

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 374

To ensure that all individuals who should be prohibited from buying a firearm are listed in the national instant criminal background check system and require a background check for every firearm sale.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. COBURN

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Protecting Gun Sellers Act of 2013”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Rule of construction.

TITLE I—ENSURING THAT ALL INDIVIDUALS WHO SHOULD BE PROHIBITED FROM BUYING A GUN ARE LISTED IN THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM

Sec. 101. Reauthorization of the National Criminal History Records Improvement Program.

Sec. 102. Improvement of metrics and incentives.

Sec. 103. Grants to States for improvement of coordination and automation of NICS record reporting.

Sec. 104. Relief from disabilities program.

Sec. 105. Conditions for treatment of certain persons as adjudicated mentally incompetent for certain purposes.

Sec. 106. Clarification that federal court information is to be made available to the national instant criminal background check system.

Sec. 107. Publication of NICS Index Statistics.

Sec. 108. Clarification that submission of mental health records to the National Instant Criminal Background Check System is not prohibited by the health insurance portability and accountability act.

Sec. 109. Effective date.

TITLE II—REQUIRING A BACKGROUND CHECK FOR EVERY FIREARM SALE

Sec. 201. Purpose.

Sec. 202. Firearms transfers.

Sec. 203. Effective date.

TITLE III—NATIONAL COMMISSION ON MASS VIOLENCE

Sec. 301. Short title.

Sec. 302. National Commission on Mass Violence.

Sec. 303. Duties of the Commission.

Sec. 304. Powers of the Commission.

Sec. 305. Commission personnel matters.

Sec. 306. Authorization of appropriations.

Sec. 307. Termination of the Commission.

1 SEC. 2. FINDINGS.

2 Congress finds the following:

3 (1) Congress supports and respects the right to
4 bear arms found in the Second Amendment to the
5 Constitution of the United States.

6 (2) Congress supports the existing prohibition
7 on a national firearms registry.

1 (3) Congress believes the Department of Justice
2 should prosecute violations of background check re-
3 quirements to the maximum extent of the law.

4 (4) There are deficits in the background check
5 system in existence prior to the date of enactment
6 of this Act and the Department of Justice should
7 make it a top priority to work with States to swiftly
8 input missing records, including mental health
9 records.

10 (5) Congress and the citizens of the United
11 States agree that in order to promote safe and re-
12 sponsible gun ownership criminals and the mentally
13 ill should be prohibited from possessing firearms;
14 therefore, it should be incumbent upon all citizens to
15 ensure weapons are not being transferred to such
16 people.

17 **SEC. 3. RULE OF CONSTRUCTION.**

18 Nothing in this Act, or any amendment made by this
19 Act, shall be construed to—

20 (1) expand in any way the enforcement author-
21 ity or jurisdiction of the Bureau of Alcohol, Tobacco,
22 Firearms, and Explosives; or

23 (2) allow the establishment, directly or indi-
24 rectly, of a Federal firearms registry.

1 **TITLE I—ENSURING THAT ALL**
2 **INDIVIDUALS WHO SHOULD**
3 **BE PROHIBITED FROM BUY-**
4 **ING A GUN ARE LISTED IN**
5 **THE NATIONAL INSTANT**
6 **CRIMINAL BACKGROUND**
7 **CHECK SYSTEM**

8 **SEC. 101. REAUTHORIZATION OF THE NATIONAL CRIMINAL**
9 **HISTORY RECORDS IMPROVEMENT PRO-**
10 **GRAM.**

11 Section 106(b) of the Brady Handgun Violence Pre-
12 vention Act (18 U.S.C. 922 note) is amended by striking
13 paragraph (2) and inserting the following:

14 “(2) **AUTHORIZATION OF APPROPRIATIONS.**—
15 There are authorized to be appropriated for grants
16 under this subsection \$25,000,000 for each of fiscal
17 years 2014 through 2017.”.

18 **SEC. 102. IMPROVEMENT OF METRICS AND INCENTIVES.**

19 (a) **IN GENERAL.**—Section 102(b) of the NICS Im-
20 provement Amendments Act of 2007 (18 U.S.C. 922 note)
21 is amended to read as follows:

22 “(b) **IMPLEMENTATION PLAN.**—

23 “(1) **IN GENERAL.**—Not later than 1 year after
24 the date of enactment of the Protecting Gun Sellers
25 Act of 2013, the Attorney General, in coordination

1 with the States, may establish for each State or In-
2 dian tribal government desiring a grant under sec-
3 tion 103 a 4-year implementation plan to ensure
4 maximum coordination and automation of the re-
5 porting of records or making records available to the
6 National Instant Criminal Background Check Sys-
7 tem.

