

HR 2640, NICS Improvement Amendments Act of 2007

(Previously McCarthy-Dingell HR 297)

After discussions with Rep. John Dingell—a cosponsor and supporter of NICS Improvement since 2002—Rep. Carolyn McCarthy agreed that several changes to HR 297 would improve the bill’s prospects. That is why HR 2640 was introduced on June 11, 2007.

Enforce 1968 Gun Control Act

Under the 1968 Gun Control Act, an individual is prohibited from possessing a firearm if he:

- (a) is under indictment or has been convicted of a crime punishable by more than one year;
- (b) is a fugitive from justice;
- (c) is an unlawful user or an addict of any controlled substance;
- (d) has been adjudicated as a mental defective or has been committed to any mental institution;
- (e) is subject to a court order restraining them from domestic violence;
- (f) has been convicted of a domestic violence misdemeanor;
- (g) has been dishonorably discharged from the military;
- (h) is an illegal alien; or
- (i) renounced U.S. citizenship.

The NICS Improvement Amendments Act enforces existing law by requiring states to automate and share disqualifying records with the FBI’s NICS database.

Transmittal of Federal Records to NICS

All federal agencies shall transmit all relevant records relating to persons disqualified from acquiring a firearm under federal law to the Attorney General for inclusion in NICS.

For example, the Department of Homeland Security shall transmit all relevant records of persons disqualified from acquiring a firearm under federal law, including illegal aliens, visitors to the United States on student visas, and visitors on tourist visas. NICS records from the VA and other federal agencies must reflect accurately the person’s status. For example, only veterans who were properly adjudicated as mentally ill or properly committed to a mental institution would remain in NICS, since only these people are barred from getting guns under current law.

Transmittal of State Records to the NICS

Each State shall provide information on disqualified persons to the U.S. Attorney General for inclusion in NICS.

- **Access to information** - Any information provided to the Attorney General under this section may only be accessed by personnel legally entitled to access NICS for the purposes of conducting a background check for a firearm purchase.
- **Privacy protections** - The Attorney General shall work with federal, state, local law enforcement and the mental health community to establish protocols for protecting the privacy of information sharing.

Grants to States

The Attorney General shall award a grant to each state to offset the initial costs directly associated with complying with this section.

- **Authorization** - \$250,000,000 for each of fiscal years 2008, 2009, and 2010.

- **Requirements for Grants** – Before becoming eligible for funds, a state must provide to the Attorney General an initial estimate of records on disqualified persons. The state also must establish a process to review petitions, submitted by people now disqualified because of mental illness, seeking reinstatement of gun rights.
- **Incentive for State Participation (“Carrot”)** – The bill waives the 10 percent state matching requirement for National Criminal History Improvement Program (NCHIP) grants for a state that automates and shares at least 90 percent of all disqualifying records. The waiver period shall not exceed 5 years
- **Noncompliance (“Stick”)** - After three years, the FBI will report on the progress of states automating their databases and supplying that information to the federal NICS database. The Department of Justice will be authorized, but not required, to deny up to 3 percent of funds available under the Omnibus Crime Control and Safe Streets Act of 1968, to any state that fails to automate 60 percent of its disqualifying records and supplying that information to the federal NICS database.

After 5 years, if states have failed to automate at least 90 percent of its disqualifying records, and supply that information to the federal NICS database, the Department of Justice is required to deny 5 percent of funds available each year under the Omnibus Crime Control and Safe Streets Act of 1968 until the state has automated at least 90 percent of disqualifying records, and has supplied that information to NICS.

- **Waiver by Attorney General** - The Attorney General may grant a waiver to states that do not comply if they provide compelling evidence explaining their inability to automate at least 90 percent of all records covered by this bill.

Grants to State Courts for the Improvement in Automation and Transmittal of Disposition Records

Establishes a grant program for state courts to assess and improve handling of proceedings related to criminal history dispositions, and temporary restraining orders, as they relate to disqualification from firearms ownership under state and federal laws.

In the first fiscal year after the enactment of this Act, the Attorney General shall make grants to the Chief Judicial Officer of each state for the purpose of conducting *assessments* of state courts, and automating and transmitting court arrest and conviction disposition records as they relate to disqualification from firearms ownership under state and federal laws.

In subsequent fiscal years, the Attorney General shall make grants to the Chief Judicial Officer of each state for the purpose of *implementing systems and procedures* for the automation and transmittal of court arrest and conviction disposition records as they relate to disqualification from firearms ownership under state and federal laws.

- **Authorization** - \$125,000,000 for each of fiscal years 2008, 2009, and 2010.

If you have any questions, please contact Rep. Carolyn McCarthy or Bob Dobek at 202-225-5516.