

## **BILL ANALYSIS**

Senate Research Center  
83R4098 CLG-F

H.B. 2407  
By: Naishtat (Huffman)  
Criminal Justice  
5/14/2013  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Interested parties assert that current statute does not provide a procedure by which a completely restored ward whose guardianship has been terminated may regain the right to own or possess a firearm, meaning such a person remains subject to federal criminal penalties if the person owns or possesses a firearm. A procedure currently exists for a person who has been committed for inpatient mental health services to seek from a court the restoration of the person's right to own or possess a firearm, and the parties argue that the same right should apply to a completely restored ward whose guardianship has been terminated.

H.B. 2407 amends current law relating to restoration of a person's right to purchase a firearm on termination of a guardianship.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 1202, Estates Code, as effective January 1, 2014, by adding Subchapter E, as follows:

#### **SUBCHAPTER E. RESTORATION OF RIGHTS ON TERMINATION OF GUARDIANSHIP**

Sec. 1202.201. **REMOVAL OF FIREARM DISABILITY ON COMPLETE RESTORATION OF WARD'S CAPACITY.** (a) Authorizes a person whose guardianship was terminated because the person's capacity was completely restored to file an application with the court that created the guardianship for an order requesting the removal of the person's disability to purchase a firearm imposed under 18 U.S.C. Section 922(g)(4).

(b) Authorizes the ward or a person interested in the ward's welfare, at a proceeding involving the complete restoration of the ward's capacity under Subchapter B (Application for Complete Restoration of Ward's Capacity or Modification of Guardianship), to request an order seeking relief from a firearms disability described by Subsection (a).

(c) Requires the court, in determining whether to grant the relief sought under Subsection (a) or (b), to hear and consider evidence about the circumstances that led to imposition of the firearms disability, the person's mental history, the person's criminal history, and the person's reputation.

(d) Prohibits a court from granting relief under this section unless the court makes and enters in the record affirmative findings that the person or ward is no longer likely to act in a manner dangerous to public safety, and removing the person's or ward's disability to purchase a firearm is in the public interest.

SECTION 2. Amends Section 1202.151(a), Estates Code, as effective January 1, 2014, to require the court, except as provided by Section 1202.201, at a hearing on an application filed under Section 1202.051 (Application Authorized), to consider only evidence regarding the ward's mental or physical capacity at the time of the hearing that is relevant to the complete restoration of the ward's capacity or modification of the ward's guardianship. Makes a nonsubstantive change.

SECTION 3. Effective date: January 1, 2014.