

114TH CONGRESS
1ST SESSION

H. R. 3411

To ensure that all individuals who should be prohibited from buying a firearm are listed in the national instant criminal background check system and require a background check for every firearm sale.

IN THE HOUSE OF REPRESENTATIVES

JULY 29, 2015

Ms. SPEIER (for herself, Mrs. CAPPS, Mr. CAPUANO, Mr. CARNEY, Mr. CICILLINE, Ms. CLARK of Massachusetts, Mr. CUMMINGS, Mr. ELLISON, Ms. FRANKEL of Florida, Ms. FUDGE, Ms. HAHN, Mr. ISRAEL, Mr. KENNEDY, Mr. LANGEVIN, Mr. LARSON of Connecticut, Ms. LEE, Mr. LOWENTHAL, Mr. LYNCH, Mrs. CAROLYN B. MALONEY of New York, Ms. NORTON, Mr. PASCRELL, Ms. PINGREE, Mr. QUIGLEY, Mr. SCHIFF, Mr. SHERMAN, Mr. SIRES, Ms. SLAUGHTER, Ms. TSONGAS, Mr. VAN HOLLEN, Mr. GARAMENDI, Mr. CONYERS, Mr. HIMES, Mr. PRICE of North Carolina, Mr. GRIJALVA, Ms. MCCOLLUM, Mr. McDERMOTT, Mr. BLUMENAUER, Mr. FARR, Mr. PAYNE, Mr. PALLONE, and Ms. CASTOR of Florida) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To ensure that all individuals who should be prohibited from buying a firearm are listed in the national instant criminal background check system and require a background check for every firearm sale.

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; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Fix Gun Checks Act of 2015”.

4 (b) **TABLE OF CONTENTS.**—The table of contents for
5 this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—ENSURING THAT ALL INDIVIDUALS WHO SHOULD BE
PROHIBITED FROM BUYING A GUN ARE LISTED IN THE NA-
TIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM**

Sec. 101. Penalties for States that do not make data electronically available to
the National Instant Criminal Background Check System.

Sec. 102. Requirement that Federal agencies certify that they have submitted
to the National Instant Criminal Background Check System all
records identifying persons prohibited from purchasing fire-
arms under Federal law.

Sec. 103. Adjudicated as a mental defective.

Sec. 104. Clarification that Federal court information is to be made available
to the National Instant Criminal Background Check System.

**TITLE II—REQUIRING A BACKGROUND CHECK FOR EVERY
FIREARM SALE**

Sec. 201. Purpose.

Sec. 202. Firearms transfers.

Sec. 203. Lost and stolen reporting.

1 **TITLE I—ENSURING THAT ALL**
2 **INDIVIDUALS WHO SHOULD**
3 **BE PROHIBITED FROM BUY-**
4 **ING A GUN ARE LISTED IN**
5 **THE NATIONAL INSTANT**
6 **CRIMINAL BACKGROUND**
7 **CHECK SYSTEM**

8 **SEC. 101. PENALTIES FOR STATES THAT DO NOT MAKE**
9 **DATA ELECTRONICALLY AVAILABLE TO THE**
10 **NATIONAL INSTANT CRIMINAL BACKGROUND**
11 **CHECK SYSTEM.**

12 Section 102(b) of the NICS Improvement Amend-
13 ments Act of 2007 (18 U.S.C. 922 note) is amended to
14 read as follows:

15 “(b) IMPLEMENTATION PLAN.—

16 “(1) IN GENERAL.—Within 1 year after the
17 date of the enactment of this subsection, the Attor-
18 ney General, in coordination with the States, shall
19 establish, for each State or Indian tribal govern-
20 ment, a plan to ensure maximum coordination and
21 automation of the reporting of records or making of
22 records available to the National Instant Criminal
23 Background Check System established under section
24 103 of the Brady Handgun Violence Prevention Act,
25 during a 4-year period specified in the plan.

