

113TH CONGRESS  
1ST SESSION

# S. 480

To improve the effectiveness of the National Instant Criminal Background Check System by clarifying reporting requirements related to adjudications of mental incompetency, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 6, 2013

Mr. GRAHAM (for himself, Mr. BEGICH, Mr. FLAKE, Mr. PRYOR, and Mr. HELLER) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To improve the effectiveness of the National Instant Criminal Background Check System by clarifying reporting requirements related to adjudications of mental incompetency, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “NICS Reporting Im-  
5 provement Act of 2013”.

6 **SEC. 2. DEFINITIONS RELATING TO MENTAL HEALTH.**

7 (a) TITLE 18 DEFINITIONS.—Chapter 44 of title 18,  
8 United States Code, is amended—

1           (1) in section 921(a), by adding at the end the  
2 following:

3           “(36)(A) Subject to subparagraph (B), the term ‘has  
4 been adjudicated mentally incompetent or has been com-  
5 mitted to a psychiatric hospital’, with respect to a per-  
6 son—

7           “(i) means the person is the subject of an order  
8 or finding by a judicial officer, court, board, commis-  
9 sion, or other adjudicative body—

10           “(I) that was issued after a hearing—

11           “(aa) of which the person received ac-  
12 tual notice; and

13           “(bb) at which the person had an op-  
14 portunity to participate with counsel; and

15           “(II) that found that the person, as a re-  
16 sult of marked subnormal intelligence, mental  
17 impairment, or mental illness—

18           “(aa) was an imminent danger to  
19 himself or to others;

20           “(bb) was guilty but mentally ill in a  
21 criminal case;

22           “(cc) was not guilty in a criminal case  
23 by reason of insanity or mental disease or  
24 defect;

1 “(dd) was incompetent to stand trial  
2 in a criminal case;

3 “(ee) was not guilty only by reason of  
4 lack of mental responsibility under section  
5 850a of title 10 (article 50a of the Uni-  
6 form Code of Military Justice);

7 “(ff) required involuntary inpatient  
8 treatment by a psychiatric hospital;

9 “(gg) required involuntary outpatient  
10 treatment by a psychiatric hospital based  
11 on a finding that the person is an immi-  
12 nent danger to himself or to others; or

13 “(hh) required involuntary commit-  
14 ment to a psychiatric hospital for any rea-  
15 son, including drug use; and

16 “(ii) does not include—

17 “(I) a person who is in a psychiatric hos-  
18 pital for observation; or

19 “(II) a voluntary admission to a psy-  
20 chiatric hospital.

21 “(B) In this paragraph, the term ‘order or finding’  
22 does not include—

23 “(i) an order or finding that—

24 “(I) has expired or has been set aside or  
25 expunged; or

1           “(II) requires treatment, supervision, or  
2           monitoring of a person, from which treatment,  
3           supervision, or monitoring the person has been  
4           fully released or discharged;

5           “(ii) an order or finding that is no longer appli-  
6           cable because a judicial officer, court, board, com-  
7           mission, or other adjudicative body has found that  
8           the person who is the subject of the order or find-  
9           ing—

10           “(I) does not present a danger to himself  
11           or to others;

12           “(II) has been restored to sanity or cured  
13           of mental disease or defect;

14           “(III) has been restored to competency; or

15           “(IV) no longer requires involuntary inpa-  
16           tient or outpatient treatment by, or involuntary  
17           commitment to, a psychiatric hospital; or

18           “(iii) an order or finding with respect to which  
19           the person who is subject to the order or finding has  
20           been found to be rehabilitated or has been granted  
21           relief from disabilities through any procedure avail-  
22           able under the law of the jurisdiction in which the  
23           order or finding was issued.

24           “(37) The term ‘psychiatric hospital’ includes a men-  
25           tal health facility, a mental hospital, a sanitarium, a psy-

1 chiatric facility, and any other facility that provides diag-  
2 noses by licensed professionals of mental retardation or  
3 mental illness, including a psychiatric ward in a general  
4 hospital.”; and

5 (2) in section 922—

6 (A) in subsection (d)(4)—

7 (i) by striking “as a mental defective”  
8 and inserting “mentally incompetent”; and

9 (ii) by striking “any mental institu-  
10 tion” and inserting “a psychiatric hos-  
11 pital”; and

12 (B) in subsection (g)(4)—

13 (i) by striking “as a mental defective  
14 or who has” and inserting “mentally in-  
15 competent or has”; and

16 (ii) by striking “mental institution”  
17 and inserting “psychiatric hospital”.

18 (b) TECHNICAL AND CONFORMING AMENDMENT.—

19 The NICS Improvement Amendments Act of 2007 (18  
20 U.S.C. 922 note) is amended—

21 (1) by striking “as a mental defective” each  
22 place that term appears and inserting “mentally in-  
23 competent”;

1           (2) by striking “mental institution” each place  
2 that term appears and inserting “psychiatric hos-  
3 pital”; and

4           (3) in section 102(e)(3)—

5           (A) in the paragraph heading, by striking  
6 “AS A MENTAL DEFECTIVE OR COMMITTED TO  
7 A MENTAL INSTITUTION” and inserting “MEN-  
8 TALLY INCOMPETENT OR COMMITTED TO A PSY-  
9 CHIATRIC HOSPITAL”; and

10           (B) by striking “mental institutions” and  
11 inserting “psychiatric hospitals”.

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