

116TH CONGRESS
1ST SESSION

S. 875

To provide for the reporting to State and local law enforcement authorities of cases in which the national instant criminal background check system indicates that a firearm has been sought to be acquired by a prohibited person, so that authorities may pursue criminal charges under State law, and to ensure that the Department of Justice reports to Congress on prosecutions secured against prohibited persons who attempt to acquire a firearm.

IN THE SENATE OF THE UNITED STATES

MARCH 26, 2019

Mr. TOOMEY (for himself, Mr. COONS, Mr. RUBIO, and Mr. JONES) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide for the reporting to State and local law enforcement authorities of cases in which the national instant criminal background check system indicates that a firearm has been sought to be acquired by a prohibited person, so that authorities may pursue criminal charges under State law, and to ensure that the Department of Justice reports to Congress on prosecutions secured against prohibited persons who attempt to acquire a firearm.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “NICS Denial Notifica-
3 tion Act of 2019”.

4 **SEC. 2. REPORTING OF BACKGROUND CHECK DENIALS.**

5 (a) IN GENERAL.—Chapter 44 of title 18, United
6 States Code, is amended by inserting after section 925A
7 the following:

8 **“§ 925B. Reporting of background check denials to**
9 **State authorities**

10 “(a) IN GENERAL.—If the national instant criminal
11 background check system established under section 103
12 of the Brady Handgun Violence Prevention Act (34 U.S.C.
13 40901) (commonly referred to as ‘NICS’) provides a no-
14 tice pursuant to section 922(t) of this title that the receipt
15 of a firearm by a person would violate subsection (g) or
16 (n) of section 922 of this title or State law, the Attorney
17 General shall, in accordance with subsection (b) of this
18 section—

19 “(1) report to the law enforcement authorities
20 of the State where the person sought to acquire the
21 firearm and, if different, the law enforcement au-
22 thorities of the State of residence of the person—

23 “(A) that the notice was provided;

24 “(B) the specific provision of law that
25 would have been violated;

1 “(C) the date and time the notice was pro-
2 vided;

3 “(D) the location where the firearm was
4 sought to be acquired; and

5 “(E) the identity of the person; and

6 “(2) where practicable, report the incident to
7 local law enforcement authorities and State and local
8 prosecutors in the jurisdiction where the firearm was
9 sought and in the jurisdiction where the person re-
10 sides.

11 “(b) REQUIREMENTS FOR REPORT.—A report is
12 made in accordance with this subsection if the report is
13 made within 24 hours after the provision of the notice de-
14 scribed in subsection (a), except that the making of the
15 report may be delayed for so long as is necessary to avoid
16 compromising an ongoing investigation.

17 “(c) AMENDMENT OF REPORT.—If a report is made
18 in accordance with this subsection and, after such report
19 is made, the Federal Bureau of Investigation or the Bu-
20 reau of Alcohol, Tobacco, Firearms, and Explosives deter-
21 mines that the receipt of a firearm by a person for whom
22 the report was made would not violate subsection (g) or
23 (n) of section 922 of this title or State law, the Attorney
24 General shall, in accordance with subsection (b), notify

1 any law enforcement authority and any prosecutor to
 2 whom the report was made of that determination.

3 “(d) RULE OF CONSTRUCTION.—Nothing in sub-
 4 section (a) shall be construed to require a report with re-
 5 spect to a person to be made to the same State authorities
 6 that originally issued the notice with respect to the per-
 7 son.”.

8 (b) CLERICAL AMENDMENT.—The table of sections
 9 for such chapter is amended by inserting after the item
 10 relating to section 925A the following:

“925B. Reporting of background check denials to State authorities.”.

11 **SEC. 3. ANNUAL REPORT TO CONGRESS.**

12 (a) IN GENERAL.—Chapter 44 of title 18, United
 13 States Code, as amended by section 2(a) of this Act, is
 14 amended by inserting after section 925B the following:

15 **“§ 925C. Annual report to Congress**

16 “Not later than 1 year after the date of enactment
 17 of this section, and annually thereafter, the Attorney Gen-
 18 eral shall submit to Congress a report detailing the fol-
 19 lowing, broken down by Federal judicial district:

20 “(1) With respect to each category of persons
 21 prohibited by subsection (g) or (n) of section 922 of
 22 this title or State law from receiving or possessing
 23 a firearm who are so denied a firearm—

24 “(A) the number of denials;

1 “(B) the number of denials referred to the
2 Bureau of Alcohol, Tobacco, Firearms, and Ex-
3 plosives;

4 “(C) the number of denials for which the
5 Bureau of Alcohol, Tobacco, Firearms, and Ex-
6 plosives determines that the person denied was
7 not prohibited by subsection (g) or (n) of sec-
8 tion 922 of this title or State law from receiving
9 or possessing a firearm;

10 “(D) the number of denials overturned
11 through the national instant criminal back-
12 ground check system appeals process and the
13 reasons for overturning the denials;

14 “(E) the number of denials with respect to
15 which an investigation was opened by a field di-
16 vision of the Bureau of Alcohol, Tobacco, Fire-
17 arms, and Explosives;

18 “(F) the number of persons charged with
19 a Federal criminal offense in connection with a
20 denial; and

21 “(G) the number of convictions obtained
22 by Federal authorities in connection with a de-
23 nial.

24 “(2) The number of background check notices
25 reported to State authorities pursuant to section

1 925B (including the number of the notices that
2 would have been so reported but for section
3 925B(c)).”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 for such chapter, as amended by section 2(b) of this Act,
6 is amended by inserting after the item relating to section
7 925B the following:

“925C. Annual report to Congress.”.

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