

FIX NICS ACT OF 2017

DECEMBER 5, 2017.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GOODLATTE, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 4477]

The Committee on the Judiciary, to whom was referred the bill (H.R. 4477) to enforce current law regarding the National Instant Criminal Background Check System, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The Amendment

The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Fix NICS Act of 2017”.

SEC. 2. ACCOUNTABILITY FOR FEDERAL DEPARTMENTS AND AGENCIES.

Section 103 of the Brady Handgun Violence Prevention Act (34 U.S.C. 40901) is amended—

(1) in subsection (e)(1), by adding at the end the following:

“(F) SEMIANNUAL CERTIFICATION AND REPORTING.—

“(i) IN GENERAL.—The head of each Federal department or agency shall submit a semiannual written certification to the Attorney General indicating whether the department or agency is in compliance with the record submission requirements under subparagraph (C).

“(ii) SUBMISSION DATES.—The head of a Federal department or agency shall submit a certification to the Attorney General under clause (i)—

“(I) not later than July 31 of each year, which shall address all relevant records, including those that have not been transmitted to the Attorney General, in possession of the department or agency during the period beginning on January 1 of the year and ending on June 30 of the year; and

“(II) not later than January 31 of each year, which shall address all relevant records, including those that have not been transmitted to the Attorney General, in possession of the department or agency during the period beginning on July 1 of the previous year and ending on December 31 of the previous year.

“(iii) CONTENTS.—A certification required under clause (i) shall state, for the applicable period—

“(I) the total number of records of the Federal department or agency demonstrating that a person falls within one of the categories described in subsection (g) or (n) of section 922 of title 18, United States Code;

“(II) for each category of records described in subclause (I), the total number of records of the Federal department or agency that have been provided to the Attorney General; and

“(III) the efforts of the Federal department or agency to ensure complete and accurate reporting of relevant records, including efforts to monitor compliance and correct any reporting failures or inaccuracies.

“(G) IMPLEMENTATION PLAN.—

“(i) IN GENERAL.—Not later than 1 year after the date of enactment of this subparagraph, the head of each Federal department or agency, in coordination with the Attorney General, shall establish a plan to ensure maximum coordination and automated reporting or making available of records to the Attorney General as required under subparagraph (C), and the verification of the accuracy of those records, including the pre-validation of those records, where appropriate, during a 4-year period specified in the plan. The head of each Federal department or agency shall update the plan biennially, to the extent necessary, based on the most recent biennial assessment under subparagraph (K). The records shall be limited to those of an individual described in subsection (g) or (n) of section 922 of title 18, United States Code.

“(ii) BENCHMARK REQUIREMENTS.—Each plan established under clause (i) shall include annual benchmarks to enable the Attorney General to assess implementation of the plan, including—

“(I) qualitative goals and quantitative measures;

“(II) measures to monitor internal compliance, including any reporting failures and inaccuracies;

“(III) a needs assessment, including estimated compliance costs; and

“(IV) an estimated date by which the Federal department or agency will fully comply with record submission requirements under subparagraph (C).

“(iii) COMPLIANCE DETERMINATION.—Not later than the end of each fiscal year beginning after the date of the establishment of a plan under clause (i), the Attorney General shall determine whether the applicable Federal department or agency has achieved substantial compliance with the benchmarks included in the plan.

“(H) ACCOUNTABILITY.—The Attorney General shall publish, including on the website of the Department of Justice, and submit to the Committee on the Judiciary and the Committee on Appropriations of the Senate and the Committee on the Judiciary and the Committee on Appropriations of the House of Representatives a semiannual report that discloses—

“(i) the name of each Federal department or agency that has failed to submit a required certification under subparagraph (F);

“(ii) the name of each Federal department or agency that has submitted a required certification under subparagraph (F), but failed to certify compliance with the record submission requirements under subparagraph (C);

“(iii) the name of each Federal department or agency that has failed to submit an implementation plan under subparagraph (G);

“(iv) the name of each Federal department or agency that is not in substantial compliance with an implementation plan under subparagraph (G);

“(v) a detailed summary of the data, broken down by department or agency, contained in the certifications submitted under subparagraph (F);

“(vi) a detailed summary of the contents and status, broken down by department or agency, of the implementation plans established under subparagraph (G); and

“(vii) the reasons for which the Attorney General has determined that a Federal department or agency is not in substantial compliance with an implementation plan established under subparagraph (G).

“(I) NONCOMPLIANCE PENALTIES.—For each of fiscal years 2019 through 2022, each political appointee of a Federal department or agency that has failed to certify compliance with the record submission requirements under subparagraph (C), and is not in substantial compliance with an implementation plan established under subparagraph (G), shall not be eligible for the receipt of bonus pay, excluding overtime pay, until the department or agency—

“(i) certifies compliance with the record submission requirements under subparagraph (C); or

“(ii) achieves substantial compliance with an implementation plan established under subparagraph (G).

“(J) TECHNICAL ASSISTANCE.—The Attorney General may use funds made available for the national instant criminal background check system established under subsection (b) to provide technical assistance to a Federal department or agency, at the request of the department or agency, in order to help the department or agency comply with the record submission requirements under subparagraph (C).

“(K) BIENNIAL ASSESSMENT.—Every 2 years, the Attorney General shall assess the extent to which the actions taken under the Fix NICS Act of 2017 have resulted in improvements in the system established under this section.

“(L) APPLICATION TO FEDERAL COURTS.—For purposes of this paragraph—

“(i) the terms ‘department or agency of the United States’ and ‘Federal department or agency’ include a Federal court; and

“(ii) the Director of the Administrative Office of the United States Courts shall perform, for a Federal court, the functions assigned to the head of a department or agency.”; and

(2) in subsection (g), by adding at the end the following: “For purposes of the preceding sentence, not later than 60 days after the date on which the Attorney General receives such information, the Attorney General shall determine whether or not the prospective transferee is the subject of an erroneous record and remove any records that are determined to be erroneous. In addition to any funds made available under subsection (k), the Attorney General may use such sums as are necessary and otherwise available for the salaries and expenses of the Federal Bureau of Investigation to comply with this subsection.”

SEC. 3. NICS ACT RECORD IMPROVEMENT PROGRAM.

(a) REQUIREMENTS TO OBTAIN WAIVER.—Section 102 of the NICS Improvement Amendments Act of 2007 (34 U.S.C. 40912) is amended—

(1) in subsection (a), in the first sentence—

(A) by striking “the Crime Identification Technology Act of 1988 (42 U.S.C. 14601)” and inserting “section 102 of the Crime Identification Technology Act of 1998 (34 U.S.C. 40301)”; and

(B) by inserting “is in compliance with an implementation plan established under subsection (b) or” before “provides at least 90 percent of the information described in subsection (c)”; and

(2) in subsection (b)(1)(B), by inserting “or has established an implementation plan under section 107” after “the Attorney General”.

(b) IMPLEMENTATION ASSISTANCE TO STATES.—Section 103 of the NICS Improvement Amendments Act of 2007 (34 U.S.C. 40913) is amended—

(1) in subsection (b)(3), by inserting before the semicolon at the end the following: “, including through increased efforts to pre-validate the contents of those records to expedite eligibility determinations”;

(2) in subsection (e), by striking paragraph (2) and inserting the following:

“(2) DOMESTIC ABUSE AND VIOLENCE PREVENTION INITIATIVE.—

“(A) ESTABLISHMENT.—For each of fiscal years 2018 through 2022, the Attorney General shall create a priority area under the NICS Act Record Improvement Program (commonly known as ‘NARIP’) for a Domestic Abuse and Violence Prevention Initiative that emphasizes the need for grantees to identify and upload all felony conviction records and domestic violence records.

“(B) FUNDING.—The Attorney General—

“(i) may use not more than 50 percent of the amounts made available under section 7 of the Fix NICS Act for each of fiscal years 2018 through 2022 to carry out the initiative described in subparagraph (A); and

“(ii) shall give a funding preference under NARIP to States that—

“(I) have established an implementation plan under section 107; and

“(II) will use amounts made available under this subparagraph to improve efforts to identify and upload all felony conviction records and domestic violence records described in clauses (i), (v), and (vi) of section 102(b)(1)(C) by not later than September 30, 2022.”; and

(3) by adding at the end the following:

“(g) TECHNICAL ASSISTANCE.—The Attorney General shall direct the Office of Justice Programs, the Bureau of Alcohol, Tobacco, Firearms, and Explosives, and the Federal Bureau of Investigation to—

“(1) assist States that are not currently eligible for grants under this section to achieve compliance with all eligibility requirements; and

“(2) provide technical assistance and training services to grantees under this section.”

SEC. 4. NATIONAL CRIMINAL HISTORY IMPROVEMENT PROGRAM.

