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Office of the Governor

June 13, 2013

The Honorable Ross Miller
Secretary of State
Capitol Building
101 South Carson Street
Carson City, NV 89701

RE: Senate Bill 221 of the 77th Legislative Session

Dear Secretary Miller:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill 221, which is entitled:

AN ACT relating to public safety; requiring a court to transmit within 5 business days certain records of adjudication concerning a person's mental health to the Central Repository for Nevada Records of Criminal History for certain purposes relating to the purchase or possession of a firearm; authorizing the inclusion, correction and removal of the information in such records in each appropriate database of the National Crime Information Center; requiring each agency of criminal justice to submit information relating to records of criminal history within 60 days after the date of the conviction; requiring certain persons to request a background check before transferring a firearm to another person under certain circumstances; prohibiting certain persons from having possession, custody or control of a firearm; prohibiting certain persons from selling a firearm under certain circumstances; revising the functions of the Division of Mental Health and Developmental Services of the Department of Health and Human Services; requiring a mental health professional to notify certain persons when a patient makes certain explicit threats of imminent serious physical harm or death; providing penalties; and providing other matters properly relating thereto.

Senate Bill 221 has merit and includes a number of worthy components, including provisions that expedite court reporting of mental health adjudications, require criminal justice agencies to report records of criminal history within 60 days, and expand the list of individuals who are prohibited from possessing a firearm due to a finding of mental illness. Additionally, the bill creates new disclosure requirements for health care professionals who believe a patient has the intent and ability to carry out a threat of imminent, serious physical harm or death to a person.

However, while I support enhanced reporting requirements concerning mentally ill persons, the provisions of Senate Bill 221 pertaining to background checks for the private sale and transfer of firearms constitute an erosion of Nevadans' Second Amendment rights under the United States Constitution and may subject otherwise law-abiding citizens to criminal prosecution.

For example, the bill mandates that a private person wishing to sell a firearm to a family member must request a background check through a federally licensed firearms dealer. Additionally, a private person wishing to sell a firearm to a holder of a concealed weapon permit must conduct the transaction under the supervision of a federally licensed firearms dealer.

Senate Bill 221 also introduces into Nevada law a change in the burden of proof associated with the prosecution of a criminal action for the unlawful sale or disposal of a firearm. Existing law requires "actual knowledge" by the seller that the buyer meets disqualifying conditions or is otherwise prohibited from possessing a firearm. Senate Bill 221 alters this burden of proof from "actual knowledge" to "reasonable cause to believe," potentially exposing additional law-abiding Nevadans to criminal prosecution.

Indeed, a conviction pursuant to this new, broader standard imposes severe criminal penalties and requires an individual to forfeit Second Amendment rights. A person who violates the mandatory background check provision would be guilty of a gross misdemeanor for a first offense and prohibited from possessing a firearm for two years after the date of the conviction. For a second offense, a person who violates this provision would be guilty of a category E felony and, as a convicted felon, would be prohibited from possessing a firearm indefinitely.

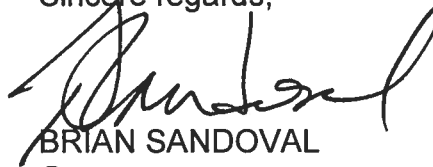
Many law enforcement professionals agree that Senate Bill 221 does not appropriately or effectively address the serious concerns at hand. In requesting a veto of the measure, the Nevada Sheriffs' and Chiefs' Association wrote:

The sections of SB 221 requiring mandatory background checks on private sales place an unreasonable burden on law-abiding citizens, with the potential to make them criminals. It would be unenforceable by law enforcement. It is our opinion this bill would do little to keep firearms out of the hands of criminals.

Senate Bill 221, while laudable in its efforts to strengthen reporting requirements concerning mentally ill persons, imposes unreasonable burdens and harsh penalties upon law-abiding Nevadans, while doing little to prevent criminals from unlawfully obtaining firearms.

Because of these concerns, I veto this bill and return it to you without my signature and without my approval.

Sincere regards,



BRIAN SANDOVAL
Governor

Enclosure

*cc: The Honorable Brian Krolicki, President of the Senate (without enclosure)
The Honorable Moises Denis, Senate Majority Leader (without enclosure)
The Honorable Marilyn Kirkpatrick, Speaker of the Assembly (without enclosure)
David A. Byerman, Secretary of the Senate (without enclosure)
Susan Furlong, Chief Clerk of the Assembly (without enclosure)
Brenda Erdoes, Esq., Legislative Counsel (without enclosure)*