1 “(2) BENCHMARK REQUIREMENTS.—Each such
2 plan shall include annual benchmarks, including
3 qualitative goals and quantitative measures, to en-
4 able the Attorney General to assess implementation
5 of the plan.

6 “(3) PENALTIES FOR NONCOMPLIANCE.—

7 “(A) IN GENERAL.—During the 4-year pe-
8 riod covered by such a plan, the Attorney Gen-
9 eral shall withhold the following percentage of
10 the amount that would otherwise be allocated to
11 a State under section 505 of the Omnibus
12 Crime Control and Safe Streets Act of 1968
13 (42 U.S.C. 3755) if the State does not meet the
14 benchmark established under paragraph (2) for
15 the following year in the period:

16 “(i) 10 percent, in the case of the 1st
17 year in the period.

18 “(ii) 11 percent, in the case of the
19 2nd year in the period.

20 “(iii) 13 percent, in the case of the
21 3rd year in the period.

22 “(iv) 15 percent, in the case of the
23 4th year in the period.

24 “(B) FAILURE TO ESTABLISH A PLAN.—A
25 State with respect to which a plan is not estab-

1 lished under paragraph (1) shall be treated as
2 having not met any benchmark established
3 under paragraph (2).”.

4 **SEC. 102. REQUIREMENT THAT FEDERAL AGENCIES CER-**
5 **TIFY THAT THEY HAVE SUBMITTED TO THE**
6 **NATIONAL INSTANT CRIMINAL BACKGROUND**
7 **CHECK SYSTEM ALL RECORDS IDENTIFYING**
8 **PERSONS PROHIBITED FROM PURCHASING**
9 **FIREARMS UNDER FEDERAL LAW.**

10 Section 103(e)(1) of the Brady Handgun Violence
11 Prevention Act (18 U.S.C. 922 note) is amended by add-
12 ing at the end the following:

13 “(F) SEMIANNUAL CERTIFICATION AND
14 REPORTING.—

15 “(i) IN GENERAL.—The head of each
16 Federal department or agency shall submit
17 to the Attorney General a written certifi-
18 cation indicating whether the department
19 or agency has provided to the Attorney
20 General the pertinent information con-
21 tained in any record of any person that the
22 department or agency was in possession of
23 during the time period addressed by the
24 report demonstrating that the person falls
25 within a category described in subsection

1 (g) or (n) of section 922 of title 18, United
2 States Code.

3 “(ii) SUBMISSION DATES.—The head
4 of a Federal department or agency shall
5 submit a certification under clause (i)—

6 “(I) not later than July 31 of
7 each year, which shall address any
8 record the department or agency was
9 in possession of during the period be-
10 ginning on January 1 of the year and
11 ending on June 30 of the year; and

12 “(II) not later than January 31
13 of each year, which shall address any
14 record the department or agency was
15 in possession of during the period be-
16 ginning on July 1 of the previous year
17 and ending on December 31 of the
18 previous year.

19 “(iii) CONTENTS.—A certification re-
20 quired under clause (i) shall state, for the
21 applicable period—

22 “(I) the number of records of the
23 Federal department or agency dem-
24 onstrating that a person fell within
25 each of the categories described in

1 section 922(g) of title 18, United
2 States Code;

3 “(II) the number of records of
4 the Federal department or agency
5 demonstrating that a person fell with-
6 in the category described in section
7 922(n) of title 18, United States
8 Code; and

9 “(III) for each category of
10 records described in subclauses (I)
11 and (II), the total number of records
12 of the Federal department or agency
13 that have been provided to the Attor-
14 ney General.”.

