To provide for a waiting period before the purchase of a handgun, and for the establishment of a national instant criminal background check system to be contacted by firearms dealers before the transfer of any firearm.
AN ACT

To provide for a waiting period before the purchase of a handgun, and for the establishment of a national instant criminal background check system to be contacted by firearms dealers before the transfer of any firearm.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Brady Handgun Violence Prevention Act”.

*
SEC. 2. FEDERAL FIREARMS LICENSEE REQUIRED TO CONDUCT CRIMINAL BACKGROUND CHECK BEFORE TRANSFER OF FIREARM TO NONLICENSEE.

(a) Interim Provision.—

(1) In general.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

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tice of the contents of the statement to the chief law enforcement officer of the place of residence of the transferee; and

“(IV) within 1 day after the transferee furnishes the statement, transmitted a copy of the statement to the chief law enforcement officer of the place of residence of the transferee; and

“(ii)(I) 5 business days (as defined by days in which State offices are open) have elapsed from the date the transferor furnished notice of the contents of the statement to the chief law enforcement officer, during which period the transferor has not received information from the chief law enforcement officer that receipt or possession of the handgun by the transferee would be in violation of Federal, State, or local law; or

“(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law; or

“(B) the transferee has presented to the transferor a written statement, issued by the chief law en-
enforcement officer of the place of residence of the transferee during the 10-day period ending on the date of the most recent proposal of such transfer by the transferee, stating that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

"(C)(i) the transferee has presented to the transferor a permit that—

"(I) allows the transferee to possess a handgun; and

"(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

"(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of the law;

"(D) the law of the State requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verify that the in-
formation available to such official does not indicate
that possession of a handgun by the transferee
would be in violation of law;

"(E) the Secretary has approved the transfer
under section 5812 of the Internal Revenue Code of
1986; or

"(F) on application of the transferor, the Sec-
retary has certified that compliance with subpara-
tograph (A)(i)(III) is impracticable because—

"(i) the ratio of the number of law enforce-
ment officers of the State in which the transfer
is to occur to the number of square miles of
land area of the State does not exceed 0.0025;

"(ii) the business premises of the trans-
feror at which the transfer is to occur are ex-
tremely remote in relation to the chief law en-
forcement officer; and

"(iii) there is an absence of telecommuni-
cations facilities in the geographical area in
which the business premises are located.

"(2) A chief law enforcement officer to whom a trans-
feror has provided notice pursuant to paragraph
(1)(A)(i)(III) shall make a reasonable effort to ascertain
within 5 business days whether the transferee has a crimi-
nal record or whether there is any other legal impediment
to the transferee's receiving a handgun, including research
in whatever State and local recordkeeping systems are
available and in a national system designated by the Attor-
ney General.

“(3) The statement referred to in paragraph
(1)(A)(i)(I) shall contain only—

“(A) the name, address, and date of birth ap-
ppearing on a valid identification document (as de-
fined in section 1028(d)(1)) of the transferee con-
taining a photograph of the transferee and a de-
scription of the identification used;

“(B) a statement that transferee—

“(i) is not under indictment for, and has
not been convicted in any court of, a crime pun-
ishable by imprisonment for a term exceeding 1
year;

“(ii) is not a fugitive from justice;

“(iii) is not an unlawful user of or addicted
to any controlled substance (as defined in sec-
tion 102 of the Controlled Substances Act);

“(iv) has not been adjudicated as a mental
defective or been committed to a mental institu-
tion;

“(v) is not an alien who is illegally or un-
lawfully in the United States;
“(vi) has not been discharged from the Armed Forces under dishonorable conditions; and
“(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;
“(C) the date the statement is made; and
“(D) notice that the transferee intends to obtain a handgun from the transferor.
“(4) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall immediately communicate all information the transferor has about the transfer and the transferee to—
“(A) the chief law enforcement officer of the place of business of the transferor; and
“(B) the chief law enforcement officer of the place of residence of the transferee.
“(5) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.
“(6)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction, and shall retain evidence that the transferor has complied with subclauses (III) and (IV) of paragraph (1)(A)(i) with respect to the statement.

