Mental Health Firearm Disqualifiers Section 790.065, F.S.

Purchase of Firearms by Mentally III Persons HB 1355 (2013 Legislative Session) Chapter 2013-249, Laws of Florida

Implementation Workgroup

Background

Florida Department of Law Enforcement (FDLE) Firearm Purchase Program (FPP)

Conducts required background checks to prevent purchase of firearms by persons who are ineligible under federal and state law to receive them.

Brady Handgun Violence Prevention Act of 1993

Created the National Instant Criminal Background Check System (NICS) to quickly provide information used to make determinations for eligibility to purchase firearms. NICS is a national system maintained by the FBI.

Background

Mental Competency (MECOM) Database

- Established by FDLE in 2007 to receive and store orders entered by the Clerks of Court on persons 'adjudicated mentally defective' or 'committed to a mental institution' or a judicial finding of incapacity.
- Information is uploaded to National Instant Criminal Background Check System (NICS).
- Used in determination process for firearm sales nationwide.
- Shared with the Florida Department of Agriculture and Consumer Services for the issuance and retention of concealed weapon licenses.

Reporting Requirements Since 2007

F.S. 790.065 (2)(a)

- Defines who should be entered into MECOM.
- Requires FDLE to 'compile and maintain an automated database.'
- Requires the Clerks of Court to submit records within 1 month after the rendition of the adjudication or commitment.
- Requires at a minimum the reporting of name (along with alias or former name), sex, and date of birth of subject.

Who Does This Apply To?

"...a determination by a court that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition or disease is..."

- · A danger to himself or herself or others; or
- Lacks the mental capacity to manage his or her own affairs:
- This includes a judicial finding of incapacity (guardianship per s. 744.331, F.S.); and
- Acquittal by reason of insanity or finding that the defendant is not competent to stand trial (s. 916.12, s. 916.13, and s. 916.15, F.S.)

Who Does This Apply To?

- Involuntary commitment;
- Commitment for mental defectiveness, mental illness or substance abuse;
- Involuntary inpatient or outpatient placement (Baker Act, s. 394.467 or 394.4655, F.S.);
- Involuntary assessment and stabilization (Marchman Act, s. 397.6818, F.S.);
- Involuntary substance abuse treatment (Marchman Act, s. 397.6597, F.S.)

Who This Does Not Apply To?

- ...but does not include a person
- In a mental institution for observation;
- Discharged from a mental institution after an initial review by a physician;
- Voluntary admission to a mental institution.

New Reporting Requirements

HB 1355 (2013 Legislative Session)

Became law on July 1, 2013, amending 790.065, F.S., providing conditions under which an individual who has been allowed to transfer to voluntary status in lieu of court-ordered involuntary commitment after being admitted for involuntary examination at a Baker Act receiving facility and is certified by a physician to be of imminent danger, may be prohibited from purchasing firearms or retaining or applying for a concealed weapon or firearm license.

Who This Does Not Apply To?

- Persons entering and remaining on voluntary status regardless of potential dangerousness.
- Persons entering on basis of self-neglect.
- Persons discharged because they fail to meet involuntary placement criteria.
- Persons whose potential for 'dangerousness' is not considered by a physician as 'imminent'.
- Persons whose petition is dismissed by the court because a less restrictive setting is found.

Who This Does Not Apply To?

- Persons taken to a facility not designated by DCF as a receiving facility and are released or transferred to voluntary status before transfer to a DCF designated receiving facility.
- Persons subject to the involuntary provisions of the Marchman Act unless ordered to undergo involuntary assessment and stabilization or involuntary treatment.
- Law applies to future gun purchases and retaining or obtaining concealed weapons or firearms license.

New Reporting Requirements

Chapter 2013-249, Laws of Florida (HB 1355) amended s. 790.065, F.S., effective 7/1/2013, to include:

'...voluntary admission (transfer) to a mental institution for outpatient or inpatient treatment of a person who had an involuntary examination under s. 394.463, F.S., where each of the following conditions have been met...'

New Reporting Requirements

Condition A

Examining physician finds the person is an <u>imminent</u> <u>danger</u> to himself or herself or others;

Condition B

Examining physician certifies that if the person had not agreed to transfer from involuntary to voluntary treatment:

- A petition for involuntary outpatient or inpatient treatment would have been filed (s. 394.463(2), F.S.); or
- A petition was filed and the person subsequently agreed to voluntary treatment prior to a court hearing on the petition.

