

Protecting Gun Rights and Due Process Act

Since at least 2012, the Department of Veterans Affairs has reported veterans to NICS as “mental defective” for the use of a fiduciary to manage a veterans VA benefits. According to the Congressional Research Service, over 99% of all names reported to NICS as “mental defective” are provided by the VA.

In President Obama’s Jan. 2016, statement calling for increasing the restrictions on Second Amendment rights, the President called on Social Security Administration and Department of Health and Human Services to finalize rulemaking procedures for reporting individuals to NICS in a similar manner as the VA. State mental health organizations have admitted to “rubberstamping” mental health evaluations, without investigation, which have been used to restrict firearms ownership on the state level.

The Protecting Gun Rights and Due Process Act would protect the rights on individuals by ensuring due process rights are upheld in reporting an individual to the National Instant Criminal Background Check System. In addition, the legislation:

- Prohibits the sale or disposition of a firearm or ammunition to an individual that has been adjudicated as mentally incompetent or committed to a psychiatric hospital. Adjudication requires findings by a judicial officer or court and the individual receives notice to participate with counsel.
- Within 90 days, the Secretary of Veterans Affairs must review and remove from NICS any veteran that has not been adjudicated as mentally incompetent. The Attorney General will certify that the removal of names has taken place.
- Prevents the Social Security Administrator from reporting individuals to NICS unless individual has been adjudicated as mentally incompetent. Attorney General will conduct a yearly review to certify reported names have necessary documentation.
- Attorney General must certify a state’s report indicating a person had been adjudicated as mentally incompetent prior to inclusion to NICS.
- All individuals considered to no longer be adjudicated as mentally incompetent will be notified and have their rights restored.

The Protecting Gun Rights and Due Process Act is supported by the National Association of Gun Rights and Gun Owners of America.