

110TH CONGRESS  
1ST SESSION

# H. R. 2640

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## AN ACT

To improve the National Instant Criminal Background Check System, 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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “NICS Improvement Amendments Act of 2007”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.

TITLE I—TRANSMITTAL OF RECORDS

- Sec. 101. Enhancement of requirement that Federal departments and agencies provide relevant information to the National Instant Criminal Background Check System.
- Sec. 102. Requirements to obtain waiver.
- Sec. 103. Implementation assistance to States.
- Sec. 104. Penalties for noncompliance.
- Sec. 105. Relief from disabilities program required as condition for participation in grant programs.

TITLE II—FOCUSING FEDERAL ASSISTANCE ON THE  
IMPROVEMENT OF RELEVANT RECORDS

- Sec. 201. Continuing evaluations.

TITLE III—GRANTS TO STATE COURT SYSTEMS FOR THE IM-  
PROVEMENT IN AUTOMATION AND TRANSMITTAL OF DISPOSI-  
TION RECORDS

- Sec. 301. Disposition records automation and transmittal improvement grants.

TITLE IV—GAO AUDIT

- Sec. 401. GAO audit.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

- 8 (1) Approximately 916,000 individuals were  
9 prohibited from purchasing a firearm for failing a  
10 background check between November 30, 1998, (the  
11 date the National Instant Criminal Background  
12 Check System (NICS) began operating) and Decem-  
13 ber 31, 2004.

1           (2) From November 30, 1998, through Decem-  
2           ber 31, 2004, nearly 49,000,000 Brady background  
3           checks were processed through NICS.

4           (3) Although most Brady background checks  
5           are processed through NICS in seconds, many back-  
6           ground checks are delayed if the Federal Bureau of  
7           Investigation (FBI) does not have automated access  
8           to complete information from the States concerning  
9           persons prohibited from possessing or receiving a  
10          firearm under Federal or State law.

11          (4) Nearly 21,000,000 criminal records are not  
12          accessible by NICS and millions of criminal records  
13          are missing critical data, such as arrest dispositions,  
14          due to data backlogs.

15          (5) The primary cause of delay in NICS back-  
16          ground checks is the lack of—

17                 (A) updates and available State criminal  
18                 disposition records; and

19                 (B) automated access to information con-  
20                 cerning persons prohibited from possessing or  
21                 receiving a firearm because of mental illness,  
22                 restraining orders, or misdemeanor convictions  
23                 for domestic violence.

24          (6) Automated access to this information can  
25          be improved by—

1 (A) computerizing information relating to  
2 criminal history, criminal dispositions, mental  
3 illness, restraining orders, and misdemeanor  
4 convictions for domestic violence; or

5 (B) making such information available to  
6 NICS in a usable format.

7 (7) Helping States to automate these records  
8 will reduce delays for law-abiding gun purchasers.

9 (8) On March 12, 2002, the senseless shooting,  
10 which took the lives of a priest and a parishioner at  
11 the Our Lady of Peace Church in Lynbrook, New  
12 York, brought attention to the need to improve in-  
13 formation-sharing that would enable Federal and  
14 State law enforcement agencies to conduct a com-  
15 plete background check on a potential firearm pur-  
16 chaser. The man who committed this double murder  
17 had a prior disqualifying mental health commitment  
18 and a restraining order against him, but passed a  
19 Brady background check because NICS did not have  
20 the necessary information to determine that he was  
21 ineligible to purchase a firearm under Federal or  
22 State law.

23 **SEC. 3. DEFINITIONS.**

24 As used in this Act, the following definitions shall  
25 apply:

1           (1) COURT ORDER.—The term “court order”  
2 includes a court order (as described in section  
3 922(g)(8) of title 18, United States Code).

4           (2) MENTAL HEALTH TERMS.—The terms “ad-  
5 judicated as a mental defective”, “committed to a  
6 mental institution”, and related terms have the  
7 meanings given those terms in regulations imple-  
8 menting section 922(g)(4) of title 18, United States  
9 Code, as in effect on the date of the enactment of  
10 this Act.