(a) STATE GRANT PROGRAM FOR CRIMINAL JUSTICE IDENTIFICATION, INFORMATION, AND COMMUNICATION.—Section 102 of the Crime Identification Technology Act of 1998 (34 U.S.C. 40301) is amended—

(1) in subsection (a)(3)—

(A) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively; and

(B) by inserting after subparagraph (B) the following:

“(C) identification of all individuals who have been convicted of a crime punishable by imprisonment for a term exceeding 1 year”;

(2) in subsection (b)(6)—

(A) by striking “(18 U.S.C. 922 note)” and inserting “(34 U.S.C. 40901(b))”; and

(B) by inserting before the semicolon at the end the following: “, including through increased efforts to pre-validate the contents of felony conviction records and domestic violence records to expedite eligibility determinations, and measures and resources necessary to establish and achieve compliance with an implementation plan under section 107 of the NICS Improvement Amendments Act of 2007”; and

(3) in subsection (d), by inserting after “unless” the following: “the State has achieved compliance with an implementation plan under section 107 of the NICS Improvement Amendments Act of 2007 or”.

(b) GRANTS FOR THE IMPROVEMENT OF CRIMINAL RECORDS.—Section 106(b)(1) of the Brady Handgun Violence Prevention Act (34 U.S.C. 40302(1)) is amended—

(1) in the matter preceding subparagraph (A)—

(A) by striking “as of the date of enactment of this Act” and inserting “, as of the date of enactment of the Fix NICS Act of 2017,”; and

(B) by striking “files,” and inserting the following: “files and that will utilize funding under this subsection to prioritize the identification and transmittal of felony conviction records and domestic violence records.”;

(2) in subparagraph (B), by striking “and” at the end;

(3) in subparagraph (C)—

(A) by striking “upon establishment of the national system,”; and

(B) by striking the period at the end and inserting “; and”; and

(4) by adding at the end the following—

“(D) to establish and achieve compliance with an implementation plan under section 107 of the NICS Improvement Amendments Act of 2007.”.

SEC. 5. IMPROVING INFORMATION SHARING WITH THE STATES.

(a) IN GENERAL.—Title I of the NICS Improvement Amendments Act of 2007 (34 U.S. 40911 et seq.) is amended by adding at the end the following:

“SEC. 107. IMPLEMENTATION PLAN.

“(a) IN GENERAL.—Not later than 1 year after the date of enactment of the Fix NICS Act of 2017, the Attorney General, in coordination with the States and Indian tribal governments, shall establish, for each State or Indian tribal government, a plan to ensure maximum coordination and automation of the reporting or making available of appropriate records to the National Instant Criminal Background Check System established under section 103 of the Brady Handgun Violence Prevention Act (34 U.S.C. 40901) and the verification of the accuracy of those records during a 4-year period specified in the plan, and shall update the plan biennially, to the extent necessary, based on the most recent biennial assessment under subsection (f). The records shall be limited to those of an individual described in subsection (g) or (n) of section 922 of title 18, United States Code

“(b) BENCHMARK REQUIREMENTS.—Each plan established under this section shall include annual benchmarks to enable the Attorney General to assess the implementation of the plan, including—

“(1) qualitative goals and quantitative measures; and

“(2) a needs assessment, including estimated compliance costs.

“(c) COMPLIANCE DETERMINATION.—Not later than the end of each fiscal year beginning after the date of the establishment of an implementation plan under this section, the Attorney General shall determine whether each State or Indian tribal government has achieved substantial compliance with the benchmarks included in the plan.

“(d) ACCOUNTABILITY.—The Attorney General—

“(1) shall disclose and publish, including on the website of the Department of Justice—

“(A) the name of each State or Indian tribal government that received a determination of failure to achieve substantial compliance with an implementation plan under subsection (c) for the preceding fiscal year; and

“(B) a description of the reasons for which the Attorney General has determined that the State or Indian tribal government is not in substantial compliance with the implementation plan, including, to the greatest extent possible, a description of the types and amounts of records that have not been submitted; and

“(2) if a State or Indian tribal government described in paragraph (1) subsequently receives a determination of substantial compliance, shall—

“(A) immediately correct the applicable record; and

“(B) not later than 3 days after the determination, remove the record from the website of the Department of Justice and any other location where the record was published.

“(e) INCENTIVES.—For each of fiscal years 2018 through 2022, the Attorney General shall give affirmative preference to all Bureau of Justice Assistance discretionary grant applications of a State or Indian tribal government that received a determination of substantial compliance under subsection (c) for the fiscal year in which the grant was solicited.

“(f) BIENNIAL ASSESSMENT.—Every 2 years, the Attorney General shall assess the extent to which the actions taken under the Fix NICS Act of 2017 have resulted in improvements in the National Instant Criminal Background Check System established under section 103 of the Brady Handgun Violence Prevention Act (34 U.S.C. 40903).

“SEC. 108. NOTIFICATION TO LAW ENFORCEMENT AGENCIES OF PROHIBITED PURCHASE OF A FIREARM.

“(a) IN GENERAL.—In the case of a background check conducted by the National Instant Criminal Background Check System pursuant to the request of a licensed importer, licensed manufacturer, or licensed dealer of firearms (as such terms are defined in section 921 of title 18, United States Code), which background check determines that the receipt of a firearm by a person would violate subsection (g) or (n) of section 922 of title 18, United States Code, and such determination is made after 3 business days have elapsed since the licensee contacted the System and a firearm has been transferred to that person, the System shall notify the law enforcement agencies described in subsection (b).

“(b) **LAW ENFORCEMENT AGENCIES DESCRIBED.**—The law enforcement agencies described in this subsection are the law enforcement agencies that have jurisdiction over the location from which the licensee contacted the system and the law enforcement agencies that have jurisdiction over the location of the residence of the person for which the background check was conducted, as follows:

- “(1) The field office of the Federal Bureau of Investigation.
- “(2) The local law enforcement agency.
- “(3) The State law enforcement agency.”.

(b) **TABLE OF CONTENTS.**—The table of contents in section 1(b) of the NICS Improvement Amendments Act of 2007 (Public Law 110–180; 121 Stat. 2559) is amended by inserting after the item relating to section 106 the following:

“Sec. 107. Implementation plan.

“Sec. 108. Notification to law enforcement agencies of prohibited purchase of a firearm.”.

SEC. 6. ATTORNEY GENERAL REPORT ON USE OF BUMP STOCKS IN CRIME.

(a) **IN GENERAL.**—Using amounts made available for research, evaluation, or statistical purposes, within 180 days after the date of the enactment of this Act, the Attorney General shall prepare and submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a written report that—

- (1) specifies the number of instances in which a bump stock has been used in the commission of a crime in the United States;
- (2) specifies the types of firearms with which a bump stock has been so used; and
- (3) contains the opinion of the Attorney General as to whether subparagraphs (B)(i) and (C)(i) of section 924(c)(1) of title 18, United States Code, apply to all instances in which a bump stock has been used in the commission of a crime of violence in the United States.

(b) **DEFINITION OF BUMP STOCK.**—In this section, the term “bump stock” means a device that—

- (1) attaches to a semiautomatic rifle (as defined in section 921(a)(28) of title 18, United States Code);
- (2) is designed and intended to repeatedly activate the trigger without the deliberate and volitional act of the user pulling the trigger each time the firearm is fired; and
- (3) functions by continuous forward pressure applied to the rifle’s fore end in conjunction with a linear forward and backward sliding motion of the mechanism utilizing the recoil energy when the rifle is discharged.

SEC. 7. AUTHORIZATIONS OF APPROPRIATIONS.

(a) **IN GENERAL.**—There is authorized to be appropriated \$100,000,000 for each of fiscal years 2018 through 2022 to carry out, in accordance with the NICS Act Record Improvement Program and the National Criminal History Improvement Program, the activities under—

- (1) section 102 of the NICS Improvement Amendments Act of 2007;
- (2) section 103 of the NICS Improvement Amendments Act of 2007;
- (3) section 102 of the Crime Identification Technology Act of 1998; and
- (4) section 106(b) of the Brady Handgun Violence Prevention Act.

(b) **ADDITIONAL AUTHORIZATIONS.**—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10261(a)) is amended—

- (1) in paragraph (1)—
 - (A) by striking “\$33,000,000” and inserting “\$31,000,000”;
 - (B) by striking “1994 and 1995” and inserting “2018 through 2022”; and
 - (C) by inserting “, in addition to any amounts otherwise made available for research, evaluation or statistical purposes in a fiscal year” before the period; and
- (2) in paragraph (2)—
 - (A) by striking “\$33,000,000” and inserting “\$27,000,000”;
 - (B) by striking “1994 and 1995” and inserting “2018 through 2022”; and
 - (C) by inserting “, in addition to any amounts otherwise made available for research, evaluation or statistical purposes in a fiscal year” before the period.