15 **SEC. 103. ADJUDICATED AS A MENTAL DEFECTIVE.**

16 (a) IN GENERAL.—Section 921(a) of title 18, United
17 States Code, is amended by adding at the end the fol-
18 lowing:

19 “(36) The term ‘adjudicated as a mental defective’
20 shall—

21 “(A) have the meaning given the term in sec-
22 tion 478.11 of title 27, Code of Federal Regulations,
23 or any successor thereto; and

24 “(B) include an order by a court, board, com-
25 mission, or other lawful authority that a person, in

1 response to mental illness, incompetency, or marked
2 subnormal intelligence, be compelled to receive serv-
3 ices—

4 “(i) including counseling, medication, or
5 testing to determine compliance with prescribed
6 medications; and

7 “(ii) not including testing for use of alco-
8 hol or for abuse of any controlled substance or
9 other drug.

10 “(37) The term ‘committed to a mental institution’
11 shall have the meaning given the term in section 478.11
12 of title 27, Code of Federal Regulations, or any successor
13 thereto.”.

14 (b) LIMITATION.—An individual who has been adju-
15 dicated as a mental defective before the effective date de-
16 scribed in section 203 may not apply for relief from dis-
17 ability under section 101(c)(2) of the NICS Improvement
18 Amendments Act of 2007 (18 U.S.C. 922 note) on the
19 basis that the individual does not meet the requirements
20 in section 921(a)(36) of title 18, United States Code, as
21 added by subsection (a).

22 (c) NICS IMPROVEMENT AMENDMENTS ACT OF
23 2007.—Section 3 of the NICS Improvement Amendments
24 Act of 2007 (18 U.S.C. 922 note) is amended by striking
25 paragraph (2) and inserting the following:

1 “(2) MENTAL HEALTH TERMS.—

2 “(A) IN GENERAL.—Except as provided in
3 subparagraph (B), the terms ‘adjudicated as a
4 mental defective’ and ‘committed to a mental
5 institution’ shall have the meaning given the
6 terms in section 921(a) of title 18, United
7 States Code.

8 “(B) EXCEPTION.—For purposes of sec-
9 tions 102 and 103, the terms ‘adjudicated as a
10 mental defective’ and ‘committed to a mental
11 institution’ shall have the same meanings as on
12 the day before the date of enactment of the Fix
13 Gun Checks Act of 2015 until the end of the
14 2-year period beginning on such date of enact-
15 ment.”.

16 **SEC. 104. CLARIFICATION THAT FEDERAL COURT INFOR-**
17 **MATION IS TO BE MADE AVAILABLE TO THE**
18 **NATIONAL INSTANT CRIMINAL BACKGROUND**
19 **CHECK SYSTEM.**

20 Section 103(e)(1) of the Brady Handgun Violence
21 Protection Act (18 U.S.C. 922 note), as amended by sec-
22 tion 102 of this Act, is amended by adding at the end
23 the following:

24 “(G) APPLICATION TO FEDERAL
25 COURTS.—In this paragraph—

1 “(i) the terms ‘department or agency
2 of the United States’ and ‘Federal depart-
3 ment or agency’ include a Federal court;
4 and

5 “(ii) for purposes of any request, sub-
6 mission, or notification, the Director of the
7 Administrative Office of the United States
8 Courts shall perform the functions of the
9 head of the department or agency.”.

10 **TITLE II—REQUIRING A BACK-**
11 **GROUND CHECK FOR EVERY**
12 **FIREARM SALE**

13 **SEC. 201. PURPOSE.**

14 The purpose of this title is to extend the Brady Law
15 background check procedures to all sales and transfers of
16 firearms.