“(B) Unless the chief law enforcement officer to whom a statement is transmitted under paragraph (1)(A)(i)(IV) determines that a transaction would violate Federal, State, or local law—

“(i) the officer shall, within 20 business days after the date the transferee made the statement on the basis of which the notice was provided, destroy the statement and any record containing information derived from the statement;

“(ii) the information contained in the statement shall not be conveyed to any person except a person who has a need to know in order to carry out this subsection; and

“(iii) the information contained in the statement shall not be used for any purpose other than to carry out this subsection.

“(C) If a chief law enforcement officer determines that an individual is ineligible to receive a handgun and the individual requests the officer to provide the reasons
for the determination, the officer shall provide such rea-
sons to the individual within 20 business days after receipt
of the request.

“(7) A chief law enforcement officer or other person
responsible for providing criminal history background in-
formation pursuant to this subsection shall not be liable
in an action at law for damages—

“(A) for failure to prevent the sale or transfer
of a handgun to a person whose receipt or posses-
sion of the handgun is unlawful under this section;
or

“(B) for preventing such a sale or transfer to
a person who may lawfully receive or possess a
handgun.

“(8) For purposes of this subsection, the term ‘chief
law enforcement officer’ means the chief of police, the
sheriff, or an equivalent officer or the designee of any such
individual.

“(9) The Secretary shall take necessary actions to en-
sure that the provisions of this subsection are published
and disseminated to licensed dealers, law enforcement offi-
cials, and the public.”.

(2) Handgun Defined.—Section 921(a) of
such title is amended by adding at the end the fol-
lowing:
“(29) The term ‘handgun’ means—

“(A) a firearm which has a short stock and is
designed to be held and fired by the use of a single
hand; and

“(B) any combination of parts from which a
firearm described in subparagraph (A) can be as-
sembled.”.

(b) **PERMANENT PROVISION.**—Section 922 of title
18, United States Code, as amended by subsection (a)(1)
of this section, is amended by adding at the end the follow-
ing:

“(t)(1) Beginning on the date that is 30 days after
the Attorney General notifies licencees under section 3(e)
of the Brady Handgun Violence Prevention Act that the
national instant criminal background check system is es-
tablished, a licensed importer, licensed manufacturer, or
licensed dealer shall not transfer a firearm to any other
person who is not such a licensee, unless—

“(A) before the completion of the transfer, the
licensee contacts the national instant criminal back-
ground check system established under section 3 of
such Act;

“(B)(i) the system provides the licensee with a
unique identification number; or
“(ii) 1 business day (as defined in subsection (s)(8)(B)) has elapsed since the end of the business day on which the licensee contacted the system, and the system has not notified the licensee that the receipt of the handgun by such other person would violate subsection (g) or (n) of this section or any State or local law; and

“(C) the transferor has verified the identity of the transferee by examining a valid identification document (as defined in section 1028(d)(1) of this title) of the transferee containing a photograph of the transferee.

“(2) Paragraph (1) shall not apply to a firearm transfer between a licensee and another person if—

“(A)(i) such other person has presented to the licensee a permit that—

“(I) allows such other person to possess a firearm; and

“(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

“(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that pos-
session of a firearm by such other person would be in violation of law;

“(B) the Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

“(C) on application of the transferor, the Secretary has certified that compliance with paragraph (1)(A) is impracticable because—

“(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

“(ii) the business premises of the licensee at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer (as defined in subsection (s)(8)); and

“(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

“(3) If the national instant criminal background check system notifies the licensee that the information available to the system does not demonstrate that the receipt of a firearm by such other person would violate subsection (g) or (n), and the licensee transfers a firearm to such other person, the licensee shall include in the record
of the transfer the unique identification number provided by the system with respect to the transfer.

“(4) In addition to the authority provided under section 923(e), if the licensee knowingly transfers a firearm to such other person and knowingly fails to comply with paragraph (1) of this subsection with respect to the transfer and, at the time such other person most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that receipt of a firearm by such other person would violate subsection (g) or (n) of this section, the Secretary may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under section 923, and may impose on the licensee a civil fine of not more than $5,000.

