

Brady Handgun Violence Prevention Act

[Public Law 103–159, Enacted November 30, 1993]

[As Amended Through P.L. 117–159, Enacted June 25, 2022]

【Currency: This publication is a compilation of the text of Public Law 103–159. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

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,

TITLE I—BRADY HANDGUN CONTROL

SEC. 101. [18 U.S.C. 921 note] SHORT TITLE.

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

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SEC. 103. [34 U.S.C. 40901] NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.

(a) DETERMINATION OF TIMETABLES.—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 and the telephone or electronic device of licensees will communicate with the national 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 on-line capacity basis to the national system; and

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

(b) ESTABLISHMENT OF SYSTEM.—

(1) IN GENERAL.—Not later than 60 months after the date of the enactment of this Act, the Attorney General shall establish a national instant criminal background check system that any licensee may contact, by telephone or by other electronic means in addition to the telephone, for information, to be supplied immediately, on whether receipt of a firearm by a prospective transferee would violate section 922 of title 18, United States Code, or State law.

(2) VOLUNTARY BACKGROUND CHECKS.—

(A) IN GENERAL.—Not later than 90 days after the date of enactment of this paragraph, the Attorney General shall promulgate regulations allowing licensees to use the national instant criminal background check system established under this section for purposes of voluntarily conducting an employment background check relating to a current or prospective employee. The Attorney General may not collect a fee for an employment background check under this subparagraph.

(B) NOTICE.—Before conducting an employment background check relating to a current or prospective employee under subparagraph (A), a licensee shall—

(i) provide written notice to the current or prospective employee that the licensee intends to conduct the background check; and

(ii) obtain consent to conduct the background check from the current or prospective employee in writing.

(C) EXEMPTION.—An employment background check conducted by a licensee under subparagraph (A) shall not be governed by the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.).

(D) APPEAL.—Any individual who is the subject of an employment background check conducted by a licensee under subparagraph (A) the result of which indicates that the individual is prohibited from possessing a firearm or ammunition pursuant to subsection (g) or (n) of section 922 of title 18, United States Code, may appeal the results of the background check in the same manner and to the same extent as if the individual had been the subject of a background check relating to the transfer of a firearm.

(c) EXPEDITED ACTION BY THE ATTORNEY GENERAL.—The Attorney General shall expedite—

(1) the upgrading and indexing of State criminal 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.

(d) NOTIFICATION OF LICENSEES.—On establishment of the system under this section, the Attorney General shall notify each li-

censee 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.

(e) ADMINISTRATIVE PROVISIONS.—

(1) AUTHORITY TO OBTAIN OFFICIAL INFORMATION.—

(A) IN GENERAL.—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 State law, as is necessary to enable the system to operate in accordance with this section.

(B) REQUEST OF ATTORNEY GENERAL.—On request of the Attorney General, the head of such department or agency shall furnish electronic versions of the information described under subparagraph (A) to the system.

(C) QUARTERLY SUBMISSION TO ATTORNEY GENERAL.—If a Federal department or agency under subparagraph (A) has any record of any person demonstrating that the person falls within one of the categories described in subsection (g) or (n) of section 922 of title 18, United States Code, the head of such department or agency shall, not less frequently than quarterly, provide the pertinent information contained in such record to the Attorney General.

(D) INFORMATION UPDATES.—The Federal department or agency, on being made aware that the basis under which a record was made available under subparagraph (A) does not apply, or no longer applies, shall—

(i) update, correct, modify, or remove the record from any database that the agency maintains and makes available to the Attorney General, in accordance with the rules pertaining to that database; and

(ii) notify the Attorney General that such basis no longer applies so that the National Instant Criminal Background Check System is kept up to date.

The Attorney General upon receiving notice pursuant to clause (ii) shall ensure that the record in the National Instant Criminal Background Check System is updated, corrected, modified, or removed within 30 days of receipt.

(E) ANNUAL REPORT.—The Attorney General shall submit an annual report to Congress that describes the compliance of each department or agency with the provisions of this paragraph.

(F) SEMIANNUAL CERTIFICATION AND REPORTING.—

(i) IN GENERAL.—The head of each Federal department or agency shall submit a semiannual written certification to the Attorney General indicating whether the department or agency is in compliance with the record submission requirements under subparagraph (C).

