

107TH CONGRESS  
2D SESSION

# H. R. 4757

To improve the national instant criminal background check system, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 16, 2002

Mrs. MCCARTHY of New York (for herself, Mr. DINGELL, Mr. KIRK, Mr. CONYERS, Mr. MORAN of Virginia, Mr. GILMAN, Mrs. TAUSCHER, Mrs. MORELLA, Mr. ANDREWS, Mrs. ROUKEMA, Mr. PASCRELL, Mr. CASTLE, Mr. CAPUANO, Mr. FRANK, Ms. NORTON, Mr. MOORE, Ms. BROWN of Florida, Ms. WOOLSEY, Mr. BLAGOJEVICH, Ms. CARSON of Indiana, Ms. SCHAKOWSKY, Mr. LANGEVIN, Mr. MEEHAN, Mr. NADLER, Mrs. LOWEY, Mr. DAVIS of Illinois, Mr. HOEFFEL, Ms. RIVERS, Mr. WEXLER, Mr. MCGOVERN, Mr. WAXMAN, Mr. ENGEL, Mr. FORD, Ms. LOFGREN, Mr. HASTINGS of Florida, Mr. ISRAEL, Mr. WEINER, Ms. ROYBAL-ALLARD, Ms. WATERS, Ms. JACKSON-LEE of Texas, Mr. TOWNS, Mr. RUSH, Mr. CLAY, Mr. ROTHMAN, Ms. DELAURO, and Mr. SHERMAN) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To improve the national instant criminal background check system, 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 “Our Lady of Peace  
5 Act”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds the following:

3 (1) Since 1994, more than 689,000 individuals  
4 have been denied a gun for failing a background  
5 check.

6 (2) States that fail to computerize their crimi-  
7 nal and mental illness records are the primary cause  
8 of delays for background checks. Helping States  
9 automate their records will reduce delays for law-  
10 abiding gun owners.

11 (3) 25 States have automated less than 60 per-  
12 cent of their felony criminal conviction records.

13 (4) 33 States do not automate or share dis-  
14 qualifying mental health records.

15 (5) In 13 States, domestic violence restraining  
16 orders are not automated or accessible by the na-  
17 tional instant criminal background check system.

18 (6) In 15 States, no domestic violence mis-  
19 demeanor records are automated or accessible by the  
20 national instant criminal background check system.

1           **TITLE I—TRANSMITTAL OF**  
2                                   **RECORDS**

3 **SEC. 101. ENHANCEMENT OF REQUIREMENT THAT FED-**  
4                                   **ERAL DEPARTMENTS AND AGENCIES PRO-**  
5                                   **VIDE RELEVANT INFORMATION TO THE NA-**  
6                                   **TIONAL INSTANT CRIMINAL BACKGROUND**  
7                                   **CHECK SYSTEM.**

8           (a) IN GENERAL.—Section 103(e)(1) of the Brady  
9 Handgun Violence Prevention Act (18 U.S.C. 922 note)  
10 is amended—

11                   (1) by striking “may” and inserting “shall, not  
12                   less frequently than quarterly,”;

13                   (2) by inserting “electronically” before “fur-  
14                   nish”; and

15                   (3) by adding at the end the following: “The  
16                   head of each such department or agency shall ascer-  
17                   tain whether the department or agency has any  
18                   records on any person described in any paragraph of  
19                   section 922(g), title 18, United States Code, and on  
20                   being made aware that the department or agency of  
21                   such a record, shall transmit a copy of the record to  
22                   the Attorney General for inclusion in the system.  
23                   The Attorney General shall notify the Congress on  
24                   a quarterly basis as to whether the Attorney General  
25                   has obtained from each such department or agency

1 the information required to be provided to the Attor-  
2 ney General under this subsection.”.

3 (b) IMMIGRATION RECORDS.—The Commissioner of  
4 the Immigration and Naturalization Service shall imme-  
5 diately transmit all relevant records of persons disqualified  
6 from acquiring a firearm under Federal law, including but  
7 not limited to, illegal aliens, visitors to the United States  
8 on student visas, and visitors to the United States on tour-  
9 ist visas, to the Attorney General for inclusion in the na-  
10 tional instant criminal background check system.

11 **SEC. 102. TRANSMITTAL OF STATE RECORDS TO THE NA-**  
12 **TIONAL INSTANT CRIMINAL BACKGROUND**  
13 **CHECK SYSTEM.**

14 (a) IN GENERAL.—A State that does not meet the  
15 requirements of this section shall be subject to section  
16 104.

