

OUR LADY OF PEACE ACT

OCTOBER 15, 2002.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 4757]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 4757) to improve the national instant criminal background check system, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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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 “Our Lady of Peace Act”.

**SEC. 2. FINDINGS.**

The Congress finds the following:

(1) Since 1994, more than 689,000 individuals have been denied a gun for failing a background check.

(2) States that fail to computerize their criminal and mental illness records are the primary cause of delays for background checks. Helping States automate their records will reduce delays for law-abiding gun owners.

(3) 25 States have automated less than 60 percent of their felony criminal conviction records.

(4) 33 States do not automate or share disqualifying mental health records.

(5) In 13 States, domestic violence restraining orders are not automated or accessible by the national instant criminal background check system.

(6) In 15 States, no domestic violence misdemeanor records are automated or accessible by the national instant criminal background check system.

## TITLE I—TRANSMITTAL OF RECORDS

### SEC. 101. ENHANCEMENT OF REQUIREMENT THAT FEDERAL DEPARTMENTS AND AGENCIES PROVIDE RELEVANT INFORMATION TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.

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

(1) by inserting “electronically” before “furnish”; and

(2) by adding at the end the following: “The head of each department or agency shall ascertain whether the department or agency has any records relating to any person described in subsection (g) or (n) of section 922 of title 18, United States Code and on being made aware that the department or agency has such a record, shall make the record available to the Attorney General for inclusion in the system to the extent the Attorney General deems appropriate. The head of each department or agency, on being made aware that the basis under which a record was made available under this section does not apply or no longer applies, shall transmit a certification identifying the record (and any name or other relevant identifying information) to the Attorney General for removal from the system. The Attorney General shall notify the Congress on an annual basis as to whether the Attorney General has obtained from each such department or agency the information requested by the Attorney General under this subsection.”.

(b) IMMIGRATION RECORDS.—The Commissioner of the Immigration and Naturalization Service shall cooperate in providing information regarding all relevant records of persons disqualified from acquiring a firearm under Federal law, including but not limited to, illegal aliens, visitors to the United States on student visas, and visitors to the United States on tourist visas, to the Attorney General for inclusion in the national instant criminal background check system.

### SEC. 102. REQUIREMENTS TO OBTAIN WAIVER.

(a) IN GENERAL.—Beginning 5 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 if the State provides at least 95 percent of the information described in subsection (b). The length of such a waiver shall not exceed 5 years.

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

(1) REQUIREMENTS FOR ELIGIBILITY.—The State shall make available the following information established either through its own database or provide information to the Attorney General:

(A) The name of and other relevant identifying information relating to each person disqualified from acquiring a firearm under subsection (g) or (n) of section 922 of title 18, United States Code, and each person disqualified from acquiring a firearm under applicable State law.

(B) 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 transmit a certification identifying the record (and any name or other relevant identifying information) to the Attorney General for removal from the system.

(C) Any information provided to the Attorney General under subparagraph (A) may be accessed only for background check purposes under section 922(t) of title 18, United States Code.

(D) The State shall certify to the Attorney General that at least 95 percent of all information described in subparagraph (A) has been provided to the Attorney General in accordance with subparagraph (A).

(2) APPLICATION TO PERSONS CONVICTED OF MISDEMEANOR CRIMES OF DOMESTIC VIOLENCE.—(A) For purposes of paragraph (1), a person disqualified from acquiring a firearm as referred to in that paragraph includes a person who has been convicted in any court of any Federal, State, or local offense that—

(i) is a misdemeanor under Federal or State law or, in a State that does not classify offenses as misdemeanors, is an offense punishable by imprisonment for a term of 1 year or less (or punishable by only a fine);

(ii) has, as an element of the offense, the use or attempted use of physical force (for example, assault and battery), or the threatened use of a deadly weapon; and

(iii) was committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, parent, or guardian, (for example, the equivalent of “common-law marriage” even if such relationship is not recognized under the law), or a person similarly situated to a spouse, parent, or guardian of the victim (for example, two persons who are residing at the same location in an intimate relationship with the intent to make that place their home would be similarly situated to a spouse).

(B) A person shall not be considered to have been convicted of such an offense for purposes of subparagraph (A) unless—

(i) the person is considered to have been convicted by the jurisdiction in which the proceeding was held;

(ii) the person was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case; and

(iii) in the case of a prosecution for which a person was entitled to a jury trial in the jurisdiction in which the case was tried—

(I) the case was tried by a jury; or

(II) the person knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea, or otherwise.

(C) A person shall not be considered to have been convicted of such an offense for purposes of subparagraph (A) if the conviction has been expunged or set aside, or is an offense for which the person has been pardoned or has had civil rights restored (if the law of the jurisdiction in which the proceedings were held provides for the loss of civil rights upon conviction of such an offense) unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms, and the person is not otherwise prohibited by the law of the jurisdiction in which the proceedings were held from receiving or possessing any firearms.

(3) APPLICATION TO PERSONS WHO HAVE BEEN ADJUDICATED AS A MENTAL DEFECTIVE OR COMMITTED TO A MENTAL INSTITUTION.—

(A) For purposes of paragraph (1), an adjudication as a mental defective occurs when a court, board, commission, or other government entity determines that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease—

(i) is a danger to himself or to others; or

(ii) lacks the mental capacity to contract or manage his own affairs.

(B) The term “adjudicated as a mental defective” includes—

(i) a finding of insanity by a court in a criminal case; and

(ii) a finding that a person is incompetent to stand trial or is not guilty by reason of lack of mental responsibility pursuant to articles 50a and 72b of the Uniform Code of Military Justice (10 U.S.C. 850a, 876b).

(C) EXCEPTIONS.—This paragraph does not apply to—

(i) a person—

(I) in a mental institution for observation; or

(II) voluntarily committed to a mental institution; or

(ii) information protected by doctor-patient privilege.

(4) PRIVACY PROTECTIONS.—For any information provided under the national instant criminal background check system, 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. In the event of a conflict between a provision of this Act and a provision of State law relating to privacy protection, the provision of State law shall control.

(5) STATE AUTHORITY.—Notwithstanding any other provision of this subsection, a State may designate that records transmitted under this subsection shall be used only to determine eligibility to purchase or possess a firearm.

(c) 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 providing that information pursuant to the requirements of such subsection.

**SEC. 103. IMPLEMENTATION GRANTS TO STATES.**

(a) IN GENERAL.—From amounts made available to carry out this section, the Attorney General shall make grants 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 and State and local courts, to establish or upgrade information and identification technologies for firearms eligibility determinations.

(b) USE OF GRANT AMOUNTS.—Grants under this section may only be awarded for the following purposes:

(1) Building databases that are directly related to checks under the national instant criminal background check system (NICS), including court disposition and corrections records.

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

(3) Improving final dispositions of criminal records.

(4) Supplying mental health records to NICS.

(5) Supplying court-ordered domestic restraining orders and records of domestic violence misdemeanors (as defined in section 102 of this Act) for inclusion in NICS.

(c) 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 section shall be liable to the Attorney General for the full amount granted.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$250,000,000 for each of fiscal years 2004, 2005, and 2006.

(e) 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.

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

**SEC. 201. CONTINUING EVALUATIONS.**

(a) EVALUATION REQUIRED.—The Director of the Bureau of Justice Statistics shall study and evaluate the operations of the national instant criminal background check system. Such study and evaluation shall include, but not be limited to, compilations and analyses of the operations and record systems of the agencies and organizations participating in such system.

(b) REPORT ON GRANTS.—Not later than January 31 of each year, the Director shall submit to Congress a report on the implementation of section 102(b).

(c) REPORT ON BEST PRACTICES.—Not later than January 31 of each year, the Director shall submit to Congress, and to each State participating in the National Criminal History Improvement Program, a report of the practices of the States regarding the collection, maintenance, automation, and transmittal of identifying information relating to individuals described in subsection (g) or (n) of section 922 of title 18, United States Code, by the State or any other agency, or any other records relevant to the national instant criminal background check system, that the Director considers to be best practices.

## **TITLE III—GRANTS TO STATE COURTS FOR THE IMPROVEMENT IN AUTOMATION AND TRANSMITTAL OF DISPOSITION RECORDS**

**SEC. 301. GRANTS AUTHORIZED.**

(a) IN GENERAL.—From amounts made available to carry out this section, the Attorney General shall make grants to each State for use by the chief judicial officer

of the State to improve the handling of proceedings related to criminal history dispositions and restraining orders.

(b) USE OF FUNDS.—Amounts granted under this section shall be used by the chief judicial officer only as follows:

(1) For fiscal year 2004, such amounts shall be used to carry out assessments of the capabilities of the courts of the State for the automation and transmission to State and Federal record repositories the arrest and conviction records of such courts.

(2) For fiscal years after 2004, such amounts shall be used to implement policies, systems, and procedures for the automation and transmission to State and Federal record repositories the arrest and conviction records of such courts.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General to carry out this section \$125,000,000 for each of fiscal years 2004, 2005, and 2006.

#### PURPOSE AND SUMMARY

H.R. 4757, the “Our Lady Of Peace Act,” provides States with the tools to comply with the 1968 Gun Control Act by giving States additional funds to automate and share criminal, mental health, and domestic violence restraining orders with the Federal Bureau of Investigation (FBI) National Instant Criminal Background Check System (NICS) database.

Under this legislation, all Federal agencies will transmit relevant records relating to persons disqualified from acquiring a firearm under Federal law to the Attorney General for inclusion in NICS, including all records related to immigration status.