11           (3) MISDEMEANOR CRIME OF DOMESTIC VIO-  
12 LENCE.—The term “misdemeanor crime of domestic  
13 violence” has the meaning given the term in section  
14 921(a)(33) of title 18, United States Code.

## 15           **TITLE I—TRANSMITTAL OF** 16           **RECORDS**

17 **SEC. 101. ENHANCEMENT OF REQUIREMENT THAT FED-**  
18           **ERAL DEPARTMENTS AND AGENCIES PRO-**  
19           **VIDE RELEVANT INFORMATION TO THE NA-**  
20           **TIONAL INSTANT CRIMINAL BACKGROUND**  
21           **CHECK SYSTEM.**

22           (a) IN GENERAL.—Section 103(e)(1) of the Brady  
23 Handgun Violence Prevention Act (18 U.S.C. 922 note)  
24 is amended—

1           (1) by striking “Notwithstanding” and insert-  
2           ing the following:

3                     “(A) IN GENERAL.—Notwithstanding”;

4           (2) by striking “On request” and inserting the  
5           following:

6                     “(B) REQUEST OF ATTORNEY GENERAL.—  
7           On request”;

8           (3) by striking “furnish such information” and  
9           inserting “furnish electronic versions of the informa-  
10          tion described under subparagraph (A)”;

11          (4) by adding at the end the following:

12                     “(C) QUARTERLY SUBMISSION TO ATTOR-  
13          NEY GENERAL.—If a department or agency  
14          under subparagraph (A) has any record of any  
15          person demonstrating that the person falls  
16          within one of the categories described in sub-  
17          section (g) or (n) of section 922 of title 18,  
18          United States Code, the head of such depart-  
19          ment or agency shall, not less frequently than  
20          quarterly, provide the pertinent information  
21          contained in such record to the Attorney Gen-  
22          eral.

23                     “(D) INFORMATION UPDATES.—The agen-  
24          cy, on being made aware that the basis under  
25          which a record was made available under sub-

1 paragraph (A) does not apply, or no longer ap-  
2 plies, shall—

3 “(i) update, correct, modify, or re-  
4 move the record from any database that  
5 the agency maintains and makes available  
6 to the Attorney General, in accordance  
7 with the rules pertaining to that database;  
8 or

9 “(ii) notify the Attorney General that  
10 such basis no longer applies so that the  
11 National Instant Criminal Background  
12 Check System is kept up to date.

13 “(E) ANNUAL REPORT.—The Attorney  
14 General shall submit an annual report to Con-  
15 gress that describes the compliance of each de-  
16 partment or agency with the provisions of this  
17 paragraph.”.

18 (b) PROVISION AND MAINTENANCE OF NICS  
19 RECORDS.—

20 (1) DEPARTMENT OF HOMELAND SECURITY.—

21 The Secretary of Homeland Security shall make  
22 available to the Attorney General—

23 (A) records, updated not less than quar-  
24 terly, which are relevant to a determination of  
25 whether a person is disqualified from possessing

1 or receiving a firearm under subsection (g) or  
2 (n) of section 922 of title 18, United States  
3 Code, for use in background checks performed  
4 by the National Instant Criminal Background  
5 Check System; and

6 (B) information regarding all the persons  
7 described in subparagraph (A) of this para-  
8 graph who have changed their status to a cat-  
9 egory not identified under section 922(g)(5) of  
10 title 18, United States Code, for removal, when  
11 applicable, from the National Instant Criminal  
12 Background Check System.

13 (2) DEPARTMENT OF JUSTICE.—The Attorney  
14 General shall—

15 (A) ensure that any information submitted  
16 to, or maintained by, the Attorney General  
17 under this section is kept accurate and con-  
18 fidential, as required by the laws, regulations,  
19 policies, or procedures governing the applicable  
20 record system;

21 (B) provide for the timely removal and de-  
22 struction of obsolete and erroneous names and  
23 information from the National Instant Criminal  
24 Background Check System; and

1 (C) work with States to encourage the de-  
2 velopment of computer systems, which would  
3 permit electronic notification to the Attorney  
4 General when—

5 (i) a court order has been issued, lift-  
6 ed, or otherwise removed by order of the  
7 court; or

8 (ii) a person has been adjudicated as  
9 mentally defective or committed to a men-  
10 tal institution.