17 (b) REQUIREMENTS.—The requirements of this sec-  
18 tion are as follows:

19 (1) The State shall provide the name of and  
20 other relevant identifying information relating to  
21 persons disqualified from acquiring a firearm under  
22 Federal or State law to the Attorney General for in-  
23 clusion in the national instant criminal background  
24 check system.



1           (1) defendants in criminal cases adjudicated as  
2 not guilty by reason of insanity, or found incom-  
3 petent to stand trial;

4           (2) individuals found to be a danger to others  
5 as a result of a mental disorder or illness;

6           (3) individuals involuntarily committed to a  
7 mental institution by a court, board, commission, or  
8 other authority;

9           (4) individuals committed for reasons other  
10 than mental defectiveness or mental illness; and

11           (5) individuals committed within the past 5  
12 years to a mental institution—

13                   (A) for treatment of alcoholism; or

14                   (B) as an unlawful user of, or person ad-  
15 dicted to, any controlled substance (as defined  
16 in section 102 of the Controlled Substances  
17 Act), provided that such unlawful use has oc-  
18 curred recently enough to indicate that the indi-  
19 vidual is actively engaged in such conduct.

20           (d) EXCEPTION.—This section does not apply to—

21                   (1) a person—

22                           (A) in a mental institution for observation;

23                           or

24                           (B) voluntarily committed to a mental in-  
25 stitution; or

1           (2) information protected by doctor-patient  
2       privilege.

3       (e) PRIVACY PROTECTIONS.—The Attorney General  
4 shall work with State and local law enforcement and the  
5 mental health community to establish protocols for pro-  
6 tecting the privacy of information provided in this section.  
7 Such protocols shall be in addition to any other applicable  
8 laws for protecting the privacy of such information.

9       (e) COMMENCEMENT OF TRANSMITTAL.—Notwith-  
10 standing subsection (c), the State shall begin to comply  
11 with subsection (b) not later than January 1, 2005. If  
12 such compliance occurs before the establishment of proto-  
13 cols under subsection (c), the Attorney General shall en-  
14 sure that any information provided under this section may  
15 be accessed only by personnel authorized by law to access  
16 the national instant criminal background check system.

17 **SEC. 104. PENALTIES FOR NONCOMPLIANCE.**

18       (a) ATTORNEY GENERAL REPORT.—Not later than  
19 January 31 of each year, the Attorney General shall sub-  
20 mit to the Committee on the Judiciary of the Senate and  
21 the Committee on the Judiciary of the House of Rep-  
22 resentatives a report on the progress of States in auto-  
23 mating the databases containing information under sec-  
24 tions 102 and 103 and in providing that information pur-  
25 suant to the requirements of sections 102 and 103.

1 (b) PENALTIES.—

2 (1) AFTER THREE YEARS.—During the period  
3 beginning three years after the date of the enact-  
4 ment of this Act and ending five years after the date  
5 of the enactment of this Act, the Attorney General  
6 may (but need not), for any State that fails to pro-  
7 vide under sections 102 and 103 at least 60 percent  
8 of the information required to be provided under  
9 those sections, decline to allocate to that State up to  
10 5 percent of the amounts that would otherwise be al-  
11 located to that State under section 506 of the Omni-  
12 bus Crime Control and Safe Streets Act of 1968 (42  
13 U.S.C. 3756).

14 (2) AFTER FIVE YEARS.—After the expiration  
15 of the period referred to in paragraph (1), the Attor-  
16 ney General shall, for any State that fails to provide  
17 under sections 102 and 103 at least 95 percent of  
18 the information required to be provided under those  
19 sections, decline to allocate to that State 10 percent  
20 of the amounts that would otherwise be allocated to  
21 that State under section 506 of the Omnibus Crime  
22 Control and Safe Streets Act of 1968 (42 U.S.C.  
23 3765).

24 (3) WAIVER BY ATTORNEY GENERAL.—The At-  
25 torney General may waive the applicability of para-

1 graph (2) to a State if that State provides compel-  
2 ling evidence of its inability to meet the require-  
3 ments of sections 102 and 103.

4 (c) REALLOCATION.—Any funds that are not allo-  
5 cated for failure to comply with the requirements of sub-  
6 section (b) shall be reallocated to States that meet such  
7 requirements.