Purpose and Summary

H.R. 4477 enforces current law regarding the National Instant Criminal Background Check System.

Background and Need for the Legislation

The National Instant Criminal Background Check System (NICS) is administered by the Federal Bureau of Investigation (FBI). A NICS check includes a check of three databases maintained by the FBI, the—

- Interstate Identification Index (III), a database of criminal history record information;
- National Crime Information Center (NCIC), which includes information on persons subject to civil protection orders and arrest warrants; and
- NICS Index, which includes the information contributed by federal and state agencies identifying persons prohibited from possessing firearms who are not included in the III or NCIC, such as persons with a prohibiting mental health history or who are unlawful aliens.

If a NICS check identifies a person as falling within a prohibited category, the FBI advises the Federal Firearms Licensee (FFL) that the potential firearms transfer is “denied.” Individuals can appeal denials and seek the correction of any inaccurate or incomplete information in the FBI databases by either applying to the FBI or the federal or state agency that contributed the information to the FBI.

The NICS Improvement Amendments Act (NIAA) was passed in 2007 in the wake of the Virginia Tech shootings in order to address loopholes in NICS that enabled the shooter to buy firearms despite having been adjudicated as a danger to himself by a Virginia court. Under the Gun Control Act of 1968, it was illegal for the assailant to purchase the firearms. However, the court in Virginia did not submit his disqualifying mental health adjudication to NICS, which therefore failed to deny the sale.

The NIAA sought to address the gap in information available to NICS about such prohibiting mental health adjudications and commitments and other prohibiting backgrounds. Filling these information gaps was meant to better enable the system to operate as intended—to keep guns out of the hands of persons prohibited by federal or state law from receiving or possessing firearms.

The NIAA contains provisions that encourage states to meet specified goals for completeness of the records submitted to the Attorney General on individuals prohibited by federal law from possessing firearms. The records covered include automated information needed by NICS to identify felony convictions, felony indictments, fugitives from justice, drug arrests and convictions, federally prohibiting mental health adjudications and commitments, domestic violence protection orders, and misdemeanor crimes of domestic violence. The Act provides for a number of incentives for states to meet the goals it sets for greater record completeness.

The NIAA allows states to obtain a waiver of the National Criminal History Improvement Program’s (NCHIP) state matching requirement for NCHIP grants, if a state provides at least 90 percent of its records identifying the specified prohibited persons. The Act also authorizes a separate grant program to be administered consistent with NCHIP, for state executive and judicial agencies to establish and upgrade information automation and identification technologies for timely submission of final criminal record disposi-

tions and other information relevant to NICS checks. Additionally, the Act provides for discretionary and mandatory Byrne grant penalties for non-compliance with record completeness requirements.

The NIAA also creates a statutory obligation for federal agencies to report records identifying prohibited persons to the Attorney General no less than quarterly. It also requires each federal agency that issues prohibiting mental health adjudications or commitments to establish a program allowing a person subject to such an adjudication or commitment to apply for relief from firearms disability according to the standards articulated in 18 U.S.C. § 925(c).

On November 5, 2017, a mass shooting occurred at the First Baptist Church in Sutherland Springs, TX. The gunman murdered 26 and injured 20 others. The shooter was prohibited by law from purchasing or possessing firearms and ammunition due to a domestic violence conviction in a court-martial while in the United States Air Force. The Air Force failed to record the conviction in the FBI NCIC database.

Hearings

The Committee on the Judiciary held no hearings on H.R. 4477.

Committee Consideration

On November 29, 2017, the Committee met in open session and ordered the bill, H.R. 4477, favorably reported, with an amendment, by a roll call vote of 17 to 6, a quorum being present.

Committee Votes

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following roll call vote occurred during the Committee's consideration of H.R. 4477.

1. An Amendment offered by Mrs. Handel to require the Attorney General to submit a report to Congress on bump stocks passed by a roll call vote of 12 to 10.

ROLLCALL NO. 1

	Ayes	Nays	Present
Mr. Goodlatte (VA), Chairman	X		
Mr. Sensenbrenner, Jr. (WI)			
Mr. Smith (TX)			
Mr. Chabot (OH)	X		
Mr. Issa (CA)			
Mr. King (IA)		X	
Mr. Franks (AZ)			
Mr. Gohmert (TX)		X	
Mr. Jordan (OH)		X	
Mr. Poe (TX)		X	
Mr. Marino (PA)		X	
Mr. Gowdy (SC)			
Mr. Labrador (ID)		X	
Mr. Farenthold (TX)			
Mr. Collins (GA)	X		

ROLLCALL NO. 1—Continued

	Ayes	Nays	Present
Mr. DeSantis (FL)			
Mr. Buck (CO)		X	
Mr. Ratcliffe (TX)			
Ms. Roby (AL)			
Mr. Gaetz (FL)			
Mr. Johnson (LA)	X		
Mr. Biggs (AZ)		X	
Mr. Rutherford (FL)	X		
Ms. Handel (GA)	X		
Mr. Nadler (NY), Ranking Member		X	
Mr. Conyers, Jr. (MI)			
Ms. Lofgren (CA)	X		
Ms. Jackson Lee (TX)			
Mr. Cohen (TN)		X	
Mr. Johnson (GA)			
Mr. Deutch (FL)			
Mr. Gutierrez (IL)			
Ms. Bass (CA)			
Mr. Richmond (LA)			
Mr. Jeffries (NY)			
Mr. Cicilline (RI)	X		
Mr. Swalwell (CA)	X		
Mr. Lieu (CA)	X		
Mr. Raskin (MD)	X		
Ms. Jayapal (WA)			
Mr. Schneider (IL)	X		
Total	12	10	

2. Motion to report H.R. 38 favorably to the House. Approved 17 to 6.

ROLLCALL NO. 2

	Ayes	Nays	Present
Mr. Goodlatte (VA), Chairman	X		
Mr. Sensenbrenner, Jr. (WI)			
Mr. Smith (TX)			
Mr. Chabot (OH)	X		
Mr. Issa (CA)			
Mr. King (IA)		X	
Mr. Franks (AZ)			
Mr. Gohmert (TX)		X	
Mr. Jordan (OH)		X	
Mr. Poe (TX)	X		
Mr. Marino (PA)	X		
Mr. Gowdy (SC)			
Mr. Labrador (ID)		X	
Mr. Farenthold (TX)			
Mr. Collins (GA)			

ROLLCALL NO. 2—Continued

	Ayes	Nays	Present
Mr. DeSantis (FL)			
Mr. Buck (CO)		X	
Mr. Ratcliffe (TX)	X		
Ms. Roby (AL)	X		
Mr. Gaetz (FL)			
Mr. Johnson (LA)	X		
Mr. Biggs (AZ)		X	
Mr. Rutherford (FL)	X		
Ms. Handel (GA)	X		
Mr. Nadler (NY), Ranking Member	X		
Mr. Conyers, Jr. (MI)			
Ms. Lofgren (CA)	X		
Ms. Jackson Lee (TX)	X		
Mr. Cohen (TN)			
Mr. Johnson (GA)			
Mr. Deutch (FL)			
Mr. Gutierrez (IL)			
Ms. Bass (CA)			
Mr. Richmond (LA)			
Mr. Jeffries (NY)			
Mr. Cicilline (RI)	X		
Mr. Swalwell (CA)	X		
Mr. Lieu (CA)	X		
Mr. Raskin (MD)	X		
Ms. Jayapal (WA)			
Mr. Schneider (IL)	X		
Total	17	6	

Committee Oversight Findings

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

New Budget Authority and Tax Expenditures

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

Committee Cost Estimate

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the Committee, based on informal discussions with the Congressional Budget Office, estimates that implementing H.R. 4477 could have insignificant effects on direct spending in each year, over the 5-year period, and over the 10-year

period. A Congressional Budget Office cost estimate was not available at the time this report was filed.

Duplication of Federal Programs

No provision of H.R. 4477 establishes or reauthorizes a program of the Federal government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

Disclosure of Directed Rule Makings

The Committee finds that H.R. 4477 contains no directed rule making within the meaning of 5 U.S.C. § 551.

Performance Goals and Objectives

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee states that H.R. 4477 is intended to enforce current law regarding the National Instant Criminal Background Check System.

Advisory on Earmarks

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 4477 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI.

Section-by-Section Analysis

The following discussion describes the bill as reported by the Committee.

Section 1. Short title. Section 1 sets forth the short title of the bill as the “Fix NICS Act.”

Sec. 2. Accountability for Federal Departments and Agencies. Section 2 requires all federal agencies to certify twice per year that they are uploading criminal records information to NICS and to establish and biennially update, if necessary, an implementation plan to ensure maximum coordination and reporting of records, including annual benchmarks, qualitative goals and quantitative measures, a needs assessment, and estimated compliance costs.

