

HOUSE No. 3430

The Commonwealth of Massachusetts

PRESENTED BY:

Linda Campbell

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to mental illness and firearms.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Linda Campbell</i>	<i>15th Essex</i>	
<i>Brian R. Mannal</i>	<i>2nd Barnstable</i>	<i>1/30/2013</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>	
<i>Denise Provost</i>	<i>27th Middlesex</i>	
<i>Cory Atkins</i>	<i>14th Middlesex</i>	
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>	
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>	<i>4/10/2013</i>
<i>Thomas A. Golden, Jr.</i>	<i>16th Middlesex</i>	

HOUSE No. 3430

By Ms. Campbell of Methuen, a petition (accompanied by bill, House, No. 3430) of Linda Campbell and others for legislation to establish a firearms and mental health fitness information registry within the Department of Criminal Justice Information Services. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to mental illness and firearms.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 6 of the General Laws is hereby amended by inserting after section
2 168B the following sections:-

3 Section 168B¹/₂. (a) The department shall establish and maintain a central computerized
4 database of all reports made under section 1C of chapter 112, known as the firearms and mental
5 health fitness information registry. The firearms and mental health fitness information registry
6 shall be updated annually based on information made available to the department under the
7 reporting requirements of section 1C of chapter 112. The department shall limit access to the
8 information contained in the firearms and mental health fitness information registry as follows:

9 (1) Local licensing authorities, as defined in section 121 of chapter 140, and the colonel
10 of state police may obtain all reports for the purposes of determining whether an application for a
11 firearm identification card, or renewal of the same, under section 129B of chapter 140 or an
12 application for a license to carry, or renewal of the same, under section 131 of chapter 140, shall
13 be approved;

14 (2) The firearms and mental health fitness review board established under section 168B³/₄
15 may obtain all reports for the purposes of reviewing a denial of any application for a firearm
16 identification card, or renewal of the same, under section 129B of chapter 140 or an application
17 for a license to carry, or renewal of the same under section 131 of chapter 140; and

18 (3) An applicant for a firearm identification card, or renewal of the same, under section
19 129B of chapter 140 or a license to carry, or renewal of the same under section 131 of chapter

20 140, who is denied such due to a report under section 1C of chapter 112 may obtain all reports
21 pertaining to the applicant.

22 (b) The department of criminal justice information services shall include information
23 about reporting requirements of section 1C of chapter 112 and the procedures authorized in this
24 section on the department's website.

25 168B^{3/4}. (a) There shall be a firearms and mental health fitness review board within the
26 department of criminal justice information services consisting of the following persons: 7
27 residents of the commonwealth, 3 of whom shall be licensed mental health professionals, 3 of
28 whom shall be members of law enforcement, and 1 of whom shall be a licensed firearms owner.

29 (b) The firearms and mental health fitness review board may hear complaints and
30 investigate any incidents alleging that an application for a firearm identification card, or renewal
31 of the same, under section 129B of chapter 140 or an application for a license to carry, or
32 renewal of the same, under section 131 of chapter 140 has been denied as a result of a report
33 made under section 1C of chapter 112; provided, however, that the request for a hearing before
34 the board shall be made within 90 days of the denial of the original application. The firearms and
35 mental health fitness review board shall conduct investigations and hearings to determine
36 whether or not the denial of a license due to a report made under section 1C of chapter 112 was
37 reasonable. In conducting investigations and hearings, the board, or department staff designated
38 by the board, shall have the power to summons witnesses, compel their attendance and
39 testimony, require the production of books, records and documents, administer oaths and have
40 access to all reports maintained in the firearm fitness information registry. Following review of a
41 complaint by an applicant, the firearms and mental health fitness review board shall issue a
42 ruling as to its findings.

43 An applicant may appeal any adverse ruling by the firearms and mental health fitness
44 review board by filing a petition to obtain judicial review in the district court having jurisdiction
45 in the city or town wherein the applicant filed for the license. A justice of such court, after a
46 hearing, may direct that a license be issued to the petitioner if the court finds that there was
47 insufficient evidence for the board to uphold the denial of the license.

48 SECTION 2. Chapter 112 of the General Laws is hereby amended by inserting after
49 section 1B the following section:-

50 Section 1C. (a) Any physician, physicians' assistant, nurse, psychologist or mental health
51 professional licensed by the commonwealth who, in his or her professional capacity, has
52 reasonable cause to believe that an individual should not be allowed possess a firearm, either
53 permanently or temporarily, shall file a report with the department of criminal justice
54 information services. The department of criminal justice information services shall maintain the
55 report in the firearms and mental health fitness information registry in accordance with section

56 168B½ of chapter 6. All reports made under this subsection shall be updated at least once per
57 year.

58 (b) A report made under subsection (a) may include supporting medical records in
59 accordance with the standards adopted under the federal Health Insurance Portability and
60 Accountability Act of 1996, 42 U.S.C. section 1320d et seq.; provided, however, that the report
61 shall be considered confidential and used only for the purposes allowed under section 168B½ of
62 chapter 6. No report made under this section shall be considered a public record.

63 (c) Any individual required to file a report under this section shall be immune from civil
64 and criminal liability for: (i) any report made in good faith, or (ii) the failure to make any report.

65 SECTION 3. Section 129B of chapter 140 of the General Laws, as appearing in the 2010
66 Official Edition, is hereby amended by inserting after the word “shotgun;”, in line 52, the
67 following:-

68 or there has been a report pertaining to the applicant filed under section 1C of chapter
69 112;

70 SECTION 4. Said section 129B of said chapter 140, as so appearing, is hereby further
71 amended by inserting after paragraph (5) the following paragraph:-

72 (5A) Notwithstanding the foregoing paragraph, any applicant denied a firearm
73 identification card, or renewal of the same, due to a report under section 1C of chapter 112 shall
74 first file a petition for review by the firearms and mental health fitness review board under
75 section 168B¾ of chapter 6.

76 SECTION 5. Section 131 of said chapter 140, as so appearing, is hereby amended by
77 inserting after the word “firearm;”, in line 124, the following:-

78 or there has been a report pertaining to the applicant filed under section 1C of chapter
79 112;

80 SECTION 6. Said section 131 of said chapter 140, as so appearing, is hereby further
81 amended by inserting after the second paragraph of subsection (f) the following paragraph:-

82 Notwithstanding the foregoing paragraph, any applicant denied a license, or renewal of
83 the same, due to a report under section 1C of chapter 112 shall first file a petition for review by
84 the firearms and mental health fitness review board under section 168B¾ of chapter 6.