-year period;</p> <p>(4) diagnosis in the preceding five-year period by a licensed physician that the person is dependent on alcohol, a controlled substance, or a similar substance; or</p> <p>(5) diagnosis at any time by a licensed physician that the person suffers or has suffered from a psychiatric disorder or condition consisting of or relating to:</p> <p>(a) schizophrenia or delusional disorder;</p> <p>(b) bipolar disorder;</p> <p>(c) chronic dementia, whether caused by illness, brain defect, or brain injury;</p> <p>(d) dissociative identity disorder;</p> <p>(e) intermittent explosive disorder; or</p> <p>(f) antisocial personality disorder.</p>
Utah	Utah Code § 53-5-704	A person 21 or older may be issued a permit to carry a concealed firearm for lawful self defense, unless the person has been adjudicated by a state or federal court as mentally incompetent (unless the adjudication has been withdrawn or reversed).
Virginia	Va. Code §§ 18.2-308.1:2-:3	<p>A person is prohibited from the:</p> <ul style="list-style-type: none"> • purchase, possession, or transportation of any firearm by any person adjudicated “legally incompetent,” “mentally incapacitated,” or “incapacitated,” whose competency or capacity has not been restored; and

		<ul style="list-style-type: none"> • purchase, possession, or transportation of a firearm by a person who has been involuntarily committed, during the period of commitment.
Washington	Wash. Rev. Code § 9.41.040	A person may not own, possess, or have in their control any firearm, if that person has been involuntarily committed for mental health treatment and their right to own a firearm has not been restored.
West Virginia	W. Va. Code § 61-7-7	A person may not possess a firearm if the person has been adjudicated as a mental defective or has been involuntarily committed to a mental institution.
Wisconsin	Wis. Stat. § 941.29	<p>Any handgun transfer may not be approved if the recipient has been:</p> <ul style="list-style-type: none"> • found not guilty of a felony in Wisconsin by reason of mental disease or defect; • found not guilty or not responsible for a crime elsewhere that would be a felony in Wisconsin by reason of insanity or mental disease, defect, or illness; or • committed to a treatment facility (because the individual is mentally ill, drug dependent, or developmentally disabled) and ordered not to possess a firearm.
Wyoming	Wyo. Stat. § 6-8-404	<p>To possess a personal firearm, a firearm accessory, or ammunition that is manufactured commercially or privately in Wyoming and that remains exclusively within the borders of Wyoming, a person must not:</p> <ul style="list-style-type: none"> • currently be adjudicated to be legally incompetent; and • have been committed to a mental institution.

Source: National Conference of State Legislatures, January 2013