To comply with the grants under this legislation, States will provide more thorough and up-to-date information relating to persons disqualified from acquiring a firearm under Federal law to the Attorney General for inclusion in the NICS. The Attorney General will award grants to States to improve computer systems and ensure accurate reporting, especially with regard to domestic violence and mental health records.

Additionally, the legislation establishes a grant program for State courts to assess and improve handling of proceedings related to criminal history dispositions, and temporary restraining orders, as they relate to disqualification from firearms ownership under State and Federal laws.

#### BACKGROUND AND NEED FOR THE LEGISLATION

In 1998, the Brady Act required the persons holding Federal Firearms Licenses (FFL) to initiate a background check on all persons who attempt to purchase a firearm. The Federal Bureau of Investigation (FBI) established the NICS operation center to enforce the provisions of the Brady Act and to manage, operate, and support NICS.

The NICS mission is to ensure the timely transfer of firearms to individuals who are not specifically prohibited under Federal law and deny the transfer to those who are prohibited from possessing or receiving a firearm.

To conduct a background check, a Federal Firearms Licensee (FFL) calls the National Instant Check System call center and gives the customer service representative the data provided by the customer on a Bureau of Alcohol, Tobacco, and Firearms (ATF) form. The system searches the name in three databases, which include:

- (1) the NICS Index that contains information on individuals who have been:
  - (a) identified specifically as being prohibited from purchasing a firearm;
  - (b) dishonorably discharged from the U.S. military;
  - (c) identified as a U.S. citizen renunciant; or
  - (d) identified as mentally disadvantaged or controlled substance abusers or illegal/unlawful aliens.
- (2) the National Crime Information Center (NCIC) 2000 that contains information on wanted persons, outstanding restraining orders, deported felons, and foreign fugitives.
- (3) the Interstate Identification Index (III), which contains criminal history records.

If there is no match, the transaction will proceed within 30 seconds after the information is entered. Approximately 72 out of every 100 checks are “immediate proceeds,” which means that the firearms transaction may proceed immediately.

If there is a match, the transaction is delayed. The transaction goes into a delay queue where the NICS examiners receive the information and perform the necessary research. In approximately 23 of the 28 delayed transactions a decision is made within 2 hours. The remaining 5 may take days. If the transaction is delayed for more than 3 days, Federal law allows the transaction to proceed before the background check is concluded.

In February and April 2000, the General Accounting Office (GAO) reported the following:

- (1) During a 1-year period, about 72 percent of the requests received a proceed response within minutes and 28 percent were initially delayed of the 28 percent, 23 percent of the checks are concluded within 2 hours and 5 percent any take days.
- (2) While the establishment of the newly created NICS Index database provides centralized access to data that was not previously available to State and local agencies, the Index does not contain all potentially disqualifying records.
- (3) Because State agencies have access to additional data and have a better understanding of State records and laws, they are generally better positioned to perform NICS background checks than the FBI.
- (4) In the first 10 months of the NICS implementation, 2,519 individuals who were sold guns were later determined by the FBI to be prohibited from owning them. These transactions were completed because the FBI had not completed the background checks within 3 business days. GAO stated that according to the FBI officials, these transactions occur primarily due to a lack of arrest dispositions in the automated State criminal history records.

The legislation makes certain findings regarding the current NICS system and requires that states update their systems in those areas using additional Federal grants. The bill finds that states are lacking in the following areas:

- (1) many States have not completely computerized criminal records;
- (2) many do not have a database for involuntary mental commitments; and
- (3) in many States domestic violence crimes and protective orders are not computerized.

Many States have failed to computerize all of their criminal records; however, progress has been made in this area through grant funds provided to the States from the Office of Justice Programs by the National Criminal History Improvement Program (NCHIP). The NCHIP program received \$35 million in FY2001 plus an additional \$8.6 million from general Crime Identification Technology Act (CITA) funds. The Administration has requested \$60 million for this program for FY2003, including \$25 million to improve court records. This legislation provides additional grants to the States to expedite this process, penalizing States for failure to comply by allowing the Attorney General to reduce grant funding.

With regard to computerization of mental health records, the Department of Justice indicates that the information contained in the NICS Index Mental Defectives/Commitments File contains information from the Department of Defense and the Department of Veterans Affairs on persons who have been adjudicated as mentally defective or have been committed to a mental institution. This legislation would require all States to submit records of persons who have been adjudicated as mentally defective or those committed by a court, board, commission, or other authority for mental illness, alcoholism/addiction, or other reasons. Because States generally have laws in place to protect mental health records from disclosure, even to the Federal Government, this legislation will ensure that State privacy laws are not preempted by providing information to NICS.

Fifteen States currently do not enter protection orders into National Crime Information Center (NCIC), possibly because entering these records into the system requires that they have someone on staff 7 days a week to verify them. In many counties, this information is entered by court personnel and the staff are not available at all times. This legislation provides grants to the courts to address this and other problems with reporting dispositions to NICS.

The other problem with domestic violence reporting is that domestic violence is defined differently by many States than it is under the Brady Act. Many States do not label certain convictions as domestic violence convictions and other States have more expansive definitions of domestic violence than are required under Brady Act. This creates problems with computerizing and reporting and these records often require followup phone calls. This legislation codifies the definition of a "misdemeanor crime of domestic violence."

#### HEARINGS

No hearings were held on H.R. 4757.

## COMMITTEE CONSIDERATION

On July 23, 2002, the Committee on the Judiciary met in open session and ordered favorably reported the bill, H.R. 4757, with an amendment, by a recorded vote of 30 to 2, a quorum being present.

## VOTE OF THE COMMITTEE

Final Passage. The motion to report favorably the bill H.R. 4757, was adopted. The motion to report was agreed to by a rollcall vote of 30–2.

## ROLLCALL NO. 1

	Ayes	Nays	Present
Mr. Hyde .....			
Mr. Gekas .....	X		
Mr. Coble .....	X		
Mr. Smith (Texas) .....	X		
Mr. Gallegly .....	X		
Mr. Goodlatte .....	X		
Mr. Chabot .....			
Mr. Barr .....	X		
Mr. Jenkins .....		X	
Mr. Cannon .....	X		
Mr. Graham .....	X		
Mr. Bachus .....	X		
Mr. Hostettler .....		X	
Mr. Green .....	X		
Mr. Keller .....	X		
Mr. Issa .....	X		
Ms. Hart .....	X		
Mr. Flake .....	X		
Mr. Pence .....			
Mr. Forbes .....	X		
Mr. Conyers .....	X		
Mr. Frank .....	X		
Mr. Berman .....	X		
Mr. Boucher .....			
Mr. Nadler .....	X		
Mr. Scott .....	X		
Mr. Watt .....	X		
Ms. Lofgren .....	X		
Ms. Jackson Lee .....	X		
Ms. Waters .....	X		
Mr. Meehan .....	X		
Mr. Delahunt .....			
Mr. Wexler .....	X		
Ms. Baldwin .....	X		
Mr. Weiner .....	X		
Mr. Schiff .....	X		
Mr. Sensenbrenner, Chairman .....	X		
Total .....	30	2	

## COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports 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.

## PERFORMANCE GOALS AND OBJECTIVES

H.R. 4757, the “Our Lady of Peace Act” authorizes funding in the amount of \$375 million for each of FY 2003, 2004, and 2005. The legislation requires evaluation of the NICS system and also a compilation of the best practices of States in collection, maintenance and transmittal of criminal history records.

## NEW BUDGET AUTHORITY AND TAX EXPENDITURES

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

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 4757, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, August 21, 2002.*

Hon. F. JAMES SENSENBRENNER, Jr., *Chairman,*  
*Committee on the Judiciary,*  
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4757, the Our Lady of Peace Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz, who can be reached at 226-2860.

Sincerely,

DAN L. CRIPPEN, *Director.*

Enclosure

cc: Honorable John Conyers, Jr.  
Ranking Member

*H.R. 4757—Our Lady of Peace Act.*

## SUMMARY

H.R. 4757 would authorize the appropriation of \$250 million for each of the fiscal years 2004 through 2006 for the Attorney General to make grants to States to improve criminal databases used to determine individuals' eligibility to purchase firearms. The bill also would authorize the appropriation of \$125 million annually over the 2004–2006 period for grants to State courts to improve the automation and transmittal of criminal records. In addition, H.R. 4757 would direct the Attorney General to prepare several annual reports on the progress of Federal and State agencies toward improving criminal records.

Assuming appropriation of the authorized amounts, CBO estimates that implementing H.R. 4757 would cost \$957 million over

the 2003–2007 period. This legislation would not affect direct spending or receipts, so pay-as-you-go procedures would not apply.

H.R. 4757 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would benefit State and local governments.

#### ESTIMATED COST TO THE FEDERAL GOVERNMENT

For this estimate, CBO assumes that the amounts authorized in H.R. 4757 will be appropriated by the start of each fiscal year and that outlays will follow historical spending patterns for similar grant programs. We estimate that the annual reports required by the bill would cost less than \$500,000 annually, subject to the availability of appropriations. The estimated budgetary impact of H.R. 4757 is shown in the following table. The costs of this legislation fall within budget function 750 (administration of justice).

By Fiscal Year, in Millions of Dollars

	2003	2004	2005	2006	2007
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Authorization Level	0	375	375	375	0
Estimated Outlays	0	83	225	356	293

#### PAY-AS-YOU-GO CONSIDERATIONS:

None.

#### ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 4757 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act. The bill would benefit State and local governments by establishing grant programs to establish or upgrade information collection systems for determining individuals' eligibility to purchase firearms and to improve court procedures related to the disposition of criminal history records and restraining orders. Any costs incurred to receive or administer such grants would be voluntary.

