

115TH CONGRESS
2D SESSION

H. R. 5657

To establish the registration of violent gun offenders, provide for sufficient notification of their whereabouts, to honor the memory of Gladys Ricart and other gun crime victims, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 27, 2018

Mr. ESPAILLAT introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To establish the registration of violent gun offenders, provide for sufficient notification of their whereabouts, to honor the memory of Gladys Ricart and other gun crime victims, 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 “Gladys Ricart Gun
5 Offender Registry Act”.

6 **SEC. 2. FINDINGS; PURPOSE.**

7 Congress makes the following findings:

1 (1) Abused women are 5 times more likely to be
2 killed if their abuser owns a firearm.

3 (2) Since New York City’s and Baltimore’s gun
4 offender registries were put in place in 2006 and
5 2007 respectively, both cities have seen reductions in
6 murders and violent crimes.

7 (3) Domestic violence assaults involving a gun
8 are 12 times more likely to end in death than as-
9 saults with other weapons or physical harm.

10 (4) More than two-thirds of spouse and ex-
11 spouse homicide victims between 1980 and 2008
12 were killed with firearms.

13 (5) In 2011, nearly two-thirds of women killed
14 with guns were killed by their intimate partners.

15 (6) In nearly two thirds (64.5 percent) of cases
16 in which a gun was present in a household shared
17 by a domestic abuser and victim, the abuser had
18 used the firearm against the victim, usually threat-
19 ening to shoot or kill their intimate partner.

20 **SEC. 3. DEFINITIONS.**

21 In this Act:

22 (1) GUN OFFENDER.—The term “gun of-
23 fender” means an individual who was convicted of a
24 gun offense.

25 (2) GUN OFFENSE.—

1 (A) IN GENERAL.—Except as provided in
2 subparagraph (C), the term “gun offense”
3 means a criminal offense under subparagraph
4 (B), whether under Federal, State, local, Trib-
5 al, or military law, that involved a firearm (as
6 such term is defined in section 921 of title 18,
7 United States Code).

8 (B) OFFENSES.—A criminal offense under
9 this subparagraph is any one of the following:

10 (i) Homicide

11 (ii) Manslaughter.

12 (iii) Assault.

13 (iv) A misdemeanor crime of domestic
14 violence (as such term is defined in section
15 921 of title 18, United States Code).

16 (v) Child abuse.

17 (vi) Kidnapping.

18 (vii) Theft.

19 (viii) Robbery.

20 (ix) Burglary.

21 (x) Terrorism or a terrorism-related
22 offense.

23 (xi) Rape.

24 (xii) Sexual assault.

1 (C) EXCEPTION.—The term “gun offense”
2 does not include—

3 (i) an offense under subparagraph
4 (B), during the commission of which the
5 offender possessed, but did not use or
6 threaten to use a firearm;

7 (ii) an attempt or a conspiracy to
8 commit an offense under subparagraph (B)
9 with a firearm; or

10 (iii) a foreign conviction.

11 (3) GUN OFFENDER REGISTRY.—The term
12 “gun offender registry” means a registry of gun of-
13 fenders and a notification program, maintained by a
14 jurisdiction.

15 (4) JURISDICTION.—The term “jurisdiction”
16 means any of the following:

17 (A) A State.

18 (B) The District of Columbia.

19 (C) The Commonwealth of Puerto Rico.

20 (D) Guam.

21 (E) American Samoa.

22 (F) The Northern Mariana Islands.

23 (G) The United States Virgin Islands.

24 (H) In accordance with section 21, a feder-
25 ally recognized Indian Tribe.

1 (5) STUDENT.—The term “student” means an
2 individual who is enrolled in or attends an edu-
3 cational institution, including (whether public or pri-
4 vate) a secondary school, a trade or professional
5 school, and an institution of higher education.

6 (6) EMPLOYEE.—The term “employee” includes
7 an individual who is self-employed or works for any
8 other entity, whether compensated or not.

9 (7) RESIDES.—The term “resides” means, with
10 respect to an individual, the location of the individ-
11 ual’s home or other place where the individual habit-
12 ually lives.

13 (8) MINOR.—The term “minor” means an indi-
14 vidual who has not attained the age of 18 years.

