

103^D CONGRESS
1ST SESSION

S. 891

To require the establishment of a Federal system for the purpose of conducting background checks to prevent the employment of child abusers by child care providers, to establish a Federal point-of-purchase background check system for screening prohibited firearms purchasers, to provide accurate and immediately accessible records for law enforcement purposes, to assist in the identification and apprehension of violent felons, and to assist the courts in determining appropriate bail and sentencing decisions.

IN THE SENATE OF THE UNITED STATES

MAY 5 (legislative day, April 19), 1993

Mr. CRAIG introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

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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 “Federal Criminal
5 Records Identification Act of 1993”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—The Congress finds that—

8 (1) the technological capability exists to identify
9 violent felons, convicted child abusers, and other
10 predatory criminals through existing criminal justice
11 records;

12 (2) advances in electronic communication and
13 data compilation make it possible to check criminal
14 history records instantaneously to identify child
15 abusers who seek employment or access to child care
16 facilities, felons who attempt to purchase handguns,
17 fugitives for whom arrest warrants exist, and con-
18 victed persons prior to sentencing by courts of
19 justice;

20 (3) five States are currently demonstrating the
21 practicability of instantaneous electronic screening of
22 handgun purchasers, and other States are dem-
23 onstrating the practicability of electronic screening
24 of child care personnel;

1 (4) the vast majority of serious criminal career
2 activity occurs between the ages of 18 and 30; Jus-
3 tice Department research indicates that 80 percent
4 or more of the current nationwide criminal records
5 for dangerous criminals committing offenses the last
6 5 years are in automated form allowing a viable in-
7 stant check system to be implemented immediately;

8 (5) a key element in operating the point-of-pur-
9 chase sale system is a master name index, whether
10 automated or manual, which directs the system to
11 the full criminal history record of an individual; De-
12 partment of Justice research indicates that such in-
13 formation is currently 100 percent available in 44 or
14 more States;

15 (6) continuing Department of Justice initiatives
16 for improving criminal history records have directed
17 State remedial efforts toward automating criminal
18 records in reverse chronological order, focusing on
19 persons with a record of criminal activity within the
20 last 5 years;

21 (7) at least 39 States, which account for more
22 than 80 percent of all criminal records, have a fully
23 automated master name index; even in States where
24 the records are not fully automated, immediate na-

1 tional accessibility is available through the name
2 index in virtually all cases;

3 (8) thirty-two States with fully automated
4 criminal histories include final results or have dis-
5 position rates of criminal charges at rates that equal
6 or surpass those available in Florida and Virginia,
7 both of which States successfully operate instant
8 background screening systems on firearms pur-
9 chasers;

10 (9) in each of the 5 States currently using in-
11 stant background check systems for firearms pur-
12 chases, the time between the enactment of the legis-
13 lation establishing the systems and the actual online
14 usage was less than 1 year; in 4 of those States, the
15 online implementation of the system required be-
16 tween 6 and 9 months;

17 (10) as a result of earmarking 5 percent of
18 funds available under the Omnibus Crime Control
19 and Safe Streets Act of 1968, an additional
20 \$20,000,000 was provided to the States in 1992 for
21 the purpose of developing and improving access to
22 automated criminal history records;

23 (11) over 1,000,000 people are currently incar-
24 cerated in the United States, and more than
25 3,000,000 people are on probation or parole;

1 (12) instant retrieval of accurate criminal
2 records greatly enhances the ability of law enforce-
3 ment officers in the field to identify dangerous sus-
4 pects and enables courts of justice to make informed
5 decisions for conditions of release and imposition of
6 sentence;

7 (13) preschool and adolescent child care edu-
8 cation programs have upwards of 50,000,000 chil-
9 dren enrolled; more than 6,000,000 children receive
10 some form of out-of-home care, and the number of
11 children enrolled in day care is projected to increase
12 substantially over the next decade;

13 (14) child abuse is an extremely serious na-
14 tional problem; it is estimated that each year over
15 500,000 children are victims; the emotional and psy-
16 chological consequences of abuse are devastating,
17 not only to the victim, but to the family and friends
18 of the child; child abuse undermines public con-
19 fidence in the individuals and systems which provide
20 care, education, supervision, or recreation for our
21 children;

22 (15) predatory child molesters commit sexual
23 crimes against a staggering number of children, and
24 are similar to the serial killers in their commitment
25 to perpetrating numbers of heinous crimes;

1 (16) there is an extremely high rate of recidi-
2 vism among child sex abusers; even when they are
3 apprehended and punished, the lack of adequate de-
4 tection and monitoring of sexual predators who mi-
5 grate from State to State poses a particularly
6 sinister threat to children;

7 (17) at least 22 States currently require a
8 criminal history check or permit access to criminal
9 information systems to screen people who will have
10 substantial contact with children, and a number of
11 States are considering initiatives to develop systems
12 for screening child care providers;

13 (18) the States are severely hampered in their
14 ability to protect children from child abuse outside
15 the home because of the incompleteness and inacces-
16 sibility of the national criminal history records nec-
17 essary for screening child care providers for a
18 history of child abuse crimes;