11 (c) STANDARD FOR ADJUDICATIONS, COMMITMENTS,  
12 AND DETERMINATIONS RELATED TO MENTAL  
13 HEALTH.—

14 (1) IN GENERAL.—No department or agency of  
15 the Federal Government may provide to the Attor-  
16 ney General any record of an adjudication or deter-  
17 mination related to the mental health of a person,  
18 or any commitment of a person to a mental institu-  
19 tion if—

20 (A) the adjudication, determination, or  
21 commitment, respectively, has been set aside or  
22 expunged, or the person has otherwise been  
23 fully released or discharged from all mandatory  
24 treatment, supervision, or monitoring;

1 (B) the person has been found by a court,  
2 board, commission, or other lawful authority to  
3 no longer suffer from the mental health condi-  
4 tion that was the basis of the adjudication, de-  
5 termination, or commitment, respectively, or  
6 has otherwise been found to be rehabilitated  
7 through any procedure available under law; or

8 (C) the adjudication, determination, or  
9 commitment, respectively, is based solely on a  
10 medical finding of disability, without a finding  
11 that the person is a danger to himself or to oth-  
12 ers or that the person lacks the mental capacity  
13 to manage his own affairs.

14 (2) TREATMENT OF CERTAIN ADJUDICATIONS,  
15 DETERMINATIONS, AND COMMITMENTS.—

16 (A) PROGRAM FOR RELIEF FROM DISABIL-  
17 ITIES.—Each department or agency of the  
18 United States that makes any adjudication or  
19 determination related to the mental health of a  
20 person or imposes any commitment to a mental  
21 institution, as described in subsection (d)(4)  
22 and (g)(4) of section 922 of title 18, United  
23 States Code, shall establish a program that per-  
24 mits such a person to apply for relief from the  
25 disabilities imposed by such subsections. Relief

1 and judicial review shall be available according  
2 to the standards prescribed in section 925(c) of  
3 title 18, United States Code.

4 (B) RELIEF FROM DISABILITIES.—In the  
5 case of an adjudication or determination related  
6 to the mental health of a person or a commit-  
7 ment of a person to a mental institution, a  
8 record of which may not be provided to the At-  
9 torney General under paragraph (1), including  
10 because of the absence of a finding described in  
11 subparagraph (C) of such paragraph, or from  
12 which a person has been granted relief under a  
13 program established under subparagraph (A),  
14 the adjudication, determination, or commit-  
15 ment, respectively, shall be deemed not to have  
16 occurred for purposes of subsections (d)(4) and  
17 (g)(4) of section 922 of title 18, United States  
18 Code.

19 (d) INFORMATION EXCLUDED FROM NICS  
20 RECORDS.—

21 (1) IN GENERAL.—No department or agency of  
22 the Federal Government may make available to the  
23 Attorney General, for use by the National Instant  
24 Criminal Background Check System (nor may the  
25 Attorney General make available to such system),

1 the name or any other relevant identifying informa-  
2 tion of any person adjudicated or determined to be  
3 mentally defective or any person committed to a  
4 mental institution for purposes of assisting the At-  
5 torney General in enforcing subsections (d)(4) and  
6 (g)(4) of section 922 of title 18, United States Code,  
7 unless such adjudication, determination, or commit-  
8 ment, respectively, included a finding that the per-  
9 son is a danger to himself or to others or that the  
10 person lacks the mental capacity to manage his own  
11 affairs.

12 (2) **EFFECTIVE DATE.**—Paragraph (1) shall  
13 apply to names and other information provided be-  
14 fore, on, or after the date of the enactment of this  
15 Act. Any name or information provided in violation  
16 of paragraph (1) before such date shall be removed  
17 from the National Instant Criminal Background  
18 Check System.