New Reporting Requirements

Condition C

Before agreeing to voluntary treatment the person:

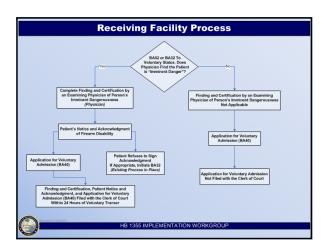
- Received written notice of the <u>finding and</u> <u>certification</u>;
- Received written notice that as a result of the finding, he or she may be <u>prohibited from</u> <u>purchasing a firearm and may not be eligible to</u> <u>apply for or retain a concealed weapon license;</u>
- Acknowledged the notice in writing.

New Reporting Requirements

Condition D

A judge or magistrate has:

- Reviewed the record classifying the person as an imminent danger; and
- Ordered such record be submitted to the Florida Department of Law Enforcement.



Baker Act Receiving Facilities

- Filing of forms with the Clerk of Court
 - · Cover Sheet (Optional);
 - · Physician's Finding and Certification;
 - Patient's Notice and Acknowledgment Form;
 - Application for Voluntary Admission;
 - If a petition was filed, Notification to the Court of Withdrawal of Petition.
- Administrator must file forms with the Clerk of Court for the county in which the involuntary examination occurred within 24 hours of the person's agreement to voluntary admission.

	Firearm Prohibition	
	Cover Sheet	
	Confidential Information	
	Submission is Cled of Court of Statescript Required Documents for Review by Audigo or Magistrate Requesting Purchase of Finances or Applings (Relatings) Concealed Wespons or Finances Licenses by Persons who have a Mental Bisses and are Destroot Immissently Dangerous	
	Attached are the following forms regarding the determination an individual in this receiving or treatment facility has been found to be an imminent darger to self or others:	
	Finding and Certification by an Examining Physician of Person's Inveninent Dangerousness (If not applicable, do not file)	
	Patient's Notice and Acknowledgment (Purchase of Finance and Application for or Retention of a Concealed Weapons or Finance Literals)	
Ψ.	☐ Application for Voluntary Admission of an Adult (Receiving Facility)	
Cover Sheet	Nonfaction to Court of Withdrawal of Petition for Hearing on Involutary Ingellent or Involuntary Outpellent Placement	
o ve	Signature of Administrator of Designee Date Time	
8	Proted Name of Administrator or Oysignee Name of Receiving or Treatment Facility	
	Printed Name of Patient Gender	
_	Date of Birth Race	
	Social Security Number	
	See s 294 430(20), 790 56 and 790 563 Plunds Standass Confidential professions	

ation	Finding and Certification by an Examining Physician of Person's bininised Congresseness 5
Finding and Certification	Esset Data. One It could'y the presented and agreed to voluntary tradement, a protice for involuntary couplained or impation to involuntary couplained as fined. It could'y a protice was the field. It could'y a protice was the field of the person indicespondly agreed to voluntary tradement price to a count having us the protice. These tradefility protects has the capacity to make well-resement, willing, and knowing discloses concerning this of the medical or metal is faulth tradement and filestellows to competent to breefirity or voluntary address and to concern the instance.
Findi	Signature of Examonia Physician Clair fina Printed Name of Examonia Physician (Exama Hamber Printed Name of Palent
	Social Security Number Let a 1 '20 at 20