#### ESTIMATED IMPACT ON THE PRIVATE-SECTOR

H.R. 4757 contains no new private-sector mandates as defined in UMRA.

#### ESTIMATE PREPARED BY:

Federal Costs: Mark Grabowicz (226–2860)  
 Impact on State, Local, and Tribal Governments: Angela Seitz  
 (225–3220)  
 Impact on the Private Sector: Paige Piper/Bach (226–2949)

#### ESTIMATE APPROVED BY:

Robert A. Sunshine  
 Assistant Director for Budget Analysis

## CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, section 8, clause 1 and 18 of the Constitution.

## SECTION-BY-SECTION ANALYSIS AND DISCUSSION

*Section 1. Short Title.*

This Act may be cited as the “Our Lady of Peace Act.”

*Section 2. Findings.*

The legislation makes the following findings:

- (1) 95 percent of background checks are completed within 2 hours; 72 percent within several minutes, while the remaining 5 percent are 20 times more likely to uncover a prohibited buyer;
- (2) Since 1994, more than 689,000 individuals have been denied a gun for failing a background check;
- (3) States that fail to computerize their criminal and mental illness records are the primary cause of delays for background checks. Helping States automate their records will reduce delays for law abiding gun owners.
- (4) 25 States have automated less than 60 percent of their felony criminal conviction records.
- (5) 33 States do not automate or share disqualifying mental health records.
- (6) In 13 States, domestic violence restraining orders are not automated or accessible by NICS.
- (7) In 15 States, no domestic violence misdemeanor records are automated or accessible by NICS.

*Section 101. Enhancement of Requirement That Federal Departments and Agencies Provide Relevant Information to the National Instant Criminal Background Check System.*

This section requires Federal agencies to transmit relevant records related to persons disqualified under the 1968 Gun Control Act to possess a firearm. Specifically, the Commissioner of the INS shall make any relevant records available to the Attorney General for inclusion in NICS.

*Section 102. Transmittal of State Records to the National Instant Criminal Background Check System.*

This section requires the States to make all relevant information available regarding persons who are disqualified from possessing a firearm under Federal law. States who choose to obtain grants under this program must certify that it has provided at least 95 percent of the information regarding disqualification in its possession.

This section also clarifies the meaning of the domestic violence conviction disqualification in current law based on the definition currently used by the NICS system and contained in the Code of Federal Regulations.

*Section 103. Transmittal of State Mental Health Records to the National Instant Criminal Background Check System.*

This section requires that States who participate in this program provide relevant information regarding persons who have been adjudicated as mental defective or committed to a mental institution to the Attorney General for inclusion in NICS.

This section clarifies the definition of mental defective and also clarifies that this section does not apply to persons in a mental institution for observation or voluntarily committed to a mental institution.

Nothing in this section or this act is intended to preempt State medical privacy laws. The Attorney General is required to work with the States, local law enforcement, and the mental health community to ensure State privacy laws are protected and specific protocols for protection of these rights are put in place in transmitting this information.

*Section 104. Incentive Grants for Compliance.*

This section provides an additional incentive grant for States who comply with the requirements and provide 95 percent of the necessary information to the Attorney General for inclusion in NICS.

*Section 105. Implementation Grants to States.*

This section provides for the distribution of grants to States to allow them to implement the provisions of this legislation. It also specifies the purposes that the States may use grants for under this program. States must specify what project grant funds are used for and how much will be used.

The legislation authorizes \$250 million for grants for each of FY 2003, 2004, and 2005. This section also specifies that all background checks performed under the NICS system will be considered law enforcement checks.

*Section 201. Continuing Evaluations.*

The Director of the Bureau of Justice Statistics is authorized to conduct studies and evaluations of the operations of NICS. Such studies and evaluations shall include compilations and analyses of the operations and record systems of participants in the NICS system. This section also requires the Director to compile a report annually of the best practices of the States regarding the collection, maintenance, automation, and transmittal of Criminal History records to be submitted to the Congress and provided to the States.

*Section 301. Grants Authorized.*

This section authorizes appropriations in the amount of \$125 million to establish a program to allow grants to State courts to assess and improve handling of proceedings related to criminal history dispositions and temporary restraining orders as they relate to disqualification from firearms ownership under State and Federal law for FY 2004, 2005, and 2006. The grants would be provided to perform assessments of records systems in place and provide funds to improve the automation and transmission of such records.

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 (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

**SECTION 103 OF THE BRADY HANDGUN VIOLENCE PREVENTION ACT**

**SEC. 103. NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.**

(a) \* \* \*

\* \* \* \* \*

(e) ADMINISTRATIVE PROVISIONS.—

(1) AUTHORITY TO OBTAIN OFFICIAL INFORMATION.—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. On request of the Attorney General, the head of such department or agency shall *electronically* furnish such information to the system. *The head of each department or agency shall ascertain whether the department or agency has any records relating to any person described in subsection (g) or (n) of section 922 of title 18, United States Code and on being made aware that the department or agency has such a record, shall make the record available to the Attorney General for inclusion in the system to the extent the Attorney General deems appropriate. The head of each department or agency, on being made aware that the basis under which a record was made available under this section does not apply or no longer applies, shall transmit a certification identifying the record (and any name or other relevant identifying information) to the Attorney General for removal from the system. The Attorney General shall notify the Congress on an annual basis as to whether the Attorney General has obtained from each such department or agency the information requested by the Attorney General under this subsection.*

\* \* \* \* \*

MARKUP TRANSCRIPT  
**BUSINESS MEETING**  
**TUESDAY, JULY 23, 2002**

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC.*

The Committee met, pursuant to notice, at 10:00 a.m., in Room 2141, Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr. [Chairman of the Committee] presiding.

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Now, pursuant to notice, I call up the bill H.R. 4757, the "Our Lady of Peace Act," for purposes of markup and move its favorable recommendation to the House. Without objection, the bill will be considered as read and open for amendment at any point.

[The bill, H.R. 4757, follows:]

107TH CONGRESS  
2D SESSION

# H. R. 4757

To improve the national instant criminal background check system, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 16, 2002

Mrs. MCCARTHY of New York (for herself, Mr. DINGELL, Mr. KIRK, Mr. CONYERS, Mr. MORAN of Virginia, Mr. GILMAN, Mrs. TAUSCHER, Mrs. MORELLA, Mr. ANDREWS, Mrs. ROUKEMA, Mr. PASCRELL, Mr. CASTLE, Mr. CAPUANO, Mr. FRANK, Ms. NORTON, Mr. MOORE, Ms. BROWN of Florida, Ms. WOOLSEY, Mr. BLAGOJEVICH, Ms. CARSON of Indiana, Ms. SCHAKOWSKY, Mr. LANGEVIN, Mr. MEEHAN, Mr. NADLER, Mrs. LOWEY, Mr. DAVIS of Illinois, Mr. HOFFEL, Ms. RIVERS, Mr. WEXLER, Mr. MCGOVERN, Mr. WAXMAN, Mr. ENGEL, Mr. FORD, Ms. LOFGREN, Mr. HASTINGS of Florida, Mr. ISRAEL, Mr. WEINER, Ms. ROYBAL-ALLARD, Ms. WATERS, Ms. JACKSON-LEE of Texas, Mr. TOWNS, Mr. RUSH, Mr. CLAY, Mr. ROTHMAN, Ms. DELAURO, and Mr. SHERMAN) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To improve the national instant criminal background check system, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Our Lady of Peace  
5 Act”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds the following:

3 (1) Since 1994, more than 689,000 individuals  
4 have been denied a gun for failing a background  
5 check.

6 (2) States that fail to computerize their crimi-  
7 nal and mental illness records are the primary cause  
8 of delays for background checks. Helping States  
9 automate their records will reduce delays for law-  
10 abiding gun owners.

11 (3) 25 States have automated less than 60 per-  
12 cent of their felony criminal conviction records.

13 (4) 33 States do not automate or share dis-  
14 qualifying mental health records.

15 (5) In 13 States, domestic violence restraining  
16 orders are not automated or accessible by the na-  
17 tional instant criminal background check system.

18 (6) In 15 States, no domestic violence mis-  
19 demeanor records are automated or accessible by the  
20 national instant criminal background check system.

1           **TITLE I—TRANSMITTAL OF**  
2                                   **RECORDS**

3 **SEC. 101. ENHANCEMENT OF REQUIREMENT THAT FED-**  
4                                   **ERAL DEPARTMENTS AND AGENCIES PRO-**  
5                                   **VIDE RELEVANT INFORMATION TO THE NA-**  
6                                   **TIONAL INSTANT CRIMINAL BACKGROUND**  
7                                   **CHECK SYSTEM.**

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

11                   (1) by striking “may” and inserting “shall, not  
12 less frequently than quarterly,”;

13                   (2) by inserting “electronically” before “fur-  
14 nish”; and

15                   (3) by adding at the end the following: “The  
16 head of each such department or agency shall ascer-  
17 tain whether the department or agency has any  
18 records on any person described in any paragraph of  
19 section 922(g), title 18, United States Code, and on  
20 being made aware that the department or agency of  
21 such a record, shall transmit a copy of the record to  
22 the Attorney General for inclusion in the system.  
23 The Attorney General shall notify the Congress on  
24 a quarterly basis as to whether the Attorney General  
25 has obtained from each such department or agency

1 the information required to be provided to the Attor-  
2 ney General under this subsection.”.