19 (19) screening the background of a potential
20 child care provider for a history of child abuse
21 crimes, the overwhelming majority of whom are car-
22 ing and professional individuals, does not violate the
23 individual's rights, nor does instant background
24 screening of prospective handgun purchasers, vir-
25 tually all of whom are law-abiding citizens, violate

1 their individual rights under the Second and Four-
2 teenth Amendments to the United States Constitu-
3 tion to keep and bear arms; and

4 (20) the creation of a nationally accessible and
5 accurate database on criminal offenders will yield
6 general benefits to law enforcement authorities by—

7 (A) permitting the immediate review of ac-
8 curate criminal records by officers in the field,
9 thus protecting their safety and improving their
10 response to crime;

11 (B) enabling cross-comparisons of homi-
12 cides, acts of violence, and criminal activity,
13 thus assisting discovery of patterns of serial
14 murderers, gang migrations, or other concerted
15 criminal activities; and

16 (C) generally improving information with
17 regard to criminal trends and behavior, thus al-
18 lowing a more effective law enforcement re-
19 sponse to protect the public.

20 (b) PURPOSES.—The purposes of this Act are—

21 (1) to create a Federal instant background
22 check system to—

23 (A) identify persons for whom there are
24 outstanding arrest warrants so that law en-

1 forcement officers may be protected in the field
2 and may apprehend fugitives from justice;

3 (B) screen prospective handgun purchasers
4 to prevent persons who are prohibited by chap-
5 ter 44 of title 18, United States Code, from
6 purchasing handguns from licensed dealers;

7 (C) establish a uniform Federal framework
8 to ensure that States that conduct background
9 checks for child care providers are able to ob-
10 tain access to accurate and complete criminal
11 history information from across the Nation; and

12 (D) enable the courts to have ready access
13 to criminal history background information to
14 aid in establishing appropriate bail for defend-
15 ants and to aid in imposing sentences on per-
16 sons convicted of serious crimes;

17 (2) to provide the resources for each State to
18 implement a computerized criminal records system
19 that incorporates, on a continuing basis, the records
20 of crimes committed by persons with a record of
21 criminal activity dating back at least a decade;

22 (3) to provide a continuing funding mechanism
23 to ensure the long-term viability of the system;

24 (4) to require the Attorney General to develop
25 regulations implementing national uniform guide-

1 lines to allow States to determine if a person who
2 seeks employment as a child care provider should be
3 prohibited because of past criminal activity in an-
4 other State;

5 (5) to determine and to report on the status of
6 State criminal history records systems, and deter-
7 mine what needs to be done by each State to imple-
8 ment an effective instant background check system;

9 (6) to determine the means by which a federally
10 accessible network of criminal history records can be
11 accessed by the States;

12 (7) to provide the means of communication to
13 allow law enforcement authorities and the courts to
14 function more efficiently and effectively in carrying
15 out their duty to preserve public order and protect
16 the citizenry; and

17 (8) to provide for the privacy and to protect the
18 rights of the persons who will be screened by the
19 system.

20 **SEC. 3. DEFINITIONS.**

21 In this Act—

22 (1) “authorized agency” means a division or of-
23 fice of a State designated by a State to report, re-
24 ceive, or disseminate information under this Act;

25 (2) “background check crime” means—

1 (A) for the purpose of screening child care
2 providers, a child abuse crime, murder, man-
3 slaughter, aggravated assault, kidnapping,
4 arson, sexual assault, domestic violence, incest,
5 indecent exposure, prostitution, promotion of
6 prostitution, and a felony offense involving the
7 use or distribution of a controlled substance;
8 and

9 (B) for the purpose of screening handgun
10 purchasers, a crime punishable by imprison-
11 ment for a term exceeding 1 year within the
12 meaning of section 921(a)(20) of title 18, Unit-
13 ed States Code;

14 (3) “child” means a person who is a child for
15 purposes of the criminal child abuse law of a State;

16 (4) “child abuse” means physical or mental in-
17 jury, sexual abuse or exploitation, neglectful treat-
18 ment, negligent treatment, or maltreatment of a
19 child by a person in violation of the criminal child
20 abuse laws of a State;

21 (5) “child abuse crime” means a crime commit-
22 ted under a law of a State that establishes criminal
23 penalties for the commission of child abuse by a par-
24 ent or other family member of a child or by any
25 other person;

1 (6) “child abuse crime information” means the
2 following facts concerning a person who is under in-
3 dictment for, or has been convicted of, a child abuse
4 crime: full name, social security number, race, date
5 of birth, a brief description of the child abuse crime
6 or offenses for which the person is under indictment
7 or has been convicted, and any other information
8 that the Attorney General determines may be useful
9 in identifying persons under indictment for, or con-
10 victed of, a child abuse crime;

11 (7) “child care” means the provision of care,
12 treatment, education, training, instruction, super-
13 vision, or recreation to children;

14 (8) “domestic violence” means a felony or mis-
15 demeanor involving the use or threatened use of
16 force by—

