

FixNICS

FEDERALLY LICENSED RETAILERS are required to run a background check through the FBI's National Instant Criminal Background Check System (NICS)ⁱ when transferring a firearm to an individual. Firearm retailers rely on NICS to ensure the lawful transfer of firearms to law-abiding citizens. About 359 million NICS background checks have been conducted from Nov. 30, 1998 through Aug. 31, 2020; about 26 million have been conducted through August 2020 alone.

However, a background check is only as good as the records in the database. That is why the firearm industry supports improving the current NICS system by increasing the number of prohibiting records states submit to the FBI databases, helping to prevent illegal transfers of firearms to those who are prohibited from owning firearms under current law. Including these missing records will help ensure more accurate and complete background checks.

States must improve the NICS database by submitting any and all records establishing an individual is a prohibited person, such as mental health records showing someone is an "adjudicated mental defective" or involuntarily committed to a mental institute, as well as official government records showing someone is the subject of a domestic violence protective order, a drug addict or subject to another prohibited category.ⁱⁱ

The firearm industry has a long record of supporting background checks.ⁱⁱⁱ The NSSF-supported background checks prior to the passage in 1993 of the Brady Act that created a point of retailer sale background check system and NICS in 1998. The existing background check system must be fixed, however, before Congress even considers whether to expand background checks, otherwise we'll just have more incomplete and inaccurate checks.



The National Shooting Sports Foundation® represents firearm and ammunition manufacturers, retailers and ranges. Our members are committed to following the law and promoting the safe, legal transfer of firearms.

continued →

NSSF
The Firearm Industry
Trade Association

FIREARM & AMMUNITION INDUSTRY CAMPAIGN TO “FIX NICS”

State participation in the NICS system is voluntary as the federal government cannot mandate state participation due to the 10th Amendment of the U.S. Constitution.^{iv}

In 2013, the firearm and ammunition industry investigated how many states were submitting prohibiting mental health and other disqualifying records to NICS. The industry obtained data from the FBI showing that at the end of 2012, far too many states failed to submit these records that established someone is prohibited from owning a firearm under current law. At that time, 19 states had made fewer than 100 records available and 12 of these had made fewer than 10 records available.^v

The firearm and ammunition industry found the failure of states to submit prohibiting records unacceptable and launched a campaign in early 2013 to address the problem and improve the effectiveness of NICS. Through a multi-state effort focused on forming coalitions in the states with the fewest submitted

records, the industry has dedicated significant resources to helping states overcome the legal, technological, and intrastate coordination challenges preventing effective record sharing.

“FixNICS®” is about keeping firearms out of the hands of prohibited persons, like the shooter in the Virginia Tech tragedy who was able to purchase a firearm from a federally licensed firearm retailer because his prohibiting mental health records were not in the NICS system.