It requires the Attorney General to make a compliance determination based on the agency’s implementation plan and holds federal agencies accountable for failing to upload records by requiring the Attorney General to publish on the Department of Justice website and report to Congress the status of any agency that has failed to submit the required certification or failed to comply with its implementation plan.

Finally, it requires the Attorney General to respond within 60 days to requests to address errors in NICS and to biennially assess the actions taken pursuant to this Act.

Sec. 3. NICS Act Record Improvement Program. Section 3 creates incentives for States that are complying with NICS implementation plans, including by allowing them to waive the requirement that they match 10% of all federal NICS Act Record Improvement Pro-

gram (NARIP) dollars. It also requires the Attorney General to establish a priority area under NARIP for a Domestic Abuse and Violence Prevention Initiative and directs the Attorney General to provide technical assistance to States that are facing challenges uploading required information to NICS.

Sec. 4. National Criminal History Improvement Program. Section 4 amends the Crime Identification Technology Act of 1998 to include the identification of all individuals who have been convicted of a crime punishable by imprisonment for more than one year as an eligible purpose of grant funding awarded consistent with National Criminal History Improvement Program (NCHIP) program. It also allows funding to be used to create and comply with NICS upload implementation plans.

Sec 5. Improving Information Sharing with the States. Section 5 requires the Attorney General, in coordination with the States, to establish state implementation plans for each state to ensure maximum coordination and reporting of records, including annual benchmarks, qualitative goals and quantitative measures, a needs assessment, and estimated compliance costs. It holds States accountable by requiring the Attorney General to publish on the Department of Justice website, the status of any state that has failed to achieve substantial compliance with its implementation plan. It also incentivizes State compliance with NICS upload implementation plans by granting an affirmative grant preference (for all Bureau of Justice Assistance grant programs) for States that are on-track to have all relevant records uploaded to NICS by 2022. Finally, it requires NICS to notify relevant federal, state, and local law enforcement if a person prohibited from receiving a firearm nonetheless received a firearm because a NICS check was not completed in three business days.

Sec. 6. Attorney General report on use of bump stocks. Section 6 requires the Attorney General to submit a report to Congress on bump stocks.

Sec. 7. Authorization of Appropriations. Section 7 authorizes the appropriation of \$100,000,000 for each of fiscal years 2018 through 2022 to carry out sections 102 and 103 of the NICS Improvement Amendments Act of 2007, section 102 of the Crime Identification Technology Act of 1998 and section 106(b) of the Brady Handgun Violence Prevention Act. It also authorizes the appropriation of \$31,000,000 for the Bureau of Justice Statistics and \$27,000,000 for the National Institute of Justice for each of fiscal years 2018 through 2022.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

BRADY HANDGUN VIOLENCE PREVENTION ACT

TITLE I—BRADY HANDGUN CONTROL

* * * * *

SEC. 103. NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.

(a) **DETERMINATION OF TIMETABLES.**—Not later than 6 months after the date of enactment of this Act, the Attorney General shall—

(1) determine the type of computer hardware and software that will be used to operate the national instant criminal background check system and the means by which State criminal records systems and the telephone or electronic device of licensees will communicate with the national system;

(2) investigate the criminal records system of each State and determine for each State a timetable by which the State should be able to provide criminal records on an on-line capacity basis to the national system; and

(3) notify each State of the determinations made pursuant to paragraphs (1) and (2).

(b) **ESTABLISHMENT OF SYSTEM.**—Not later than 60 months after the date of the enactment of this Act, the Attorney General shall establish a national instant criminal background check system that any licensee may contact, by telephone or by other electronic means in addition to the telephone, for information, to be supplied immediately, on whether receipt of a firearm by a prospective transferee would violate section 922 of title 18, United States Code, or State law.

(c) **EXPEDITED ACTION BY THE ATTORNEY GENERAL.**—The Attorney General shall expedite—

(1) the upgrading and indexing of State criminal history records in the Federal criminal records system maintained by the Federal Bureau of Investigation;

(2) the development of hardware and software systems to link State criminal history check systems into the national instant criminal background check system established by the Attorney General pursuant to this section; and

(3) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

(d) **NOTIFICATION OF LICENSEES.**—On establishment of the system under this section, the Attorney General shall notify each licensee and the chief law enforcement officer of each State of the existence and purpose of the system and the means to be used to contact the system.

(e) **ADMINISTRATIVE PROVISIONS.**—

(1) **AUTHORITY TO OBTAIN OFFICIAL INFORMATION.**—

(A) **IN GENERAL.**—Notwithstanding any other law, the Attorney General may secure directly from any department or agency of the United States such information on persons for whom receipt of a firearm would violate subsection (g) or (n) of section 922 of title 18, United States

Code or State law, as is necessary to enable the system to operate in accordance with this section.

(B) REQUEST OF ATTORNEY GENERAL.—On request of the Attorney General, the head of such department or agency shall furnish electronic versions of the information described under subparagraph (A) to the system.

(C) QUARTERLY SUBMISSION TO ATTORNEY GENERAL.—If a Federal department or agency under subparagraph (A) has any record of any person demonstrating that the person falls within one of the categories described in subsection (g) or (n) of section 922 of title 18, United States Code, the head of such department or agency shall, not less frequently than quarterly, provide the pertinent information contained in such record to the Attorney General.

(D) INFORMATION UPDATES.—The Federal department or agency, on being made aware that the basis under which a record was made available under subparagraph (A) does not apply, or no longer applies, shall—

(i) update, correct, modify, or remove the record from any database that the agency maintains and makes available to the Attorney General, in accordance with the rules pertaining to that database; and

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

The Attorney General upon receiving notice pursuant to clause (ii) shall ensure that the record in the National Instant Criminal Background Check System is updated, corrected, modified, or removed within 30 days of receipt.

(E) ANNUAL REPORT.—The Attorney General shall submit an annual report to Congress that describes the compliance of each department or agency with the provisions of this paragraph.

(F) SEMIANNUAL CERTIFICATION AND REPORTING.—

(i) IN GENERAL.—*The head of each Federal department or agency shall submit a semiannual written certification to the Attorney General indicating whether the department or agency is in compliance with the record submission requirements under subparagraph (C).*

(ii) SUBMISSION DATES.—*The head of a Federal department or agency shall submit a certification to the Attorney General under clause (i)—*

(I) not later than July 31 of each year, which shall address all relevant records, including those that have not been transmitted to the Attorney General, in possession of the department or agency during the period beginning on January 1 of the year and ending on June 30 of the year; and

(II) not later than January 31 of each year, which shall address all relevant records, including those that have not been transmitted to the Attorney General, in possession of the department or agency during the period beginning on July 1 of

the previous year and ending on December 31 of the previous year.

(iii) CONTENTS.—A certification required under clause (i) shall state, for the applicable period—

(I) the total number of records of the Federal department or agency demonstrating that a person falls within one of the categories described in subsection (g) or (n) of section 922 of title 18, United States Code;

(II) for each category of records described in subclause (I), the total number of records of the Federal department or agency that have been provided to the Attorney General; and

(III) the efforts of the Federal department or agency to ensure complete and accurate reporting of relevant records, including efforts to monitor compliance and correct any reporting failures or inaccuracies.

(G) IMPLEMENTATION PLAN.—

(i) IN GENERAL.—Not later than 1 year after the date of enactment of this subparagraph, the head of each Federal department or agency, in coordination with the Attorney General, shall establish a plan to ensure maximum coordination and automated reporting or making available of records to the Attorney General as required under subparagraph (C), and the verification of the accuracy of those records, including the pre-validation of those records, where appropriate, during a 4-year period specified in the plan. The head of each Federal department or agency shall update the plan biennially, to the extent necessary, based on the most recent biennial assessment under subparagraph (K). The records shall be limited to those of an individual described in subsection (g) or (n) of section 922 of title 18, United States Code.

(ii) BENCHMARK REQUIREMENTS.—Each plan established under clause (i) shall include annual benchmarks to enable the Attorney General to assess implementation of the plan, including—

(I) qualitative goals and quantitative measures;

(II) measures to monitor internal compliance, including any reporting failures and inaccuracies;

(III) a needs assessment, including estimated compliance costs; and

(IV) an estimated date by which the Federal department or agency will fully comply with record submission requirements under subparagraph (C).

(iii) COMPLIANCE DETERMINATION.—Not later than the end of each fiscal year beginning after the date of the establishment of a plan under clause (i), the Attorney General shall determine whether the applicable Federal department or agency has achieved substantial compliance with the benchmarks included in the plan.