17 (A) a present or former spouse of the vic-
18 tim;

19 (B) a person with whom the victim shares
20 a child in common;

21 (C) a person who is cohabiting with or has
22 cohabited with the victim as a spouse; or

23 (D) any person defined as a spouse of the
24 victim under the domestic or family violence
25 laws of a State;

1 (9) “exploitation” means child pornography and
2 child prostitution;

3 (10) “handgun” has the meaning stated in sec-
4 tion 921(a) of title 18, United States Code;

5 (11) “licensee” means an importer, manufac-
6 turer, or dealer (as defined in section 921(a) of title
7 18, United States Code) that is licensed under sec-
8 tion 923 of title 18, United States Code;

9 (12) “mental injury” means harm to a child’s
10 psychological or intellectual functioning, which may
11 be exhibited by severe anxiety, depression, with-
12 drawal or outward aggressive behavior, or a com-
13 bination of those behaviors or by a change in behav-
14 ior, emotional response, or cognition;

15 (13) “negligent treatment” means the failure to
16 provide, for a reason other than poverty, adequate
17 food, clothing, shelter, or medical care so as to seri-
18 ously endanger the physical health of a child;

19 (14) “physical injury” includes lacerations,
20 fractured bones, burns, internal injuries, severe
21 bruising, and serious bodily harm;

22 (15) “provider” means—

23 (A) a person who—

24 (i) is employed by a qualified entity;

1 (ii) who owns or operates a qualified
2 entity; or

3 (iii) who has or may have unsuper-
4 vised access to a child to whom the quali-
5 fied entity provides child care; and

6 (B) a person who—

7 (i) seeks to be employed by a qualified
8 entity; or

9 (ii) seeks to own or operate a qualified
10 entity;

11 (16) “qualified entity” means a public or pri-
12 vate business or organization that provides child
13 care or child care placement services, including a
14 business or organization that licenses or certifies
15 others to provide child care or child care placement
16 services;

17 (17) “sex crime” means an act of sexual abuse
18 that is a criminal act;

19 (18) “sexual abuse” includes the employment,
20 use, persuasion, inducement, enticement, or coercion
21 of a child to engage in, or assist another person to
22 engage in, sexually explicit conduct or the rape, mo-
23 lestation, prostitution, or other form of sexual ex-
24 ploitation of children or incest with children; and

1 (19) “State” means a State, the District of Co-
2 lumbia, the Commonwealth of Puerto Rico, Amer-
3 ican Samoa, the Virgin Islands, Guam, and the
4 Trust Territories of the Pacific.

5 **SEC. 4. STATE INSTANT CRIMINAL CHECK SYSTEMS FOR**
6 **HANDGUN PURCHASES.**

7 (a) IN GENERAL.—Not later than the date that is
8 12 months after the date of enactment of this Act, each
9 State shall establish and maintain a system that, on re-
10 ceipt of an inquiry from a licensee pursuant to section
11 922(s)(1) of title 18, United States Code, immediately re-
12 searches the criminal history of a prospective handgun
13 transferee, advises the licensee whether its records dem-
14 onstrate that such transferee is prohibited from receiving
15 a handgun by reason of section 922 (g) or (n) of title 18,
16 United States Code, and, if such transferee is not so pro-
17 hibited, provides the licensee a unique identification num-
18 ber with respect to the transfer.

19 (b) ADDITIONAL REQUIREMENTS.—A State instant
20 criminal check system shall—

21 (1) provide for the privacy and security of the
22 information contained in the system to an extent
23 equal, at a minimum, to the protections and rem-
24 edies provided in section 552a(g) of title 5, United
25 States Code;

1 (2) ensure that information conveyed to the sys-
2 tem by a licensee pursuant to section 922(s)(1) of
3 title 18, United States Code, is not retained in any
4 form whatsoever, is not conveyed to any person ex-
5 cept a person who has a need to know to carry out
6 the purpose of that section, and is not used for any
7 purpose other than to carry out that section; and

8 (3) provide to a prospective handgun transferee
9 who is denied receipt of a handgun on the basis of
10 information provided by the system a procedure for
11 the correction of erroneous information as otherwise
12 set forth in this Act.

13 (c) PROHIBITIONS ON USES OF INFORMATION.—

14 (1) RECORDATION BY THE GOVERNMENT.—No
15 record or portion thereof generated by an inquiry
16 concerning or a search of the criminal history of a
17 prospective transferee under a State instant criminal
18 check system established under subsection (a) shall
19 be recorded at or transferred to a facility owned,
20 managed, or controlled by the United States or any
21 State or political subdivision thereof.

22 (2) REGISTRATION OF OWNERSHIP.—Neither
23 the United States, a State, or any political subdivi-
24 sion thereof shall use information provided by a li-
25 censee pursuant to a State instant criminal check

1 system established under subsection (a) to establish
2 any system for the registration of handguns, hand-
3 gun owners, or handgun transactions or dispositions,
4 except with respect to persons who are prohibited
5 from receiving a handgun by section 922 (g) or (n)
6 of title 18, United States Code.

