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M E M O R A N D U M

To: Joint Interim Commission on 21st Century Firearm Laws

From: John E. Treadwell

Date: December 4, 2017

Re: Probate Courts—Reporting of Involuntary Commitments

During the October meeting of the commission, a commissioner requested research regarding whether probate courts are providing involuntary commitment orders to ALEA in a timely manner as required by Section 22-52-10.8, Code of Alabama 1975.

Section 22-52-10.8, Code of Alabama 1975, provides the following:

- (a) When the judge of probate of a county enters an order for the involuntary commitment of a person pursuant to Section 22-52-10.1, and the order is for a final commitment for inpatient treatment to the Department of Mental Health or a Veterans' Administration hospital, or as otherwise provided by law, the judge **shall immediately forward** the order to the Alabama Law Enforcement Agency and the order shall be entered in its information systems. The order shall be forwarded to the Alabama Law Enforcement Agency in the manner as the Alabama Justice Information Center Commission shall provide. The Alabama Law Enforcement Agency shall as soon as possible thereafter enter the order in the National Instant Criminal Background Check System (NICS) and the information shall be entered into the NICS Index Denied Persons File. The records maintained pursuant to this section shall only be used for purposes of determining eligibility to purchase or transfer a firearm. Information furnished shall not include confidential medical or treatment records, confidential tax or financial data, library records, or other personal information. (emphasis added)

The mandatory transmittal requirement dates back to 2004; however, in 2015, the immediate notification requirement was significantly expanded to require probate courts to immediately transmit *all* involuntary commitment orders to the Alabama State Law Enforcement Agency (“ALEA”) to facilitate the entry of this information into the state and federal criminal databases.¹ This information is used to screen firearm sales and the issuance of a concealed pistol permit in this state to persons who are not authorized to have a firearm due to the involuntary commitment.²

¹ See Act 2015-341, Section 1 (2015 Regular Session).

² See 13A-11-75(a)(1), Code of Alabama 1975, prohibits the issuance of concealed pistol permit to a person who has been involuntarily committed. Federal law, 18 U.S.C. § 922(d), provides that it is

Based upon information provided by ALEA, there are currently 18 counties that have not provided commitment orders to ALEA as required by Section 22-52-10.1. Those counties include: Bibb, Bullock, Cherokee, Choctaw, Clay, Cleburne, Conecuh, Dallas, DeKalb, Fayette, Hale, Lee, Lowndes, Macon, Marshall, Montgomery, Russell, and Wilcox Counties. According to the information provided by ALEA, it appears that only 9 counties are up-to-date on orders transmitted.

ALEA reports that that it has received funding to develop a Mental Health Registry System under the NARIP grant. The system would allow for probate courts to enter involuntary commitment information into that system, which is sent by ALEA to the FBI NICS file. This may simplify the process for the transmittal of involuntary commitment information to ALEA.

The Alabama Association of Probate Judges also reports that it has scheduled a meeting with ALEA during its Executive Committee Meeting, set for January 18-19, 2018. At this meeting, leadership will discuss options to facilitate the transmittal of the orders from probate courts to ALEA and also educate probate judges of the required duty to transmit this order.

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.”