19 **SEC. 102. REQUIREMENTS TO OBTAIN WAIVER.**

20 (a) **IN GENERAL.**—Beginning 3 years after the date  
21 of the enactment of this Act, a State shall be eligible to  
22 receive a waiver of the 10 percent matching requirement  
23 for National Criminal History Improvement Grants under  
24 the Crime Identification Technology Act of 1988 (42  
25 U.S.C. 14601) if the State provides at least 90 percent

1 of the information described in subsection (c). The length  
2 of such a waiver shall not exceed 2 years.

3 (b) STATE ESTIMATES.—

4 (1) INITIAL STATE ESTIMATE.—

5 (A) IN GENERAL.—To assist the Attorney  
6 General in making a determination under sub-  
7 section (a) of this section, and under section  
8 104, concerning the compliance of the States in  
9 providing information to the Attorney General  
10 for the purpose of receiving a waiver under sub-  
11 section (a) of this section, or facing a loss of  
12 funds under section 104, by a date not later  
13 than 180 days after the date of the enactment  
14 of this Act, each State shall provide the Attor-  
15 ney General with a reasonable estimate, as cal-  
16 culated by a method determined by the Attor-  
17 ney General, of the number of the records de-  
18 scribed in subparagraph (C) applicable to such  
19 State that concern persons who are prohibited  
20 from possessing or receiving a firearm under  
21 subsection (g) or (n) of section 922 of title 18,  
22 United States Code.

23 (B) FAILURE TO PROVIDE INITIAL ESTI-  
24 MATE.—A State that fails to provide an esti-  
25 mate described in subparagraph (A) by the date

1 required under such subparagraph shall be in-  
2 eligible to receive any funds under section 103,  
3 until such date as it provides such estimate to  
4 the Attorney General.

5 (C) RECORD DEFINED.—For purposes of  
6 subparagraph (A), a record is the following:

7 (i) A record that identifies a person  
8 arrested for a crime that is punishable by  
9 imprisonment for a term exceeding one  
10 year, and for which a record of final dis-  
11 position is available electronically or other-  
12 wise.

13 (ii) A record that identifies a person  
14 for whose arrest a warrant or process has  
15 been issued that is valid under the laws of  
16 the State involved, as of the date of the es-  
17 timate.

18 (iii) A record that identifies a person  
19 who is an unlawful user of or addicted to  
20 a controlled substance (as such terms “un-  
21 lawful user” and “addicted” are respec-  
22 tively defined in regulations implementing  
23 section 922(g)(3) of title 18, United States  
24 Code, as in effect on the date of the enact-  
25 ment of this Act) and whose record is not

1 protected from disclosure to the Attorney  
2 General under any provision of State or  
3 Federal law.

4 (iv) A record that identifies a person  
5 who has been adjudicated mentally defec-  
6 tive or committed to a mental institution  
7 (as determined in regulations implementing  
8 section 922(g)(4) of title 18, United States  
9 Code, as in effect on the date of the enact-  
10 ment of this Act) and whose record is not  
11 protected from disclosure to the Attorney  
12 General under any provision of State or  
13 Federal law.

14 (v) A record that is electronically  
15 available and that identifies a person who,  
16 as of the date of such estimate, is subject  
17 to a court order described in section  
18 922(g)(8) of title 18, United States Code.

19 (vi) A record that is electronically  
20 available and that identifies a person con-  
21 victed in any court of a misdemeanor crime  
22 of domestic violence, as defined in section  
23 921(a)(33) of title 18, United States Code.

24 (2) SCOPE.—The Attorney General, in deter-  
25 mining the compliance of a State under this section

1 or section 104 of this Act for the purpose of grant-  
2 ing a waiver or imposing a loss of Federal funds,  
3 shall assess the total percentage of records provided  
4 by the State concerning any event occurring within  
5 the prior 30 years, which would disqualify a person  
6 from possessing a firearm under subsection (g) or  
7 (n) of section 922 of title 18, United States Code.

8 (3) CLARIFICATION.—Notwithstanding para-  
9 graph (2), States shall endeavor to provide the Na-  
10 tional Instant Criminal Background Check System  
11 with all records concerning persons who are prohib-  
12 ited from possessing or receiving a firearm under  
13 subsection (g) or (n) of section 922 of title 18,  
14 United States Code, regardless of the elapsed time  
15 since the disqualifying event.