7 **SEC. 5. AMENDMENT OF CHAPTER 44 OF TITLE 18, UNITED**
8 **STATES CODE.**

9 (a) DEFINITIONS.—Section 921(a) of title 18, United
10 States Code, is amended by adding at the end the follow-
11 ing new paragraph:

12 “(29) The term ‘handgun’ means—

13 “(A) a firearm (other than a firearm that is a
14 curio or relic under criteria established by the Sec-
15 retary by regulation) that has a short stock and is
16 designed to be held and fired by the use of a single
17 hand; and

18 “(B) any combination of parts designed and in-
19 tended to be assembled into such a firearm and from
20 which such a firearm can be readily assembled.”.

21 (b) IDENTIFICATION PROCEDURE.—Section 922 of
22 title 18, United States Code, is amended by adding at the
23 end the following new subsection:

24 “(s)(1) Upon a State instant criminal check system
25 becoming operational pursuant to the Federal Criminal

1 Records Identification Act of 1993, and notice by an ap-
2 propriate State official by certified mail to each licensee
3 in the State that such system is operational, a licensed
4 importer, licensed manufacturer, or licensed dealer shall
5 not knowingly transfer a handgun from the business in-
6 ventory of such licensee to any other person who is not
7 licensed under this chapter before the completion of the
8 transfer unless the licensee contacts the State instant
9 criminal check system.”

10 (b) IDENTIFICATION PROCEDURE.—Section 922 of
11 title 18, United States Code, is amended by adding at the
12 end the following new subsection:

13 “(A) the State system notifies the licensee that
14 the system has not located any record that dem-
15 onstrates that the receipt of a handgun by such
16 other person would violate section 922 (g) or (n); or

17 “(B) at least 8 hours have elapsed since the li-
18 censee first contacted the system with respect to the
19 transfer, and the system has not notified the licensee
20 that the information available to the system dem-
21 onstrates that the receipt of a handgun by the per-
22 son would violate section 922 (g) or (n).

23 “(2) Paragraph (1) shall not apply to a handgun
24 transfer between a licensee and another person if—

1 “(A) the other person presents to the licensee
2 a valid permit or license issued by the State or a po-
3 litical subdivision of the State in which the transfer
4 is to occur that authorizes the person to purchase,
5 possess, or carry a firearm;

6 “(B) the Secretary has, under section 5812 of
7 the Internal Revenue Code of 1986, approved the
8 transfer;

9 “(C) the ability of the licensee to exchange in-
10 formation with the system described in paragraph
11 (1) is impaired for a period of more than 8 hours
12 due to natural or human disaster, insurrection, riot,
13 hurricane, other act of God, or other circumstance
14 beyond the control of the licensee; or

15 “(D) on application of the licensee, the State
16 instant criminal check system has certified that com-
17 pliance with paragraph (1)(A) is impracticable be-
18 cause of the inability of the licensee to communicate
19 with the system due to the remote location of the li-
20 censed premises.

21 “(3) If the State instant criminal check system noti-
22 fies the licensee that the information available to the sys-
23 tem does not demonstrate that the receipt of a handgun
24 by the person would violate section 922 (g) or (n), and
25 the licensee transfers a handgun to the person, the li-

1 censee shall include in the record of the transfer the
2 unique identification number provided by the system with
3 respect to the transfer.

4 “(4)(A) If the licensee knowingly transfers a handgun
5 to a person and willfully fails to comply with paragraph
6 (1) with respect to the transfer and, at the time of the
7 transfer, the State instant criminal check system was op-
8 erating and information was available to the system dem-
9 onstrating that receipt of a handgun by the person would
10 violate section 922 (g) or (n), the Secretary may, after
11 notice and opportunity for a hearing, suspend for not more
12 than 12 months or revoke any license issued to the licensee
13 under this section, and may impose on the licensee a civil
14 fine of not more than \$10,000.

15 “(B) Any action by the Secretary under subpara-
16 graph (A) shall be subject to the procedures and remedies
17 provided in section 923 (e) and (f).

18 “(5) A State employee responsible for providing infor-
19 mation through a State instant criminal check system
20 shall not be liable in an action at law for damages for
21 failure to prevent the sale or transfer of a handgun to
22 a person whose receipt or possession of a handgun is un-
23 lawful under this section.

24 “(6) Notwithstanding any law, rule, or regulation of
25 a State or political subdivision of a State that requires

1 a waiting period prior to the receipt or sale of a handgun,
2 after a State instant criminal check system has been
3 placed in operation, a licensee may transfer, and a person
4 may receive, a handgun immediately upon notification of
5 the licensee pursuant to subparagraph (1)(A). No permit
6 or license shall be required by any State or political sub-
7 division of a State for such transfer or receipt.”.

8 (c) PENALTY.—Section 924(a) of title 18, United
9 States Code, is amended—

10 (1) in paragraph (1) by striking “(2) or (3)”
11 and inserting “(2), (3), (4), or (5)”; and

12 (2) by adding at the end the following new
13 paragraph:

14 “(5) A person who willfully violates section 922(s)
15 shall be fined not more than \$2,000, imprisoned not more
16 than 1 year, or both.”.