(b) Sereilly (content of person whose admission is being imparation) conferent have received within solar of the finding and conflictation from an examening physician abmong at it also and pages to substitute solarises, a spetian for instructives opagated in substitute of an agent to the finding admissions, a patient for instructives opagated in the stand not have adeequapely agreed to without an other admission and personal professions. I further acknowledged understand the dioster who examined me believes it am an innerwork danger to impart or to without a further and the content of the content of the content of the personal content of the personal content of the content of the content of the content of the personal content of the personal content of the content of the content of the content of the personal content of the personal content of the c	_	The state of the s	
OP poll printed damic of persons whose abression is loog impactionally continue have received withen rotes of the finding and certification forms an examining physician although the continue of the continue	E	t, do hereby	
Section 1 of the control of the cont	ਹ		
Section 1 and 1 have indexes 304.469(20)4, F.S., or the examining physician contribed a political was filled and 1 have indexesponding regard to violately selected price to coord leaving on the politics. I starting schooling-or indexisted fill do not again to violately relative to gradient and in remarked fill do not again to violately relative all the filled to contribute open the tree-or workshore protective. I understand of it do not again to violately relative, and politics will be sight to contribute, and the remarked protective. I understand of the politics in State protective. I understand of the protective. I understand of the protective. I understand of the protective in the protective of the protective in the pr	0		
The dark There authorisingly interested to voluntary treatment prior to a court hearing on the position. I further authorisingly interested the distort wise examined mit believes it are an interested danger to impried to the time. I indirectated if the count and gain to violately interesting, a patient with the filled in count's require me to recove involvatory treatment. I understand if their position is filled, it have the oppir to contract it, involvation of priority to contract it, involvation of priority to contract in street of firms which interest in priority to contract in the contract in priority to contract in the contract in priority to contract in the contr	<u>υ</u>		
	⋛		
myself or to others. I understand of I do not agree to solvatery treatment, a position will be filed in court to region to be income and the processor in the p	2	I further acknowledge I understand the doctor who examined me believes I am an imminent danger to	
ON TO region me he recover envolvetary treatment. I unfortiented find protein in Steel, It have the uptit to contrait it, universality to switching histories in seller of these shadows, I may be probleded from postering fearers and from applies by currently recovered united from the state of the shadows fearers known used lapsely and envolved the state of the state o	2	myself or to others. I understand if I do not agree to voluntary treatment, a petition will be filed in	
orgit to context it. I valoritated by agreemy to voluntary handmost in other of these shadoms, I may be prished by compacturing became and them applying by a remissing, accreacing exception or freezest borners borner will largely the, and moreive, stell from that restriction varies Forks law. I understand the Facring and Certification by an Examency Physical Pharent's Horsens and Asknowledgment, and my Application for Visitately Admission will be filled with the Court. Signature of Competent Abuli Prizzed Name Date Time Signature of Withouts Prizzed Name at Platers One of them. Prizzed Name at Platers One of them. Name	ರ 📗	court to require me to receive involuntary treatment. I understand if that position is filled, I have the	
to printed for packing feature and from applying for, or intering, a conceile veragina or features because all lapsy for, and most packing for, or intering, a conceile feature for features and features features and features an	∢ ■		
forums loose until Sapple N., and norme, relef from the relection under Friends law. I understand the Fanding and Cestification by an Examining Physician of Phreson's Interiesed Design examines, this signed Parison's Notice and Acknowledgewer, and my Application for Visitation Administration will be find with the Court. Signature of Competent Adult Prized Name Date: Time Signature of Visitions Prized Name of Patient Code of their Race Code of their Storage Name of Patient Storage Name of Patient Code of their Storage Name of Patient Storage Name of Patient Code of their Storage Name of Patient Storage N	_	be prohibited from purchasing finearms and from applying for, or retaining, a concealed weapons or	
Degree nutries, this spind Private Nation and Asknowledgenest, and my Application for Valuatary Advances will be filled with the Court. Signature of Competer Actal Private Name Date Tene Signature of Whitese Private Name Date Tene Private Name of Talent Order Private Name of Talent Order Date of Both Stand Security Number	č	finarms loense until I apply for, and receive, relef from that restriction under Florida law.	
Signature of Competent Askal Prizzled Name Dake Tene Signature of Wilders Prizzled Name Dake Tene Finised Name of Palient Owner Date of Both Stand Security Number Stand Security Number Stand Security Number	an	I understand the Finding and Certification by an Examining Physician of Person's Imminent	
Signature of Vibiness Preside Name Diese Tene Preside Name of Patient Gender Date of Stein Name Open of Stein Name Stein Security Nameer	ice and	I understand the Finding and Certification by an Examining Physician of Person's Imminent Dangerounness, this signed Patent's Notice and Advisorshogment, and my Application for Voluntary	
Protect Name of Pallers	Notice and	I understand the Finding and Certification by an Examining Physician of Person's Immenet Desperouries, this signed Patent's Notice and Advandedgreest, and my Application for Visitaley Advances will be filled with the Court.	
Date of Bethi Ruce:	rs notice and	I understand the Finding and Certification by an Econoling Physician of Person's Immered Desginisaries, this signed Patent's Notice and Astronaloginest, and my Application for Visitatey Advenues will be filled with the Court. Signature of Competers Adult. Protect Name Date Time	
Bossi Security Number:	ent's Notice and	I understand the Finding and Certification by an Econolong Physician of Person's Immered Degramatries, this signed Patent's Notice and Acknowledgment, and my Application for Visturiary Advences will be filled with the Court. Signature of Computer Adult Printed Name Date Time Signature of Withhese Printed Name Date Time	
	rient's Notice and	I understand the Feding and Certification by an Examining Physician of Person's Immener Desponsories, this signed Palent's Notice and Advandedgrieser, and my Application for Visitately Advances will be find with the Cloud. Signature of Computers' Adult Protect Name Date time Signature of Witness Protect Name Date Time Protect Name of Palent: Desponsories Adult Protect Name Date Time Protect Name of Palent: Gendor:	