8 “(2) BENCHMARK REQUIREMENTS.—Each 4-
9 year plan established under paragraph (1) shall in-
10 clude annual benchmarks, including both qualitative
11 goals and quantitative measures, to assess imple-
12 mentation of the 4-year plan.

13 “(3) PENALTIES FOR NON-COMPLIANCE.—

14 “(A) IN GENERAL.—During the 4-year pe-
15 riod covered by a 4-year plan established under
16 paragraph (1), the Attorney General shall with-
17 hold—

18 “(i) 10 percent of the amount that
19 would otherwise be allocated to a State
20 under section 505 of the Omnibus Crime
21 Control and Safe Streets Act of 1968 (42
22 U.S.C. 3755) if the State does not meet
23 the benchmark established under para-
24 graph (2) for the first year in the 4-year
25 period;

1 “(ii) 11 percent of the amount that
2 would otherwise be allocated to a State
3 under section 505 of the Omnibus Crime
4 Control and Safe Streets Act of 1968 (42
5 U.S.C. 3755) if the State does not meet
6 the benchmark established under para-
7 graph (2) for the second year in the 4-year
8 period;

9 “(iii) 13 percent of the amount that
10 would otherwise be allocated to a State
11 under section 505 of the Omnibus Crime
12 Control and Safe Streets Act of 1968 (42
13 U.S.C. 3755) if the State does not meet
14 the benchmark established under para-
15 graph (2) for the third year in the 4-year
16 period; and

17 “(iv) 15 percent of the amount that
18 would otherwise be allocated to a State
19 under section 505 of the Omnibus Crime
20 Control and Safe Streets Act of 1968 (42
21 U.S.C. 3755) if the State does not meet
22 the benchmark established under para-
23 graph (2) for the fourth year in the 4-year
24 period.

25 “(B) FAILURE TO ESTABLISH A PLAN.—

1 “(i) STATES.—A State that fails to
2 establish a plan under paragraph (1) shall
3 be ineligible to receive any grant funds
4 under section 106(b) of the Brady Hand-
5 gun Violence Prevention Act (18 U.S.C.
6 922 note) or under section 103 of this Act.

7 “(ii) INDIAN TRIBAL GOVERN-
8 MENTS.—An Indian tribal government that
9 fails to establish a plan under paragraph
10 (1) shall be ineligible to receive any grant
11 funds under section 103.”.

12 (b) TECHNICAL AND CONFORMING AMENDMENT.—
13 Section 106(b)(1) of the Brady Handgun Violence Preven-
14 tion Act (18 U.S.C. 922 note) is amended by inserting
15 “that has established an implementation plan under sec-
16 tion 102(b) of the NICS Improvement Amendments Act
17 of 2007 (18 U.S.C. 922 note)” after “each State”.

18 **SEC. 103. GRANTS TO STATES FOR IMPROVEMENT OF CO-**
19 **ORDINATION AND AUTOMATION OF NICS**
20 **RECORD REPORTING.**

21 (a) IN GENERAL.—The NICS Improvement Amend-
22 ments Act of 2007 (18 U.S.C. 922 note) is amended—
23 (1) by striking section 103 and inserting the
24 following:

1 **“SEC. 103. GRANTS TO STATES FOR IMPROVEMENT OF CO-**
2 **ORDINATION AND AUTOMATION OF NICS**
3 **RECORD REPORTING.**

4 “(a) AUTHORIZATION.—

5 “(1) IN GENERAL.—From amounts made avail-
6 able to carry out this section, the Attorney General
7 shall make grants to States, Indian Tribal govern-
8 ments, and State court systems, in a manner con-
9 sistent with the National Criminal History Improve-
10 ment Program and consistent with State plans for
11 integration, automation , and accessibility of crimi-
12 nal history records, for use by the State, or units of
13 local government of the State, Indian Tribal govern-
14 ment, or State court system to improve the automa-
15 tion and transmittal of mental health records and
16 criminal history dispositions, records relevant to de-
17 termining whether a person has been convicted of a
18 misdemeanor crime of domestic violence, court or-
19 ders, and mental health adjudications or commit-
20 ments to Federal and State record repositories in ac-
21 cordance with section 102 and the National Criminal
22 History Improvement Program.

23 “(2) LIMITATION ON ELIGIBILITY.—A State or
24 Indian tribal government may not be awarded a
25 grant under paragraph (1) unless the State or In-

1 dian tribal government establishes an implementa-
2 tion plan under section 102(b).