17 **SEC. 6. ESTABLISHMENT AND OPERATION OF CRIMINAL**
18 **HISTORY SYSTEM.**

19 (a) ESTABLISHMENT OF THE SYSTEM.—Each State
20 shall establish a system accessible by telephone, and may
21 establish other electronic means in addition to telephonic
22 communication, that any licensee, provider, law enforce-
23 ment officer, or court of law may contact for criminal his-
24 tory information. Information available to a licensee shall
25 be limited to information concerning a background check

1 crime or other information concerning whether receipt of
2 a handgun by a prospective transferee would violate sec-
3 tion 922 (g) or (n) of title 18, United States Code. Infor-
4 mation available to a provider shall be limited to a back-
5 ground check crime. Information available to law enforce-
6 ment officers and to courts of law shall include informa-
7 tion concerning any arrest or conviction for any crime.

8 (b) CONTINUOUS OPERATION.—Each State shall
9 take such steps as are necessary to ensure that the system
10 operates continuously and without closing, at all times and
11 days of each year for purposes of inquiries from law en-
12 forcement officers, licensees, and courts.

13 **SEC. 7. OPERATION OF SYSTEM FOR PURPOSE OF SCREEN-**
14 **ING HANDGUN PURCHASERS.**

15 (a) ACCURACY OF RESPONSES.—Each State shall
16 take such steps as are necessary to ensure that not more
17 than 2 percent of initial telephone responses of the system
18 contain erroneous determinations that receipt of a hand-
19 gun by a prospective handgun transferee would violate sec-
20 tion 922 (g) or (n) of title 18, United States Code.

21 (b) NOTIFICATION OF LICENSEES.—On establish-
22 ment of a system under this section, each respective State
23 shall notify the Secretary of the Treasury, and the Sec-
24 retary shall notify each licensee of the existence and pur-

1 pose of the system and the telephone number and other
2 electronic means that may be used to contact the system.

3 (c) OPERATION OF THE SYSTEM.—

4 (1) REQUIREMENTS FOR PROVISION OF INFOR-
5 MATION.—The system established under this section
6 shall not provide information to any person who
7 places a telephone call to the system with respect to
8 a person unless—

9 (A) the system verifies that the caller is a
10 licensee; and

11 (B) the licensee—

12 (i) states that a person seeks to pur-
13 chase a handgun from the licensee; and

14 (ii) provides the name, birth date, and
15 social security number (or if the transferee
16 does not have a social security number,
17 other identifying information about the
18 proposed transferee as required to make a
19 valid identification).

20 (2) INFORMATION TO BE PROVIDED.—

21 (A) IN GENERAL.—If the system receives a
22 telephone call with respect to the transfer of a
23 handgun to a person and the requirements of
24 paragraph (1) are met, the system shall, in ac-
25 cordance with subparagraph (B)—

1 (i) if the receipt of a handgun by the
2 person would violate section 922 (g) or (n)
3 of title 18, United States Code, inform the
4 licensee that the transfer is disapproved;
5 and

6 (ii) if such a receipt would not violate
7 section 922 (g) or (h) of title 18, United
8 States Code—

9 (I) assign a unique identification
10 number to the transfer;

11 (II) provide the licensee with the
12 number; and

13 (III) destroy all records of the
14 system with respect to the call (other
15 than the identifying number and the
16 date the number was assigned) and all
17 records of the system relating to the
18 person or the transfer.

19 (B) TIMING.—

20 (i) PROMPT RESPONSE REQUIRED.—
21 The system shall make every effort to pro-
22 vide to the caller the information required
23 by subparagraph (A) immediately or by re-
24 turn telephone call without delay.

1 (ii) RULES GOVERNING DELAYED RE-
2 SPONSES.—If the system is unable to re-
3 spond immediately to the inquiry due to
4 circumstances beyond the control of the
5 system, the system shall—

6 (I) advise the caller that the re-
7 sponse of the system will be delayed
8 and state the reasons for the delay
9 and the estimated length of the delay;
10 and

11 (II) make every effort to provide
12 the information required by subpara-
13 graph (A) within 8 hours after the li-
14 censee first contacted the system with
15 respect to the transfer.

16 (d) CORRECTION OF ERRONEOUS SYSTEM.—

17 (1) ADMINISTRATIVE PROCEDURES.—If the sys-
18 tem established under this section informs a licensee
19 that receipt of a handgun by a person would violate
20 section 922 (g) or (n) of title 18, United States
21 Code, the person may request the system to provide
22 him or her in writing with a detailed explanation of
23 the reasons therefore. Within 5 days after receipt of
24 such a request, the system shall comply with the re-
25 quest. The requestor may submit to the system in-

1 formation to correct, clarify, or supplement records
2 of the system with respect to the requestor. Within
3 5 days after receipt of such information, the system
4 shall consider such information, investigate the mat-
5 ter further, and correct all erroneous records relat-
6 ing to the requestor and notify any department or
7 agency of the United States or of any State or polit-
8 ical subdivision of a State that was the source of the
9 erroneous records or such errors.