16 (c) ELIGIBILITY OF STATE RECORDS FOR SUBMIS-  
17 SION TO THE NATIONAL INSTANT CRIMINAL BACK-  
18 GROUND CHECK SYSTEM.—

19 (1) REQUIREMENTS FOR ELIGIBILITY.—

20 (A) IN GENERAL.—From information col-  
21 lected by a State, the State shall make elec-  
22 tronically available to the Attorney General  
23 records relevant to a determination of whether  
24 a person is disqualified from possessing or re-  
25 ceiving a firearm under subsection (g) or (n) of

1 section 922 of title 18, United States Code, or  
2 applicable State law.

3 (B) NICS UPDATES.—The State, on being  
4 made aware that the basis under which a record  
5 was made available under subparagraph (A)  
6 does not apply, or no longer applies, shall, as  
7 soon as practicable—

8 (i) update, correct, modify, or remove  
9 the record from any database that the  
10 Federal or State government maintains  
11 and makes available to the National In-  
12 stant Criminal Background Check System,  
13 consistent with the rules pertaining to that  
14 database; or

15 (ii) notify the Attorney General that  
16 such basis no longer applies so that the  
17 record system in which the record is main-  
18 tained is kept up to date.

19 (C) CERTIFICATION.—To remain eligible  
20 for a waiver under subsection (a), a State shall  
21 certify to the Attorney General, not less than  
22 once during each 2-year period, that at least 90  
23 percent of all information described in subpara-  
24 graph (A) has been made electronically avail-

1           able to the Attorney General in accordance with  
2           subparagraph (A).

3           (D) INCLUSION OF ALL RECORDS.—For  
4           purposes of this paragraph, a State shall iden-  
5           tify and include all of the records described  
6           under subparagraph (A) without regard to the  
7           age of the record.

8           (2) APPLICATION TO PERSONS CONVICTED OF  
9           MISDEMEANOR CRIMES OF DOMESTIC VIOLENCE.—  
10          The State shall make available to the Attorney Gen-  
11          eral, for use by the National Instant Criminal Back-  
12          ground Check System, records relevant to a deter-  
13          mination of whether a person has been convicted in  
14          any court of a misdemeanor crime of domestic vio-  
15          lence. With respect to records relating to such  
16          crimes, the State shall provide information specifi-  
17          cally describing the offense and the specific section  
18          or subsection of the offense for which the defendant  
19          has been convicted and the relationship of the de-  
20          fendant to the victim in each case.

21          (3) APPLICATION TO PERSONS WHO HAVE BEEN  
22          ADJUDICATED AS A MENTAL DEFECTIVE OR COM-  
23          MITTED TO A MENTAL INSTITUTION.—The State  
24          shall make available to the Attorney General, for use  
25          by the National Instant Criminal Background Check

1 System, the name and other relevant identifying in-  
2 formation of persons adjudicated as mentally defec-  
3 tive or those committed to mental institutions to as-  
4 sist the Attorney General in enforcing section  
5 922(g)(4) of title 18, United States Code.

6 (d) PRIVACY PROTECTIONS.—For any information  
7 provided to the Attorney General for use by the National  
8 Instant Criminal Background Check System, relating to  
9 persons prohibited from possessing or receiving a firearm  
10 under section 922(g)(4) of title 18, United States Code,  
11 the Attorney General shall work with States and local law  
12 enforcement and the mental health community to establish  
13 regulations and protocols for protecting the privacy of in-  
14 formation provided to the system. The Attorney General  
15 shall make every effort to meet with any mental health  
16 group seeking to express its views concerning these regula-  
17 tions and protocols and shall seek to develop regulations  
18 as expeditiously as practicable.

19 (e) ATTORNEY GENERAL REPORT.—Not later than  
20 January 31 of each year, the Attorney General shall sub-  
21 mit to the Committee on the Judiciary of the Senate and  
22 the Committee on the Judiciary of the House of Rep-  
23 resentatives a report on the progress of States in auto-  
24 mating the databases containing the information described  
25 in subsection (b) and in making that information elec-

1 tronically available to the Attorney General pursuant to  
2 the requirements of subsection (c).

