

Title I: NICS grants reform and Vet guns fix

Sec 101- NCHIP Reauthorization

Reauthorizes the National Criminal History Improvement Program (NCHIP) at \$25 million annually through 2017 (reduces authorization from \$200 million). The NCHIP program is a broader Bureau of Justice Statistics (BJS) grant program under which grants are made to states to assist in updating and automating criminal history and other related records so that they are able to participate effectively in federal criminal justice systems. Besides the NICS Index, III, and NCIC that are used for firearm related background checks, systems covered by this grant also include the Integrated Automated Fingerprint Identification System (IAFIS) and the National Sex Offender Registry (NSOR).

Sec 102- NARIP grant reform

This section reforms the NICS Improvement Act Grant Program (NARIP) with a structured four year framework, workable metrics that are adjustable to each state's unique situation, and enhances penalties that will be tied to the new metrics. Each state will submit a four year plan with the goal of full coordination and automation of disqualifying record submissions. The states will be assessed by annual benchmarks using both qualitative and quantitative measures for assessment. This will replace the unworkable estimates that the NARIP grants currently use for benchmarks that have resulted in a failure of the program that began in 2007. The bill will increase the penalties, with an incrementally rising hit to JAG funds starting at 10 percent and increasing to 15 percent through the four year period. States that fail to submit a plan will not have access to NARIP or NCHIP grants and will receive a 15 percent reduction in JAG funds.

Sec 103- NARIP grant consolidation and reauthorization

This section outlines the eligible activities for NARIP funding for the purpose of automating and coordinating state submissions to NICS. This section also consolidates duplicative funding streams from the 2007 bill into one and decreases the authorization level from \$187.5 million to \$25 million. The section prohibits states from being eligible for funding that does not have a relief from disabilities program (with a 2 year delay) or an implementation plan per Section 102. This section also places a new cost share component that restricts federal funds from being used for more than 25 percent of non-material activities, such as task forces or studies.

Sec 104- relief from disabilities program

This section enacts penalties for states participating in the program per section 102 that do not have a relief from disabilities program starting one year after the date of enactment. This will give a set time period for the approximately 30 states that have not established a relief

program yet to implement one, while also giving those states the ability to participate the four year plan established in section 102. The penalties for not having a relief from disabilities program begin at 10 percent reduction in JAG funds one year after enactment, and increase incrementally to 15 percent after four years.

Sec 105- Protecting Veterans 2nd Amendment Rights

This section gives veterans ex ante due process prior to being submitted to the NICS system. Under current law, a veteran that is appointed a fiduciary based on the judgment that does not assess his/her capability to possess a firearm is automatically placed in the NICS system and is barred from purchasing or possessing a firearm. This section ensures that a veteran that is appointed a fiduciary receives notice of what this entails for the purposes of owning a firearm, and has 30 days to petition for a review from a board within the VA or a court of competent jurisdiction that will make a judgment based on the capability to handle a firearm, rather than balancing a checkbook, prior to being submitted to the NICS system. Further, a veteran will have the right to a judicial review from a court of competent jurisdiction following placement in the NICS system. This section also notifies the 150,000 veterans that have already lost their 2nd amendment rights of their ability to seek recourse. Finally, this section requires a review of VA policies to ensure that veterans that voluntarily appoint a fiduciary to handle his/her benefits are not automatically placed in the NICS system.

Sec 106- Federal courts record submission

This section clarifies that federal courts should submit eligible disqualifying records to NICS system. Currently, there is a potential gap in the system that precludes federal courts from requiring records be submitted to NICS, for example if a person pleads no contest by count of insanity.

Sec 107- transparency in state reporting

This section requires the FBI to make publically available the statistics of the NICS submissions by states and federal agencies. Transparency of this data will provide more accountability to the general public for states that are lacking in their disqualifying record submissions.

Sec 108: This section makes Title I effective 180 days after enactment.

Title II: Reasonable and user-friendly expansion of NICS checks into secondary markets

Sec. 201: Purpose is to extend NICS check procedures to promote the safe transfer of firearms in the secondary market

Sec. 202: Expands background checks to cover all transfers with exemptions.

Subsection (a) 1-3:

These provisions clean up U.S. Code by eliminating the section used during the initial development of the Brady Act from 1994 through 1998.

Subsection (a) (4) (1)- Defining covered transfers

Defines the term “covered transfer” as a transfer that is intended to be permanent with exceptions for familial transfers and estate/will transfers.

Subsection (a)(4)(2)- Expanding background checks in flexible and user-friendly manner

On the later of 18 months after the date of enactment, or 30 days after the consumer portal becomes operational, a firearm transfer between two unlicensed people must meet one of the four options outlined under this subsection to ensure firearms do not wind up in the wrong hands.

A) Status Quo option: An FFL conducts the transfer by taking custody of the firearm from the transferor in order to perform a background check on the transferee per current law

B) Consumer Portal option: A transferee shows and the transferor validates a 30 day temporary permit generated by running a self-background check through a new consumer portal created by (a) (4) (3)

C) Concealed carry or other state issue permit: A transferee can show a concealed carry permit or any other state issued permit that requires a NICS check to be conducted to obtain

D) State based alternative: Any other alternative that a state comes up with to satisfy the validation requirements for secondary and private market transfers. This option may also be used for interstate transfers between states with reciprocity agreements.