10 (2) PRIVATE CAUSE OF ACTION.—After all ad-
11 ministrative remedies are exhausted and such
12 records are not corrected, a person disapproved for
13 the purchase or receipt of a handgun because the
14 system established under this section provided erro-
15 neous information relating to the person may bring
16 an action in any court of competent jurisdiction
17 against the United States, or any State or political
18 subdivision of a State that is the source of the erro-
19 neous information, for damages (including con-
20 sequential damages), injunctive relief, mandamus,
21 and such other relief as the court may deem appro-
22 priate. If the person prevails in the action, the court
23 shall allow the person a reasonable attorney's fee as
24 part of the costs.

1 **SEC. 8. REPORTING OF CHILD ABUSE INFORMATION.**

2 (a) IN GENERAL.—An authorized agency of a State
3 shall report child abuse crime information to the Federal
4 criminal background check system.

5 (b) PROVISION OF STATE CHILD ABUSE CRIME
6 RECORDS TO THE FEDERAL CRIMINAL BACKGROUND
7 CHECK SYSTEM.— Not later than 180 days after the date
8 of enactment of this Act, the Attorney General shall—

9 (1) investigate the criminal records of each
10 State and determine for each State a timetable by
11 which the State should be able to provide child
12 abuse crime records on an online capacity basis to
13 the Federal criminal background check system;

14 (2) establish guidelines for the reporting of
15 child abuse crime information, including guidelines
16 relating to the format, content, and accuracy of child
17 abuse crime information and other procedures for
18 carrying out this Act; and

19 (3) notify each State of the determinations
20 made pursuant to subparagraphs (A) and (B).

21 (c) EXCHANGE OF INFORMATION.—An authorized
22 agency of a State shall maintain close liaison with the Na-
23 tional Center on Child Abuse and Neglect, the National
24 Center for Missing and Exploited Children, and the Na-
25 tional Center for the Prosecution of Child Abuse for the

1 exchange of information and technical assistance in cases
2 of child abuse.

3 (d) ANNUAL SUMMARY.—The Attorney General shall
4 publish an annual statistical summary of the child abuse
5 crime information reported under this Act. The annual
6 statistical summary shall not contain any information that
7 may reveal the identity of any particular victim of a crime.

8 (e) ANNUAL REPORT.—The Attorney General shall
9 publish an annual summary of each State's progress in
10 reporting child abuse crime information to the Federal
11 criminal background check system.

12 (f) STUDY OF CHILD ABUSE OFFENDERS.—(1) Not
13 later than 180 days after the date of enactment of this
14 Act, the Administrator of the Office of Juvenile Justice
15 and Delinquency Prevention shall begin a study based on
16 a statistically significant sample of convicted child abuse
17 offenders and other relevant information to determine—

18 (A) the percentage of convicted child abuse of-
19 fenders who have more than 1 conviction for an of-
20 fense involving child abuse;

21 (B) the percentage of convicted child abuse of-
22 fenders who have been convicted of an offense in-
23 volving child abuse in more than 1 State;

24 (C) whether there are crimes or classes of
25 crimes, in addition to those defined as background

1 check crimes, that are indicative of a potential to
2 abuse children; and

3 (D) the extent to which and the manner in
4 which instances of child abuse form a basis for con-
5 victions for crimes other than child abuse crimes.

6 (2) Not later than 1 year after the date of enactment
7 of this Act, the Administrator shall submit a report to the
8 Committee on the Judiciary of the Senate and the Com-
9 mittee on the Judiciary of the House of Representatives
10 containing a description of and a summary of the results
11 of the study conducted pursuant to paragraph (1).

12 **SEC. 9. BACKGROUND CHECKS FOR CHILD CARE PROVID-**
13 **ERS.**

14 (a) IN GENERAL.—

15 (1) PROCEDURES FOR MAKING REQUEST FOR
16 BACKGROUND CHECK.—A State may have in effect
17 procedures (established by or under State statute or
18 regulation) to permit a qualified entity to contact an
19 authorized agency of the State to request a nation-
20 wide background check for the purpose of determin-
21 ing whether a provider is under indictment for, or
22 has been convicted of, a background check crime.

23 (2) ACCESS THROUGH NATIONAL CRIMINAL
24 BACKGROUND CHECK SYSTEM.—The authorized
25 agency shall access and review State and Federal

1 records of background check crimes through the na-
2 tional criminal background check system and other
3 criminal justice record keeping systems and shall re-
4 spond promptly to the inquiry.

5 (b) GUIDELINES.—

6 (1) IN GENERAL.—The Attorney General shall
7 establish guidelines for State background check pro-
8 cedures established under subsection (a), including
9 procedures for carrying out the purposes of this Act.