15 **SEC. 4. REGISTRY REQUIREMENTS FOR JURISDICTIONS.**

16 (a) JURISDICTION TO MAINTAIN A REGISTRY.—Each
17 jurisdiction shall maintain a jurisdiction-wide gun offender
18 registry in accordance with the requirements of this Act.

19 (b) GUIDELINES AND REGULATIONS.—The Attorney
20 General shall issue guidelines and regulations to interpret
21 and implement this Act.

22 **SEC. 5. GUN OFFENDER REGISTRATION REQUIREMENTS.**

23 (a) IN GENERAL.—A gun offender shall register, and
24 keep the registration current, in each jurisdiction where
25 the offender resides, where the offender is an employee,

1 and where the offender is a student. For initial registra-
2 tion purposes only, a gun offender shall also register in
3 the jurisdiction in which convicted if such jurisdiction is
4 different from the jurisdiction of residence.

5 (b) INITIAL REGISTRATION.—The gun offender shall
6 initially register—

7 (1) before completing a sentence of imprison-
8 ment with respect to the offense giving rise to the
9 registration requirement; or

10 (2) not later than 5 business days after being
11 sentenced for that offense, if the gun offender is not
12 sentenced to a term of imprisonment.

13 (c) KEEPING THE REGISTRATION CURRENT.—A gun
14 offender shall, within 5 business days after each change
15 of name, residence, employment, or student status, appear
16 in person in at least 1 jurisdiction involved pursuant to
17 subsection (a) and inform that jurisdiction of all modifica-
18 tions in the information required for that offender in the
19 gun offender registry. That jurisdiction shall immediately
20 disclose that information to all other jurisdictions in which
21 the offender is required to register.

22 (d) GUN OFFENDERS NOT REQUIRED TO COMPLY
23 WITH SUBSECTION.—The requirements of this section
24 shall not apply to any gun offender who was convicted
25 prior to the date of the enactment of this Act, or to any

1 gun offender who is a minor on the date that the indi-
2 vidual is convicted of a gun offense.

3 (e) STATE PENALTY FOR FAILURE TO COMPLY.—

4 Each jurisdiction, other than a federally recognized Indian
5 Tribe, shall provide a criminal penalty that includes a
6 maximum term of imprisonment that is not longer than
7 6 months for the failure of a gun offender to comply with
8 the requirements of this Act.

9 **SEC. 6. INFORMATION REQUIRED IN REGISTRATION.**

10 (a) PROVIDED BY THE OFFENDER.—The gun of-
11 fender shall provide the following information to the ap-
12 propriate official for insertion in the gun offender registry:

13 (1) The name of the gun offender (including
14 any alias used by the individual).

15 (2) The Social Security number of the gun of-
16 fender.

17 (3) The address of every residence at which the
18 gun offender resides or will reside.

19 (4) The name and address of any organization
20 where the gun offender is an employee or will be an
21 employee.

22 (5) The name and address of any institution
23 where the gun offender is a student or will be a stu-
24 dent.

1 (6) The license plate number and a description
2 of any vehicle owned or used by the gun offender.

3 (7) Any other information required by the At-
4 torney General.

5 (b) PROVIDED BY THE JURISDICTION.—The jurisdic-
6 tion in which the gun offender initially registers or up-
7 dates registry information shall ensure that the following
8 information is included in the registry for that gun of-
9 fender:

10 (1) A description that accurately depicts the
11 gun offender's current physical state.

12 (2) The text of the provision of law defining the
13 criminal offense for which the gun offender is reg-
14 istered.

15 (3) The criminal history of the gun offender, in-
16 cluding the date of all arrests and convictions, the
17 status of parole, probation, or supervised release,
18 registration status, and the existence of any out-
19 standing arrest warrants for the gun offender.

20 (4) A current photograph of the gun offender.

21 (5) A set of fingerprints and palm prints of the
22 gun offender.

23 (6) A DNA sample of the gun offender.

1 (7) A photocopy of a valid driver's license or
2 identification card issued to the gun offender by a
3 jurisdiction.

4 (8) Any other information required by the At-
5 torney General.