Subsection (a) (4) (3)- Consumer Portal

This subsection outlines the development of the consumer portal to be developed through a competitive bidding process. A consumer portal would be designed with the following concepts:

- DOJ shall provide a consumer portal through its website, mobile application, or other applicable medium to allow a potential transferee to run a background check on him/her
- A successful background check will provide potential transferee with a temporary 30 day permit that validates he/she is not prohibited from legally purchasing or possessing a firearm
- The temporary permit can be used by the transferee for any private transfers in compliance with state or federal law during the 30 day time window
- The permit will be made available to the transferee as an electronic printable document, via a mobile application or other appropriate means
- The 30 day permit will provide the name, date of expiration of permit, and a unique pin number that can be used to verify activation by transferor
- The consumer portal will be designed with privacy protections so that only a prospective transferee can run his/her own background check

- The documentation provided by consumer portal will utilize necessary fraud protections
- A valid 30 day permit provided by the consumer portal that is verified with a valid government-issued photo identification would suit the background check requirements
- All personal identifiable information provided by a prospective transferee to conduct background check through the consumer portal must be destroyed within 24-hours as occurs for FFL conducted background checks

Subsection (a)(4)(4)- AG rulemaking with exceptions

This section allows the AG to implement this subsection with regulations and provides exclusions on regulations that would mandate record keeping of background checks or transfers, FFLs must provide transferring services, or places caps on fees that FFLs can charge for performing transferring services.

Subsection (a) (4) (5) -Prohibitions on misuse of consumer portal system

This section prohibits the usage of a consumer portal to keep records of transfers or aggregating records to create a firearms registry.

Subsection (a) (4) (6)- Voluntary record sample

This section requires the AG to make publically available a sample form for a transferor to voluntarily document information relating to a firearm transfer. This would enhance a citizen's ability to assist in crime trace investigations or to document their firearm transfers.

Subsection (a) (4) (7)- Nullification of Title II for nonoperational consumer portal

This section would nullify Title II if the consumer portal is ever permanently shutdown or defunded. Title II will not be enforced if the consumer portal is nonoperational for a period of longer than 7 days.

Subsection (a) (4) (8)- State primacy of enforcement

This section allows a state to automatically take primacy of enforcement if it passes a law that satisfies similar requirements to those outlined in Title II with allowable exemptions. States can create exemptions for rural areas that are both remote and lack the technological capabilities to access the consumer portal. States may also narrow the scope of covered sales under state law to exempt purely private sales (friend, neighbors, co-workers). If the AG determines that the state's laws do not cover the minimum requirements, then a state has a one year corrective period following the notification.

Subsection (b)- IG Report on 24 hour destruction

This section would require an audit every 3 months by the DOJ IG to examine FBI compliance with the requirement to destroy personal information of gun owners within 24 hours of a completion of a NICS check. This would require a report to Congress and make the report publically available on the website.

Subsection (c) - Penalties

- Knowingly violating Title II NICS check requirements results in a misdemeanor penalty of up to one year in jail or up to \$1000 fine for the first offense and is punishable by up to 3 years in jail or a fine for 2nd and subsequent offenses.
- The penalty for persons who knowingly use the consumer portal for any other purpose other than its intended purpose to run a NICS check on him/her shall be fined or imprisoned up to 1 year.

Subsection(d)- technical amendments

Subsection(e)- Sunset

Subsection e will provide accountability on the new system with a sunset after five years. Given this system is new and untested, it is important that Congress has an opportunity to evaluate the effectiveness of the consumer portal and expanded NICS system. If the system is a success, Congress can continue its usage. If the new system is a failure, then Congress can let the system expire.

Section 203- Prohibition of registry and penalties on record abuse

This section codifies the prohibition of a National Gun Registry by any department or agency in the federal government, using FFL records, any other records generated by state law or voluntarily, or any information pertaining to gun ownership obtained through medical records. For any person who knowingly violates a prohibition on a national gun registry shall be fined or imprisoned up to 15 years.

This section would also prohibit ATF officers from seizing, copying, or reproducing records unless it constitutes a material evidence of a violation of law or is necessary for a criminal investigation. A civil penalty of \$1,000 would be placed for the first violation and termination and up to one year in prison for a 2nd violation.

Section 204- Interstate transfers

Removes interstate barriers to transferring firearms among private citizens and allows active duty military to purchase firearms in their home states.

Section 205- Consolidation of duplicative DOJ programs

Rescinds at least \$200 million annually through the elimination, consolidation, or streamlining of more than 250 DOJ grant programs identified by GAO as having duplicative or overlapping missions.

Section 206- IG Report on consumer portal

This section authorizes IG reports at the one year and two year marks after the consumer portal becomes operational to determine its effectiveness, user friendliness and to make suggestions for improvements. The IG report must take in feedback from buyers, sellers, and government officials.

Section 207- Demand letter limitations

This section would clarify and limit the ATF's usage of demand letter notifications for bona fide criminal investigations or for statistical analysis.