



SENATE BILL 288: Amend Laws Regarding Mental Commitment Bars

2015-2016 General Assembly

Committee:	Senate Judiciary II	Date:	April 22, 2015
Introduced by:	Sen. Cook	Prepared by:	Janice Paul
Analysis of:	PCS to First Edition S288-CSTJ-21		Committee Counsel

SUMMARY: *The Proposed Committee Substitute (PCS) for Senate Bill 288 would amend the process for individuals to remove firearm disabilities after restoration to competency.*

BILL ANALYSIS: The PCS for Senate Bill 288 would amend G.S. 122C-54.1 concerning the restoration process for the removal of firearm disabilities by adding a provision that would allow an individual, following the entry of an order restoring the individual's competency, to submit a written request to the clerk of superior court to update the individual's record in the National Instant Criminal Background Check System (NICS).

EFFECTIVE DATE: This act becomes effective October 1, 2015.

BACKGROUND: The federal Gun Control Act of 1968 prohibits certain categories of persons, including “persons who have been adjudicated to be mentally defective, or who have been committed to a mental institution,” from possessing, shipping, transporting, and receiving firearms and ammunition. Federal regulation (27 C.F.R. 478.11) defines “Adjudicated as a mental defective” as:

- (a) A determination by a court, board, commission, or other lawful authority that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease:
 - (1) Is a danger to himself or to others; or
 - (2) Lacks the mental capacity to contract or manage his own affairs.
- (b) The term shall include—
 - (1) A finding of insanity by a court in a criminal case; and
 - (2) Those persons found incompetent to stand trial or found not guilty by reason of lack of mental responsibility pursuant to articles 50a and 72b of the Uniform Code of Military Justice, 10 U.S.C. 850a, 876b.

The National Instant Criminal Background Check System (NICS) is a computerized system maintained by the Federal Bureau of Investigation to facilitate background checks on individuals seeking to acquire firearms from federally licensed firearms dealers in order to determine if the those individuals are disqualified from receiving firearms.

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