(H) ACCOUNTABILITY.—The Attorney General shall publish, including on the website of the Department of Justice,

and submit to the Committee on the Judiciary and the Committee on Appropriations of the Senate and the Committee on the Judiciary and the Committee on Appropriations of the House of Representatives a semiannual report that discloses—

(i) the name of each Federal department or agency that has failed to submit a required certification under subparagraph (F);

(ii) the name of each Federal department or agency that has submitted a required certification under subparagraph (F), but failed to certify compliance with the record submission requirements under subparagraph (C);

(iii) the name of each Federal department or agency that has failed to submit an implementation plan under subparagraph (G);

(iv) the name of each Federal department or agency that is not in substantial compliance with an implementation plan under subparagraph (G);

(v) a detailed summary of the data, broken down by department or agency, contained in the certifications submitted under subparagraph (F);

(vi) a detailed summary of the contents and status, broken down by department or agency, of the implementation plans established under subparagraph (G); and

(vii) the reasons for which the Attorney General has determined that a Federal department or agency is not in substantial compliance with an implementation plan established under subparagraph (G).

(I) **NONCOMPLIANCE PENALTIES.**—For each of fiscal years 2019 through 2022, each political appointee of a Federal department or agency that has failed to certify compliance with the record submission requirements under subparagraph (C), and is not in substantial compliance with an implementation plan established under subparagraph (G), shall not be eligible for the receipt of bonus pay, excluding overtime pay, until the department or agency—

(i) certifies compliance with the record submission requirements under subparagraph (C); or

(ii) achieves substantial compliance with an implementation plan established under subparagraph (G).

(J) **TECHNICAL ASSISTANCE.**—The Attorney General may use funds made available for the national instant criminal background check system established under subsection (b) to provide technical assistance to a Federal department or agency, at the request of the department or agency, in order to help the department or agency comply with the record submission requirements under subparagraph (C).

(K) **BIENNIAL ASSESSMENT.**—Every 2 years, the Attorney General shall assess the extent to which the actions taken under the Fix NICS Act of 2017 have resulted in improvements in the system established under this section.

(L) **APPLICATION TO FEDERAL COURTS.**—For purposes of this paragraph—

(i) the terms “department or agency of the United States” and “Federal department or agency” include a Federal court; and

(ii) the Director of the Administrative Office of the United States Courts shall perform, for a Federal court, the functions assigned to the head of a department or agency.

(2) OTHER AUTHORITY.—The Attorney General shall develop such computer software, design and obtain such telecommunications and computer hardware, and employ such personnel, as are necessary to establish and operate the system in accordance with this section.

(f) WRITTEN REASONS PROVIDED ON REQUEST.—If the national instant criminal background check system determines that an individual is ineligible to receive a firearm and the individual requests the system to provide the reasons for the determination, the system shall provide such reasons to the individual, in writing, within 5 business days after the date of the request.

(g) CORRECTION OF ERRONEOUS SYSTEM INFORMATION.—If the system established under this section informs an individual contacting the system that receipt of a firearm by a prospective transferee would violate subsection (g) or (n) of section 922 of title 18, United States Code or State law, the prospective transferee may request the Attorney General to provide the prospective transferee with the reasons therefor. Upon receipt of such a request, the Attorney General shall immediately comply with the request. The prospective transferee may submit to the Attorney General information to correct, clarify, or supplement records of the system with respect to the prospective transferee. After receipt of such information, the Attorney General shall immediately consider the information, investigate the matter further, and correct all erroneous Federal records relating to the prospective transferee and give notice of the error to any Federal department or agency or any State that was the source of such erroneous records. *For purposes of the preceding sentence, not later than 60 days after the date on which the Attorney General receives such information, the Attorney General shall determine whether or not the prospective transferee is the subject of an erroneous record and remove any records that are determined to be erroneous. In addition to any funds made available under subsection (k), the Attorney General may use such sums as are necessary and otherwise available for the salaries and expenses of the Federal Bureau of Investigation to comply with this subsection.*

(h) REGULATIONS.—After 90 days’ notice to the public and an opportunity for hearing by interested parties, the Attorney General shall prescribe regulations to ensure the privacy and security of the information of the system established under this section.

(i) PROHIBITION RELATING TO ESTABLISHMENT OF REGISTRATION SYSTEMS WITH RESPECT TO FIREARMS.—No department, agency, officer, or employee of the United States may—

(1) require that any record or portion thereof generated by the system established under this section be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or political subdivision thereof; or

(2) use the system established under this section to establish any system for the registration of firearms, firearm owners, or firearm transactions or dispositions, except with respect to persons, prohibited by section 922 (g) or (n) of title 18, United States Code or State law, from receiving a firearm.

(j) DEFINITIONS.—As used in this section:

(1) LICENSEE.—The term “licensee” means a licensed importer (as defined in section 921(a)(9) of title 18, United States Code), a licensed manufacturer (as defined in section 921(a)(10) of that title), or a licensed dealer (as defined in section 921(a)(11) of that title).

(2) OTHER TERMS.—The terms “firearm”, “handgun”, “licensed importer”, “licensed manufacturer”, and “licensed dealer” have the meanings stated in section 921(a) of title 18, United States Code, as amended by subsection (a)(2).

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to enable the Attorney General to carry out this section.

* * * * *

SEC. 106. FUNDING FOR IMPROVEMENT OF CRIMINAL RECORDS.

(a) USE OF FORMULA GRANTS.—Section 509(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(1) in paragraph (2) by striking “and” after the semicolon;

(2) in paragraph (3) by striking the period and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(4) the improvement of State record systems and the sharing with the Attorney General of all of the records described in paragraphs (1), (2), and (3) of this subsection and the records required by the Attorney General under section 103 of the Brady Handgun Violence Prevention Act, for the purpose of implementing that Act.”.

(b) ADDITIONAL FUNDING.—

(1) GRANTS FOR THE IMPROVEMENT OF CRIMINAL RECORDS.—The Attorney General, through the Bureau of Justice Statistics, shall, subject to appropriations and with preference to States that **[as of the date of enactment of this Act]**, *as of the date of enactment of the Fix NICS Act of 2017*, have the lowest percent currency of case dispositions in computerized criminal history **[files,] files** and that will utilize funding under this subsection to prioritize the identification and transmittal of felony conviction records and domestic violence records, make a grant to each State to be used—

(A) for the creation of a computerized criminal history record system or improvement of an existing system;

(B) to improve accessibility to the national instant criminal background system; **[and]**

(C) **[upon establishment of the national system,]** to assist the State in the transmittal of criminal records to the national system**[.]; and**

(D) *to establish and achieve compliance with an implementation plan under section 107 of the NICS Improvement Amendments Act of 2007.*

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under paragraph (1) a total of \$200,000,000 for fiscal year 1994 and all fiscal years thereafter.

* * * * *

NICS IMPROVEMENT AMENDMENTS ACT OF 2007

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

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

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

* * * * *

TITLE I—TRANSMITTAL OF RECORDS

* * * * *

Sec. 107. Implementation plan.

Sec. 108. Notification to law enforcement agencies of prohibited purchase of a firearm.

* * * * *

TITLE I—TRANSMITTAL OF RECORDS

* * * * *

SEC. 102. REQUIREMENTS TO OBTAIN WAIVER.

(a) IN GENERAL.—Beginning 3 years after the date of the enactment of this Act, a State shall be eligible to receive a waiver of the 10 percent matching requirement for National Criminal History Improvement Grants under [the Crime Identification Technology Act of 1988 (42 U.S.C. 14601)] *section 102 of the Crime Identification Technology Act of 1998 (34 U.S.C. 40301)* if the State is in compliance with an implementation plan established under subsection (b) or provides at least 90 percent of the information described in subsection (c). The length of such a waiver shall not exceed 2 years.

(b) STATE ESTIMATES.—

(1) INITIAL STATE ESTIMATE.—

(A) IN GENERAL.—To assist the Attorney General in making a determination under subsection (a) of this section, and under section 104, concerning the compliance of the States in providing information to the Attorney General for the purpose of receiving a waiver under subsection (a) of this section, or facing a loss of funds under section 104, by a date not later than 180 days after the date of the enactment of this Act, each State shall provide the Attorney General with a reasonable estimate, as calculated by a method determined by the Attorney General and in accordance with section 104(d), of the number of the records described in subparagraph (C) applicable to such State that concern persons who are prohibited from possessing or receiving a firearm under subsection (g) or (n) of section 922 of title 18, United States Code.

(B) FAILURE TO PROVIDE INITIAL ESTIMATE.—A State that fails to provide an estimate described in subparagraph (A) by the date required under such subparagraph shall be ineligible to receive any funds under section 103, until such date as it provides such estimate to the Attorney General *or has established an implementation plan under section 107.*

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

(i) A record that identifies a person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year.