10 (2) REQUIREMENTS.—The guidelines estab-
11 lished under paragraph (1) shall require—

12 (A) that no qualified entity may request a
13 background check of a provider under sub-
14 section (a) unless the provider first completes
15 and signs a statement that—

16 (i) contains the name, address, date of
17 birth, and social security number of the
18 provider;

19 (ii) the provider is not under indict-
20 ment for, and has not been convicted of, a
21 background check crime and, if the pro-
22 vider is under indictment for or has been
23 convicted of a background check crime,
24 contains a description of the crime and the
25 particulars of the indictment or conviction;

1 (iii) notifies the provider that the en-
2 tity may request a background check under
3 subsection (a);

4 (iv) notifies the provider of the provid-
5 er's rights under subparagraph (B); and

6 (v) notifies the provider that prior to
7 the receipt of the background check the
8 qualified entity may deny the provider em-
9 ployment;

10 (B) that each State establish procedures
11 under which a provider who is the subject of a
12 background check under subsection (a) is enti-
13 tled—

14 (i) to obtain a copy of any background
15 check report; and

16 (ii) to challenge the accuracy and
17 completeness of any information contained
18 in any such report;

19 (C) that an authorized agency to which a
20 qualified entity has provided notice pursuant to
21 subsection (a) make reasonable efforts to review
22 available criminal history records and respond
23 to the qualified entity;

24 (D) that the response of an authorized
25 agency to an inquiry pursuant to subsection (a)

1 inform the qualified entity that the background
2 check pursuant to this section—

3 (i) may not reflect all indictments or
4 convictions for a background check crime;

5 (ii) is not certain to include arrest in-
6 formation; and

7 (iii) should not be the sole basis for
8 determining the fitness of a provider;

9 (E) that the response of an authorized
10 agency to an inquiry pursuant to subsection
11 (a)—

12 (i) state whether the background
13 check information set forth in the identi-
14 fication document required under subpara-
15 graph (A) is complete and accurate; and

16 (ii) be limited to the information rea-
17 sonably required to accomplish the pur-
18 poses of this Act;

19 (F) that no qualified entity may take ac-
20 tion adverse to a provider, except that the
21 qualified entity may choose to deny the provider
22 employment on the basis of a background check
23 under subsection (a) until the provider has ob-
24 tained a determination as to the validity of any

1 challenge under subparagraph (B) or waived
2 the right to make such challenge; and

3 (G) that each State establish procedures to
4 ensure that any background check under sub-
5 section (a) and the results thereof shall be re-
6 quested by and provided only to—

7 (i) qualified entities identified by
8 States;

9 (ii) authorized representatives of a
10 qualified entity who have a need to know
11 such information;

12 (iii) the providers;

13 (iv) law enforcement authorities; or

14 (v) pursuant to the direction of a
15 court of law;

16 (H) that background check information
17 conveyed to a qualified entity pursuant to sub-
18 section (a) shall not be conveyed to any person
19 except as provided under subparagraph (G);

20 (I) that an authorized agency, State em-
21 ployee or a political subdivision of a State or
22 employee thereof responsible for providing in-
23 formation to the Federal criminal background
24 check system shall not be liable in an action at
25 law for damages for failure to prevent a quali-

1 fied entity from taking action adverse to a pro-
2 vider on the basis of a background check.

3 (c) EQUIVALENT PROCEDURES.—

4 (1) CERTIFICATION.—Notwithstanding any-
5 thing to the contrary in this Act, the Attorney Gen-
6 eral may certify that a State licensing or certifi-
7 cation procedure that differs from the procedures
8 described in subsections (a) and (b) shall be deemed
9 to be the equivalent of such procedures for purposes
10 of this Act, but the procedures described in sub-
11 sections (a) and (b) shall continue to apply to those
12 qualified entities, providers, and background check
13 crimes that are not governed by or included within
14 the State licensing or certification procedure.

15 (2) CRITERIA.—The Attorney General shall by
16 regulation establish criteria for certifications under
17 this subsection. Such criteria shall include a finding
18 by the Attorney General that the State licensing or
19 certification procedure accomplishes the purposes of
20 this Act and incorporates a nationwide review of
21 State and Federal records of background check of-
22 fenses through the Federal criminal background
23 check system.

24 (d) RECORDS EXCHANGE.—The Attorney General
25 may exchange Federal Bureau of Investigation identifica-

1 tion records with authorized agencies for purposes of back-
2 ground checks under subsection (a) and may by regulation
3 authorize further dissemination of such records by author-
4 ized agencies for such purposes.

5 (e) TECHNOLOGY.—The Attorney General shall, to
6 the maximum extent possible, encourage the use of the
7 best technology available in conducting background
8 checks.

9 **SEC. 10. IMPROVEMENT OF CRIMINAL JUSTICE RECORDS.**

10 (a) EXPEDITED ACTION BY THE ATTORNEY GEN-
11 ERAL.—The Attorney General shall expedite—

12 (1) the incorporation of the remaining State
13 criminal history records into the Federal criminal
14 records systems maintained by the Federal Bureau
15 of Investigation; and

16 (2) the development of hardware and software
17 systems to link State criminal history check systems
18 into the National Crime Information Center.