3 (b) IMMIGRATION RECORDS.—The Commissioner of  
4 the Immigration and Naturalization Service shall imme-  
5 diately transmit all relevant records of persons disqualified  
6 from acquiring a firearm under Federal law, including but  
7 not limited to, illegal aliens, visitors to the United States  
8 on student visas, and visitors to the United States on tour-  
9 ist visas, to the Attorney General for inclusion in the na-  
10 tional instant criminal background check system.

11 **SEC. 102. TRANSMITTAL OF STATE RECORDS TO THE NA-**  
12 **TIONAL INSTANT CRIMINAL BACKGROUND**  
13 **CHECK SYSTEM.**

14 (a) IN GENERAL.—A State that does not meet the  
15 requirements of this section shall be subject to section  
16 104.

17 (b) REQUIREMENTS.—The requirements of this sec-  
18 tion are as follows:

19 (1) The State shall provide the name of and  
20 other relevant identifying information relating to  
21 persons disqualified from acquiring a firearm under  
22 Federal or State law to the Attorney General for in-  
23 clusion in the national instant criminal background  
24 check system.

1           (2) Any information provided to the Attorney  
2           General under paragraph (1) may be accessed only  
3           by personnel legally entitled to access such system.

4           (3) The State shall certify to the Attorney Gen-  
5           eral that at least 95 percent of all information under  
6           paragraph (1) has been provided to the Attorney  
7           General under paragraph (1).

8 **SEC. 103. TRANSMITTAL OF STATE MENTAL HEALTH**  
9                                   **RECORDS TO THE NATIONAL INSTANT CRIMI-**  
10                                   **NAL BACKGROUND CHECK SYSTEM.**

11           (a) IN GENERAL.—A State that does not meet the  
12           requirement of this section shall be subject to section 104.

13           (b) REQUIREMENT.—The requirement of this section  
14           is that the State shall provide the name of and other rel-  
15           evant identifying information relating to persons adju-  
16           dicated as mental defective or those committed to mental  
17           institutions to the Attorney General for inclusion in the  
18           national instant criminal background check system.

19           (c) DEFINITION.—For purposes of subsection (b), an  
20           adjudication as a mental defective occurs when a court,  
21           board, commission, or other lawful authority determines  
22           that an individual is mentally retarded or of marked sub-  
23           normal intelligence, mentally ill, or mentally incompetent,  
24           including—

1 (1) defendants in criminal cases adjudicated as  
2 not guilty by reason of insanity, or found incom-  
3 petent to stand trial;

4 (2) individuals found to be a danger to others  
5 as a result of a mental disorder or illness;

6 (3) individuals involuntarily committed to a  
7 mental institution by a court, board, commission, or  
8 other authority;

9 (4) individuals committed for reasons other  
10 than mental defectiveness or mental illness; and

11 (5) individuals committed within the past 5  
12 years to a mental institution—

13 (A) for treatment of alcoholism; or

14 (B) as an unlawful user of, or person ad-  
15 dicted to, any controlled substance (as defined  
16 in section 102 of the Controlled Substances  
17 Act), provided that such unlawful use has oc-  
18 curred recently enough to indicate that the indi-  
19 vidual is actively engaged in such conduct.

20 (d) EXCEPTION.—This section does not apply to—

21 (1) a person—

22 (A) in a mental institution for observation;

23 or

24 (B) voluntarily committed to a mental in-  
25 stitution; or

1           (2) information protected by doctor-patient  
2     privilege.

3           (e) PRIVACY PROTECTIONS.—The Attorney General  
4 shall work with State and local law enforcement and the  
5 mental health community to establish protocols for pro-  
6 tecting the privacy of information provided in this section.  
7 Such protocols shall be in addition to any other applicable  
8 laws for protecting the privacy of such information.

9           (e) COMMENCEMENT OF TRANSMITTAL.—Notwith-  
10 standing subsection (c), the State shall begin to comply  
11 with subsection (b) not later than January 1, 2005. If  
12 such compliance occurs before the establishment of proto-  
13 cols under subsection (c), the Attorney General shall en-  
14 sure that any information provided under this section may  
15 be accessed only by personnel authorized by law to access  
16 the national instant criminal background check system.

17 **SEC. 104. PENALTIES FOR NONCOMPLIANCE.**

18           (a) ATTORNEY GENERAL REPORT.—Not later than  
19 January 31 of each year, the Attorney General shall sub-  
20 mit to the Committee on the Judiciary of the Senate and  
21 the Committee on the Judiciary of the House of Rep-  
22 resentatives a report on the progress of States in auto-  
23 mating the databases containing information under sec-  
24 tions 102 and 103 and in providing that information pur-  
25 suant to the requirements of sections 102 and 103.

1 (b) PENALTIES.—

2 (1) AFTER THREE YEARS.—During the period  
3 beginning three years after the date of the enact-  
4 ment of this Act and ending five years after the date  
5 of the enactment of this Act, the Attorney General  
6 may (but need not), for any State that fails to pro-  
7 vide under sections 102 and 103 at least 60 percent  
8 of the information required to be provided under  
9 those sections, decline to allocate to that State up to  
10 5 percent of the amounts that would otherwise be al-  
11 located to that State under section 506 of the Omni-  
12 bus Crime Control and Safe Streets Act of 1968 (42  
13 U.S.C. 3756).

14 (2) AFTER FIVE YEARS.—After the expiration  
15 of the period referred to in paragraph (1), the Attor-  
16 ney General shall, for any State that fails to provide  
17 under sections 102 and 103 at least 95 percent of  
18 the information required to be provided under those  
19 sections, decline to allocate to that State 10 percent  
20 of the amounts that would otherwise be allocated to  
21 that State under section 506 of the Omnibus Crime  
22 Control and Safe Streets Act of 1968 (42 U.S.C.  
23 3765).

24 (3) WAIVER BY ATTORNEY GENERAL.—The At-  
25 torney General may waive the applicability of para-

1 graph (2) to a State if that State provides compel-  
2 ling evidence of its inability to meet the require-  
3 ments of sections 102 and 103.

4 (c) REALLOCATION.—Any funds that are not allo-  
5 cated for failure to comply with the requirements of sub-  
6 section (b) shall be reallocated to States that meet such  
7 requirements.

8 **SEC. 105. IMPLEMENTATION GRANTS TO STATES.**

9 (a) IN GENERAL.—From amounts made available to  
10 carry out this section, the Attorney General shall make  
11 grants to each State, in a manner consistent with the na-  
12 tional criminal history improvement program, which shall  
13 be used by the State, in conjunction with units of local  
14 government and State and local courts, to establish or up-  
15 grade information and identification technologies for fire-  
16 arms eligibility determinations.

17 (b) USE OF GRANT AMOUNTS.—Grants under this  
18 section may only be awarded for the following purposes:

19 (1) Building databases that are directly related  
20 to checks under the national instant criminal back-  
21 ground check system (NICS), including court dis-  
22 position and corrections records.

23 (2) Assisting States in establishing or enhance-  
24 ing their own capacities to perform NICS back-  
25 ground checks.

1           (3) Improving final dispositions of criminal  
2 records.

3           (4) Supplying mental health records to NICS.

4           (5) Supplying domestic violence restraining or-  
5 ders and temporary restraining orders for inclusion  
6 in NICS.

7       (c) CONDITION.—As a condition of receiving a grant  
8 under this section, a State shall specify the projects for  
9 which grant amounts will be used, and shall use such  
10 amounts only as specified. A State that violates this sec-  
11 tion shall be liable to the Attorney General for the full  
12 amount granted.

13       (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
14 authorized to be appropriated to carry out this section  
15 \$250,000,000 for each of fiscal years 2003, 2004, and  
16 2005.

17 **TITLE II—FOCUSING FEDERAL**  
18 **ASSISTANCE ON THE IM-**  
19 **PROVEMENT OF RELEVANT**  
20 **RECORDS**

21 **SEC. 201. CONTINUING EVALUATIONS.**

22       (a) EVALUATION REQUIRED.—The Director of the  
23 Bureau of Justice Statistics shall study and evaluate the  
24 operations of the national instant criminal background  
25 check system. Such study and evaluation shall include, but

1 not be limited to, compilations and analyses of the oper-  
2 ations and record systems of the agencies and organiza-  
3 tions participating in such system.

4 (b) REPORT ON GRANTS.—Not later than January  
5 31 of each year, the Director shall submit to Congress  
6 a report on the implementation of sections 102 and 103  
7 of this Act.

8 (c) REPORT ON BEST PRACTICES.—Not later than  
9 January 31 of each year, the Director shall submit to Con-  
10 gress, and to each State participating in the National  
11 Criminal History Improvement Program, a report of the  
12 practices of the States regarding the collection, mainte-  
13 nance, automation, and transmittal of identifying informa-  
14 tion relating to individuals described in section 922(g) of  
15 title 18, United States Code, by the State or any other  
16 agency, or any other records relevant to the national in-  
17 stant criminal background check system, that the Director  
18 considers to be best practices.

1 **TITLE III—GRANTS TO STATE**  
2 **COURTS FOR THE IMPROVE-**  
3 **MENT IN AUTOMATION AND**  
4 **TRANSMITTAL OF DISPOSI-**  
5 **TION RECORDS**

6 **SEC. 301. GRANTS AUTHORIZED.**

7 (a) IN GENERAL.—From amounts made available to  
8 carry out this section, the Attorney General shall make  
9 grants to each State for use by the chief judicial officer  
10 of the State to improve the handling of proceedings related  
11 to criminal history dispositions and temporary restraining  
12 orders as they relate to disqualification from firearms  
13 ownership under State and Federal laws.