(ii) A record that identifies a person for whom an indictment has been returned for a crime punishable by imprisonment for a term exceeding 1 year that is valid under the laws of the State involved or who is a fugitive from justice, as of the date of the estimate, and for which a record of final disposition is not available.

(iii) A record that identifies a person who is an unlawful user of, or addicted to a controlled substance (as such terms “unlawful user” and “addicted” are respectively defined in regulations implementing section 922(g)(3) of title 18, United States Code, as in effect on the date of the enactment of this Act) as demonstrated by arrests, convictions, and adjudications, and whose record is not protected from disclosure to the Attorney General under any provision of State or Federal law.

(iv) A record that identifies a person who has been adjudicated as a mental defective or committed to a mental institution, consistent with section 922(g)(4) of title 18, United States Code, and whose record is not protected from disclosure to the Attorney General under any provision of State or Federal law.

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

(vi) A record that is electronically available and that identifies a person convicted in any court of a misdemeanor crime of domestic violence, as defined in section 921(a)(33) of title 18, United States Code.

(2) SCOPE.—The Attorney General, in determining the compliance of a State under this section or section 104 for the purpose of granting a waiver or imposing a loss of Federal funds, shall assess the total percentage of records provided by the State concerning any event occurring within the prior 20 years, which would disqualify a person from possessing a firearm under subsection (g) or (n) of section 922 of title 18, United States Code.

(3) CLARIFICATION.—Notwithstanding paragraph (2), States shall endeavor to provide the National Instant Criminal Background Check System with all records concerning persons who are prohibited from possessing or receiving a firearm under subsection (g) or (n) of section 922 of title 18, United States

Code, regardless of the elapsed time since the disqualifying event.

(c) ELIGIBILITY OF STATE RECORDS FOR SUBMISSION TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.—

(1) REQUIREMENTS FOR ELIGIBILITY.—

(A) IN GENERAL.—From the information collected by a State, the State shall make electronically available to the Attorney General records relevant to a determination of whether a person is disqualified from possessing or receiving a firearm under subsection (g) or (n) of section 922 of title 18, United States Code, or applicable State law.

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

(i) update, correct, modify, or remove the record from any database that the Federal or State government maintains and makes available to the National Instant Criminal Background Check System, consistent with the rules pertaining to that database; and

(ii) notify the Attorney General that such basis no longer applies so that the record system in which the record is maintained is kept up to date.

The Attorney General upon receiving notice pursuant to clause (ii) shall ensure that the record in the National Instant Criminal Background Check System is updated, corrected, modified, or removed within 30 days of receipt.

(C) CERTIFICATION.—To remain eligible for a waiver under subsection (a), a State shall certify to the Attorney General, not less than once during each 2-year period, that at least 90 percent of all records described in subparagraph (A) has been made electronically available to the Attorney General in accordance with subparagraph (A).

(D) INCLUSION OF ALL RECORDS.—For purposes of this paragraph, a State shall identify and include all of the records described under subparagraph (A) without regard to the age of the record.

(2) APPLICATION TO PERSONS CONVICTED OF MISDEMEANOR CRIMES OF DOMESTIC VIOLENCE.—The State shall make available to the Attorney General, for use by the National Instant Criminal Background Check System, records relevant to a determination of whether a person has been convicted in any court of a misdemeanor crime of domestic violence. With respect to records relating to such crimes, the State shall provide information specifically describing the offense and the specific section or subsection of the offense for which the defendant has been convicted and the relationship of the defendant to the victim in each case.

(3) APPLICATION TO PERSONS WHO HAVE BEEN ADJUDICATED AS A MENTAL DEFECTIVE OR COMMITTED TO A MENTAL INSTITUTION.—The State shall make available to the Attorney General, for use by the National Instant Criminal Background Check System, the name and other relevant identifying information of persons adjudicated as a mental defective or those committed

to mental institutions to assist the Attorney General in enforcing section 922(g)(4) of title 18, United States Code.

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

(e) **ATTORNEY GENERAL REPORT.**—Not later than January 31 of each year, the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the progress of States in automating the databases containing the information described in subsection (b) and in making that information electronically available to the Attorney General pursuant to the requirements of subsection (c).

SEC. 103. IMPLEMENTATION ASSISTANCE TO STATES.

(a) **AUTHORIZATION.**—

(1) **IN GENERAL.**—From amounts made available to carry out this section and subject to section 102(b)(1)(B), the Attorney General shall make grants to States and Indian tribal governments, in a manner consistent with the National Criminal History Improvement Program, which shall be used by the States and Indian tribal governments, in conjunction with units of local government and State and local courts, to establish or upgrade information and identification technologies for firearms eligibility determinations. Not less than 3 percent, and no more than 10 percent of each grant under this paragraph shall be used to maintain the relief from disabilities program in accordance with section 105.

(2) **GRANTS TO INDIAN TRIBES.**—Up to 5 percent of the grant funding available under this section may be reserved for Indian tribal governments, including tribal judicial systems.

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

(1) create electronic systems, which provide accurate and up-to-date information which is directly related to checks under the National Instant Criminal Background Check System (referred to in this section as “NICS”), including court disposition and corrections records;

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

(3) supply accurate and timely information to the Attorney General concerning final dispositions of criminal records to databases accessed by NICS, *including through increased efforts to pre-validate the contents of those records to expedite eligibility determinations;*

(4) supply accurate and timely information to the Attorney General concerning the identity of persons who are prohibited from obtaining a firearm under section 922(g)(4) of title 18,

United States Code, to be used by the Federal Bureau of Investigation solely to conduct NICS background checks;

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

(6) collect and analyze data needed to demonstrate levels of State compliance with this Act; and

(7) maintain the relief from disabilities program in accordance with section 105, but not less than 3 percent, and no more than 10 percent of each grant shall be used for this purpose.

(c) ELIGIBILITY.—To be eligible for a grant under this section, a State shall certify, to the satisfaction of the Attorney General, that the State has implemented a relief from disabilities program in accordance with section 105.

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

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section \$125,000,000 for fiscal year 2009, \$250,000,000 for fiscal year 2010, \$250,000,000 for fiscal year 2011, \$125,000,000 for fiscal year 2012, and \$125,000,000 for fiscal year 2013.

[(2) ALLOCATIONS.—For fiscal years 2009 and 2010, the Attorney General shall endeavor to allocate at least ½ of the authorized appropriations to those States providing more than 50 percent of the records required to be provided under sections 102 and 103. For fiscal years 2011, 2012, and 2013, the Attorney General shall endeavor to allocate at least ½ of the authorized appropriations to those States providing more than 70 percent of the records required to be provided under section 102 and 103. The allocations in this paragraph shall be subject to the discretion of the Attorney General, who shall have the authority to make adjustments to the distribution of the authorized appropriations as necessary to maximize incentives for State compliance.]

(2) DOMESTIC ABUSE AND VIOLENCE PREVENTION INITIATIVE.—

(A) ESTABLISHMENT.—For each of fiscal years 2018 through 2022, the Attorney General shall create a priority area under the NICS Act Record Improvement Program (commonly known as “NARIP”) for a Domestic Abuse and Violence Prevention Initiative that emphasizes the need for grantees to identify and upload all felony conviction records and domestic violence records.

(B) FUNDING.—The Attorney General—

(i) may use not more than 50 percent of the amounts made available under section 7 of the Fix NICS Act for each of fiscal years 2018 through 2022 to carry out the initiative described in subparagraph (A); and

(ii) shall give a funding preference under NARIP to States that—

(I) have established an implementation plan under section 107; and

(II) will use amounts made available under this subparagraph to improve efforts to identify and upload all felony conviction records and domestic violence records described in clauses (i), (v), and (vi) of section 102(b)(1)(C) by not later than September 30, 2022.

(f) **USER FEE.**—The Federal Bureau of Investigation shall not charge a user fee for background checks pursuant to section 922(t) of title 18, United States Code.

(g) **TECHNICAL ASSISTANCE.**—*The Attorney General shall direct the Office of Justice Programs, the Bureau of Alcohol, Tobacco, Firearms, and Explosives, and the Federal Bureau of Investigation to—*

(1) assist States that are not currently eligible for grants under this section to achieve compliance with all eligibility requirements; and

(2) provide technical assistance and training services to grantees under this section.

* * * * *

SEC. 107. IMPLEMENTATION PLAN.