(ii) SUBMISSION DATES.—The head of a Federal department or agency shall submit a certification to the Attorney General under clause (i)—

(I) not later than July 31 of each year, which shall address all relevant records, including those that have not been transmitted to the Attorney General, in possession of the department or agency during the period beginning on January 1 of the year and ending on June 30 of the year; and

(II) not later than January 31 of each year, which shall address all relevant records, including those that have not been transmitted to the Attorney General, in possession of the department or agency during the period beginning on July 1 of the previous year and ending on December 31 of the previous year.

(iii) CONTENTS.—A certification required under clause (i) shall state, for the applicable period—

(I) the total number of records of the Federal department or agency demonstrating that a person falls within one of the categories described in subsection (g) or (n) of section 922 of title 18, United States Code;

(II) for each category of records described in subclause (I), the total number of records of the Federal department or agency that have been provided to the Attorney General; and

(III) the efforts of the Federal department or agency to ensure complete and accurate reporting of relevant records, including efforts to monitor compliance and correct any reporting failures or inaccuracies.

(G) IMPLEMENTATION PLAN.—

(i) IN GENERAL.—Not later than 1 year after the date of enactment of this subparagraph, the head of each Federal department or agency, in coordination with the Attorney General, shall establish a plan to ensure maximum coordination and automated reporting or making available of records to the Attorney General as required under subparagraph (C), and the verification of the accuracy of those records, including the pre-validation of those records, where appropriate, during a 4-year period specified in the plan. The records shall be limited to those of an individual described in subsection (g) or (n) of section 922 of title 18, United States Code.

(ii) BENCHMARK REQUIREMENTS.—Each plan established under clause (i) shall include annual benchmarks to enable the Attorney General to assess implementation of the plan, including—

(I) qualitative goals and quantitative measures;

(II) measures to monitor internal compliance, including any reporting failures and inaccuracies;

(III) a needs assessment, including estimated compliance costs; and

(IV) an estimated date by which the Federal department or agency will fully comply with record submission requirements under subparagraph (C).

(iii) COMPLIANCE DETERMINATION.—Not later than the end of each fiscal year beginning after the date of the establishment of a plan under clause (i), the Attorney General shall determine whether the applicable Federal department or agency has achieved substantial compliance with the benchmarks included in the plan.

(H) ACCOUNTABILITY.—The Attorney General shall publish, including on the website of the Department of Justice, and submit to the Committee on the Judiciary and the Committee on Appropriations of the Senate and the Committee on the Judiciary and the Committee on Appropriations of the House of Representatives a semiannual report that discloses—

(i) the name of each Federal department or agency that has failed to submit a required certification under subparagraph (F);

(ii) the name of each Federal department or agency that has submitted a required certification under subparagraph (F), but failed to certify compliance with the record submission requirements under subparagraph (C);

(iii) the name of each Federal department or agency that has failed to submit an implementation plan under subparagraph (G);

(iv) the name of each Federal department or agency that is not in substantial compliance with an implementation plan under subparagraph (G);

(v) a detailed summary of the data, broken down by department or agency, contained in the certifications submitted under subparagraph (F);

(vi) a detailed summary of the contents and status, broken down by department or agency, of the implementation plans established under subparagraph (G); and

(vii) the reasons for which the Attorney General has determined that a Federal department or agency is not in substantial compliance with an implementation plan established under subparagraph (G).

(I) NONCOMPLIANCE PENALTIES.—For each of fiscal years 2019 through 2022, each political appointee of a Federal department or agency that has failed to certify compliance with the record submission requirements under subparagraph (C), and is not in substantial compliance with an implementation plan established under subparagraph (G), shall not be eligible for the receipt of bonus pay, excluding overtime pay, until the department or agency—

(i) certifies compliance with the record submission requirements under subparagraph (C); or

(ii) achieves substantial compliance with an implementation plan established under subparagraph (G).

(J) TECHNICAL ASSISTANCE.—The Attorney General may use funds made available for the national instant criminal background check system established under subsection (b) to provide technical assistance to a Federal department or agency, at the request of the department or agency, in order to help the department or agency comply with the record submission requirements under subparagraph (C).

(K) APPLICATION TO FEDERAL COURTS.—For purposes of this paragraph—

(i) the terms “department or agency of the United States” and “Federal department or agency” include a Federal court; and

(ii) the Director of the Administrative Office of the United States Courts shall perform, for a Federal court, the functions assigned to the head of a department or agency.

(2) OTHER AUTHORITY.—The Attorney General shall develop such computer software, design and obtain such telecommunications and computer hardware, and employ such personnel, as are necessary to establish and operate the system in accordance with this section.