17 **SEC. 202. FIREARMS TRANSFERS.**

18 (a) IN GENERAL.—Section 922 of title 18, United
19 States Code, is amended—

20 (1) by striking subsection (s) and redesignating
21 subsection (t) as subsection (s);

22 (2) in subsection (s), as so redesignated—

23 (A) in paragraph (3)(C)(ii), by striking
24 “(as defined in subsection (s)(8))”; and

25 (B) by adding at the end the following:

1 “(7) In this subsection, the term ‘chief law en-
2 forcement officer’ means the chief of police, the
3 sheriff, or an equivalent officer or the designee of
4 any such individual.”; and

5 (3) by inserting after subsection (s), as so re-
6 designated, the following:

7 “(t)(1) It shall be unlawful for any person who is not
8 a licensed importer, licensed manufacturer, or licensed
9 dealer to transfer a firearm to any other person who is
10 not so licensed, unless a licensed importer, licensed manu-
11 facturer, or licensed dealer has first taken possession of
12 the firearm for the purpose of complying with subsection
13 (s). Upon taking possession of the firearm, the licensee
14 shall comply with all requirements of this chapter as if
15 the licensee were transferring the firearm from the inven-
16 tory of the licensee to the unlicensed transferee.

17 “(2) Paragraph (1) shall not apply to—

18 “(A) a transfer of a firearm by or to any law
19 enforcement agency or any law enforcement officer,
20 armed private security professional, or member of
21 the armed forces, to the extent the officer, profes-
22 sional, or member is acting within the course and
23 scope of employment and official duties;

24 “(B) a transfer that is a loan or bona fide gift
25 between spouses, between domestic partners, be-

1 tween parents and their children, between siblings,
2 or between grandparents and their grandchildren;

3 “(C) a transfer to an executor, administrator,
4 trustee, or personal representative of an estate or a
5 trust that occurs by operation of law upon the death
6 of another person;

7 “(D) a temporary transfer that is necessary to
8 prevent imminent death or great bodily harm, if the
9 possession by the transferee lasts only as long as im-
10 mediately necessary to prevent the imminent death
11 or great bodily harm;

12 “(E) a transfer that is approved by the Attor-
13 ney General under section 5812 of the Internal Rev-
14 enue Code of 1986;

15 “(F) a temporary transfer if the transferor has
16 no reason to believe that the transferee will use or
17 intends to use the firearm in a crime or is prohibited
18 from possessing firearms under State or Federal
19 law, and the transfer takes place and the trans-
20 feree’s possession of the firearm is exclusively—

21 “(i) at a shooting range or in a shooting
22 gallery or other area designated and built for
23 the purpose of target shooting;

24 “(ii) while hunting, trapping, or fishing, if
25 the hunting, trapping, or fishing is legal in all

1 places where the transferee possesses the fire-
2 arm and the transferee holds all licenses or per-
3 mits required for such hunting, trapping, or
4 fishing; or

5 “(iii) while in the presence of the trans-
6 feror.”.

7 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

8 (1) SECTION 922.—Section 922(y)(2) of such
9 title is amended in the matter preceding subpara-
10 graph (A), by striking “, (g)(5)(B), and
11 (s)(3)(B)(v)(II)” and inserting “and (g)(5)(B)”.

12 (2) SECTION 925A.—Section 925A of such title
13 is amended in the matter preceding paragraph (1),
14 by striking “subsection (s) or (t) of section 922”
15 and inserting “section 922(s)”.

16 (c) EFFECTIVE DATE.—The amendment made by
17 subsection (a)(4) shall take effect 180 days after the date
18 of the enactment of this Act.

19 **SEC. 203. LOST AND STOLEN REPORTING.**

20 (a) IN GENERAL.—Section 922 of title 18, United
21 States Code, is amended by adding at the end the fol-
22 lowing:

23 “(aa) It shall be unlawful for any person who lawfully
24 possesses or owns a firearm that has been shipped or
25 transported in, or has been possessed in or affecting, inter-

1 state or foreign commerce, to fail to report the theft or
2 loss of the firearm, within 48 hours after the person dis-
3 covers the theft or loss, to the Attorney General and to
4 the appropriate local authorities.”.

5 (b) PENALTY.—Section 924(a)(1)(B) of such title is
6 amended to read as follows:

7 “(B) knowingly violates subsection (a)(4),
8 (f), (k), (q), or (aa) of section 922;”.

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