(a) **IN GENERAL.**—*Not later than 1 year after the date of enactment of the Fix NICS Act of 2017, the Attorney General, in coordination with the States and Indian tribal governments, shall establish, for each State or Indian tribal government, a plan to ensure maximum coordination and automation of the reporting or making available of appropriate records to the National Instant Criminal Background Check System established under section 103 of the Brady Handgun Violence Prevention Act (34 U.S.C. 40901) and the verification of the accuracy of those records during a 4-year period specified in the plan, and shall update the plan biennially, to the extent necessary, based on the most recent biennial assessment under subsection (f). The records shall be limited to those of an individual described in subsection (g) or (n) of section 922 of title 18, United States Code*

(b) **BENCHMARK REQUIREMENTS.**—*Each plan established under this section shall include annual benchmarks to enable the Attorney General to assess the implementation of the plan, including—*

(1) qualitative goals and quantitative measures; and

(2) a needs assessment, including estimated compliance costs.

(c) **COMPLIANCE DETERMINATION.**—*Not later than the end of each fiscal year beginning after the date of the establishment of an implementation plan under this section, the Attorney General shall determine whether each State or Indian tribal government has achieved substantial compliance with the benchmarks included in the plan.*

(d) **ACCOUNTABILITY.**—*The Attorney General—*

(1) shall disclose and publish, including on the website of the Department of Justice—

(A) the name of each State or Indian tribal government that received a determination of failure to achieve substantial compliance with an implementation plan under subsection (c) for the preceding fiscal year; and

(B) a description of the reasons for which the Attorney General has determined that the State or Indian tribal gov-

ernment is not in substantial compliance with the implementation plan, including, to the greatest extent possible, a description of the types and amounts of records that have not been submitted; and

(2) if a State or Indian tribal government described in paragraph (1) subsequently receives a determination of substantial compliance, shall—

(A) immediately correct the applicable record; and

(B) not later than 3 days after the determination, remove the record from the website of the Department of Justice and any other location where the record was published.

(e) *INCENTIVES.*—For each of fiscal years 2018 through 2022, the Attorney General shall give affirmative preference to all Bureau of Justice Assistance discretionary grant applications of a State or Indian tribal government that received a determination of substantial compliance under subsection (c) for the fiscal year in which the grant was solicited.

(f) *BIENNIAL ASSESSMENT.*—Every 2 years, the Attorney General shall assess the extent to which the actions taken under the Fix NICS Act of 2017 have resulted in improvements in the National Instant Criminal Background Check System established under section 103 of the Brady Handgun Violence Prevention Act (34 U.S.C. 40903).

SEC. 108. NOTIFICATION TO LAW ENFORCEMENT AGENCIES OF PROHIBITED PURCHASE OF A FIREARM.

(a) *IN GENERAL.*—In the case of a background check conducted by the National Instant Criminal Background Check System pursuant to the request of a licensed importer, licensed manufacturer, or licensed dealer of firearms (as such terms are defined in section 921 of title 18, United States Code), which background check determines that the receipt of a firearm by a person would violate subsection (g) or (n) of section 922 of title 18, United States Code, and such determination is made after 3 business days have elapsed since the licensee contacted the System and a firearm has been transferred to that person, the System shall notify the law enforcement agencies described in subsection (b).

(b) *LAW ENFORCEMENT AGENCIES DESCRIBED.*—The law enforcement agencies described in this subsection are the law enforcement agencies that have jurisdiction over the location from which the licensee contacted the system and the law enforcement agencies that have jurisdiction over the location of the residence of the person for which the background check was conducted, as follows:

- (1) The field office of the Federal Bureau of Investigation.
- (2) The local law enforcement agency.
- (3) The State law enforcement agency.

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CRIME IDENTIFICATION TECHNOLOGY ACT OF 1998

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TITLE I—CRIME IDENTIFICATION TECHNOLOGY ACT OF 1998

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SEC. 102. STATE GRANT PROGRAM FOR CRIMINAL JUSTICE IDENTIFICATION, INFORMATION, AND COMMUNICATION.

(a) IN GENERAL.—Subject to the availability of amounts provided in advance in appropriations Acts, the Office of Justice Programs relying principally on the expertise of the Bureau of Justice Statistics shall make a grant to each State, in a manner consistent with the national criminal history improvement program, which shall be used by the State, in conjunction with units of local government, State and local courts, other States, or combinations thereof, to establish or upgrade an integrated approach to develop information and identification technologies and systems to—

(1) upgrade criminal history and criminal justice record systems, including systems operated by law enforcement agencies and courts;

(2) improve criminal justice identification;

(3) promote compatibility and integration of national, State, and local systems for—

(A) criminal justice purposes;

(B) firearms eligibility determinations;

(C) *identification of all individuals who have been convicted of a crime punishable by imprisonment for a term exceeding 1 year*

~~[(C)]~~ (D) identification of sexual offenders;

~~[(D)]~~ (E) identification of domestic violence offenders;

and

~~[(E)]~~ (F) background checks for other authorized purposes unrelated to criminal justice; and

(4) capture information for statistical and research purposes to improve the administration of criminal justice.

(b) USE OF GRANT AMOUNTS.—Grants under this section may be used for programs to establish, develop, update, or upgrade—

(1) State centralized, automated, adult and juvenile criminal history record information systems, including arrest and disposition reporting;

(2) automated fingerprint identification systems that are compatible with standards established by the National Institute of Standards and Technology and interoperable with the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation;

(3) finger imaging, live scan, and other automated systems to digitize fingerprints and to communicate prints in a manner that is compatible with standards established by the National Institute of Standards and Technology and interoperable with systems operated by States and by the Federal Bureau of Investigation;

(4) programs and systems to facilitate full participation in the Interstate Identification Index of the National Crime Information Center;

(5) systems to facilitate full participation in any compact relating to the Interstate Identification Index of the National Crime Information Center;

(6) systems to facilitate full participation in the national instant criminal background check system established under section 103(b) of the Brady Handgun Violence Prevention Act [(18 U.S.C. 922 note)] (34 U.S.C. 40901(b)) for firearms eligibility determinations, *including through increased efforts to pre-validate the contents of felony conviction records and domestic violence records to expedite eligibility determinations, and measures and resources necessary to establish and achieve compliance with an implementation plan under section 107 of the NICS Improvement Amendments Act of 2007*;

(7) integrated criminal justice information systems to manage and communicate criminal justice information among law enforcement agencies, courts, prosecutors, and corrections agencies;

(8) noncriminal history record information systems relevant to firearms eligibility determinations for availability and accessibility to the national instant criminal background check system established under section 103(b) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note);

(9) court-based criminal justice information systems that promote—

(A) reporting of dispositions to central State repositories and to the Federal Bureau of Investigation; and

(B) compatibility with, and integration of, court systems with other criminal justice information systems;

(10) ballistics identification and information programs that are compatible and integrated with the National Integrated Ballistics Network (NIBN);

(11) the capabilities of forensic science programs and medical examiner programs related to the administration of criminal justice, including programs leading to accreditation or certification of individuals or departments, agencies, or laboratories, and programs relating to the identification and analysis of deoxyribonucleic acid;

(12) sexual offender identification and registration systems;

(13) domestic violence offender identification and information systems;

(14) programs for fingerprint-supported background checks capability for noncriminal justice purposes, including youth service employees and volunteers and other individuals in positions of responsibility, if authorized by Federal or State law and administered by a government agency;

(15) criminal justice information systems with a capacity to provide statistical and research products including incident-based reporting systems that are compatible with the National Incident-Based Reporting System (NIBRS) and uniform crime reports;

(16) multiagency, multijurisdictional communications systems among the States to share routine and emergency information among Federal, State, and local law enforcement agencies;

(17) the capability of the criminal justice system to deliver timely, accurate, and complete criminal history record information to child welfare agencies, organizations, and programs that are engaged in the assessment of risk and other activities related to the protection of children, including protection against child sexual abuse, and placement of children in foster care; and

(18) notwithstanding subsection (c), antiterrorism purposes as they relate to any other uses under this section or for other antiterrorism programs.

(c) ASSURANCES.—

(1) IN GENERAL.—To be eligible to receive a grant under this section, a State shall provide assurances to the Attorney General that the State has the capability to contribute pertinent information to the national instant criminal background check system established under section 103(b) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note).

(2) INFORMATION SHARING.—Such assurances shall include a provision that ensures that a statewide strategy for information sharing systems is underway, or will be initiated, to improve the functioning of the criminal justice system, with an emphasis on integration of all criminal justice components, law enforcement, courts, prosecution, corrections, and probation and parole. The strategy shall be prepared after consultation with State and local officials with emphasis on the recommendation of officials whose duty it is to oversee, plan, and implement integrated information technology systems, and shall contain—

(A) a definition and analysis of “integration” in the State and localities developing integrated information sharing systems;

(B) an assessment of the criminal justice resources being devoted to information technology;

(C) Federal, State, regional, and local information technology coordination requirements;

(D) an assurance that the individuals who developed the grant application took into consideration the needs of all branches of the State Government and specifically sought the advice of the chief of the highest court of the State with respect to the application;

(E) State and local resource needs;

(F) the establishment of statewide priorities for planning and implementation of information technology systems; and

(G) a plan for coordinating the programs funded under this title with other federally funded information technology programs, including directly funded local programs such as the Edward Byrne Justice Assistance Grant Program and the M.O.R.E. program established pursuant to part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968.