3 **SEC. 103. IMPLEMENTATION ASSISTANCE TO STATES.**

4 (a) AUTHORIZATION.—

5 (1) IN GENERAL.—From amounts made avail-  
6 able to carry out this section and subject to section  
7 102(b)(1)(B), the Attorney General shall make  
8 grants to States and Indian tribal governments, in  
9 a manner consistent with the National Criminal His-  
10 tory Improvement Program, which shall be used by  
11 the States and Indian tribal governments, in con-  
12 junction with units of local government and State  
13 and local courts, to establish or upgrade information  
14 and identification technologies for firearms eligibility  
15 determinations.

16 (2) GRANTS TO INDIAN TRIBES.—Up to 5 per-  
17 cent of the grant funding available under this sec-  
18 tion may be reserved for Indian tribal governments,  
19 including tribal judicial systems.

20 (b) USE OF GRANT AMOUNTS.—Grants awarded to  
21 States or Indian tribes under this section may only be  
22 used to—

23 (1) create electronic systems, which provide ac-  
24 curate and up-to-date information which is directly  
25 related to checks under the National Instant Crimi-

1       nal Background Check System (referred to in this  
2       section as “NICS”), including court disposition and  
3       corrections records;

4               (2) assist States in establishing or enhancing  
5       their own capacities to perform NICS background  
6       checks;

7               (3) supply accurate and timely information to  
8       the Attorney General concerning final dispositions of  
9       criminal records to databases accessed by NICS;

10              (4) supply accurate and timely information to  
11      the Attorney General concerning the identity of per-  
12      sons who are prohibited from obtaining a firearm  
13      under section 922(g)(4) of title 18, United States  
14      Code, to be used by the Federal Bureau of Inves-  
15      tigation solely to conduct NICS background checks;

16              (5) supply accurate and timely court orders and  
17      records of misdemeanor crimes of domestic violence  
18      for inclusion in Federal and State law enforcement  
19      databases used to conduct NICS background checks;  
20      and

21              (6) collect and analyze data needed to dem-  
22      onstrate levels of State compliance with this Act.

23       (c) ELIGIBILITY.—To be eligible for a grant under  
24      this section, a State shall certify, to the satisfaction of  
25      the Attorney General, that the State has implemented a

1 relief from disabilities program in accordance with section  
2 105.

3 (d) CONDITION.—As a condition of receiving a grant  
4 under this section, a State shall specify the projects for  
5 which grant amounts will be used, and shall use such  
6 amounts only as specified. A State that violates this sub-  
7 section shall be liable to the Attorney General for the full  
8 amount of the grant received under this section.

9 (e) AUTHORIZATION OF APPROPRIATIONS.—There  
10 are authorized to be appropriated to carry out this section  
11 \$250,000,000 for each of the fiscal years 2008 through  
12 2010.

13 (f) USER FEE.—The Federal Bureau of Investigation  
14 shall not charge a user fee for background checks pursu-  
15 ant to section 922(t) of title 18, United States Code.

16 **SEC. 104. PENALTIES FOR NONCOMPLIANCE.**

17 (a) ATTORNEY GENERAL REPORT.—

18 (1) IN GENERAL.—Not later than January 31  
19 of each year, the Attorney General shall submit to  
20 the Committee on the Judiciary of the Senate and  
21 the Committee on the Judiciary of the House of  
22 Representatives a report on the progress of the  
23 States in automating the databases containing infor-  
24 mation described under sections 102 and 103, and

1 in providing that information pursuant to the re-  
2 quirements of sections 102 and 103.

3 (2) AUTHORIZATION OF APPROPRIATIONS.—

4 There are authorized to be appropriated to the De-  
5 partment of Justice, such funds as may be necessary  
6 to carry out paragraph (1).

