

118TH CONGRESS
2D SESSION

H. R. 7873

To enforce the requirement that the National Instant Criminal Background Check System make a final disposition of requests to correct its records within 60 days, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 5, 2024

Mr. EMMER (for himself, Mr. ARMSTRONG, Mr. BACON, Mr. BARR, Mr. BEAN of Florida, Mrs. BICE, Mr. BIGGS, Mr. BOST, Mr. CALVERT, Mr. CARTER of Georgia, Mr. COLLINS, Mr. DESJARLAIS, Mr. DONALDS, Mr. DUNCAN, Mr. ESTES, Mr. FEENSTRA, Mr. FINSTAD, Mrs. FISCHBACH, Mr. FLEISCHMANN, Mr. TONY GONZALES of Texas, Mr. GOOD of Virginia, Mr. GOODEN of Texas, Mr. GOSAR, Mr. GRAVES of Louisiana, Mr. GROTHMAN, Mrs. HARSHBARGER, Mr. HIGGINS of Louisiana, Mr. JOYCE of Pennsylvania, Mr. LAMALFA, Mr. LANGWORTHY, Mr. LATURNER, Ms. LETLOW, Mr. MANN, Mrs. MILLER of Illinois, Mr. MOONEY, Mr. NEWHOUSE, Mr. NORMAN, Mr. POSEY, Mr. ROGERS of Alabama, Mr. ROSE, Mr. ROSENDALE, Mr. AUSTIN SCOTT of Georgia, Mr. SESSIONS, Mr. SMITH of Nebraska, Mr. STAUBER, Ms. STEFANIK, Mr. STEIL, Mr. STEUBE, Ms. TENNEY, Mr. TIMMONS, Mr. VAN DREW, Mr. HUNT, Mr. WILLIAMS of New York, Mr. FLOOD, and Mr. RESCHENTHALER) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To enforce the requirement that the National Instant Criminal Background Check System make a final disposition of requests to correct its records within 60 days, 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 “Firearm Due Process
5 Protection Act”.

6 **SEC. 2. ENFORCEMENT OF DEADLINE FOR FINAL DISPOSI-**
7 **TION OF REQUESTS TO CORRECT RECORDS**
8 **OF THE NATIONAL INSTANT CRIMINAL BACK-**
9 **GROUND CHECK SYSTEM; DUE PROCESS PRO-**
10 **TECTIONS.**

11 Section 925A of title 18, United States Code, is
12 amended—

13 (1) by inserting “(a) IN GENERAL.—” before
14 “Any person”;

15 (2) by inserting “or aggrieved by a violation of
16 the penultimate sentence of section 103(g) of the
17 Brady Handgun Violence Prevention Act” after “(s)
18 or (t) of section 922”;

19 (3) by striking the last sentence; and

20 (4) by adding after and below the end the fol-
21 lowing:

22 “(b) PROCEDURAL RULES.—

23 “(1) EXPEDITED HEARING.—The court shall
24 hold a hearing on an action brought under sub-

1 section (a), within 30 days after the action is
2 brought.

3 “(2) BURDEN OF PROOF.—At such a hearing,
4 the respondent shall bear the burden of proving by
5 clear and convincing evidence that the individual is
6 ineligible to receive or possess a firearm.

7 “(c) REMEDIES.—

8 “(1) IN GENERAL.—The court shall assess
9 against the respondent reasonable attorney fees and
10 other litigation costs reasonably incurred in an ac-
11 tion brought under subsection (a) in which the com-
12 plainant has substantially prevailed.

13 “(2) SUBSTANTIALLY PREVAILED.—For pur-
14 poses of this section, a complainant has substantially
15 prevailed if the complainant has obtained relief
16 through—

17 “(A) a judicial order;

18 “(B) an enforceable written agreement or
19 consent decree; or

20 “(C) a voluntary or unilateral change in
21 position by the United States, if the complain-
22 ant’s claim is not insubstantial.”.

1 **SEC. 3. ANNUAL REPORTS TO THE CONGRESS ON DISPOSI-**
2 **TION OF CHALLENGES TO ACCURACY OF**
3 **RECORDS OF THE NATIONAL INSTANT CRIMI-**
4 **NAL BACKGROUND CHECK SYSTEM.**

5 The Director of the Federal Bureau of Investigation
6 shall submit annually to the Committee on the Judiciary
7 of the House of Representatives and the Committee on
8 the Judiciary of the Senate a written report that speci-
9 fies—

10 (1) the total number of challenges to the accu-
11 racy of the records of the National Instant Criminal
12 Background Check System (in this section referred
13 to as the “NICS system”) established under section
14 103 of the Brady Handgun Violence Prevention Act
15 that were received by the NICS system during the
16 year covered by the report;

17 (2) the total number of the challenges that were
18 processed to final disposition by the NICS system;

19 (3) the total number of the challenges with re-
20 spect to which the initial determination of the NICS
21 system was reversed, and with respect to those chal-
22 lenges, the total number in which each reason for
23 the initial determination was made;

24 (4) the total number of the challenges with re-
25 spect to which the initial determination of the NICS
26 system was not reversed, and with respect to those

1 challenges, the total number in which each reason
2 for not doing so was made; and

3 (5) the average length of time needed to com-
4 plete the processing of the challenges referred to in
5 paragraph (2).

6 **SEC. 4. SENSE OF THE CONGRESS.**

7 It is the sense of the Congress that—

8 (1) the right of the people to keep and bear
9 arms is a fundamental component of self-govern-
10 ment, self-defense, and the preservation of individual
11 liberty;

12 (2) deprivation of the constitutional right to
13 bear arms requires due process under the Fifth and
14 Fourteenth Amendments to the Constitution of the
15 United States;

16 (3) ignoring appeals of determinations made by
17 the National Instant Criminal Background Check
18 System (NICS) violates due process; and

19 (4) NICS should have the burden of showing a
20 valid reason for the denial of this constitutional
21 right.

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