(d) MATCHING FUNDS.—The Federal share of a grant received under this title may not exceed 90 percent of the costs of a program or proposal funded under this title unless *the State has achieved compliance with an implementation plan under section 107 of the*

NICS Improvement Amendments Act of 2007 or the Attorney General waives, wholly or in part, the requirements of this subsection.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section \$250,000,000 for each of fiscal years 2002 through 2007.

(2) LIMITATIONS.—Of the amount made available to carry out this section in any fiscal year—

(A) not more than 3 percent may be used by the Attorney General for salaries and administrative expenses;

(B) not more than 5 percent may be used for technical assistance, training and evaluations, and studies commissioned by Bureau of Justice Statistics of the Department of Justice (through discretionary grants or otherwise) in furtherance of the purposes of this section; and

(C) the Attorney General shall ensure the amounts are distributed on an equitable geographic basis.

(f) GRANTS TO INDIAN TRIBES.—Notwithstanding any other provision of this section, the Attorney General may use amounts made available under this section to make grants to Indian tribes for use in accordance with this section.

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OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

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TITLE I—JUSTICE SYSTEM IMPROVEMENT

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PART J—FUNDING

AUTHORIZATION OF APPROPRIATIONS

SEC. 1001. (a)(1) There is authorized to be appropriated \$30,000,000 for fiscal year 1992 and ~~[\$33,000,000]~~ *\$31,000,000* for each of the fiscal years ~~[1994 and 1995]~~ *2018 through 2022* to carry out the functions of the Bureau of Justice Statistics, *in addition to any amounts otherwise made available for research, evaluation or statistical purposes in a fiscal year.*

(2) There is authorized to be appropriated \$30,000,000 for fiscal year 1992 and ~~[\$33,000,000]~~ *\$27,000,000* for each of the fiscal years ~~[1994 and 1995]~~ *2018 through 2022* to carry out the functions of the National Institute of Justice, *in addition to any amounts otherwise made available for research, evaluation or statistical purposes in a fiscal year.*

(3) There are authorized to be appropriated such sums as may be necessary for fiscal year 1992 and \$28,000,000 for each of the fiscal years 1994 and 1995 to carry out the remaining functions of the Office of Justice Programs and the Bureau of Justice Assistance other than functions under parts D, E, F, G, L, M, N, O, P, Q, or R or EE.

(4) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out part L of this title.

(5) There are authorized to be appropriated such sums as may be necessary for fiscal year 1992 and \$1,000,000,000 for each of the fiscal years 1994 and 1995 to carry out the programs under parts D and E (other than chapter B of subpart 2) (other than chapter B of subpart 2 of part E) of this title.

(6) There are authorized to be appropriated such sums as may be necessary for fiscal year 1992, \$245,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994 and 1995 to carry out chapter B of subpart 2 of part E of this title.

(7) There is authorized to be appropriated to carry out part N \$1,000,000 for each of fiscal years 2001 through 2005.

(8) There are authorized to be appropriated such sums as may be necessary for fiscal year 1992, \$16,500,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994 and 1995.

(9) There are authorized to be appropriated to carry out part O—

(A) \$24,000,000 for fiscal year 1996;

(B) \$40,000,000 for fiscal year 1997;

(C) \$50,000,000 for fiscal year 1998;

(D) \$60,000,000 for fiscal year 1999; and

(E) \$66,000,000 for fiscal year 2000.

(10) There are authorized to be appropriated \$10,000,000 for each of the fiscal years 1994, 1995, and 1996 to carry out projects under part P.

(11)(A) There are authorized to be appropriated to carry out part Q, to remain available until expended \$1,047,119,000 for each of fiscal years 2006 through 2009.

(B) Of funds available under part Q in any fiscal year, up to 3 percent may be used for technical assistance under section 1701(d) or for evaluations or studies carried out or commissioned by the Attorney General in furtherance of the purposes of part Q. Of the remaining funds, 50 percent shall be allocated for grants pursuant to applications submitted by units of local government or law enforcement agencies having jurisdiction over areas with populations exceeding 150,000 or by public and private entities that serve areas with populations exceeding 150,000, and 50 percent shall be allocated for grants pursuant to applications submitted by units of local government or law enforcement agencies having jurisdiction over areas with populations 150,000 or less or by public and private entities that serve areas with populations 150,000 or less. In view of the extraordinary need for law enforcement assistance in Indian country, an appropriate amount of funds available under part Q shall be made available for grants to Indian tribal governments or tribal law enforcement agencies.

(16) There are authorized to be appropriated to carry out projects under part R—

(A) \$20,000,000 for fiscal year 1996;

(B) \$25,000,000 for fiscal year 1997;

(C) \$30,000,000 for fiscal year 1998;

(D) \$35,000,000 for fiscal year 1999; and

(E) \$40,000,000 for fiscal year 2000.

(17) There are authorized to be appropriated to carry out the projects under part S—

(A) \$27,000,000 for fiscal year 1996;

(B) \$36,000,000 for fiscal year 1997;

(C) \$63,000,000 for fiscal year 1998;

(D) \$72,000,000 for fiscal year 1999; and

(E) \$72,000,000 for fiscal year 2000.

(18) There is authorized to be appropriated to carry out part T \$222,000,000 for each of fiscal years 2014 through 2018.

(19) There is authorized to be appropriated to carry out part U \$73,000,000 for each of fiscal years 2014 through 2018. Funds appropriated under this paragraph shall remain available until expended.

(20) There are authorized to be appropriated to carry out part V, \$10,000,000 for each of fiscal years 2001 through 2004.

(21) There are authorized to be appropriated to carry out part W—

(1) \$2,500,000 for fiscal year 1996;

(2) \$4,000,000 for fiscal year 1997;

(3) \$5,000,000 for fiscal year 1998;

(4) \$6,000,000 for fiscal year 1999; and

(5) \$7,500,000 for fiscal year 2000.

(22) There are authorized to be appropriated to carry out part X—

(1) \$1,000,000 for fiscal year 1996;

(2) \$3,000,000 for fiscal year 1997;

(3) \$5,000,000 for fiscal year 1998;

(4) \$13,500,000 for fiscal year 1999; and

(5) \$17,500,000 for fiscal year 2000.

(23) There is authorized to be appropriated to carry out part Y, \$25,000,000 for each of fiscal years 2016 through 2020.

(24) There are authorized to be appropriated to carry out part BB, to remain available until expended—

(A) \$35,000,000 for fiscal year 2001;

(B) \$85,400,000 for fiscal year 2002;

(C) \$134,733,000 for fiscal year 2003;

(D) \$128,067,000 for fiscal year 2004;

(E) \$56,733,000 for fiscal year 2005;

(F) \$42,067,000 for fiscal year 2006;

(G) \$20,000,000 for fiscal year 2007;

(H) \$20,000,000 for fiscal year 2008;

(I) \$20,000,000 for fiscal year 2009; and

(J) \$13,500,000 for fiscal year 2017;

(K) \$18,500,000 for fiscal year 2018;

(L) \$19,000,000 for fiscal year 2019;

(M) \$21,000,000 for fiscal year 2020; and

(N) \$23,000,000 for fiscal year 2021.

(25)(A) Except as provided in subparagraph (C), there are authorized to be appropriated to carry out part EE—

(i) \$50,000,000 for fiscal year 2002;

(ii) \$54,000,000 for fiscal year 2003;

(iii) \$58,000,000 for fiscal year 2004; and

(iv) \$60,000,000 for fiscal year 2005.

(v) \$70,000,000 for each of fiscal years 2007 and 2008.

(v) \$70,000,000 for fiscal year 2006.

(B) The Attorney General shall reserve not less than 1 percent and not more than 4.5 percent of the sums appropriated for this program in each fiscal year for research and evaluation of this program.

(C) No funds made available to carry out part EE shall be expended if the Attorney General fails to submit the report required to be submitted under section 2401(c) of title II of Division B of the 21st Century Department of Justice Appropriations Authorization Act.

(26) There are authorized to be appropriated to carry out part CC \$10,000,000 for each of fiscal years 2009 and 2010.

(27) There are authorized to be appropriated to carry out part LL \$103,000,000 for each of fiscal years 2017 through 2021.

(b) Funds appropriated for any fiscal year may remain available for obligation until expended.

(c) Notwithstanding any other provision of law, no funds appropriated under this section for part E of this title may be transferred or reprogrammed for carrying out any activity which is not authorized under such part.

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