

THE NICS DENIAL NOTIFICATION ACT OF 2018 (S. 2492)

The NICS Denial Notification Act helps state law enforcement better enforce existing gun laws and respond to warning signs of criminal behavior by establishing an alert system to notify state law enforcement when individuals legally prohibited from purchasing a firearm attempt to do so.

PROBLEM

Federal officials are notified when individuals who are legally prohibited from purchasing a firearm (such as convicted felons, fugitives, and domestic abusers) try to buy a gun but fail a National Instant Criminal Background Check System (NICS) background check. These attempted purchases often violate federal and state laws.

Under federal law, it is felony punishable by up to **ten years of imprisonment** for a person who is prohibited from purchasing firearms to lie about their prohibited status on a background check form in an attempt to buy a gun.¹ Yet, the federal government rarely prosecutes any of these individuals, who may be dangerous and willing to obtain guns through other means:

- 2010: Only 44 of 72,659 NICS denials were prosecuted, or 0.06%
- 2009: Only 77 of 67,324 NICS denials were prosecuted, or 0.11%
- 2008: Only 105 of 70,725 NICS denials were prosecuted, or 0.15%

In the 13 states, like Pennsylvania, that run their own background checks using the FBI's NICS system, state authorities are aware when prohibited persons fail background checks and can have state law enforcement investigate these cases. In Pennsylvania, state authorities judiciously relay background check denial information to state and municipal police for further review.

However, in the 37 states and the District of Columbia that rely on the FBI to run some or all of their background checks, state authorities are generally not aware when prohibited persons fail background checks run by the FBI. As a result, these states and D.C. lack critical law enforcement intelligence that they could use to try to keep their communities safe.

BILL SUMMARY

To address this problem, the NICS Denial Notification Act:

- Requires federal authorities to alert state law enforcement of background checks denials, so that state authorities can decide whether to investigate, prosecute, and/or keep an eye on these denied individuals for signs of future criminal activity, and
- Requires DOJ to publish an annual report with statistics about its prosecution of background check denial cases, so Congress and voters can hold federal officials accountable.

The House version of this bill (H.R. 4471) has bipartisan support.

ENDORSEMENTS

- Fraternal Order of Police • Major Cities Chiefs Police Association • Federal Law Enforcement Officers Association • National District Attorneys Association • National Domestic Violence Hotline • National Coalition Against Domestic Violence • Everytown for Gun Safety • Giffords

¹ 18 U.S.C. § 922(a)(6); 18 U.S.C. § 924(a)(2).