H.B. No. 1179 By: Geren

## A BILL TO BE ENTITLED

1	AN ACT

- relating to the duties of certain law enforcement officials under 2
- procedures regulating the making or transfer of firearms. 3
- BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS: 4
- SECTION 1. Chapter 411, Government Code, is amended by 5
- adding Subchapter H-1 to read as follows: 6
- 7 SUBCHAPTER H-1. CERTIFICATION TO MAKE OR TRANSFER FIREARM
- Sec. 411.221. DEFINITIONS. In this section: 8
- (1) "Certification" means the process by which a chief 9
- law enforcement officer provides the certificate required by 27 10
- C.F.R. Section 479.63 or 479.85 for the approval of an application 11
- to make or transfer a firearm. 12
- 13 (2) "Chief law enforcement officer" means any law
- enforcement official the Bureau of Alcohol, Tobacco, Firearms and 14
- Explosives, or any of its successor agencies, identifies by 15
- regulation or otherwise as eligible to provide a required 16
- certification for the making or transfer of a firearm. 17
- 18 (3) "Firearm" has the meaning assigned by 26 U.S.C.
- Section 5845(a). 19
- Sec. 411.222. CERTIFICATION. (a) A chief law enforcement 20
- officer shall provide certification not later than the 15th day 21
- after the date of receipt of a request for certification unless the 22
- 23 chief law enforcement officer is unable to state on the certificate
- 24 that:

- 1 (1) the identification requirements of 27 C.F.R.
- 2 Section 479.63 or 479.85, as appropriate, are satisfied; or
- 3 (2) the officer has no information that:
- 4 (A) possession of a firearm by the maker or
- 5 transferee would violate state or local law; or
- 6 (B) the maker or transferee would use the firearm
- 7 for other than a lawful purpose.
- 8 (b) If the chief law enforcement officer is unable to
- 9 provide certification under Subsection (a), the chief law
- 10 enforcement officer shall provide the person who requested the
- 11 certification with a written notification of the denial, including
- 12 the reason for the denial under 27 C.F.R. Section 479.63 or 479.85.
- Sec. 411.223. APPEAL FROM DENIAL. (a) If a chief law
- 14 enforcement officer denies a request for certification, the person
- 15 who requested the certification may appeal the chief law
- 16 enforcement officer's decision to the district court of the county
- 17 in which the person resides.
- 18 (b) The review of the chief law enforcement officer's
- 19 decision to deny the certification shall be by trial de novo.
- 20 (c) If the court finds that no substantial evidence supports
- 21 the chief law enforcement officer's determination that the chief
- 22 <u>law enforcement officer cannot legally make the certification, the</u>
- 23 court shall:
- 24 (1) order the chief law enforcement officer to issue
- 25 the certification; and
- 26 (2) award court costs and reasonable attorney's fees
- 27 to the person who requested the certification.

- H.B. No. 1179
- Sec. 411.224. IMMUNITY FROM LIABILITY. A chief law
- 2 <u>enforcement officer or an employee of a chief law enforcement</u>
- 3 officer who, in good faith, provides a certification as described
- 4 by Section 411.222 is immune from civil or criminal liability
- 5 <u>resulting from the certification.</u>
- 6 SECTION 2. This Act takes effect September 1, 2015.