“(5) Neither a local government nor an employee of the Federal Government or of any State or local government, responsible for providing information to the national instant criminal background check system shall be liable in an action at law for damages—

“(A) for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section; or
“(B) for preventing such a sale or transfer to
a person who may lawfully receive or possess a
handgun.”.

(c) **Penalty.**—Section 924(a) of title 18, United
States Code, is amended—

(1) in paragraph (1), by striking “paragraph
(2) or (3) of”; and

(2) by adding at the end the following:

“(5) Whoever knowingly violates subsection (s) or (t)
of section 922 shall be fined not more than $1,000, impris-
oned for not more than 1 year, or both.”.

**Sec. 3. National Instant Criminal Background
Check System.**

(a) **Establishment of System.**—Not later than 60
months after the date of the enactment of this Act, the
Attorney General of the United States shall establish a
national instant criminal background check system that
any licensee may contact for information on whether re-
cipt of a firearm by a prospective transferee thereof
would violate subsection (g) or (n) of section 922 of title
18, United States Code, or any State or local law.

(b) **Expedited Action by the Attorney General.**—The Attorney General shall expedite—

(1) the upgrading and indexing of State crimi-
nal history records in the Federal criminal records
system maintained by the Federal Bureau of Investigation;

(2) the development of hardware and software systems to link State criminal history check systems into the national instant criminal background check system established by the Attorney General pursuant to this section; and

(3) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

(c) Provision of State Criminal Records to the National Instant Criminal Background Check System.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall—

(1) determine the type of computer hardware and software that will be used to operate the national instant criminal background check system and the means by which State criminal records systems will communicate with the national system, which shall be based upon the Interstate Identification Index ("III") unless the Attorney General finds that the III will not provide a satisfactory basis for the national instant criminal background check system;
(2) investigate the criminal records system of each State and determine for each State a timetable by which the State should be able to provide criminal records on an online capacity basis to the national system; and

(3) notify each State of the determinations made pursuant to paragraphs (1) and (2).

(d) Operation of the System.—

(1) General Rule.—If a licensee contacts the national instant criminal background check system with respect to a firearm transfer, the system shall, during the contact or by return contact without delay—

(A) review available criminal history records to determine whether receipt of a firearm by the prospective transferee would violate subsection (g) or (n) of section 922 of title 18, United States Code, or any State or local law; and

(B)(i) if the receipt would not be such a violation—

(I) assign a unique identification number to the transfer;

(II) provide the licensee with the identification number; and
(III) immediately destroy all records of the system with respect to the contact (other than the identification number and the date the number was assigned) and all records of the system relating to the transferee or the transfer or derived therefrom; or
(ii) if the receipt would be such a violation—
   (I) notify the licensee that the receipt would be such a violation; and
   (II) maintain the records created by the system with respect to the proposed transfer.

(2) Special Rule.—If a licensee contacts the national instant criminal background check system with respect to a firearms transfer and the system is unable to comply with paragraph (1) during the contact or by return contact without delay, then the system shall comply with paragraph (1) not later than the end of the next business day.

(e) Notification of Licensees.—On establishment of the system under this section, the Attorney General shall notify each licensee and the chief law enforcement officer of each State of the existence and purpose
of the system and the means to be used to contact the
system.

(f) Administrative Provisions.—

(1) Authority to Obtain Official Information.—Notwithstanding any other law, the Attorney
General may secure directly from any department or
agency of the United States such information on
persons for whom receipt of a firearm would violate
subsection (g) or (n) of section 922 of title 18,
United States Code, or any State or local law, as is
necessary to enable the system to operate in accord-
ance with this section. On request of the Attorney
General, the head of such department or agency
shall furnish such information to the system.

(2) Other Authority.—The Attorney General
shall develop such computer software, design and ob-
tain such telecommunications and computer hard-
ware, and employ such personnel, as are necessary
to establish and operate the system in accordance
with this section.

