

113TH CONGRESS
1ST SESSION

H. R. 329

To amend the NICS Improvement Amendments Act of 2007 to encourage States to provide records to the National Instant Background Check System.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 22, 2013

Mr. FITZPATRICK introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the NICS Improvement Amendments Act of 2007 to encourage States to provide records to the National Instant Background Check System.

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 “Strengthening Back-
5 ground Checks Act of 2013”.

6 **SEC. 2. PENALTIES FOR STATES THAT DO NOT MAKE DATA**
7 **AVAILABLE TO THE NATIONAL INSTANT**
8 **CRIMINAL BACKGROUND CHECK SYSTEM.**

9 (a) INCREASED MANDATORY PENALTIES.—Section
10 104(b) of the NICS Improvement Amendments Act of

1 2007 (18 U.S.C. 922 note) is amended by striking para-
2 graph (3) and inserting after paragraph (2) the following
3 new paragraphs:

4 “(3) INCREASED MANDATORY REDUCTIONS.—
5 Notwithstanding paragraphs (1) and (2), after the
6 expiration of the period referred to in section
7 107(b), the Attorney General shall withhold 10 per-
8 cent of the amount that would otherwise be allocated
9 to a State under section 505 of title I of the Omni-
10 bus Crime Control and Safe Streets Act of 1968 (42
11 U.S.C. 3755), if—

12 “(A) the State fails to comply with section
13 107; or

14 “(B) the State provides less than 90 per-
15 cent of the records required to be provided
16 under sections 102 and 103.

17 “(4) WAIVERS BY ATTORNEY GENERAL.—The
18 Attorney General may—

19 “(A) waive the applicability of paragraph
20 (2) to a State if the State provides substantial
21 evidence, as determined by the Attorney Gen-
22 eral, that the State is making a reasonable ef-
23 fort to comply with the requirements of sections
24 102 and 103, including an inability to comply
25 due to court order or other legal restriction;

1 “(B) waive the applicability of paragraph
2 (3) to a State for one year if the State provides
3 substantial evidence, as determined by the At-
4 torney General, that the State is making a rea-
5 sonable effort to comply with the requirements
6 of sections 102, 103, and 107, including an in-
7 ability to comply due to court order, conflicts
8 between section 107 and the constitution of the
9 State, or other legal restriction; and

10 “(C) waive the applicability of paragraph
11 (3), in part, to a State for which the waiver pe-
12 riod under subparagraph (B) has expired, for
13 additional one-year periods, if—

14 “(i) the State provides substantial evi-
15 dence, as determined by the Attorney Gen-
16 eral, that the State is making a reasonable
17 effort to comply with the requirements of
18 sections 102, 103, and 107, including an
19 inability to comply due to court order, con-
20 flicts between section 107 and the constitu-
21 tion of the State, or other legal restriction;
22 and

23 “(ii) the Attorney General withholds 5
24 percent of the amount that would other-
25 wise be allocated to a State under section

1 505 of title I of the Omnibus Crime Con-
2 trol and Safe Streets Act of 1968 (42
3 U.S.C. 3755) for each such one-year pe-
4 riod.”.

5 (b) STATE LAWS REQUIRING PROVISION OF
6 RECORDS.—Title I of the NICS Improvement Amend-
7 ments Act of 2007 (18 U.S.C. 922 note) is further amend-
8 ed by inserting after section 106 the following new section:
9 **“SEC. 107. STATE LAWS REQUIRING PROVISION OF**
10 **RECORDS.**

11 “(a) IN GENERAL.—For each fiscal year after the ex-
12 piration of the period specified in subsection (b), the State
13 shall have in effect throughout the State laws and policies
14 that—

15 “(1) require the State to provide to the Attor-
16 ney General not less than 90 percent of the records
17 required to be provided under sections 102 and 103;
18 and

19 “(2) require the State to provide such records
20 to the Attorney General in the same manner, or in
21 a manner substantially similar to, the manner in
22 which such records are required to be provided by
23 the State under such sections.

24 “(b) COMPLIANCE PERIOD.—Each State shall have
25 not more than 2 years from the date of enactment of the

1 Strengthening Background Checks Act of 2013 in which
2 to fully implement this section.”.

3 (c) AUTHORIZATION AND APPROPRIATION FOR IM-
4 PLEMENTATION ASSISTANCE TO STATES.—

5 (1) AUTHORIZATION OF APPROPRIATIONS.—

6 Section 103(e) of the NICS Improvement Amend-
7 ments Act of 2007 (18 U.S.C. 922 note) is amend-
8 ed—

9 (A) in paragraph (1), by striking
10 “\$125,000,000 for fiscal year 2012” and all
11 that follows and inserting “and \$125,000,000
12 for each of fiscal years 2012 through 2015.”;
13 and

14 (B) in paragraph (2), by striking “fiscal
15 years 2011, 2012, and 2013” and inserting
16 “each of fiscal years 2011 through 2015”.

17 (2) APPROPRIATION.—

18 (A) IN GENERAL.—There are hereby ap-
19 propriated for the first fiscal year beginning
20 after the date of enactment of this Act, out of
21 funds in the Treasury not otherwise appro-
22 priated, \$125,000,000 to carry out the grant
23 program authorized under section 103 of the
24 NICS Improvement Amendments Act of 2007
25 (18 U.S.C. 922 note).

1 (B) OFFSET.—Of the unobligated balances
2 available under the Department of Justice As-
3 sets Forfeiture Fund, \$125,000,000 are perma-
4 nently cancelled.

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