14 (b) USE OF FUNDS.—Amounts granted under this  
15 section shall be used by the chief judicial officer only as  
16 follows:

17 (1) For fiscal year 2003, such amounts shall be  
18 used to carry out assessments of the capabilities of  
19 the courts of the State for the automation and  
20 transmission to State and Federal record reposi-  
21 tories the arrest and conviction records of such  
22 courts to the extent relevant to disqualification from  
23 firearms ownership under State and Federal laws.

24 (2) For fiscal years after 2003, such amounts  
25 shall be used to implement policies, systems, and

1 procedures for the automation and transmission to  
2 State and Federal record repositories the arrest and  
3 conviction records of such courts to the extent rel-  
4 evant to disqualification from firearms ownership  
5 under State and Federal laws.

6 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
7 are authorized to be appropriated to the Attorney General  
8 to carry out this section \$125,000,000 for each of fiscal  
9 years 2003, 2004, and 2005.

○

Chairman SENSENBRENNER. And the Chair recognizes himself for 5 minutes to explain the bill.

This bill was proposed by Representative McCarthy and Representative Dingell, focusing on some legitimate failings in our current National Instant Check System for gun purchases. However, as originally drafted, the legislation's approach to these issues created concerns regarding protections for federalism and privacy. I have worked with both the authors to put forth a substitute amendment which addresses these concerns and which has broad bipartisan support.

The legislation makes certain findings regarding the current NICS system and the failure of States to provide current information regarding individuals who may be disqualified from purchasing a firearm. The bill finds that States are lacking in the following areas: Many have not completely computerized their criminal records. Many do not have a database for involuntary mental commitments. And in many States, domestic violence crimes and protective orders are not computerized.

These failings by the States to provide complete and accurate information to allow for thorough background checks under NICS has resulted in delays in processing background checks for firearm purchases. Helping States to improve their recordkeeping and to automate their systems will help reduce delays for law-abiding gun purchasers.

Many States and county courthouses continue to resist pressure to automate their records, either because it's a difficult task or because it will require funds they do not have. This legislation provides additional funds for the States to update and improve their records.

The original legislation penalized the States for not participating in the program. The substitute I am offering today removes the penalties in favor of incentive grants. Essentially, the substitute removes the stick in favor of a carrot. States that chose to take advantage of the funds offered to implement these changes will receive additional funds to keep their records up-to-date.

The incentive grant allows the Attorney General to waive all matching requirements for grants provided to a State under the National Criminal History Improvement Program. If after 5 years the State has met the requirements of this legislation by automating its systems to make records available for NICS checks, it will receive additional funds in the form of a waiver of the required State match for participation in NCHIP for 5 years. This will allow a participant State to continue to keep its own criminal history records up-to-date for other law enforcement purposes.

The legislation provides funds to help the States ensure that firearms do not fall into the wrong hands and has the added bonus of helping States improve their criminal history databases.

I urge all Members to support the substitute and to report the bill favorably.

The Chair recognizes the gentleman from Michigan, Mr. Conyers. Mr. CONYERS. Thank you, Mr. Chairman.

Members, a major problem with the instant check system has been the incomplete records of State and local governments. Our Federal law requires that a gun sale proceed after 3 business days even if a background check is inconclusive. A number of felons, fu-

gitives, stalkers receive guns that we later have to go back and retrieve, if we can.

Now, 95 percent of all background checks are completed within 24 hours. Because of incomplete records, the remaining 5 percent take more time. Those 5 percent are 20 times more likely to be the application by a felon, fugitive, or stalker.

I asked the GAO to study this, with particular reference to domestic violence. And I learned that nearly 3,000 convicted batterers, child abusers, were able to purchase firearms between the years 1998 and 2001, notwithstanding Federal laws designed to prevent this. Nearly 10 percent of the annual homicides involved the killing of a spouse or partner, almost all of the victims women and most were killed by a firearm.

Now, one obvious part of the solution is to allow more time for background checks. But another part of the solution is this bill. It will provide incentives for States to provide more complete records to the Federal Government. This will result in faster and smarter background checks.

My thanks to my colleague from New York, Ms. McCarthy, the dean of the House, John Dingell, and others who have worked with us on this bill. And I think their willingness to take constructive suggestions have made this a better piece of legislation, which I recommend to the Committee.

Thank you.

Chairman SENSENBRENNER. The gentleman yields back the balance of his time.

Are there any amendments?

The Chair has an amendment in the nature of a substitute. The clerk will report the amendment.

The CLERK. Amendment in the nature of a substitute to H.R. 4757, offered by Mr. Sensenbrenner. Strike all after the enacting clause and insert the following: Section 1, short title. This act may be cited—

Chairman SENSENBRENNER. Without objection, the amendment in the nature of a substitute is considered as read.

[The amendment follows:]

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 4757  
OFFERED BY MR. SENSENBRENNER**

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Our Lady of Peace  
3 Act”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds the following:

6 (1) Since 1994, more than 689,000 individuals  
7 have been denied a gun for failing a background  
8 check.

9 (2) States that fail to computerize their crimi-  
10 nal and mental illness records are the primary cause  
11 of delays for background checks. Helping States  
12 automate their records will reduce delays for law-  
13 abiding gun owners.

14 (3) 25 States have automated less than 60 per-  
15 cent of their felony criminal conviction records.

16 (4) 33 States do not automate or share dis-  
17 qualifying mental health records.

1           (5) In 13 States, domestic violence restraining  
2 orders are not automated or accessible by the na-  
3 tional instant criminal background check system.

4           (6) In 15 States, no domestic violence mis-  
5 demeanor records are automated or accessible by the  
6 national instant criminal background check system.

7           **TITLE I—TRANSMITTAL OF**  
8           **RECORDS**

9           **SEC. 101. ENHANCEMENT OF REQUIREMENT THAT FED-**  
10           **ERAL DEPARTMENTS AND AGENCIES PRO-**  
11           **VIDE RELEVANT INFORMATION TO THE NA-**  
12           **TIONAL INSTANT CRIMINAL BACKGROUND**  
13           **CHECK SYSTEM.**

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

17           (1) by inserting “electronically” before “fur-  
18 nish”; and

19           (2) by adding at the end the following: “The  
20 head of each department or agency shall ascertain  
21 whether the department or agency has any records  
22 relating to any person described in subsection (g) or  
23 (n) of section 922 of title 18, United States Code  
24 and on being made aware that the department or  
25 agency has such a record, shall make the record

1 available to the Attorney General for inclusion in the  
2 system to the extent the Attorney General deems ap-  
3 propriate. The head of each department or agency,  
4 on being made aware that the basis under which a  
5 record was made available under this section does  
6 not apply or no longer applies, shall transmit a cer-  
7 tification identifying the record (and any name or  
8 other relevant identifying information) to the Attor-  
9 ney General for removal from the system. The Attor-  
10 ney General shall notify the Congress on an annual  
11 basis as to whether the Attorney General has ob-  
12 tained from each such department or agency the in-  
13 formation requested by the Attorney General under  
14 this subsection.”.

15 (b) IMMIGRATION RECORDS.—The Commissioner of  
16 the Immigration and Naturalization Service shall cooper-  
17 ate in providing information regarding all relevant records  
18 of persons disqualified from acquiring a firearm under  
19 Federal law, including but not limited to, illegal aliens,  
20 visitors to the United States on student visas, and visitors  
21 to the United States on tourist visas, to the Attorney Gen-  
22 eral for inclusion in the national instant criminal back-  
23 ground check system.

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

2 (a) IN GENERAL.—Beginning 5 years after the date  
3 of the enactment of this Act, a State shall be eligible to  
4 receive a waiver of the 10 percent matching requirement  
5 for National Criminal History Improvement Grants under  
6 the Crime Identification Technology Act of 1988 if the  
7 State provides at least 95 percent of the information de-  
8 scribed in subsection (b). The length of such a waiver shall  
9 not exceed 5 years.

10 (b) ELIGIBILITY OF STATE RECORDS FOR SUBMIS-  
11 SION TO THE NATIONAL INSTANT CRIMINAL BACK-  
12 GROUND CHECK SYSTEM.—

13 (1) REQUIREMENTS FOR ELIGIBILITY.—The  
14 State shall make available the following information  
15 established either through its own database or pro-  
16 vide information to the Attorney General:

17 (A) The name of and other relevant identi-  
18 fying information relating to each person dis-  
19 qualified from acquiring a firearm under sub-  
20 section (g) or (n) of section 922 of title 18,  
21 United States Code, and each person disquali-  
22 fied from acquiring a firearm under applicable  
23 State law.

24 (B) The State, on being made aware that  
25 the basis under which a record was made avail-  
26 able under subparagraph (A) does not apply or

1 no longer applies, shall transmit a certification  
2 identifying the record (and any name or other  
3 relevant identifying information) to the Attor-  
4 ney General for removal from the system.

5 (C) Any information provided to the Attor-  
6 ney General under subparagraph (A) may be  
7 accessed only for background check purposes  
8 under section 922(t) of title 18, United States  
9 Code.

10 (D) The State shall certify to the Attorney  
11 General that at least 95 percent of all informa-  
12 tion described in subparagraph (A) has been  
13 provided to the Attorney General in accordance  
14 with subparagraph (A).