Application for Voluntary Admission of an Adult (Receiving Facility)
That provided name of person whose admission is being requested
Filingered Majory
for observation, diagnosis, care, and treatment of a reental tinese, and I carify that the information given on this application in true and correct to the best of any knowledge and belief.
I am making this application for voluntary advisation after sufficient explanation and disclosure to make a knowing and with decision without any element of force, haud, deced, durese, or other form of constrant or operation. The reason for my admission to this facility is:
I are a completed adult with the capacity to make well-reasoned, willful, and knowing decisions concerning my
medical or nextal health treatment. I do not have a guardian, guardian advocate, or currently have a health care surragate/proxy making health care decisions for me.
I ☐ have ☐ have not provided a copy of advance directive(s). If ear, the advance directives include my:
The state of the s
I have been provided with a written explanation of my rights as a person on voluntary sides and they have been fully explaned one. I selectarized that this facility as estendered by the ordisin one without ny openeds for up to 24 hours after I nake a request for discharge, urises a petition for institutional repotent pacement or an explanation of the property of t
I understand that I may be bified for the cost of my braitment.
Signature of Competent Adult Date Time an am
ProtedName of Witness Signature of Witness Date Time am pm
No action of this administor is to be made without the consent of the person except in case of an emergency. The use of this form for a voluntity administra empires that a "Certification of Person's Computers to Provide Expense and informed Consent" in computer administrations and if the took in the computer of the Computer of the Certification of the Certification of the Certification of the person's clinical parts to the "Application". The "Application" and "Certification" near the placed in the person's clinical second.
San 1, 394 43 (17), 394 432, 764 422, Parish Santon

	IN THE GROUNT COURT OF THEUDDIGN_ CRICUIT IN AND FORCOUNTY, FLORIDA	
	N RE CASE NO:	
	Notification to Court of Withdrawal of Petition for Hearing on Involuntary Ingatient or Involuntary Culpatient Placement	
	YOUARE HERESYNFORMED THAT Name of Person	
	Facility frame and Address	
	tax made application by express and informed consent for voluntary admission, due to an improvement in his/her consider.	
ත	□ was discharged on Order	
	seas transferred on to Destruction (Flancet)	
ਰ	was converted to Marchinan Act on Total	
ď	□ Other (specify)	
Ĭ		
ō	Please withdraw my Petiton for. If involuntary Outputient Pleasment III Involuntary Inputient Pleasment III Continue Clinicalizary Outputient Pleasment	
9	The respondent has [] or has not [] been determine(to be an inverser) danger to self or others.	
	If yes, the record of the finding, certification, notice, and written adknowledgement is attached to this Natification field on	
<u> </u>	Date The Petition for Adjudation of Incomprising to Consent to Treatment and Appointment of a Guardian Advocate, if any is also being withdrawn.	
etition	Signature of Administrator or Designee Date Time	
7	Printed Name of Administrator or Designee	
	cc: Clark of the Court Probate Division) Person Guardian Guardian Person Attorney Person Attorney	
	When a perition for orduratey parament is withdrawn, the cost, date attorney, public defender or other attorney to the persons, and guesday or organization must lie analized by highpone with one forwards edge in the decision, where each decision is made within 24 hours prior to the learning, lin such cases, the notification must be made immediately	
	Proted Name of Palent Gender	
	Date of Britis Rack	
	Social Security Number:	
	Confidential Inhymation Revised 35/873	

Clerks of Court

- Enter pleadings into the Clerk's office management system and assign a uniform case number.
 - These cases do not get reported as a new case filing.
- Submit the petition and other related documents to a judge or magistrate for review within 24 hours of the filing from receiving facilities.
- If ordered by a judge or magistrate, submit the record to the Florida Department of Law Enforcement within 24 hours of the order.