NSSF’S FIXNICS CAMPAIGN LEADS TO JUMP IN RECORDS

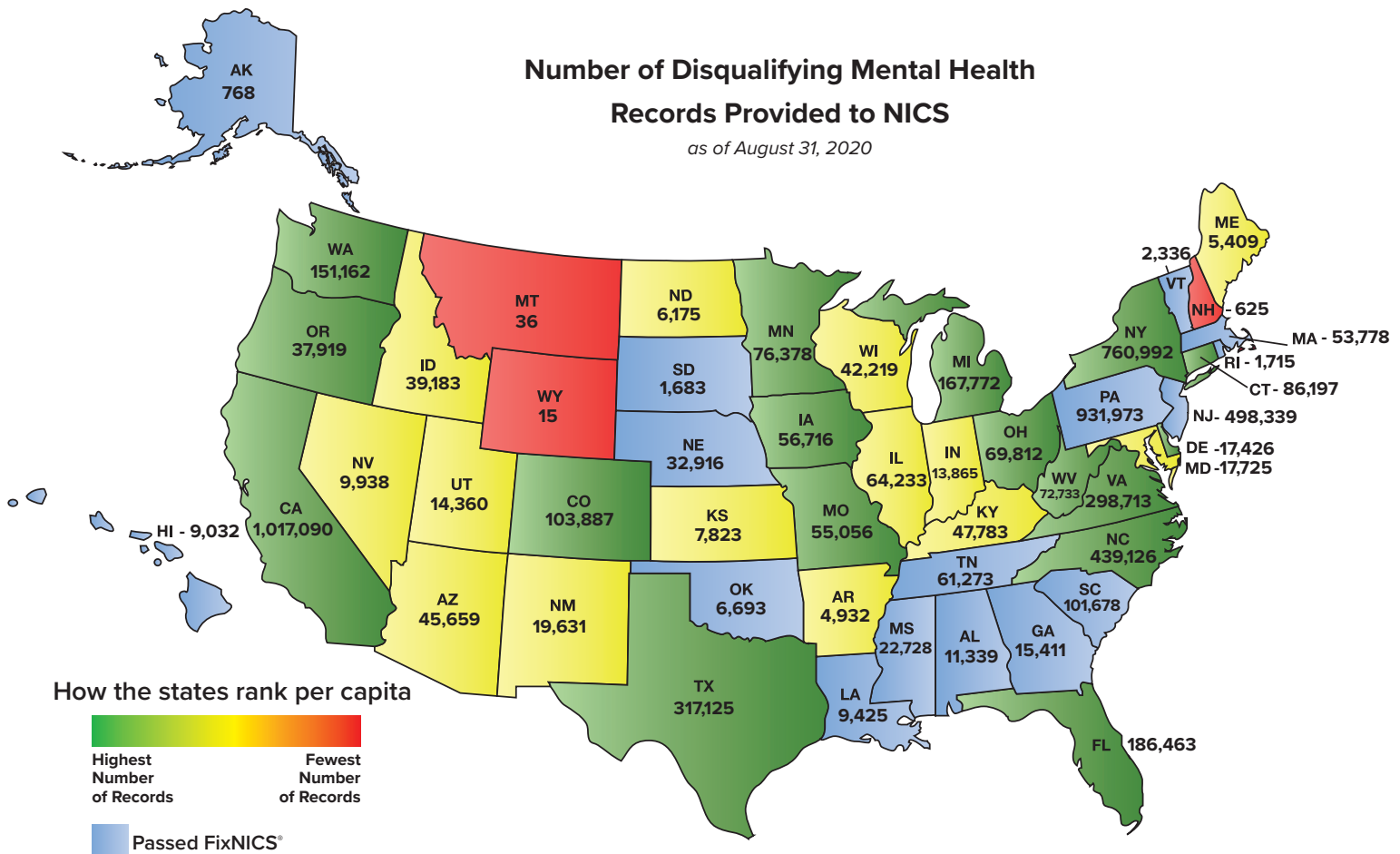
Since FixNICS was launched in 2013 through the end of August, 2020, the number of disqualifying mental health records submitted to NICS increased by 262 percent to about 6 million, from about 1.7 million in December 2012.

This significant increase is driven by states like Pennsylvania, which now has 931,973 records, compared to 1 in 2012. New Jersey, another FixNICS success story, has now submitted 498,339 records, up from 17 in 2012, and is now ranked as the 2nd best state on a per capita basis.

INDUSTRY ACTION SECURES FIXNICS VICTORIES ACROSS THE COUNTRY

Number of Disqualifying Mental Health Records Provided to NICS

as of August 31, 2020



The FixNICS campaign has won victories in 16 states since 2013. NSSF-backed legislation has experienced unprecedented success across the country as the firearm industry continues to try to prevent prohibited people from gaining access to firearms.

