

115TH CONGRESS  
2D SESSION

# S. 2492

To provide for the reporting to State and local law enforcement authorities of cases in which the national instant criminal background check system indicates that a firearm has been sought to be acquired by a prohibited person, so that authorities may pursue criminal charges under State law, and to ensure that the Department of Justice reports to Congress on prosecutions secured against prohibited persons who attempt to acquire a firearm.

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## IN THE SENATE OF THE UNITED STATES

MARCH 5, 2018

Mr. TOOMEY (for himself, Mr. COONS, Mr. RUBIO, Mr. NELSON, Mr. CORNYN, Ms. DUCKWORTH, Mr. GRAHAM, Mrs. McCASKILL, Ms. COLLINS, and Ms. KLOBUCHAR) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To provide for the reporting to State and local law enforcement authorities of cases in which the national instant criminal background check system indicates that a firearm has been sought to be acquired by a prohibited person, so that authorities may pursue criminal charges under State law, and to ensure that the Department of Justice reports to Congress on prosecutions secured against prohibited persons who attempt to acquire a firearm.

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 “NICS Denial Notifica-  
 5 tion Act of 2018”.

6 **SEC. 2. REPORTING OF BACKGROUND CHECK DENIALS.**

7 (a) IN GENERAL.—Chapter 44 of title 18, United  
 8 States Code, is amended by inserting after section 925A  
 9 the following:

10 **“§ 925B. Reporting of background check denials to**  
 11 **State authorities**

12 “(a) IN GENERAL.—If the national instant criminal  
 13 background check system established under section 103  
 14 of the Brady Handgun Violence Prevention Act (34 U.S.C.  
 15 40901) (commonly referred to as ‘NICS’) provides a no-  
 16 tice pursuant to section 922(t) of this title that the receipt  
 17 of a firearm by a person would violate subsection (g) or  
 18 (n) of section 922 of this title or State law, the Attorney  
 19 General shall, in accordance with subsection (b) of this  
 20 section—

21 “(1) report to the law enforcement authorities  
 22 of the State where the person sought to acquire the  
 23 firearm and, if different, the law enforcement au-  
 24 thorities of the State of residence of the person—

25 “(A) that the notice was provided;

1           “(B) the specific provision of law that  
2           would have been violated;

3           “(C) the date and time the notice was pro-  
4           vided;

5           “(D) the location where the firearm was  
6           sought to be acquired; and

7           “(E) the identity of the person; and

8           “(2) where practicable, report the incident to  
9           local law enforcement authorities and State and local  
10          prosecutors in the jurisdiction where the firearm was  
11          sought and in the jurisdiction where the person re-  
12          sides.

13          “(b) REQUIREMENTS FOR REPORT.—A report is  
14          made in accordance with this subsection if the report is  
15          made within 24 hours after the provision of the notice de-  
16          scribed in subsection (a), except that the making of the  
17          report may be delayed for so long as is necessary to avoid  
18          compromising an ongoing investigation.

19          “(c) AMENDMENT OF REPORT.—If a report is made  
20          in accordance with this subsection and, after such report  
21          is made, the Federal Bureau of Investigation or the Bu-  
22          reau of Alcohol, Tobacco, Firearms, and Explosives deter-  
23          mines that the receipt of a firearm by a person for whom  
24          the report was made would not violate subsection (g) or  
25          (n) of section 922 of this title or State law, the Attorney

1 General shall, in accordance with subsection (b), notify  
 2 any law enforcement authority and any prosecutor to  
 3 whom the report was made of that determination.

4 “(d) **RULE OF CONSTRUCTION.**—Nothing in sub-  
 5 section (a) shall be construed to require a report with re-  
 6 spect to a person to be made to the same State authorities  
 7 that originally issued the notice with respect to the per-  
 8 son.”.

9 (b) **CLERICAL AMENDMENT.**—The table of sections  
 10 for such chapter is amended by inserting after the item  
 11 relating to section 925A the following:

“925B. Reporting of background check denials to State authorities.”.

12 **SEC. 3. ANNUAL REPORT TO CONGRESS.**

13 (a) **IN GENERAL.**—Chapter 44 of title 18, United  
 14 States Code, as amended by section 2(a) of this Act, is  
 15 amended by inserting after section 925B the following:

16 **“§ 925C. Annual report to Congress**

17 “Not later than 1 year after the date of enactment  
 18 of this section, and annually thereafter, the Attorney Gen-  
 19 eral shall submit to Congress a report detailing the fol-  
 20 lowing, broken down by Federal judicial district:

21 “(1) With respect to each category of persons  
 22 prohibited by subsection (g) or (n) of section 922 of  
 23 this title or State law from receiving or possessing  
 24 a firearm who are so denied a firearm—

25 “(A) the number of denials;

1           “(B) the number of denials referred to the  
2 Bureau of Alcohol, Tobacco, Firearms, and Ex-  
3 plosives;

4           “(C) the number of denials for which the  
5 Bureau of Alcohol, Tobacco, Firearms, and Ex-  
6 plosives determines that the person denied was  
7 not prohibited by subsection (g) or (n) of sec-  
8 tion 922 of this title or State law from receiving  
9 or possessing a firearm;

10          “(D) the number of denials overturned  
11 through the national instant criminal back-  
12 ground check system appeals process and the  
13 reasons for overturning the denials;

14          “(E) the number of denials with respect to  
15 which an investigation was opened by a field di-  
16 vision of the Bureau of Alcohol, Tobacco, Fire-  
17 arms, and Explosives;

18          “(F) the number of persons charged with  
19 a Federal criminal offense in connection with a  
20 denial; and

21          “(G) the number of convictions obtained  
22 by Federal authorities in connection with a de-  
23 nial.

24          “(2) The number of background check notices  
25 reported to State authorities pursuant to section

1       925B (including the number of the notices that  
2       would have been so reported but for section  
3       925B(c)).”.

4       (b) CLERICAL AMENDMENT.—The table of sections  
5       for such chapter, as amended by section 2(b) of this Act,  
6       is amended by inserting after the item relating to section  
7       925B the following:

“925C. Annual report to Congress.”.

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