

area under the NICS Act Record Improvement Program (commonly known as “NARIP”) for a Domestic Abuse and Violence Prevention Initiative that emphasizes the need for grantees to identify and upload all felony conviction records and domestic violence records.

(B) Funding

The Attorney General—

(i) may use not more than 50 percent of the amounts made available under this subsection for each of fiscal years 2018 through 2022 to carry out the initiative described in subparagraph (A); and

(ii) shall give a funding preference under NARIP to States that—

(I) have established an implementation plan under section 40917 of this title; and

(II) will use amounts made available under this subparagraph to improve efforts to identify and upload all felony conviction records and domestic violence records described in clauses (i), (v), and (vi) of section 40912(b)(1)(C) of this title by not later than September 30, 2022.

(f) User fee

The Federal Bureau of Investigation shall not charge a user fee for background checks pursuant to section 922(t) of title 18.

(g) Technical assistance

The Attorney General shall direct the Office of Justice Programs, the Bureau of Alcohol, Tobacco, Firearms, and Explosives, and the Federal Bureau of Investigation to—

(1) assist States that are not currently eligible for grants under this section to achieve compliance with all eligibility requirements; and

(2) provide technical assistance and training services to grantees under this section.

(Pub. L. 110-180, title I, §103, Jan. 8, 2008, 121 Stat. 2567; Pub. L. 115-141, div. S, title VI, §603(b), Mar. 23, 2018, 132 Stat. 1135.)

Editorial Notes

CODIFICATION

Section was formerly classified in a note under section 922 of Title 18, Crimes and Criminal Procedure, prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2018—Subsec. (b)(3). Pub. L. 115-141, §603(b)(1), inserted before semicolon at end “, including through increased efforts to pre-validate the contents of those records to expedite eligibility determinations”.

Subsec. (e)(1). Pub. L. 115-141, §603(b)(2)(A), struck out “and” after “2012,” and inserted before period at end “, and \$125,000,000 for each of fiscal years 2018 through 2022”.

Subsec. (e)(2). Pub. L. 115-141, §603(b)(2)(B), added par. (2) and struck out former par. (2) which related to allocations for fiscal years 2009 to 2013.

Subsec. (g). Pub. L. 115-141, §603(b)(3), added subsec. (g).

§ 40914. Penalties for noncompliance

(a) Attorney General report

(1) In general

Not later than January 31 of each year, the Attorney General shall submit to the Com-

mittee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the progress of the States in automating the databases containing information described under sections 40912 and 40913 of this title, and in providing that information pursuant to the requirements of sections 40912 and 40913 of this title.

(2) Authorization of appropriations

There are authorized to be appropriated to the Department of Justice, such funds as may be necessary to carry out paragraph (1).

(b) Penalties

(1) Discretionary reduction

(A) During the 2-year period beginning 3 years after January 8, 2008, the Attorney General may withhold not more than 3 percent of the amount that would otherwise be allocated to a State under section 10156 of this title if the State provides less than 50 percent of the records required to be provided under sections 40912 and 40913 of this title.

(B) During the 5-year period after the expiration of the period referred to in subparagraph (A), the Attorney General may withhold not more than 4 percent of the amount that would otherwise be allocated to a State under section 10156 of this title if the State provides less than 70 percent of the records required to be provided under sections 40912 and 40913 of this title.

(2) Mandatory reduction

After the expiration of the periods referred to in paragraph (1), the Attorney General shall withhold 5 percent of the amount that would otherwise be allocated to a State under section 10156 of this title, if the State provides less than 90 percent of the records required to be provided under sections 40912 and 40913 of this title.

(3) Waiver by Attorney General

The Attorney General may waive the applicability of paragraph (2) to a State if the State provides substantial evidence, as determined by the Attorney General, that the State is making a reasonable effort to comply with the requirements of sections 40912 and 40913 of this title, including an inability to comply due to court order or other legal restriction.

(c) Reallocation

Any funds that are not allocated to a State because of the failure of the State to comply with the requirements of this chapter shall be reallocated to States that meet such requirements.