3 “(b) USE OF GRANT AMOUNTS.—Grants awarded to
4 States, Indian Tribal governments, or State court systems
5 under this section may only be used to—

6 “(1) carry out, as necessary, assessments of the
7 capabilities of the courts of the State or Indian Trib-
8 al government for the automation and transmission
9 of arrest and conviction records, court orders, and
10 mental health adjudications or commitments to Fed-
11 eral and State record repositories;

12 “(2) implement policies, systems, and proce-
13 dures for the automation and transmission of arrest
14 and conviction records, court orders, and mental
15 health adjudications or commitments to Federal and
16 State record repositories;

17 “(3) create electronic systems that provide ac-
18 curate and up-to-do information which is directly re-
19 lated to checks under the National Instant Criminal
20 Background Check System, including court disposi-
21 tion and corrections records;

22 “(4) assist States or Indian Tribal governments
23 in establishing or enhancing their own capacities to
24 perform background checks using the National In-
25 stant Criminal Background Check System; and

1 “(5) develop and maintain the relief from dis-
2 abilities program in accordance with section 105.

3 “(c) ELIGIBILITY.—

4 “(1) IN GENERAL.—To be eligible for a grant
5 under this section, a State, Indian Tribal govern-
6 ment, or State court system shall certify, to the sat-
7 isfaction of the Attorney General, that the State, In-
8 dian Tribal government, or State court system—

9 “(A) is not prohibited by State law or
10 court order to submit mental health records to
11 the National Instant Criminal Background
12 Check System; and

13 “(B) subject to paragraph (2), has imple-
14 mented a relief from disabilities program in ac-
15 cordance with section 105.

16 “(2) RELIEF FROM DISABILITIES PROGRAM.—
17 For purposes of obtaining a grant under this sec-
18 tion, a State, Indian Tribal government, or State
19 court system shall not be required to meet the eligi-
20 bility requirement described in paragraph (1)(B)
21 until the date that is 2 years after the date of enact-
22 ment of the Protecting Gun Sellers Act of 2013.

23 “(d) FEDERAL SHARE.—

24 “(1) STUDIES, ASSESSMENTS, NON-MATERIAL
25 ACTIVITIES.—The Federal share of a study, assess-

1 ment, creation of a task force, or other non-material
2 activity, as determined by the Attorney General, car-
3 ried out with a grant under this section shall be not
4 more than 25 percent.

5 “(2) INFRASTRUCTURE OR SYSTEM DEVELOP-
6 MENT.—The Federal share of an activity involving
7 infrastructure or system development, including
8 labor-related costs, for the purpose of improving
9 State or Indian Tribal government record reporting
10 to the National Instant Criminal Background Check
11 System carried out with a grant under this section
12 may amount to 100 percent of the cost of the activ-
13 ity.

14 “(e) GRANTS TO INDIAN TRIBES.—Up to 5 percent
15 of the grant funding available under this section may be
16 reserved for Indian tribal governments for use by Indian
17 tribal judicial systems.

18 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
19 are authorized to be appropriated to carry out this section
20 \$25,000,000 for each of fiscal years 2014 through 2017.”;

21 (2) by striking title III; and

22 (3) in section 401(b), by inserting after “of this
23 Act” the following: “and 18 months after the date
24 of enactment of the Protecting Gun Sellers Act of
25 2013”.

1 (b) TECHNICAL AND CONFORMING AMENDMENT.—
2 The table of sections in section 1(b) of the NICS Improve-
3 ment Amendments Act of 2007 (18 U.S.C. 922 note) is
4 amended by striking the item relating to section 103 and
5 inserting the following:

“Sec. 103. Grants to States for improvement of coordination and automation
of NICS record reporting.”.

6 **SEC. 104. RELIEF FROM DISABILITIES PROGRAM.**

7 Section 105 of the NICS Improvement Amendments
8 Act of 2007 (18 U.S.C. 922 note) is amended by adding
9 at the end the following:

10 “(c) PENALTIES FOR NON-COMPLIANCE.—

11 “(1) 10 PERCENT REDUCTION.—During the 1-
12 year period beginning 1 year after the date of enact-
13 ment of the Protecting Gun Sellers Act of 2013, the
14 Attorney General shall withhold 10 percent of the
15 amount that would otherwise be allocated to a State
16 under section 505 of the Omnibus Crime Control
17 and Safe Streets Act of 1968 (42 U.S.C. 3755) if
18 the State has not—

19 “(A) implemented a relief from disabilities
20 program in accordance with this section; and

21 “(B) established an implementation plan
22 under section 102(b).

23 “(2) 11 PERCENT REDUCTION.—During the 1-
24 year period after the expiration of the period de-

1 scribed in paragraph (1), the Attorney General shall
2 withhold 11 percent of the amount that would other-
3 wise be allocated to a State under section 505 of the
4 Omnibus Crime Control and Safe Streets Act of
5 1968 (42 U.S.C. 3755) if the State has not—

6 “(A) implemented a relief from disabilities
7 program in accordance with this section; and

8 “(B) established an implementation plan
9 under section 102(b).