7 (b) PENALTIES.—

8 (1) DISCRETIONARY REDUCTION.—During the  
9 2-year period beginning 3 years after the date of en-  
10 actment of this Act, the Attorney General may with-  
11 hold not more than 3 percent of the amount that  
12 would otherwise be allocated to a State under sec-  
13 tion 506 of the Omnibus Crime Control and Safe  
14 Streets Act of 1968 (42 U.S.C. 3756) if the State  
15 provides less than 60 percent of the information re-  
16 quired to be provided under sections 102 and 103.

17 (2) MANDATORY REDUCTION.—After the expi-  
18 ration of the period referred to in paragraph (1), the  
19 Attorney General shall withhold 5 percent of the  
20 amount that would otherwise be allocated to a State  
21 under section 506 of the Omnibus Crime Control  
22 and Safe Streets Act of 1968 (42 U.S.C. 3756), if  
23 the State provides less than 90 percent of the infor-  
24 mation required to be provided under sections 102  
25 and 103.

1           (3) WAIVER BY ATTORNEY GENERAL.—The At-  
2           torney General may waive the applicability of para-  
3           graph (2) to a State if the State provides substantial  
4           evidence, as determined by the Attorney General,  
5           that the State is making a reasonable effort to com-  
6           ply with the requirements of sections 102 and 103.

7           (c) REALLOCATION.—Any funds that are not allo-  
8           cated to a State because of the failure of the State to com-  
9           ply with the requirements of this title shall be reallocated  
10          to States that meet such requirements.

11 **SEC. 105. RELIEF FROM DISABILITIES PROGRAM REQUIRED**  
12                                   **AS CONDITION FOR PARTICIPATION IN**  
13                                   **GRANT PROGRAMS.**

14          (a) PROGRAM DESCRIBED.—A relief from disabilities  
15          program is implemented by a State in accordance with this  
16          section if the program—

17               (1) permits a person who, pursuant to State  
18               law, has been adjudicated as described in subsection  
19               (g)(4) of section 922 of title 18, United States Code,  
20               or has been committed to a mental institution, to  
21               apply to the State for relief from the disabilities im-  
22               posed by subsections (d)(4) and (g)(4) of such sec-  
23               tion by reason of the adjudication or commitment;

24               (2) provides that a State court, board, commis-  
25               sion, or other lawful authority shall grant the relief,

1       pursuant to State law and in accordance with the  
2       principles of due process, if the circumstances re-  
3       garding the disabilities referred to in paragraph (1),  
4       and the person's record and reputation, are such  
5       that the person will not be likely to act in a manner  
6       dangerous to public safety and that the granting of  
7       the relief would not be contrary to the public inter-  
8       est; and

9               (3) permits a person whose application for the  
10       relief is denied to file a petition with the State court  
11       of appropriate jurisdiction for a de novo judicial re-  
12       view of the denial.

13       (b) AUTHORITY TO PROVIDE RELIEF FROM CER-  
14       TAIN DISABILITIES WITH RESPECT TO FIREARMS.—If,  
15       under a State relief from disabilities program implemented  
16       in accordance with this section, an application for relief  
17       referred to in subsection (a)(1) of this section is granted  
18       with respect to an adjudication or a commitment to a men-  
19       tal institution, the adjudication or commitment, as the  
20       case may be, is deemed not to have occurred for purposes  
21       of subsections (d)(4) and (g)(4) of section 922 of title 18,  
22       United States Code.

1 **TITLE II—FOCUSING FEDERAL**  
2 **ASSISTANCE ON THE IM-**  
3 **PROVEMENT OF RELEVANT**  
4 **RECORDS**

5 **SEC. 201. CONTINUING EVALUATIONS.**

6 (a) **EVALUATION REQUIRED.**—The Director of the  
7 Bureau of Justice Statistics (referred to in this section  
8 as the “Director”) shall study and evaluate the operations  
9 of the National Instant Criminal Background Check Sys-  
10 tem. Such study and evaluation shall include compilations  
11 and analyses of the operations and record systems of the  
12 agencies and organizations necessary to support such Sys-  
13 tem.

14 (b) **REPORT ON GRANTS.**—Not later than January  
15 31 of each year, the Director shall submit to Congress  
16 a report containing the estimates submitted by the States  
17 under section 102(b).