6 **SEC. 7. DURATION OF REGISTRATION REQUIREMENT.**

7 A gun offender shall keep the registration updated
8 and current for the full registration period (excluding any
9 time the gun offender is in custody or civilly committed).
10 The full registration period is—

11 (1) 3 years; or

12 (2) if the offender's supervised release, proba-
13 tion or parole is longer than 3 years, the offender
14 will remain on the registry through duration of their
15 supervision status.

16 **SEC. 8. INVETERATE IN-PERSON VERIFICATION.**

17 A gun offender shall appear in person at an appro-
18 priate registration site within a jurisdiction the offender
19 is registered to allow the jurisdiction to take a current
20 photograph, and verify the information in each registry
21 in which that offender is required to be registered not less
22 frequently than one time each year.

1 **SEC. 9. DUTY TO INFORM GUN OFFENDERS OF REGISTRA-**
2 **TION REQUIREMENTS AND TO REGISTER.**

3 (a) IN GENERAL.—An appropriate official shall, soon
4 before release of the gun offender from custody, or, if the
5 gun offender is not in custody, immediately after the sen-
6 tencing of gun offender, for the offense giving rise to the
7 duty to register—

8 (1) inform the gun offender of the duties of a
9 gun offender under this Act and explain those du-
10 ties; and

11 (2) require the gun offender to read and sign
12 a form stating that the duty to register has been ex-
13 plained and that the gun offender understands the
14 registration requirement.

15 (b) NOTIFICATION OF CERTAIN GUN OFFENDERS.—
16 The Attorney General shall prescribe rules for the notifica-
17 tion of offenders who cannot be registered in accordance
18 with subsection (a).

19 **SEC. 10. NATIONAL GUN OFFENDER REGISTRY.**

20 (a) IN GENERAL.—The Attorney General shall main-
21 tain a database for each gun offender and any other per-
22 son required to register in a jurisdiction’s gun offender
23 registry. The database shall be known as the “Gun Of-
24 fender Registry”.

25 (b) ADMINISTRATION.—The Attorney General may—

1 (1) establish a new office to administer the pro-
2 gram required by this Act; or

3 (2) reassign current Department of Justice em-
4 ployees to permanently administer the requirements
5 within this Act under the purview of an already ex-
6 isting division at the Department of Justice.

7 (c) ELECTRONIC FORWARDING.—The Attorney Gen-
8 eral shall ensure that all updated findings about a gun
9 offender are immediately transmitted by electronic for-
10 warding to all relevant jurisdictions.

11 **SEC. 11. GUN OFFENDER PUBLIC WEBSITE.**

12 (a) IN GENERAL.—Except as provided in subsection
13 (b), the Attorney General shall establish and maintain a
14 public website which shall include pertinent information,
15 as determined by the Attorney General, for each gun of-
16 fender required to register under this Act. The website
17 shall provide a search function for the public to obtain
18 information for each gun offender by a single query for
19 any given zip code or geographical radius set by the user
20 in a form and with such limitations as may be established
21 by the Attorney General and shall have such other field
22 search capabilities as the Attorney General may provide.

23 (b) MANDATORY EXEMPTIONS.—The Attorney Gen-
24 eral shall exempt from disclosure—

25 (1) the identity of any victim of a gun offense;

1 (2) the Social Security number of the gun of-
2 fender;

3 (3) any reference to arrests of the gun offender
4 that did not result in conviction;

5 (4) any information about a gun offender's
6 prior criminal history other than a specified violent
7 crime that prompted the offender's duty to register
8 in accordance with this Act;

9 (5) the name of an employer of the gun of-
10 fender;

11 (6) the name of an educational institution
12 where the gun offender is a student; and

13 (7) any other information exempted from disclo-
14 sure by the Attorney General.

15 (c) REMOVAL OF INFORMATION.—The Attorney Gen-
16 eral shall ensure that at the conclusion of the period de-
17 scribed in section 7 during which a gun offender is re-
18 quired to register, no information related to the gun of-
19 fender, including the gun offender's identity, is accessible
20 on the website established under this section.