(f) WRITTEN REASONS PROVIDED ON REQUEST.—If the national instant criminal background check system determines that an individual is ineligible to receive a firearm and the individual requests the system to provide the reasons for the determination, the system shall provide such reasons to the individual, in writing, within 5 business days after the date of the request.

(g) CORRECTION OF ERRONEOUS SYSTEM INFORMATION.—If the system established under this section informs an individual contacting the system that receipt of a firearm by a prospective transferee would violate subsection (g) or (n) of section 922 of title 18, United States Code or State 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. For purposes of the preceding sentence, not later than 60 days after the date on which the Attorney General receives such information, the Attorney General shall determine whether or not the prospective transferee is the subject of an erroneous record and remove any records that are determined to be erroneous. In addition to any funds made available under subsection (k), the Attorney General may use such sums as are necessary and otherwise available for the salaries and expenses

of the Federal Bureau of Investigation to comply with this subsection.

(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) PROHIBITION 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 generated by the system established under this section 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 section to establish any system for the registration of firearms, firearm owners, or firearm transactions or dispositions, except with respect to persons, prohibited by section 922 (g) or (n) of title 18, United States Code or State law, from receiving a firearm.

(j) DEFINITIONS.—As used in this section:

(1) LICENSEE.—The term “licensee” means a licensed importer (as defined in section 921(a)(9) of title 18, United States Code), a licensed manufacturer (as defined in section 921(a)(10) of that title), or a licensed dealer (as defined in section 921(a)(11) of that title).

(2) OTHER TERMS.—The terms “firearm”, “handgun”, “licensed importer”, “licensed manufacturer”, and “licensed dealer” have the meanings stated in section 921(a) of title 18, United States Code, as amended by subsection (a)(2).

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to enable the Attorney General to carry out this section.

(l)¹ REQUIREMENTS RELATING TO BACKGROUND CHECKS FOR PERSONS UNDER AGE 21.—

(1) immediately contact—

(A) the criminal history repository or juvenile justice information system, as appropriate, of the State in which the person resides for the purpose of determining whether the person has a possibly disqualifying juvenile record under subsection (d) of such section 922;

(B) the appropriate State custodian of mental health adjudication records in the State in which the person resides to determine whether the person has a possibly disqualifying juvenile record under subsection (d) of such section 922; and

(C) a local law enforcement agency of the jurisdiction in which the person resides for the purpose of determining whether the person has a possibly disqualifying juvenile record under subsection (d) of such section 922;

¹Section 12001(a)(2) of Public Law 117–159 adds a new subsection (l) at the end. Paragraph (3) of such section 12001(a) provides: “Effective on September 30, 2032, paragraphs (1)(B) and (2) are repealed, and the provisions of law amended by those paragraphs are restored as if those paragraphs had not been enacted.”. If a licensee contacts the system established under this section regarding a proposed transfer of a firearm to a person less than 21 years of age in accordance with subsection (t) of section 922 of title 18, United States Code, the system shall—

(2) as soon as possible, but in no case more than 3 business days, after the licensee contacts the system, notify the licensee whether cause exists to further investigate a possibly disqualifying juvenile record under subsection (d) of such section 922; and

(3) if there is cause for further investigation, as soon as possible, but in no case more than 10 business days, after the licensee contacts the system, notify the licensee whether—

(A) transfer of a firearm to the person would violate subsection (d) of such section 922; or

(B) receipt of a firearm by the person would violate subsection (g) or (n) of such section 922, or State, local, or Tribal law.

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SEC. 106. 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 103 of the Brady Handgun Violence Prevention Act, for the purpose of implementing that Act.”.

(b) **[34 U.S.C. 40302] ADDITIONAL FUNDING.**—

(1) **GRANTS FOR THE IMPROVEMENT OF CRIMINAL RECORDS.**—The Attorney General, through the Bureau of Justice Statistics, shall, subject to appropriations and with preference to States that, as of the date of enactment of the Fix NICS Act of 2018, have the lowest percent currency of case dispositions in computerized criminal history files and that will utilize funding under this subsection to prioritize the identification and transmittal of felony conviction records and domestic violence records, 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;

(C) to assist the State in the transmittal of criminal records to the national system; and

(D) to establish and achieve compliance with an implementation plan under section 107 of the NICS Improvement Amendments Act of 2007.

(2) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated for grants under paragraph (1) a total

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of \$200,000,000 for fiscal year 1994 and all fiscal years there-
after.

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