Judiciary

- Reviews the record of the finding, certification, notice, and written acknowledgment classifying the person as an imminent danger.
- Determines records support classification.
- Issues order requiring the Clerks of Court to submit record to the Florida Department of Law Enforcement.

	IN THE CIRCUIT COURT OF THE JUDICIAL CIRCUIT
	OF THE STATE OF FLORIDA IN AND FOR COUNTY
	PROBATE, GUARDIANSHIP, TRUST AND MENTAL HEALTH DIVISION
	IN RE:
	The second of th
	(Meranished (Materia) DMSKIN:
	Gender Roce
	Date of Birth: Social Security Number:
-	ORDER OF COURT! CITO PREMAIL SECOND OF FRAME, ID I LOWING REVOLUTIONED OF LAW INFORCEMENT OF CHILDREN FAMILY COURTS OF CHILDREN OF CHILDR
Φ	THIS MATTER came before the Court on
Pag	by control of the present of Chapter State years and senses being the process of the present of Chapter State years and the norm variation in a mental health inelationed statistical polygon or required, pursuant to fection PROSON, Francia Statistics, and the undersigned being inversed the sting, finds in follows:
order of Court (Page	Other billioning recently were find by the administration of the recentioning or treatment facility with the Coast of the decay recent between the recent state presentation occurrent. Other and the coast of the decay presents occurred and
-	CThe examining physician found that the patient is an imminent stanger to himself or herself or others.
. E	CIThe examining physician certified that if the patient did not agree to voluntary treatment, a petition for involuntary outpatient or impatient treatment would have been filed.
용	or CTHs examining physician certified that a petition for involuntary outpatient or inputient invalinent was. Their and the patient subsequently agreed to insuratary treatment prior to a court healing on the petition.
ŏ	DTHs patient recorded without nation of that finding and certification, and without notice that is a resent of such strateg, it are the may be produced two any parametry, a therem, and may not be enjoine to apply fair or retains conceived weapon of freams locense, and the person acknowledged such notice in willing.
	Cithe records described werelesse tot puse well that within the 24-hour time prescribed by law and computed as specified by Rule of Judosi Administration 2-514, after the patient's agreener's to voluntary administry.
	DWmn 24 hours after receipt, computed as specified by Rule of Judicial Administration 2.514, the Clerk of the Court presented the record to the undersigned.
	C7The record supports the classifying of the patient as an imment duringer to self or others and therefore meets the criteria for forwarding to the Floreda Department of Law Enfortement.
	in consideration of the foregoing it is hereby

Order of Court (Page 2)	COMMONED AND ADMONDS that the recent six administ its the Facins Department of Law Services and Law Services	
북	Copies to: 00Receiver Facility*	
Col	Softweet Counsel	
of (The Receiving Facility is to print the patient's copy and provide it to patient at the tacility.	
ler		
O		

Petition for Relief from Firearm Disability

- Petition for Relief Packet will include:
 - Petition for Relief from Firearm Disability
 - Notice of Hearing
- May be provided by the receiving facility staff to the individual at time of providing notice and obtaining acknowledgment of firearm disability.
- Petition for Relief Packet will be available from the Clerk of Court in the county the adjudication or commitment was made.

Petition for Relief from Firearm Disability

- Petition is filed with the Clerk of Court for each order.
- A Notice of Hearing is prepared containing the date, time and location.
- A copy of the petition and notice of hearing must be provided to the State Attorney.