15 (2) APPLICATION TO PERSONS CONVICTED OF  
16 MISDEMEANOR CRIMES OF DOMESTIC VIOLENCE.—

17 (A) For purposes of paragraph (1), a person dis-  
18 qualified from acquiring a firearm as referred to in  
19 that paragraph includes a person who has been con-  
20 victed in any court of any Federal, State, or local of-  
21 fense that—

22 (i) is a misdemeanor under Federal or  
23 State law or, in a State that does not classify  
24 offenses as misdemeanors, is an offense punish-

1           able by imprisonment for a term of 1 year or  
2           less (or punishable by only a fine);

3           (ii) has, as an element of the offense, the  
4           use or attempted use of physical force (for ex-  
5           ample, assault and battery), or the threatened  
6           use of a deadly weapon; and

7           (iii) was committed by a current or former  
8           spouse, parent, or guardian of the victim, by a  
9           person with whom the victim shares a child in  
10          common, by a person who is cohabitating with  
11          or has cohabitated with the victim as a spouse,  
12          parent, or guardian, (for example, the equiva-  
13          lent of “common-law marriage” even if such re-  
14          lationship is not recognized under the law), or  
15          a person similarly situated to a spouse, parent,  
16          or guardian of the victim (for example, two per-  
17          sons who are residing at the same location in  
18          an intimate relationship with the intent to make  
19          that place their home would be similarly situ-  
20          ated to a spouse).

21          (B) A person shall not be considered to have  
22          been convicted of such an offense for purposes of  
23          subparagraph (A) unless—

1 (i) the person is considered to have been  
2 convicted by the jurisdiction in which the pro-  
3 ceeding was held;

4 (ii) the person was represented by counsel  
5 in the case, or knowingly and intelligently  
6 waived the right to counsel in the case; and

7 (iii) in the case of a prosecution for which  
8 a person was entitled to a jury trial in the juris-  
9 diction in which the case was tried—

10 (I) the case was tried by a jury; or

11 (II) the person knowingly and intel-  
12 ligently waived the right to have the case  
13 tried by a jury, by guilty plea, or other-  
14 wise.

15 (C) A person shall not be considered to have  
16 been convicted of such an offense for purposes of  
17 subparagraph (A) if the conviction has been ex-  
18 punged or set aside, or is an offense for which the  
19 person has been pardoned or has had civil rights re-  
20 stored (if the law of the jurisdiction in which the  
21 proceedings were held provides for the loss of civil  
22 rights upon conviction of such an offense) unless the  
23 pardon, expungement, or restoration of civil rights  
24 expressly provides that the person may not ship,  
25 transport, possess, or receive firearms, and the per-

1 son is not otherwise prohibited by the law of the ju-  
2 risdiction in which the proceedings were held from  
3 receiving or possessing any firearms.

4 (3) APPLICATION TO PERSONS WHO HAVE BEEN  
5 ADJUDICATED AS A MENTAL DEFECTIVE OR COM-  
6 MITTED TO A MENTAL INSTITUTION.—

7 (A) For purposes of paragraph (1), an ad-  
8 judication as a mental defective occurs when a  
9 court, board, commission, or other government  
10 entity determines that a person, as a result of  
11 marked subnormal intelligence, or mental ill-  
12 ness, incompetency, condition, or disease—

13 (i) is a danger to himself or to others;

14 or

15 (ii) lacks the mental capacity to con-  
16 tract or manage his own affairs.

17 (B) The term “adjudicated as a mental de-  
18 fective” includes—

19 (i) a finding of insanity by a court in  
20 a criminal case; and

21 (ii) a finding that a person is incom-  
22 petent to stand trial or is not guilty by  
23 reason of lack of mental responsibility pur-  
24 suant to articles 50a and 72b of the Uni-

1 form Code of Military Justice (10 U.S.C.  
2 850a, 876b).

3 (C) EXCEPTIONS.—This paragraph does  
4 not apply to—

5 (i) a person—

6 (I) in a mental institution for ob-  
7 servation; or

8 (II) voluntarily committed to a  
9 mental institution; or

10 (ii) information protected by doctor-  
11 patient privilege.

12 (4) PRIVACY PROTECTIONS.—For any informa-  
13 tion provided under the national instant criminal  
14 background check system, the Attorney General  
15 shall work with States and local law enforcement  
16 and the mental health community to establish regu-  
17 lations and protocols for protecting the privacy of in-  
18 formation provided to the system. In the event of a  
19 conflict between a provision of this Act and a provi-  
20 sion of State law relating to privacy protection, the  
21 provision of State law shall control.

22 (5) STATE AUTHORITY.—Notwithstanding any  
23 other provision of this subsection, a State may des-  
24 ignate that records transmitted under this sub-

1 section shall be used only to determine eligibility to  
2 purchase or possess a firearm.

3 (c) ATTORNEY GENERAL REPORT.—Not later than  
4 January 31 of each year, the Attorney General shall sub-  
5 mit to the Committee on the Judiciary of the Senate and  
6 the Committee on the Judiciary of the House of Rep-  
7 resentatives a report on the progress of States in auto-  
8 mating the databases containing the information described  
9 in subsection (b) and in providing that information pursu-  
10 ant to the requirements of such subsection.

11 **SEC. 103. IMPLEMENTATION GRANTS TO STATES.**

12 (a) IN GENERAL.—From amounts made available to  
13 carry out this section, the Attorney General shall make  
14 grants to each State, in a manner consistent with the na-  
15 tional criminal history improvement program, which shall  
16 be used by the State, in conjunction with units of local  
17 government and State and local courts, to establish or up-  
18 grade information and identification technologies for fire-  
19 arms eligibility determinations.

20 (b) USE OF GRANT AMOUNTS.—Grants under this  
21 section may only be awarded for the following purposes:

22 (1) Building databases that are directly related  
23 to checks under the national instant criminal back-  
24 ground check system (NICS), including court dis-  
25 position and corrections records.

1           (2) Assisting States in establishing or enhance-  
2           ing their own capacities to perform NICS back-  
3           ground checks.

4           (3) Improving final dispositions of criminal  
5           records.

6           (4) Supplying mental health records to NICS.

7           (5) Supplying court-ordered domestic restrain-  
8           ing orders and records of domestic violence mis-  
9           demeanors (as defined in section 102 of this Act) for  
10          inclusion in NICS.

11          (c) **CONDITION.**—As a condition of receiving a grant  
12          under this section, a State shall specify the projects for  
13          which grant amounts will be used, and shall use such  
14          amounts only as specified. A State that violates this sec-  
15          tion shall be liable to the Attorney General for the full  
16          amount granted.

17          (d) **AUTHORIZATION OF APPROPRIATIONS.**—There is  
18          authorized to be appropriated to carry out this section  
19          \$250,000,000 for each of fiscal years 2004, 2005, and  
20          2006.

21          (e) The Federal Bureau of Investigation shall not  
22          charge a user fee for background checks pursuant to sec-  
23          tion 922(t) of title 18, United States Code.

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

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

6 (a) **EVALUATION REQUIRED.**—The Director of the  
7 Bureau of Justice Statistics shall study and evaluate the  
8 operations of the national instant criminal background  
9 check system. Such study and evaluation shall include, but  
10 not be limited to, compilations and analyses of the oper-  
11 ations and record systems of the agencies and organiza-  
12 tions participating in such system.

13 (b) **REPORT ON GRANTS.**—Not later than January  
14 31 of each year, the Director shall submit to Congress  
15 a report on the implementation of section 102(b).

16 (c) **REPORT ON BEST PRACTICES.**—Not later than  
17 January 31 of each year, the Director shall submit to Con-  
18 gress, and to each State participating in the National  
19 Criminal History Improvement Program, a report of the  
20 practices of the States regarding the collection, mainte-  
21 nance, automation, and transmittal of identifying informa-  
22 tion relating to individuals described in subsection (g) or  
23 (n) of section 922 of title 18, United States Code, by the  
24 State or any other agency, or any other records relevant

1 to the national instant criminal background check system,  
2 that the Director considers to be best practices.

3 **TITLE III—GRANTS TO STATE**  
4 **COURTS FOR THE IMPROVE-**  
5 **MENT IN AUTOMATION AND**  
6 **TRANSMITTAL OF DISPOSI-**  
7 **TION RECORDS**

8 **SEC. 301. GRANTS AUTHORIZED.**

9 (a) IN GENERAL.—From amounts made available to  
10 carry out this section, the Attorney General shall make  
11 grants to each State for use by the chief judicial officer  
12 of the State to improve the handling of proceedings related  
13 to criminal history dispositions and restraining orders.

14 (b) USE OF FUNDS.—Amounts granted under this  
15 section shall be used by the chief judicial officer only as  
16 follows:

17 (1) For fiscal year 2004, such amounts shall be  
18 used to carry out assessments of the capabilities of  
19 the courts of the State for the automation and  
20 transmission to State and Federal record reposi-  
21 tories the arrest and conviction records of such  
22 courts.

23 (2) For fiscal years after 2004, such amounts  
24 shall be used to implement policies, systems, and  
25 procedures for the automation and transmission to

1 State and Federal record repositories the arrest and  
2 conviction records of such courts.

3 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
4 are authorized to be appropriated to the Attorney General  
5 to carry out this section \$125,000,000 for each of fiscal  
6 years 2004, 2005, and 2006.

Chairman SENSENBRENNER. The Chair will recognize himself for a brief 5 minutes.

I discussed most of the features of the amendment in the nature of a substitute during the course of my opening statement. Let me state that the major change is that it turns the penalty into an incentive grant to have States bring their criminal justice records up-to-date and compatible with NICS checks. It also addresses some concerns from immigration groups relative to visa information being stored in the records and contains some provisions that mental health advocacy groups were concerned about relative to the privacy of involuntary commitment records.

I believe that this has bipartisan support. It makes a good bill better, and I would hope that it is adopted. And I yield to the gentleman from Michigan.

