

NSSF'S FIXNICS® CAMPAIGN

Federally licensed retailers are required to run a background check through the FBI's National Instant Criminal Background Check System (NICS) when transferring a firearm to an individual. Firearm retailers rely on NICS to ensure the lawful transfer of firearms to law-abiding citizens. Over 391 million NICS background checks have been conducted from November 30, 1998 through May 31, 2021; about 19 million have been conducted through May 2021 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 and federal agencies submit to the FBI databases, helping to prevent illegal transfers of firearms to those who are prohibited from owning firearms under current law.ⁱ Including these missing records will help ensure more accurate and complete background checks.

The firearm industry has a long record of supporting background checks.ⁱⁱ 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.

Since 2013, NSSF's FixNICS® campaign has been advocating for changes to state laws and regulations that encourage state agencies and courts to fully submit mental health records that show an individual is prohibited from purchasing a firearm under current

law. After securing FixNICS® reforms in 16 states to date, the number of disqualifying mental health records submitted to NICS increased by 270 percent to about 6.07 million as of December 31, 2020, from about 1.7 million in December 2012.

However, gaps remain in the efforts to ensure all relevant records are submitted to NICS. Several states, and as tragically learned through recent events, some federal agencies, still are not fully participating in submitting records to keep firearms from those prohibited from purchasing them.

NSSF APPLAUDS FEDERAL ACTION

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.ⁱⁱⁱ The firearm and ammunition industry finds this unacceptable and has worked to support Congressional FixNICS® efforts to address gaps such as this.

In late 2017, the House of Representatives passed the bipartisan **H.R. 38**, the Concealed Carry Reciprocity Act, with FixNICS® legislation combined into the overall bill. The FixNICS® provisions included in this bill encourage states and require federal agencies to submit all disqualifying records to the NICS database. NSSF supported this bill, as well as the stand-alone Fix NICS Act of 2017, **H.R. 4434**, introduced in the House by then Reps. Henry Cuellar (D-Texas) and John Culberson

(R-Texas).

In the Senate, Sen. John Cornyn (R-Texas) had introduced NSSF-supported bipartisan **S. 2135**, the Fix NICS Act of 2017, to strengthen NICS by requiring federal agencies to enter all disqualifying records under current law. Sen. Cornyn's legislation also allowed a federal grant for states to help upload these records.

These legislative efforts



culminated in the enactment of the Fix NICS Act in 2018. As part of a larger package, former President Trump signed into law the provisions that will help ensure relevant state and federal agency records are submitted to the NICS database. NSSF fully supports this law and continues to work closely with federal agencies and states to help remove obstacles to record submission.

In November 2019, the Justice Department released its first report on the impact of this significant law.^{vi}

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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’S STATE CAMPAIGN

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

In response, the firearm and ammunition industry launched the FixNICS® campaign to address the problem and improve the effectiveness of NICS. Through a multistate 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.

The FixNICS® campaign has won victories in 16 states. Since FixNICS was launched in 2013 through the end of December, 2020, the number of disqualifying mental health records submitted to NICS increased by 270 percent to about 6.14 million, from about 1.7 million in December 2012.

Now only 2 states have fewer than 100 prohibiting mental health records in the federal system.

LOOKING AHEAD

NSSF is committed to advocating for all prohibiting records to be submitted to the FBI’s NICS database. The industry depends on background checks being run against a complete system. The failure of states or federal agencies to submit prohibiting records must be addressed to keep firearms out of the hands of those prohibited from purchasing under current law. It is time for lawmakers at all levels to step forward and FixNICS®.



i 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 prohibited categories are available here in full: <https://www.atf.gov/firearms/identify-prohibited-persons>

ii 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, <http://www.nssf.org/news-room/releases/2012/050112.cfm>.

iii 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>.

iv 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>

v *Printz v. United States* - 521 U.S. 898 (1996)

vi 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.