-	IN THE CIRCUIT COURT OF THEJUDICIAL, CIRCUIT IN AND FORCOUNTY, FLORIDA
Disability (Page	IN RE:
oility	PETITION FOR RELIEF FROM FIREARM DISABILITIES IMPOSED BY THE COURT
SSI	THIS MATTER is presented to the Court on
	The Petitioner was ordered for Ordered to Involuntarily Substance Above Assessment and Stabilization (s. 397 6818, F. S.) on
i ea	☐ Ordered to Involuntary Substance Abuse Treatment (s. 397.6957, F.S.) on
Ē	Codered to Involuntary Impatient Placement (s. 394.467(6), F.S.) on
of fr	Found by Court to be of Immerent Danger but permitted by physician to transfer to voluntary status in lieu of involuntary placement order above (s. 750.065, F.S.) on
eji.	Adjudicated incapacitated (s. 744-331, F.S.) or any similar law of any other state on
Pettilon for Relief from Firearm	Adoptital by reason of insuring (s. 916: 19 F.S.) of a person charged with a criminal offense on Addical finding that a criminal defendant is not competent to stand that (s. 916: 12, F.S.) on
tio.	The Problemer will not be likely to act in a manner that is dangerous to public safety and that granting the relef would not be contrary to the public interest as follows:
Pet	

a. The freams dealer	ity imposed dated	, be set	aside and are no fu	ther in force and effect.
b. That pursuant to Fi	orista Stutura (790.065), T	he court shall gro	ut the relef reques	led in the petition if the court
finds, based on the evidence				
and, if applicable, criminal his				
the record, that the petitioner relief would not be contrary to		a manner that is	dangerous to public	safety and that granting the
				ment shall delete any mental
from purchasing a financial		from the auti	omized dizabase of	persons who are prohibited
from purchasing a fream bas	ed on court records.			
5. Under penalties of person	. I declare that I have re	ed the foregoing	Petton for Relat	from the Firearm Despities
Imposed by the Court and	that the facts stated in it is	are true.		
Signature of Petitioner:		Proted No	one of Pettioner:	
Date of Birth:				
Race:Gend		-	State	-
Social Security Number		City	SCARA	e.p
Name and Address of Altome	y for Pettioner (if any)			

Petition for Relief from Firearm Disability

- Evidentiary hearing
- Record of hearing by Court Reporter or other court approved electronic means.
- Written findings of fact and conclusions of law.
- Final order issued by the Court
 - · Petitioner's reputation;
 - · Mental health record;
 - Circumstances surrounding firearm disability and any other evidence;
 - Petitioner not likely to act in a manner dangerous to public safety.

	IN THE CIRCUIT COURT OF THE JUDICIAL CIRCUIT
_	IN AND FORCOUNTY, FLORIDA
	IN RE: CASE #
(1)	DIVISION
rder on Petition for Relief (Page	ORDER ON PETITION FOR RELIEF FROM FIREARM DISABILITIES THIS MATTER a presented to the Court by Petitioner
76	Relief from Pirearms Disabilities Imposed by the Court as a result of the order
eļie	issued by the Court on(date).
٦ ٦	The Court, having heard testimony and having received other evidence, finds as follows:
<u>.</u>	1was ordered to
ic l	2successfully
ō	3 currently lives with
温	works at, and
ē e	
<u></u>	Based on the evidence presented and the Court's conclusions derived therefrom, IT IS
ō	THEREFORE ORDERED AND ADJUDGED that:
<u>Aer</u>	The firearm disability imposed onshall remain in force and effect and
ž	the petition filed on(date) is DENIED,
	The firearm disability imposed onon(date) in
_	SET ASIDE and is no further in force and effect.

Petition for Relief from Firearm Disability

- Firearm disability relief granted:
 - · Proper notice of relief;
 - FDLE shall delete records from the MECOM database.
- Firearm disability relief denied:
 - Petitioner may not petition for relief again for one year.
 - Petitioner can seek judicial review from the District Court of Appeals.

Submission of Records into MECOM

- Mandated fields for MECOM entry
 - Name, sex, date of birth, and uniform case number (UCN).
- Record searches are based on name and other personal identifying information.
- Additional record subject identifiers
 - Includes social security number, place of birth, driver's license number, last known address, and others listed in the MECOM database.
- Providing additional identifiers further assists with the identification of an individual prohibited from purchasing a firearm.

Resources

Department of Children and Families (850) 717-4791

Florida Court Clerks and Comptrollers (850) 921-0808

Office of the State Courts Administrator (850) 922-5081

Florida Psychiatric Society (800) 521-7465

Florida Council for Community Mental Health (850) 488-1801

Florida Department of Law Enforcement Firearm Purchase Program (850) 410-8139

1	2