Mr. CONYERS. Thank you. I merely wanted to concur with the improvements that have been brought to the bill by your substitute. Thank you.

Mr. SCOTT. Mr. Chairman?

Chairman SENSENBRENNER. The Chair yields back the balance of his time.

The gentleman from Virginia, Mr. Scott.

Mr. SCOTT. Move to strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. SCOTT. Mr. Chairman, we have a dual goal in dealing with this issue. One is to provide security, national security, by identifying those who are disqualified from buying firearms. We want to do that with providing as little aggravation to those can lawfully purchase firearms. This bill and the substitute make sure that those disqualified are in fact identified and disqualified.

It has the added advantage of reducing the aggravation to those who can legally purchase firearms. That's why those on both sides of the gun issue support the legislation. It does this by helping States give the Federal Government information so that they can comply with the law. The information collected is information by law that is supposed to be collected already.

I want to thank the sponsors of the bill and, Mr. Chairman, your work in meticulously balancing the legislation so it tracks present law without igniting new debates on gun control. By passing this bill and the substitute, we can increase security and reduce aggravation. I hope that we would support the substitute and the bill.

I yield back.

Mr. HOSTETTLER. Mr. Chairman?

Chairman SENSENBRENNER. For what purpose does the gentleman from Indiana seek recognition?

Mr. HOSTETTLER. Mr. Chairman, I move to strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. HOSTETTLER. Mr. Chairman, I appreciate the opportunity and want to speak on the bill overall and the amendment in the nature of a substitute.

In the findings of the bill, we see that—are stated, since 1994, more than 689,000 individuals have been denied a gun for failing a background check. And we are to believe, which we can't, that there have been 689,000 arrests with a significant portion of that

being followed by indictments or convictions. The reason being is that, in order to get to a period of a purchase of a gun, to go through the instacheck system, you have to have already filled out a form. In that form that has been present for decades, certain information is requested of the potential purchaser, such as a criminal history, history of mental illness, history of domestic violence, and the like.

If they answer affirmatively to any of those questions, then there's no need to do an instacheck system. They fail the process, and they are denied the purchase of a gun.

However, if they falsely fill out that form, they then are subject to the NICS check, and then it is found out from some that they in fact have lied on the form.

Well, they have committed a Federal offense by falsely filling out that form. So the system is not working as such, because we haven't seen that.

It is working to deny, however, hundreds of law-abiding citizens in my District the ability to purchase a gun. For example, they may have the same name as an individual who has been convicted of a crime. They may have a last name or first name that is similar to the name of an individual who has been convicted of a crime or a domestic violence offense. And so the name has been incorrectly put into the database. And so they are denied the purchase of a gun.

And in fact, in the findings, we don't know how many of the 689,000 individuals are actually criminals and how many are actually law-abiding citizens that have been denied purchase of a gun.

It's been long known that gun control laws don't work, because criminals don't follow them. That's why we generally call them criminals.

And it's also been suggested that violent crime is down because of gun control laws like the Brady Act or the so-called assault weapon ban. But in fact, studies have proven that violent crime is down not because some criminals have become more selective in their adherence to certain laws, but because violent criminals are remaining in prison longer and, therefore, not able to repeat.

And, Mr. Chairman, I heard that there has been a coalition—we heard it already this morning—that has been created in support of this bill. While I have received a letter from a group that refers to itself as Americans for Gun Safety, founded by a former board member of Handgun Control, Inc.—he realized that the gun control issue was not working for them politically, so they decided to change their name and keep the same players. They're called Americans for Gun Safety, in support of this bill.

Mr. Chairman, do you know if there is any group that generally opposes such gun control provisions as this who are part of the coalition who support this bill?

Chairman SENSENBRENNER. If the gentleman will yield, I have in my hand a letter from the National Rifle Association supporting the legislation—

Mr. HOSTETTLER. I thank the gentleman.

Chairman SENSENBRENNER.—for which I ask unanimous consent to be inserted in the record. And without objection, it will be inserted in the record.

[The material referred to follows:]



**NATIONAL RIFLE ASSOCIATION OF AMERICA  
INSTITUTE FOR LEGISLATIVE ACTION  
410 FIRST STREET, S.E.  
2ND FLOOR  
WASHINGTON, DC 20003**

July 22, 2002

The Honorable F. James Sensenbrenner, Jr.  
Chairman  
House Judiciary Committee  
2138 RHOB  
Washington, DC 20515

Dear Chairman Sensenbrenner:

We are writing to express our support, with some reservations, for your amendment in the nature of a substitute to H.R. 4757, the "Our Lady of Peace Act," to be marked up by your committee tomorrow.

We know that the amendment that you plan to offer at tomorrow's markup has been the product of spirited and complex negotiations. In particular, we applaud Congressman John Dingell and his staff, as well as you and your staff, for your hard work on this issue.

On balance, the substitute amendment, and particularly the provision permanently prohibiting the FBI from charging a fee for firearms purchase background checks, are an improvement on the current situation and would do no harm to the interests of law-abiding gun owners. We would be very concerned about any changes that would upset that balance.

However, we do have reservations about the lack of penalties for states that fail to provide necessary and relevant records to the National Instant Criminal Background Check System (NICS). We believe the absence of such incentives over the past 9 years is the reason for the flawed state of NICS databases that have burdened honest people while failing to catch dangerous persons such as adjudicated mental incompetent Peter Troy, whose murderous attack on a New York church inspired the introduction of this bill.

We look forward to working with you as this bill moves through the legislative process to address our concerns. If I can be of any assistance, please do not hesitate to call on me personally.

Sincerely,

Chris W. Cox  
Executive Director  
NRA Institute for Legislative Action

Mr. HOSTETTLER. I thank the gentleman.

And seeing that the National Rifle Association and former board members of Handgun Control, Inc. are now supporting the legislation, I appreciate the information and yield back the balance of my time.

Mr. CONYERS. Would the gentleman yield?

Mr. HOSTETTLER. Yes, I will yield.

Mr. CONYERS. I thank the gentleman.

You know, this is another example of the NRA going soft. I mean, for goodness' sake, what are these guys out here for? I mean, here you and the gentleman from Georgia have bills repealing every known gun law, and where are they on this kind of situation, where you're standing up for your constituents who have been denied the right to a gun for 1 or 2 days?

Mr. HOSTETTLER. No, sir. Not only do I not have bills pending that would, in your words, repeal all known gun control laws, but they have been denied for more. They have simply walked out on the purchase of a gun. The gentleman doesn't know what the circumstances under which I'm talking, and I do.

And the simple fact of the matter is that they have been denied, and they don't purchase the gun.

Chairman SENSENBRENNER. The gentleman's time has expired.

Mr. CANNON. Mr. Chairman?

Chairman SENSENBRENNER. The gentleman from Utah, Mr. Cannon.

Mr. CANNON. Thank you, Mr. Chairman. I move to strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. CANNON. Mr. Chairman, I think we generally agree that keeping better and more accessible records of those disqualified by current law from owning a firearm is a good thing. But I've long been concerned about the Department of Justice and other agencies keeping records of law-abiding Americans who pass such background checks even after they have been approved.

In the new era of homeland security and consolidation of information, we all ought to be concerned about this issue, whatever one's view of gun control and second amendment rights might be.

I had planned to introduce language that previously passed this Committee in other legislation as an amendment today. Instead, I would just like to ask you, Mr. Chairman, to work with me on report language clarifying that this bill and the National Instant Check System generally does not encourage or give license to collection, centralization, and retention of information by the Federal Government on law-abiding citizens who are not disqualified from owning a firearm.

Chairman SENSENBRENNER. Does the gentleman yield?

Mr. CANNON. Certainly.

Chairman SENSENBRENNER. Title II of the Brady law, which established the NICS system, requires the destruction of records as soon as practicable after the background check has taken place, thus preventing the NICS system from becoming a backdoor gun registration law.

This bill does not change that provision of the Brady law.

Mr. CANNON. Thank you, Mr. Chairman. I would just point out that in testimony we have heard in this Committee, records are being kept a great deal longer, I think, and I think most Americans would think, are practicable.

Chairman SENSENBRENNER. If the gentleman will yield?

Mr. CANNON. Yes.

Chairman SENSENBRENNER. The Attorney General issued regulations speeding up the destruction of those records, for which he was criticized in some quarters.

Again, this legislation does not speak to the underlying law and the regulations relative to the destruction of records.

Mr. CANNON. Thank you, Mr. Chairman.

Also, there's another pressing issue of inaccurate records that Members should be aware of. These are the records held by the ATF on specialty firearms. Yesterday, Representative Jim Gibbons and I introduced legislation, the Veterans' Heritage Firearms Act, to remedy part of this problem by allowing a re-registration period of these weapons for qualified veterans and their family members.

Many existing specialty firearms were enemy weapons brought back from World War II, Korea, and Vietnam by returning veterans. And these weapons brought back before 1968 have a high monetary and historic value, but are subject to confiscation and destruction by the ATF, usually because of errors and inaccuracies in the ATF's own database, as documented by the inspector general.

I just wanted to take this opportunity to make Members of the Committee aware of these two other important issues of our work together today to improve recordkeeping and keep guns out of the hands of dangerous criminals and those who are otherwise incompetent.

I thank the Chairman for his indulgence, and I yield back the balance of my time.

Chairman SENSENBRENNER. The question is one the—

Ms. JACKSON LEE. Mr. Chairman? Mr. Chairman?

Chairman SENSENBRENNER. The gentlewoman from Texas, Ms. Jackson Lee.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman.