18 (c) **REPORT ON BEST PRACTICES.**—Not later than  
19 January 31 of each year, the Director shall submit to Con-  
20 gress, and to each State participating in the National  
21 Criminal History Improvement Program, a report of the  
22 practices of the States regarding the collection, mainte-  
23 nance, automation, and transmittal of information rel-  
24 evant to determining whether a person is prohibited from  
25 possessing or receiving a firearm by Federal or State law,

1 by the State or any other agency, or any other records  
2 relevant to the National Instant Criminal Background  
3 Check System, that the Director considers to be best prac-  
4 tices.

5 (d) AUTHORIZATION OF APPROPRIATIONS.—There  
6 are authorized to be appropriated such sums as may be  
7 necessary for each of the fiscal years 2008 through 2010  
8 to complete the studies, evaluations, and reports required  
9 under this section.

10 **TITLE III—GRANTS TO STATE**  
11 **COURT SYSTEMS FOR THE IM-**  
12 **PROVEMENT IN AUTOMATION**  
13 **AND TRANSMITTAL OF DIS-**  
14 **POSITION RECORDS**

15 **SEC. 301. DISPOSITION RECORDS AUTOMATION AND**  
16 **TRANSMITTAL IMPROVEMENT GRANTS.**

17 (a) GRANTS AUTHORIZED.—From amounts made  
18 available to carry out this section, the Attorney General  
19 shall make grants to each State, consistent with State  
20 plans for the integration, automation, and accessibility of  
21 criminal history records, for use by the State court system  
22 to improve the automation and transmittal of criminal his-  
23 tory dispositions, records relevant to determining whether  
24 a person has been convicted of a misdemeanor crime of  
25 domestic violence, court orders, and mental health adju-

1 dications or commitments, to Federal and State record re-  
2 positories in accordance with sections 102 and 103 and  
3 the National Criminal History Improvement Program.

4 (b) GRANTS TO INDIAN TRIBES.—Up to 5 percent  
5 of the grant funding available under this section may be  
6 reserved for Indian tribal governments for use by Indian  
7 tribal judicial systems.

8 (c) USE OF FUNDS.—Amounts granted under this  
9 section shall be used by the State court system only—

10 (1) to carry out, as necessary, assessments of  
11 the capabilities of the courts of the State for the au-  
12 tomation and transmission of arrest and conviction  
13 records, court orders, and mental health adjudica-  
14 tions or commitments to Federal and State record  
15 repositories; and

16 (2) to implement policies, systems, and proce-  
17 dures for the automation and transmission of arrest  
18 and conviction records, court orders, and mental  
19 health adjudications or commitments to Federal and  
20 State record repositories.

21 (d) ELIGIBILITY.—To be eligible to receive a grant  
22 under this section, a State shall certify, to the satisfaction  
23 of the Attorney General, that the State has implemented  
24 a relief from disabilities program in accordance with sec-  
25 tion 105.

1 (e) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated to the Attorney General  
3 to carry out this section \$125,000,000 for each of the fis-  
4 cal years 2008 through 2010.

5 **TITLE IV—GAO AUDIT**

6 **SEC. 401. GAO AUDIT.**

7 (a) IN GENERAL.—The Comptroller General of the  
8 United States shall conduct an audit of the expenditure  
9 of all funds appropriated for criminal records improve-  
10 ment pursuant to section 106(b) of the Brady Handgun  
11 Violence Prevention Act (Public Law 103–159) to deter-  
12 mine if the funds were expended for the purposes author-  
13 ized by the Act and how those funds were expended for  
14 those purposes or were otherwise expended.

15 (b) REPORT.—Not later than 6 months after the date  
16 of enactment of this Act, the Comptroller General shall  
17 submit a report to Congress describing the findings of the  
18 audit conducted pursuant to subsection (a).

Passed the House of Representatives June 13, 2007.

Attest:

*Clerk.*

110<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**H. R. 2640**

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**AN ACT**

To improve the National Instant Criminal  
Background Check System, and for other purposes.