

Recommendations on H.R. 4240

The Public Safety and Second Amendment Rights Protection Act of 2015

November 30, 2017

Submitted by SEARCH, The National Consortium for Justice Information and Statistics¹

HR. 4240: Notable to SEARCH, the Public Safety and Second Amendment Rights Protection Act would:

- Reauthorize the National Criminal History Improvement Program (NCHIP), and appropriate \$100 million in grants for FY2018-FY2021 to NCHIP;
- Require the Attorney General, in coordination with other states, to establish a four year implementation plan to ensure maximum coordination and automation of the reporting or making available of records to the National Instant Criminal Background Check System (NICS);
- Establish penalties via the Byrne Justice Assistance Grant (Byrne JAG) Program for noncompliance with the implementation plan; and
- Authorize grants to states for improvement of coordination and automation of NICS record reporting. Importantly, eligibility for grants is dependent on state certification to the Attorney General that the state has implemented a relief from disabilities program.

Background: There are two Federal grant programs that have funded state improvements to their criminal history record repositories, generally, and the NICS specifically: NCHIP and the NICS Act Record Improvement Program (NARIP).

- NCHIP funding allows states to focus on a *broad range* of criminal history improvement activities that are unique and specific to each state. **All states qualify for funding under NCHIP.** NCHIP is important because it funds more than just compliance with NICS, it allows states to improve their criminal history records that play a vital role in a range of criminal justice and civil decisionmaking. Those records are critical for conducting effective law enforcement investigations, properly sentencing offenders, making decisions to protect our nation's vulnerable populations, enhancing homeland security decisions, developing strategies to help former offenders reenter society successfully, as well as firearms transaction decisions.
- NARIP funding focuses specifically on improving information sharing with NICS for firearms purchases. **To date, NARIP funds are only available to 31 states.** While NARIP has been a successful program, due to its requirements,² only about half of the states qualify for the funding.

SEARCH Concerns:

- The Public Safety and Second Amendment Rights Protection Act would reauthorize NCHIP, but it would significantly alter this long-standing grant program by applying the NARIP eligibility requirements to NCHIP. According to this bill, to be eligible for NCHIP funding, a state would now be required to have a relief from disabilities program. This requirement would make close to half of the states ineligible for grant funding to improve their criminal history records for a broad range of decisionmaking.
- Additionally, the Byrne JAG penalties included in this legislation will impact critical, yet unrelated justice programs.

SEARCH Recommendations:

- SEARCH applauds efforts to reauthorize NCHIP, but urges the bill's sponsor to reauthorize the NCHIP program as currently structured, so that states will continue to receive funding for broader criminal history improvement efforts, and that NCHIP not be modified to now meet the requirements of NARIP.
- SEARCH further recommends a separate reauthorization for NARIP that will allow states to continue to focus on improving their contributions to the NICS.
- SEARCH recommends compliance with grant programs to be based on incentives within the relevant grant program (such as priority funding), and not penalties levied on other, unrelated justice grant programs, such as Byrne JAG.

If you have any questions, please contact Melissa Nee (melissa@search.org).

¹ SEARCH, The National Consortium for Justice Information and Statistics, is a nonprofit membership organization created by and for the states. SEARCH's Governor-appointed, dues-paying Members from the states and territories have the responsibility, among other things, to oversee both the National Criminal History Improvement Program (NCHIP) and the National Instant Criminal Background Check System (NICS) Act Record Improvement Program (NARIP) within their states.

² NARIP has two main requirements: States must 1) establish a process where those adjudicated as "mentally defective" can seek to reinstate their right to purchase a firearm, and 2) comply with a process to estimate the number of NICS disqualifying records they maintain.