(d) Methodology

The method established to calculate the number of records to be reported, as set forth in section 40912(b)(1)(A) of this title, and State compliance with the required level of reporting under sections 40912 and 40913 of this title shall be determined by the Attorney General. The Attorney General shall calculate the methodology based on the total number of records to be reported from all subcategories of records, as described in section 40912(b)(1)(C) of this title.

(Pub. L. 110-180, title I, §104, Jan. 8, 2008, 121 Stat. 2568.)

Editorial Notes

CODIFICATION

Section was formerly classified in a note under section 922 of Title 18, Crimes and Criminal Procedure, prior to editorial reclassification and renumbering as this section.

§ 40915. Relief from disabilities program required as condition for participation in grant programs

(a) Program described

A relief from disabilities program is implemented by a State in accordance with this section if the program—

(1) permits a person who, pursuant to State law, has been adjudicated as described in subsection (g)(4) of section 922 of title 18 or has been committed to a mental institution, to apply to the State for relief from the disabilities imposed by subsections (d)(4) and (g)(4) of such section by reason of the adjudication or commitment;

(2) provides that a State court, board, commission, or other lawful authority shall grant the relief, pursuant to State law and in accordance with the principles of due process, if the circumstances regarding the disabilities referred to in paragraph (1), and the person's record and reputation, are such that the person will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest; and

(3) permits a person whose application for the relief is denied to file a petition with the State court of appropriate jurisdiction for a de novo judicial review of the denial.

(b) Authority to provide relief from certain disabilities with respect to firearms

If, under a State relief from disabilities program implemented in accordance with this section, an application for relief referred to in subsection (a)(1) of this section is granted with respect to an adjudication or a commitment to a mental institution or based upon a removal of a record under section 40912(c)(1)(B) of this title, the adjudication or commitment, as the case may be, is deemed not to have occurred for purposes of subsections (d)(4) and (g)(4) of section 922 of title 18.

(Pub. L. 110-180, title I, §105, Jan. 8, 2008, 121 Stat. 2569.)

Editorial Notes

CODIFICATION

Section was formerly classified in a note under section 922 of Title 18, Crimes and Criminal Procedure, prior to editorial reclassification and renumbering as this section.

§ 40916. Illegal immigrant gun purchase notification

(a) In general

Notwithstanding any other provision of law or of this chapter, all records obtained by the National Instant Criminal Background Check system relevant to whether an individual is prohibited from possessing a firearm because such per-

son is an alien illegally or unlawfully in the United States shall be made available to U.S. Immigration and Customs Enforcement.

(b) Regulations

The Attorney General, at his or her discretion, shall promulgate guidelines relevant to what records relevant to illegal aliens shall be provided pursuant to the provisions of this chapter.

(Pub. L. 110-180, title I, §106, Jan. 8, 2008, 121 Stat. 2570.)

Editorial Notes

CODIFICATION

Section was formerly classified in a note under section 922 of Title 18, Crimes and Criminal Procedure, prior to editorial reclassification and renumbering as this section.

§ 40917. Implementation plan

(a) In general

Not later than 1 year after March 23, 2018, the Attorney General, in coordination with the States and Indian tribal governments, shall establish, for each State or Indian tribal government, a plan to ensure maximum coordination and automation of the reporting or making available of appropriate records to the National Instant Criminal Background Check System established under section 40901 of this title and the verification of the accuracy of those records 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 18¹

(b) Benchmark requirements

Each plan established under this section shall include annual benchmarks to enable the Attorney General to assess the implementation of the plan, including—

(1) qualitative goals and quantitative measures; and

(2) a needs assessment, including estimated compliance costs.

(c) Compliance determination

Not later than the end of each fiscal year beginning after the date of the establishment of an implementation plan under this section, the Attorney General shall determine whether each State or Indian tribal government has achieved substantial compliance with the benchmarks included in the plan.

(d) Accountability

The Attorney General—

(1) shall disclose and publish, including on the website of the Department of Justice—

(A) the name of each State or Indian tribal government that received a determination of failure to achieve substantial compliance with an implementation plan under subsection (c) for the preceding fiscal year; and

(B) a description of the reasons for which the Attorney General has determined that the State or Indian tribal government is not in substantial compliance with the implementation plan, including, to the greatest

¹ So in original. Probably should be followed by a period.