8 **SEC. 105. IMPLEMENTATION GRANTS TO STATES.**

9 (a) IN GENERAL.—From amounts made available to  
10 carry out this section, the Attorney General shall make  
11 grants to each State, in a manner consistent with the na-  
12 tional criminal history improvement program, which shall  
13 be used by the State, in conjunction with units of local  
14 government and State and local courts, to establish or up-  
15 grade information and identification technologies for fire-  
16 arms eligibility determinations.

17 (b) USE OF GRANT AMOUNTS.—Grants under this  
18 section may only be awarded for the following purposes:

19 (1) Building databases that are directly related  
20 to checks under the national instant criminal back-  
21 ground check system (NICS), including court dis-  
22 position and corrections records.

23 (2) Assisting States in establishing or enhance-  
24 ing their own capacities to perform NICS back-  
25 ground checks.

1           (3) Improving final dispositions of criminal  
2 records.

3           (4) Supplying mental health records to NICS.

4           (5) Supplying domestic violence restraining or-  
5 ders and temporary restraining orders for inclusion  
6 in NICS.

7       (c) CONDITION.—As a condition of receiving a grant  
8 under this section, a State shall specify the projects for  
9 which grant amounts will be used, and shall use such  
10 amounts only as specified. A State that violates this sec-  
11 tion shall be liable to the Attorney General for the full  
12 amount granted.

13       (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
14 authorized to be appropriated to carry out this section  
15 \$250,000,000 for each of fiscal years 2003, 2004, and  
16 2005.

17 **TITLE II—FOCUSING FEDERAL**  
18 **ASSISTANCE ON THE IM-**  
19 **PROVEMENT OF RELEVANT**  
20 **RECORDS**

21 **SEC. 201. CONTINUING EVALUATIONS.**

22       (a) EVALUATION REQUIRED.—The Director of the  
23 Bureau of Justice Statistics shall study and evaluate the  
24 operations of the national instant criminal background  
25 check system. Such study and evaluation shall include, but

1 not be limited to, compilations and analyses of the oper-  
2 ations and record systems of the agencies and organiza-  
3 tions participating in such system.

4 (b) REPORT ON GRANTS.—Not later than January  
5 31 of each year, the Director shall submit to Congress  
6 a report on the implementation of sections 102 and 103  
7 of this Act.

8 (c) REPORT ON BEST PRACTICES.—Not later than  
9 January 31 of each year, the Director shall submit to Con-  
10 gress, and to each State participating in the National  
11 Criminal History Improvement Program, a report of the  
12 practices of the States regarding the collection, mainte-  
13 nance, automation, and transmittal of identifying informa-  
14 tion relating to individuals described in section 922(g) of  
15 title 18, United States Code, by the State or any other  
16 agency, or any other records relevant to the national in-  
17 stant criminal background check system, that the Director  
18 considers to be best practices.

1 **TITLE III—GRANTS TO STATE**  
2 **COURTS FOR THE IMPROVE-**  
3 **MENT IN AUTOMATION AND**  
4 **TRANSMITTAL OF DISPOSI-**  
5 **TION RECORDS**

6 **SEC. 301. GRANTS AUTHORIZED.**

7 (a) IN GENERAL.—From amounts made available to  
8 carry out this section, the Attorney General shall make  
9 grants to each State for use by the chief judicial officer  
10 of the State to improve the handling of proceedings related  
11 to criminal history dispositions and temporary restraining  
12 orders as they relate to disqualification from firearms  
13 ownership under State and Federal laws.

14 (b) USE OF FUNDS.—Amounts granted under this  
15 section shall be used by the chief judicial officer only as  
16 follows:

17 (1) For fiscal year 2003, such amounts shall be  
18 used to carry out assessments of the capabilities of  
19 the courts of the State for the automation and  
20 transmission to State and Federal record reposi-  
21 tories the arrest and conviction records of such  
22 courts to the extent relevant to disqualification from  
23 firearms ownership under State and Federal laws.

24 (2) For fiscal years after 2003, such amounts  
25 shall be used to implement policies, systems, and

1 procedures for the automation and transmission to  
2 State and Federal record repositories the arrest and  
3 conviction records of such courts to the extent rel-  
4 evant to disqualification from firearms ownership  
5 under State and Federal laws.

6 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
7 are authorized to be appropriated to the Attorney General  
8 to carry out this section \$125,000,000 for each of fiscal  
9 years 2003, 2004, and 2005.

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