19 **SEC. 11. ACCESS TO STATE CRIMINAL RECORDS.**

20 (a) MEANS OF COMMUNICATION.—Not later than 60
21 days after the date of enactment of this Act the Attorney
22 General shall—

23 (1) determine the type of computer hardware
24 and software that shall be used to operate the Fed-
25 eral criminal records system and the means by which

1 State criminal records system shall communicate
2 with the Federal system;

3 (2) investigate the criminal records system of
4 each State and determine for each State the extent
5 of such accessible criminal records that each State
6 shall be able to provide thereafter to the Federal
7 system by the effective date of section 922(s) of title
8 18, United States Code, as added by section 5; and

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

11 (b) FEDERAL SYSTEM.—Not later than the effective
12 date of section 922(s) of title 18, United States Code, as
13 added by section 5, the Attorney General shall provide to
14 each State access to the Federal Crime Information Cen-
15 ter, including the records of other States through a net-
16 work, for the purpose of permitting the State to conduct
17 instant criminal background checks required by that
18 section.

19 **SEC. 12. IMPROVEMENTS IN STATE RECORDS.**

20 (a) IN GENERAL.—Section 509(b) of title I of the
21 Omnibus Crime Control and Safe Streets Act of 1968 (42
22 U.S.C. 3759(b)) is amended—

23 (1) by striking “and” at the end of paragraph
24 (2);

1 (2) by striking the period at the end of para-
2 graph (3) and inserting “; and”; and

3 (3) by adding at the end the following new
4 paragraph:

5 “(4) the improvement of State record systems
6 and the sharing of all of the records described in
7 paragraphs (1), (2), and (3) and the records re-
8 quired by this Act with the Attorney General for the
9 purpose of implementing this Act.”.

10 (b) ADDITIONAL FUNDING.—Section 509 of title I of
11 the Omnibus Crime Control and Safe Streets Act of 1968
12 (42 U.S.C. 3759) is amended by adding at the end the
13 following new subsection:

14 “(e) In addition to other funds authorized in this Act,
15 there are authorized to be appropriated for fiscal year
16 1994, to be available until expended, \$21,000,000 for the
17 purpose of implementing subsection (b)(4).”.

18 (c) WITHHOLDING FUNDS.—

19 (1) Effective on the effective date of section
20 922(s) of title 18, United States Code, as added by
21 section 5, the Attorney General may refuse to make
22 grants under title I of the Omnibus Crime Control
23 and Safe Streets Act of 1968 to a State that does
24 not establish and operate a State criminal back-
25 ground check system in compliance with subsection

1 (b)(1)(A) of this section and section 922(s) of title
2 18, United States Code. No State that receives
3 funds pursuant to the Federal Criminal Records
4 Identification Act of 1993 may charge more than \$3
5 per transaction to check for the existence of a felony
6 record of a prospective purchaser of a handgun.

7 (2) Effective 1 year after the date of enactment
8 of this Act, the Attorney General may reduce by up
9 to 10 percent the allocation to a State for a fiscal
10 year under title I of the Omnibus Crime Control and
11 Safe Streets Act of 1968 of a State that is not in
12 compliance with this Act, and the portion of the
13 amounts that are appropriated for allocation to the
14 States under that title for that fiscal year that is
15 equal to the amount of the reduction shall thereby
16 be rescinded.

17 **SEC. 13. FUNDING OF STATE CRIMINAL RECORDS SYSTEMS**
18 **AND DEDICATION OF FUNDS.**

19 (a) INCREASE IN SPECIAL ASSESSMENTS.—Section
20 3013(a) of title 18, United States Code, is amended—

21 (1) in paragraph (1)(A)(iii) by striking “\$25”
22 and inserting “\$30”;

23 (2) in paragraph (2)(A) by striking “\$50” and
24 inserting “\$75”; and

1 (3) in paragraph (2)(B) by striking “\$200” and
2 inserting “\$250”.

3 (b) SYSTEMS FOR SCREENING CHILD CARE PROVID-
4 ERS AND HANDGUN PURCHASERS AND FOR CRIMINAL
5 JUSTICE PURPOSES.—Notwithstanding any other law, \$5
6 of each assessment collected under section 3013
7 (a)(1)(A)(iii) of title 18, United States Code, \$25 of each
8 assessment collected under subsection (a)(2)(A) of that
9 section, and \$50 of each assessment collected under sub-
10 section (a)(2)(B) of that section shall be paid to the
11 States, in proportion to the respective populations thereof,
12 for the purposes of carrying out the Federal Criminal
13 Records Identification Act of 1993.

14 **SEC. 14. AUTHORIZATION OF APPROPRIATIONS.**

15 (a) IN GENERAL.—There are authorized to be appro-
16 priated such sums as are necessary to carry out this Act.

17 (b) LIMITATION ON USE.—No appropriation, grant,
18 or fund authorized under this Act shall be used for any
19 purpose other than the creation, maintenance, and oper-
20 ation of systems for access to criminal history records and
21 screening systems for handgun purchasers and child care
22 providers as provided in this Act.

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