

Brady Campaign



To Prevent Gun Violence

SENSIBLE GUN LAWS SAVE LIVES

KEY PROVISIONS OF THE NICS IMPROVEMENT AMENDMENTS ACT OF 2007

H.R. 2640

Signed by the President on January 8, 2008

The Purpose of the NICS Improvement Act

The NICS Improvement Act will strengthen the Brady Law background check system, and thereby make it harder for criminals and other dangerous people to buy firearms.

The Brady Law, which mandates that federally licensed firearms dealers do background checks on prospective gun purchasers, has prevented more than 1.4 million prohibited persons from buying guns. However, a background check is only as good as the records it can search.

Unfortunately, many prohibited persons are not blocked from buying guns because their records are not in the Brady Law's National Instant Check System (NICS), including about 80-90% of disqualifying mental health records, and 25% of felony convictions. Ten states do not provide relevant domestic violence records that indicate prohibited purchasers.

The NICS Improvement Act will encourage submission of records to NICS by providing substantial Federal financial assistance to help states forward additional records to NICS, and financial penalties if they fail to do so.

Basic Requirements for States to Receive Funding

Within six months of the enactment of the legislation, each state must provide the Attorney General with a reasonable estimate of the total number of records, going back 20 years, on people who are prohibited from buying and possessing guns under federal law.

States must also establish a relief from disabilities program so that people who are no longer mentally disabled and also no longer dangerous to public safety can have their ability to possess a firearm restored.

Incentives for States to Participate in the Funding Programs

There are a number of incentives for states to make a better effort in forwarding records to the NICS.

- Waiver of requirement for states to provide matching funds

Beginning three years after the enactment of the legislation, a state that provides 90 percent of its records on prohibited purchasers can receive a waiver of the 10 percent matching requirement for National Criminal History Improvement Grants.

- Penalties for failure to forward records

A system of penalties would also be phased in if a state fails to provide records. Three years after enactment of the legislation, if a state fails to provide at least 50% of its records on prohibited purchasers, the Attorney General could withhold up to 3% of the state's Omnibus Crime Control and Safe Streets Act funding.

Five years after enactment, if a state provides less than 70% of required records, 4% of the Omnibus Crime Control funds can be withheld. Ten years after enactment the Attorney General must withhold 5% of Omnibus Crime Control funds if a state provides less than 90% of required records. The Attorney General can waive these penalties if a state provides substantial evidence that it is making a reasonable effort to comply with the requirements in the Act.

Funding Levels for Assistance to States

There are two grant programs under the legislation. The first grant program would help states and Indian tribal governments establish or improve their systems for providing relevant records to NICS. For this purpose, the legislation authorizes appropriations totaling \$875 million for fiscal years 2009 through 2013 (\$125 million for FY 2009, \$250 million for FY 2010, \$250 million for FY 2011, \$125 million for FY 2012, \$125 million for FY 2013).

There is also another grant program specifically for state and Indian tribal court systems to improve the automation and transmittal of relevant records, authorizing a total of \$437.5 million in appropriations for fiscal years 2009-2013 ((\$62.5 million for FY 2009, \$125 million for FY 2010, \$125 million for FY 2011, \$62.5 million for FY 2012, \$62.5 million for FY 2013).

Basic Requirements for Federal Agencies that Transmit Records to the NICS

The Act also provides new requirements for any Federal departments or agencies that have records on people who are prohibited from buying and possessing guns. Those departments or agencies must submit those records at least quarterly to the Attorney General for inclusion in the NICS and the Attorney General must ensure that those records are kept accurate and confidential.

There are additional requirements for any department or agency that makes any adjudication related to the mental health of a person or imposes any commitment to a mental institution such

that a person is barred from buying or possessing guns under federal law. Those departments or agencies must establish a program that permits people who have been barred from buying or possessing guns because of a mental illness disability to seek relief and show that the mental illness disability no longer exists.