I just want to acknowledge that this legislation will help to aid in the prevention of gun use as it relates to those with mental illness, as noted by an act that this church was named after. A disturbed gunman under a restraining order with a history of mental health problems, which went unaccounted during a background check, fatally shot Reverend Larry Penzes and Eileen Tosner during mass. And I believe this legislation, as it now changes and comports with the law, will help us save lives.

And I yield back my time.

[The prepared statement of Ms. Jackson Lee follows:]

SHEILA JACKSON LEE  
 18th DISTRICT, TEXAS

---

COMMITTEES:  
 JUDICIARY

SUBCOMMITTEES:  
 Crime

Ranking Member  
 IMMIGRATION AND CLAIMS

---

SCIENCE  
 SUBCOMMITTEES:  
 SPACE AND AERONAUTICS

ENERGY

Chair  
 CONGRESSIONAL CHILDREN'S CAUCUS

---

Regional, West  
 DEMOCRATIC CAUCUS

---

Ranking Chair  
 CONGRESSIONAL BLACK CAUCUS

**Congress of the United States**  
**House of Representatives**  
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**OPENING STATEMENT**

**OF**

**CONGRESSWOMAN SHEILA JACKSON LEE**

**FOR MARKUP OF**

**H.R. 4757, OUR LADY OF PEACE ACT**



Mr. Chairman, I rise to support H.R. 4757, "Our Lady of Peace Act." This act is named after a church in New York where a disturbed gunman under a restraining order, with a history of mental health problems, which went unaccounted during a background check, fatally shot Reverend Larry Penzes and Eileen Tosner during mass. He was able to purchase a firearm two days before the attack because most

states do not provide mental health and other disqualifying records to the FBI National Instant Criminal Background Check (NICS) database. It will improve the current Instant Check system by providing states an incentive to automate and share information with the FBI regarding any individual who is barred under current law from having a gun.

Furthermore, this bill would amend the Brady Handgun Violence Prevention Act by providing grants to individual states. It also authorizes \$250 million over five years to help states' comply with the new requirements.

The 1968 Gun Control Act stipulates anyone "adjudicated as a mental defective or has or have been committed to any mental institution is prohibited from possessing a firearm." However, only 17 states automate these records. According to the General Accounting Office, for every 75,000 people who attempted to buy a gun, only one was denied through NICS based on mental health criteria. As many as 2.6 million involuntary institutionalized

individuals are lacking background check information. This bill enforces the 1968 Gun Control Act by requiring states to automate and supply disqualifying mental health records to NICS.

This bill authorizes, \$250,000 for fiscal years 2003-2005 to help states automate and share all disqualifying records. 25 states have automated less than 60 percent of their felony criminal conviction records. In 13 states, domestic violence restraining orders are not automated or accessible by NICS. In 15 states, no domestic violence misdemeanor records are automate or accessible by NICS. As a result, from December 1998 to June 2001, more than 10,000 prohibited buyers obtained a firearm.

This bill will also create a grant program to make grants to state courts to assess and improve handling of proceedings related to criminal history dispositions and temporary restraining orders as they relate to disqualification from firearms ownership under state and federal laws. Due

to a lack of resources, many courts have difficulty automating and transmitting to state and federal record repositories, court arrest and conviction disposition records as they relate to disqualification from firearms ownership under state and federal laws.

This bill enforces the 1968 Gun Control Act by requiring states to automate and provide information to the FBI regarding any individual who is barred from having a gun for which the states maintain the records. Gun violence has taken many innocent lives away, as what happened to Reverend Larry Penzes and Eileen Tosner. We must pass this bill to keep disqualified individuals from obtaining firearms thus keeping our streets safe.

Chairman SENSENBRENNER. The question is on the amendment in the nature of a substitute.

Those in favor will say aye.

Opposed, no.

The ayes appear to have it. The ayes have it, and the amendment in the nature of a substitute is agreed upon. A reporting quorum is present.

The question now occurs on the motion to report the bill H.R. 4757 favorably as amended.

Those in favor will say aye.

Opposed, no.

The ayes appear to have it. The ayes have it, and Chair will call for a rollcall.

The question is on favorably reporting the bill.

Those in favor will, as your names are called, answer aye.

Those opposed, no.

And the clerk will call the roll.

The CLERK. Mr. Hyde?

[No response.]

The CLERK. Mr. Gekas?

Mr. GEKAS. Aye.

The CLERK. Mr. Gekas, aye. Mr. Coble?

Mr. COBLE. Aye.

The CLERK. Mr. Coble, aye. Mr. Smith?

Mr. SMITH. Aye.

The CLERK. Mr. Smith, aye. Mr. Gallegly?

[No response.]

The CLERK. Mr. Goodlatte?

[No response.]

The CLERK. Mr. Chabot?

[No response.]

The CLERK. Mr. Barr?

Mr. BARR. Aye.

The CLERK. Mr. Barr, aye. Mr. Jenkins?

Mr. JENKINS. No.

The CLERK. Mr. Jenkins, no. Mr. Cannon?

Mr. CANNON. Aye.

The CLERK. Mr. Cannon, aye. Mr. Graham?

[No response.]

The CLERK. Mr. Bachus? Mr. Bachus?

[No response.]

The CLERK. Mr. Hostettler?

Mr. HOSTETTLER. No.

The CLERK. Mr. Hostettler, no. Mr. Green?

Mr. GREEN. Aye.

The CLERK. Mr. Green, aye. Mr. Keller?

Mr. KELLER. Aye.

The CLERK. Mr. Keller, aye. Mr. Issa?

[No response.]

The CLERK. Ms. Hart?

Ms. HART. Aye.

The CLERK. Ms. Hart, aye. Mr. Flake?

Mr. FLAKE. Aye.

The CLERK. Mr. Flake, aye. Mr. Pence?

[No response.]

The CLERK. Mr. Forbes?  
 Mr. FORBES. Aye.  
 The CLERK. Mr. Forbes, aye. Mr. Conyers?  
 Mr. CONYERS. Aye.  
 The CLERK. Mr. Conyers, aye. Mr. Frank?  
 Mr. FRANK. Aye.  
 The CLERK. Mr. Frank, aye. Mr. Berman?  
 Mr. BERMAN. Aye.  
 The CLERK. Mr. Berman, aye. Mr. Boucher?  
 [No response.]  
 The CLERK. Mr. Nadler?  
 Mr. NADLER. Aye.  
 The CLERK. Mr. Nadler, aye. Mr. Scott?  
 Mr. SCOTT. Aye.  
 The CLERK. Mr. Scott, aye. Mr. Watt?  
 Mr. WATT. Aye.  
 The CLERK. Mr. Watt, aye. Ms. Lofgren?  
 Ms. LOFGREN. Aye.  
 The CLERK. Ms. Lofgren, aye. Ms. Jackson Lee?  
 Ms. JACKSON LEE. Aye.  
 The CLERK. Ms. Jackson Lee, aye. Ms. Waters?  
 Ms. WATERS. Aye.  
 The CLERK. Ms. Waters, aye. Mr. Meehan?  
 [No response.]  
 The CLERK. Mr. Delahunt?  
 [No response.]  
 The CLERK. Mr. Wexler?  
 Mr. WEXLER. Aye.  
 The CLERK. Mr. Wexler, aye. Ms. Baldwin?  
 Ms. BALDWIN. Aye.  
 The CLERK. Ms. Baldwin, aye. Mr. Weiner?  
 Mr. WEINER. Aye.  
 The CLERK. Mr. Weiner, aye. Mr. Schiff?  
 Mr. SCHIFF. Aye.  
 The CLERK. Mr. Schiff, aye. Mr. Chairman?  
 Chairman SENSENBRENNER. Aye.  
 The CLERK. Mr. Chairman, aye.  
 Chairman SENSENBRENNER. Additional Members in the chamber  
 who wish to cast or change their vote?  
 The gentleman from Alabama, Mr. Bachus.  
 Mr. BACHUS. Aye.  
 The CLERK. Mr. Bachus, aye.  
 Chairman SENSENBRENNER. The gentleman from California, Mr.  
 Issa.  
 Mr. ISSA. Aye.  
 The CLERK. Mr. Issa, aye.  
 Chairman SENSENBRENNER. The gentleman from South Carolina,  
 Mr. Graham.  
 Mr. GRAHAM. Aye.  
 The CLERK. Mr. Graham, aye.  
 Chairman SENSENBRENNER. The gentleman from Virginia, Mr.  
 Goodlatte.  
 Mr. GOODLATTE. Aye.  
 The CLERK. Mr. Goodlatte, aye.

Chairman SENSENBRENNER. The gentleman from California, Mr. Gallegly.

Mr. GALLEGLY. Aye.

The CLERK. Mr. Gallegly, aye.

Chairman SENSENBRENNER. Additional Members in the chamber who wish to cast or change their votes?

If not, the clerk will report.

The gentleman from Massachusetts, Mr. Meehan.

Mr. MEEHAN. Aye.

The CLERK. Mr. Meehan, aye.

Chairman SENSENBRENNER. The clerk will report.

The CLERK. Mr. Chairman, there are 30 ayes and two nays.

Chairman SENSENBRENNER. And the motion to report favorably is agreed to.

Without objection, the bill will be reported favorably to the House in the form of a single amendment in the nature of a substitute, incorporating the amendment adopted here today. Without objection, the Chairman is authorized to move to go to conference pursuant to House rules. Without objection, the staff is directed to make any technical and conforming changes. And all Members will be given 2 days, as provided by the rules, in which to submit additional, dissenting, supplemental, or minority views.

○