STATE	SUMMARY OF NEW LAWS/ACTIONS
Alabama	May 2013: Strengthens requirements for state officials to send mental health records to NICS.
Alaska	April 2014: FixNICS passes both chambers signed by Governor.
Hawaii	March 2014: HB 2246, passed the House and Senate with no dissenters and was signed by the Governor.
Louisiana	May 2013: Requires any Louisiana resident who loses the right to possess firearms under state law to be reported to NICS.
Massachusetts	July 2014: House and Senate passed FixNICS legislation.
Mississippi	March 2013: Requires state officials to report mental health adjudications and court-ordered commitments to NICS.
Nebraska	April 2014: State now transmits mental health records to NICS following an NSSF-backed administrative fix and also reporting requirement.
New Jersey	May 2013: Requires state to submit to NICS records showing those who have been involuntarily committed for mental health treatment.
Oklahoma	May 2014: SB 1845 Passed Senate 38-5 and House 84-3. Signed by Governor.
Pennsylvania	Jan. 2013: State police submitted 643,167 records to NICS and will send to NICS on a continuous basis moving forward after administrative fix.
Rhode Island	July 2014: Legislation passed senate and general assembly unanimously. Governor's signature (7-3-14).
South Carolina	May 2013: Requires the submission of records to NICS.
South Dakota	March 2014: HB 1229 Overwhelming passed both chambers. House (53-17) and Senate (26-9). Governor's signature (3-14-14).
Tennessee	April 2013: Requires courts to submit mental health commitments to NICS.
Wyoming	March 2014: FixNICS approved for an interim committee that will be studied in order to craft committee legislation.
Vermont	May 2015: Bill including FixNICS is signed by the Governor.

CARROT & STICK APPROACH NEEDED

Since NSSF® launched FixNICS in 2013, the initiative has seen great success on the state level. However, significant gaps remain on the federal level. A December 2017 report by the Defense Department's Inspector General found that the military services failed to consistently submit records to NICS. The report showed about 31 percent of records were not submitted as required.^{vi} The firearm and ammunition industry finds this unacceptable and worked to advance Congressional FixNICS® efforts to address gaps such as this.

Thanks to these efforts, in 2018, President Trump signed into law a bill that included the Fix NICS Act. This measure, spearheaded by Representatives John Culberson (TX-07), Henry Cuellar (TX-28) and Senator Cornyn (R-TX), included enhancements for system availability, determination rates and e-check services. Most importantly, the federal law requires the Secretary of Defense to submit reports to Congress detailing the submission of records to databases accessible to NICS, directs the Justice Department to work with other agencies to submit all relevant records

to the NICS database and to consult with state and tribal governments to provide training and technical assistance in completing NICS Initiative Grant applications.

In November 2019, the Justice Department released its first report on the impact of this significant law.^{vii} This report noted that implementation plans were submitted by 45 federal agencies, all 50 states, the District of Columbia and Indian tribal governments. According to the report, between April 2018 and August 2019, there was “an increase of over 6 million records in the three national databases searched with every NICS check - a 6.2 percent increase. In addition, there was a 15 percent increase in records in one of those databases, the NICS Indices.” The report outlines the implementation plans currently underway across the U.S., concluding that, “the Fix NICS Act is well on its way to doing exactly what it was intended to do - make the NICS better.”

NSSF applauds the law and the resulting work that is occurring on the state and federal levels to ensure the strength of the NICS system.

- i There are 20 full or partial Point of Contact states, which have a state-designated agency responsible for processing some or all NICS background checks on behalf of the federal firearm licensees (FFLs) within the state.
- ii Note: Fix NICS does not seek to require all mental health records be submitted to NICS, only those that establish an individual falls into one of the current federal categories of persons prohibited from receiving firearms. The categories are available here in full: <http://www.fbi.gov/about-us/cjis/nics/general-information/fact-sheet>
- iii NSSF press release, “At NICS User Conference, NSSF Supports Virginia Governors Call to Add Mental Health and Other Records to Background Check System,” May 2012, <https://www.nssf.org/nssf-supports-virginia-governors-call-add-mental-health-records-background-check-system>

- iv *Printz v. United States* - 521 U.S. 898 (1996)
- v The National Shooting Sports Foundation obtained data on the number of active adjudicated mental health records in the NICS Index from the Federal Bureau of Investigation.
- vi Department of Defense, Inspector General, “Evaluation of Fingerprint Card and Final Disposition Report Submissions by Military Service Law Enforcement Organizations,” December 4, 2017, <https://media.defense.gov/2017/Dec/05/2001852278-1-1/1/DODIG-2018-035.PDF>.
- vii Department of Justice, “The Attorney General's Semiannual Report on the Fix NICS Act,” November 2019, <https://www.justice.gov/ag/page/file/1217396/download>