21 **SEC. 12. PUBLIC ACCESS TO GUN OFFENDER INFORMATION**
22 **THROUGH THE INTERNET.**

23 (a) IN GENERAL.—Except as provided in this section,
24 each jurisdiction shall make available on the internet, in
25 a form that is readily accessible to all jurisdictions and

1 to the public, all information about each gun offender in
2 the registry. The jurisdiction shall maintain the internet
3 site in a manner that will provide a search function for
4 the public to obtain relevant information for each gun of-
5 fender by a single query for any given zip code or geo-
6 graphic radius set by the user. The jurisdiction shall also
7 include in the design of its internet site all field search
8 capabilities needed for full participation in the website de-
9 scribed in section 11, and shall participate in that website
10 as provided by the Attorney General.

11 (b) MANDATORY EXEMPTIONS.—A jurisdiction shall
12 exempt from disclosure—

13 (1) the identity of any victim of a gun offense;

14 (2) the Social Security number of the gun of-
15 fender;

16 (3) any reference to arrests of the gun offender
17 that did not result in conviction;

18 (4) any information about a gun offender's
19 prior criminal history other than a specified violent
20 crime that prompted the offender's duty to register
21 in accordance with this Act;

22 (5) the name of an employer of the gun of-
23 fender;

24 (6) the name of an educational institution
25 where the gun offender is a student; and

1 (7) any other information exempted from disclo-
2 sure by the Attorney General.

3 (c) LINKS.—The site shall include, to the extent prac-
4 ticable, links to gun safety and education resources.

5 (d) CORRECTION OF ERRORS.—The site shall include
6 instructions on how to seek correction of information that
7 an individual contends is erroneous.

8 (e) WARNING.—The site shall include a warning that
9 information on the site should not be used to unlawfully
10 injure, harass, or commit a crime against any individual
11 named in the registry or residing or working at any re-
12 ported address. The warning shall note that any such ac-
13 tion could result in civil or criminal penalties.

14 **SEC. 13. PERIOD FOR IMPLEMENTATION BY JURISDIC-**
15 **TIONS.**

16 (a) DEADLINE.—Each jurisdiction shall implement
17 this Act before the date that is 3 years after the date of
18 the enactment of this Act.

19 (b) EXTENSIONS.—The Attorney General may au-
20 thorize up to two 1-year extensions of the deadline under
21 subsection (a).

22 **SEC. 14. FAILURE OF JURISDICTION TO COMPLY.**

23 (a) IN GENERAL.—For any fiscal year which begins
24 after the deadline under section 15, a jurisdiction that
25 fails, as determined by the Attorney General, to substan-

1 tially implement this Act shall not receive 10 percent of
2 the funds under the Edward Byrne Memorial Justice As-
3 sistance Grant Program under subpart I of part E of the
4 Omnibus Crime Control and Safe Streets Act of 1968 (34
5 U.S.C. 10151 et seq.) that would otherwise be allocated
6 for that fiscal year to the jurisdiction.

7 (b) STATE CONSTITUTIONALITY.—

8 (1) IN GENERAL.—When evaluating whether a
9 jurisdiction has adequately implemented this Act,
10 the Attorney General shall examine whether the ju-
11 risdiction is incapable of implementing this Act be-
12 cause of a displayed inability to implement certain
13 provisions that would place the jurisdiction in viola-
14 tion of its constitution, as determined by a ruling of
15 the jurisdiction’s highest court.

16 (2) EFFORTS.—If the circumstances under
17 paragraph (1) appear, the Attorney General and the
18 jurisdiction shall demonstrate faithful efforts to ful-
19 fill considerable implementation of this Act and to
20 reconcile any incompatibilities between this Act and
21 the jurisdiction’s constitution. In considering wheth-
22 er acceptance of the requirements of this Act may
23 violate the jurisdiction’s constitution or an exposition
24 by the jurisdiction’s highest court, the Attorney Gen-
25 eral shall consult with the chief executive and chief

1 legal officer of the jurisdiction concerning the juris-
2 diction's exposition of the jurisdiction's constitution.

3 (3) ALTERNATIVE PROCEDURES.—If the juris-
4 diction is unable to substantially implement this Act
5 because of a limitation imposed by the jurisdiction's
6 constitution, the Attorney General may determine
7 that the jurisdiction is in compliance with this Act
8 if the jurisdiction has made, or is in the process of
9 implementing reasonable alternative procedures or
10 accommodations, which are consistent with the pur-
11 poses of this Act.

12 (4) FUNDING REDUCTION.—If a jurisdiction
13 does not comply with paragraph (3), then the juris-
14 diction shall be subject to a funding reduction as
15 specified in subsection (a).