(g) Correction of Erroneous System Information.—If the system established under this section in-
forms an individual contacting the system that receipt of
a firearm by a prospective transferee would violate sub-
section (g) or (n) of section 922 of title 18, United States
Code, or any State or local law, the prospective transferee may request the Attorney General to provide the prospective transferee with the reasons therefor. Upon receipt of such a request, the Attorney General shall immediately comply with the request. The prospective transferee may submit to the Attorney General information to correct, clarify, or supplement records of the system with respect to the prospective transferee. After receipt of such information, the Attorney General shall immediately consider the information, investigate the matter further, and correct all erroneous Federal records relating to the prospective transferee and give notice of the error to any Federal department or agency or any State that was the source of such erroneous records.

(h) Regulations.—After 90 days notice to the public and an opportunity for hearing by interested parties, the Attorney General shall prescribe regulations to ensure the privacy and security of the information of the system established under this section.

(i) Prohibitions Relating to Establishment of Registration Systems with Respect to Firearms.—No department, agency, officer, or employee of the United States may—

(1) require that any record or portion thereof maintained by the system established under this sec-
tion be recorded at or transferred to a facility
owned, managed, or controlled by the United States
or any State or political subdivision thereof; or
(2) use the system established under this sec-
tion to establish any system for the registration of
firearms, firearm owners, or firearm transactions or
dispositions, except with respect to persons prohib-
ited by section 922 (g) or (n) of title 18, United
States Code, from receiving a firearm.
(j) Definitions.—As used in this section:
(1) Licensee.—The term “licensee” means a
licensed importer, licensed manufacturer, or licensed
dealer under section 923 of title 18, United States
Code.
(2) Other Terms.—The terms “firearm”, “li-
censed importer”, “licensed manufacturer”, and “li-
censed dealer” have the meanings stated in section
921(a) (3), (9), (10), and (11), respectively, of title
18, United States Code.

SEC. 4. REMEDY FOR ERRONEOUS DENIAL OF HANDGUN.
(a) In General.—Chapter 44 of title 18, United
States Code, is amended by inserting after section 925 the
following:
§ 925A. Remedy for erroneous denial of handgun

"Any person who is denied a handgun pursuant to section 922(s) of this title due to the provision of erroneous information relating to the person by any State or political subdivision thereof, or by the national instant criminal background check system established under section 3(a) of the Brady Handgun Violence Prevention Act, and who has exhausted the administrative remedies available for the correction of such erroneous information, may bring an action against any official of the State or political subdivision responsible for providing the erroneous information, or against the United States, as the case may be, for an order directing that the erroneous information be corrected. In any action under this section, the court, in its discretion, may allow the prevailing party a reasonable attorney’s fee as part of the costs."

(b) Clerical Amendment.—The table of sections for such chapter is amended by inserting after the item relating to section 925 the following:

"925A. Remedy for erroneous denial of handgun."

Sec. 5. Funding for Improvement of Criminal Records.

(a) Use of Formula Grants.—Section 509(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—
(1) in paragraph (2) by striking “and” after
the semicolon;

(2) in paragraph (3) by striking the period and
inserting “; and”; and

(3) by adding at the end the following new
paragraph:

“(4) the improvement of State record systems
and the sharing with the Attorney General of all of
the records described in paragraphs (1), (2), and (3)
of this subsection and the records required by the
Attorney General under section 3 of the Brady
Handgun Violence Prevention Act, for the purpose
of implementing such Act.”.

(b) Additional Funding.—

(1) Grants for the Improvement of Criminal Records.—The Attorney General, through the
Bureau of Justice Statistics, shall, subject to appropriation and with preference to States that as of
the date of enactment of this Act have the lowest
percent currency of case dispositions in computer-
ized criminal history files, make a grant to each
State to be used—

(A) for the creation of a computerized
criminal history record system or improvement
of an existing system;
(B) to improve accessibility to the national instant criminal background system; and

(C) upon establishment of the national system, to assist the State in the transmittal of criminal records to the national system.

(2) Authorization of Appropriations.— There are authorized to be appropriated for grants under paragraph (1) a total of $100,000,000 for fiscal year 1992 and all fiscal years thereafter.

Passed the House of Representatives November 10, 1993.

Attest:

Clerk.