16 (c) REALLOCATION.—Amounts not allocated under a
17 program referred to in this section to a jurisdiction for
18 failure to substantially implement this Act shall be reallo-
19 cated under that program to jurisdictions that have not
20 failed to substantially implement this Act or may be reallo-
21 cated to a jurisdiction from which they were withheld to
22 be used solely for the purpose of implementing this Act.
23 Under these circumstances, the process for selecting juris-
24 diction that will receive re-allocated funding will be at the
25 discretion of the Attorney General.

1 (d) RULE OF CONSTRUCTION.—The provisions of
2 this Act that are cast as directions to jurisdictions or their
3 officials constitute, in relation to States, only conditions
4 required to avoid the reduction of Federal funding under
5 this section.

6 **SEC. 15. GUN OFFENDER REGISTRY ACT; FAILURE TO REG-**
7 **ISTER.**

8 (a) IN GENERAL.—Whoever—

9 (1) is required to register under this Act;

10 (2)(A) is a gun offender by reason of a convic-
11 tion under Federal law (including the Uniform Code
12 of Military Justice), the law of the District of Co-
13 lumbia, Indian Tribal law, or the law of any terri-
14 tory or possession of the United States; or

15 (B) travels in interstate or foreign commerce,
16 or enters or leaves, or resides in, Indian country;
17 and

18 (3) knowingly fails to register or update a reg-
19 istration as required under this Act,
20 shall be fined under title 18, United States Code, or im-
21 prisoned not more than 6 months, or both.

22 (b) AFFIRMATIVE DEFENSE.—In a prosecution for a
23 violation under subsection (a), it is an affirmative defense
24 that—

1 (1) uncontrollable conditions prevented the indi-
2 vidual from adhering to this Act;

3 (2) the individual did not cause the creation of
4 such circumstances to disregard the requirement to
5 comply; and

6 (3) the individual complied as soon as such cir-
7 cumstances ceased to exist.

8 **SEC. 16. ACTIONS TO BE TAKEN WHEN GUN OFFENDER**
9 **FAILS TO COMPLY.**

10 An appropriate official shall inform the Attorney
11 General and other accountable law enforcement agencies
12 of any noncompliance by a gun offender to comply with
13 the requirements of a registry. The appropriate official,
14 the Attorney General, and each such law enforcement
15 agency shall take any appropriate action to ensure compli-
16 ance.

17 **SEC. 17. FEDERAL ASSISTANCE WITH RESPECT TO VIOLA-**
18 **TIONS OF REGISTRATION REQUIREMENTS.**

19 The Attorney General shall use the resources of Fed-
20 eral law enforcement, including the United States Mar-
21 shals Service, to assist jurisdictions in locating and appre-
22 hending gun offenders who violate gun offender registra-
23 tion requirements.

1 **SEC. 18. FEDERAL ASSISTANCE IN IDENTIFICATION AND**
2 **LOCATION OF GUN OFFENDERS RELOCATED**
3 **AS A RESULT OF A MAJOR DISASTER.**

4 The Attorney General shall provide assistance to ju-
5 risdictions in the identification and location of a gun of-
6 fender relocated as a result of a natural disaster or other
7 major disaster.

8 **SEC. 19. ELECTION BY INDIAN TRIBES.**

9 (a) ELECTION.—

10 (1) IN GENERAL.—A federally recognized In-
11 dian Tribe may, by resolution from their local gov-
12 ernmental body—

13 (A) opt to carry out this Act as a jurisdic-
14 tion subject to its provisions; or

15 (B) elect to delegate its functions under
16 this Act to another jurisdiction or jurisdictions
17 within which the territory of the Tribe is lo-
18 cated and to provide access to its territory and
19 such other cooperation and assistance as may
20 be needed to enable such other jurisdiction or
21 jurisdictions to carry out and enforce the re-
22 quirements of this Act.

23 (2) IMPUTED ELECTION IN CERTAIN CASES.—A
24 Tribe shall be treated as if it had made the election
25 described in paragraph (1)(B) if—

1 (A) it is a Tribe subject to the law enforce-
2 ment jurisdiction of a State under section 1162
3 of title 18, United States Code;

4 (B) the Tribe does not make an election
5 under paragraph (1) within 1 year of the date
6 of the enactment of this Act or rescinds an elec-
7 tion under paragraph (1)(A); or

8 (C) the Attorney General determines that
9 the Tribe has not substantially implemented the
10 requirements of this Act and is not likely to be-
11 come capable of doing so within a reasonable
12 amount of time.

13 (b) COOPERATION BETWEEN TRIBAL AUTHORITIES
14 AND OTHER JURISDICTIONS.—

15 (1) NONDUPLICATION.—A Tribe subject to this
16 Act is not required to duplicate functions under this
17 Act which are fully carried out by another jurisdic-
18 tion or jurisdictions within which the territory of the
19 Tribe is located.

20 (2) COOPERATIVE AGREEMENTS.—A Tribe and
21 another jurisdiction within close proximity to the
22 Tribe, may enter into a cooperative agreement to
23 carry out the functions in this Act.

1 **SEC. 20. REGISTRATION OF GUN OFFENDERS ENTERING**
2 **THE UNITED STATES.**

3 The Attorney General, in consultation with the Sec-
4 retary of State and the Secretary of Homeland Security,
5 shall establish and maintain a system for informing the
6 relevant jurisdictions about persons entering the United
7 States who are required to register under this Act. The
8 Secretary of State and the Secretary of Homeland Secu-
9 rity shall provide such information and carry out such
10 functions as the Attorney General may direct in the oper-
11 ation of the system.

12 **SEC. 21. ANNUAL REPORT ON ENFORCEMENT OF REG-**
13 **ISTRATION REQUIREMENTS.**

14 Not later than July 1 of each year, the Attorney Gen-
15 eral shall submit a report to Congress, which shall in-
16 clude—

17 (1) a description of the use, by the Department
18 of Justice, of the United States Marshals Service to
19 assist jurisdictions in locating and apprehending gun
20 offenders who fail to comply with gun offender reg-
21 istration requirements, as authorized by this Act;

22 (2) a detailed explanation of each jurisdiction's
23 compliance with this Act;

24 (3) a detailed description of the efforts of the
25 Department of Justice to ensure compliance with the
26 requirements under this Act, including information

1 related to any jurisdiction that was subject to a
2 funding reduction under section 16, and the basis
3 for any decision to reduce funding or not to reduce
4 funding under such section; and

5 (4) disclosure of any extensions of any applica-
6 ble deadline to comply with this Act, and the reasons
7 for the denial or grant of such an extension.

8 **SEC. 22. IMMUNITY FOR GOOD FAITH CONDUCT.**

9 The Federal Government, jurisdictions, political sub-
10 divisions of jurisdictions, and their agencies, officers, em-
11 ployees, and agents shall be immune from liability for good
12 faith conduct under this Act.

13 **SEC. 23. STUDY OF THE EFFECTIVENESS OF FIREARM OF-**
14 **FENDER REGISTRY TO REDUCE THE OCCUR-**
15 **RENCE OF REPEAT OFFENSES.**

16 (a) STUDY.—The Attorney General shall conduct a
17 study to evaluate the effectiveness of monitoring and dis-
18 closing the history of gun offenders to reduce the occur-
19 rence of repeat offenses by such gun offenders, through
20 conditions imposed as part of supervised release or proba-
21 tion conditions. The study shall evaluate—

22 (1) the effectiveness of methods used for re-
23 cording, monitoring and disclosing the location and
24 criminal history of gun offenders;

1 (2) the ability of law enforcement agencies and
2 courts to employ data in prosecutorial and law en-
3 forcement efforts; and

4 (3) the efficacy of any other restrictions that
5 may reduce the occurrence of repeat offenses by gun
6 offenders.

7 (b) REPORT.—Not later than 180 days after the date
8 of enactment of this Act, the Attorney General shall report
9 to the Committee on the Judiciary of the House of Rep-
10 resentatives and the Committee on the Judiciary of the
11 Senate the results of the study under this section.

12 **SEC. 24. GRANT PROGRAM.**

13 The Attorney General shall establish a grant pro-
14 gram, with such criteria as the Attorney General may de-
15 termine, to provide funds to jurisdictions seeking to com-
16 ply with this Act.

○