10 “(3) 13 PERCENT REDUCTION.—During the 1-
11 year period after the expiration of the period de-
12 scribed in paragraph (2), the Attorney General shall
13 withhold 13 percent of the amount that would other-
14 wise be allocated to a State under section 505 of the
15 Omnibus Crime Control and Safe Streets Act of
16 1968 (42 U.S.C. 3755) if the State has not—

17 “(A) implemented a relief from disabilities
18 program in accordance with this section; and

19 “(B) established an implementation plan
20 under section 102(b).

21 “(4) 15 PERCENT REDUCTION.—After the expi-
22 ration of the 1-year period described in paragraph
23 (3), the Attorney General shall withhold 15 percent
24 of the amount that would otherwise be allocated to
25 a State under section 505 of the Omnibus Crime

1 Control and Safe Streets Act of 1968 (42 U.S.C.
2 3755) if the State has not—

3 “(A) implemented a relief from disabilities
4 program in accordance with this section; and

5 “(B) established an implementation plan
6 under section 102(b).”.

7 **SEC. 105. CONDITIONS FOR TREATMENT OF CERTAIN PER-**
8 **SONS AS ADJUDICATED MENTALLY INCOM-**
9 **PETENT FOR CERTAIN PURPOSES.**

10 (a) IN GENERAL.—Chapter 55 of title 38, United
11 States Code, is amended by adding at the end the fol-
12 lowing new section:

13 **“§ 5511. Conditions for treatment of certain persons**
14 **as adjudicated mentally incompetent for**
15 **certain purposes**

16 “(a) IN GENERAL.—In any case arising out of the
17 administration by the Secretary of laws and benefits under
18 this title, a person who is determined by the Secretary to
19 be mentally incapacitated, mentally incompetent, or expe-
20 riencing an extended loss of consciousness shall not be
21 considered adjudicated as a mental defective under sub-
22 section (d)(4) or (g)(4) of section 922 of title 18 until—

23 “(1) in the case in which the person does not
24 request a review as described in subsection (c)(1),
25 the end of the 30-day period beginning on the date

1 on which the person receives notice submitted under
2 subsection (b); or

3 “(2) in the case in which the person requests a
4 review as described in paragraph (1) of subsection
5 (c), upon an assessment by the board designated or
6 established under paragraph (2) of such subsection
7 or court of competent jurisdiction that a person can-
8 not safely use, carry, possess, or store a firearm due
9 to mental incapacitation, mental incompetency, or an
10 experience of extended loss of consciousness.

11 “(b) NOTICE.—Notice submitted under this sub-
12 section to a person described in subsection (a) is notice
13 submitted by the Secretary that notifies the person of the
14 following:

15 “(1) The determination made by the Secretary.

16 “(2) A description of the implications of being
17 considered adjudicated as a mental defective under
18 subsection (d)(4) or (g)(4) of section 922 of title 18.

19 “(3) The person’s right to request a review
20 under subsection (c)(1).

21 “(c) ADMINISTRATIVE REVIEW.—(1) Not later than
22 30 days after the date on which a person described in sub-
23 section (a) receives notice submitted under subsection (b),
24 such person may request a review by the board established
25 under paragraph (2) or a court of competent jurisdiction

1 to assess whether a person cannot safely wield a firearm
2 due to mental incapacitation, mental incompetency, or an
3 experience of extended loss of consciousness .

4 “(2) Not later than 180 days after the date of enact-
5 ment of this Act, the Secretary shall designate or establish
6 a board that shall, upon request of a person under para-
7 graph (1), assess whether a person cannot safely use,
8 carry, possess, or store a firearm due to mental incapacita-
9 tion, mental incompetency, or an experience of extended
10 loss of consciousness.

11 “(d) JUDICIAL REVIEW.—Not later than 30 days
12 after the date of an assessment of a person under sub-
13 section (c) by the board established under paragraph (2)
14 of such subsection, such person may file a petition for ju-
15 dicial review of such assessment with a Federal court of
16 competent jurisdiction.”.

17 (b) CLERICAL AMENDMENT.—The table of sections
18 at the beginning of chapter 55 of such title is amended
19 by adding at the end the following new item:

“5511. Conditions for treatment of certain persons as adjudicated mentally in-
competent for certain purposes.”.

20 (c) APPLICABILITY.—Section 5511 of title 38, United
21 States Code (as added by this section), shall apply only
22 with respect to persons who are determined by the Sec-
23 retary of Veterans Affairs, on or after the date of the en-
24 actment of this Act, to be mentally incapacitated, mentally

1 incompetent, or experiencing an extended loss of con-
2 sciousness.

3 **SEC. 106. CLARIFICATION THAT FEDERAL COURT INFOR-**
4 **MATION IS TO BE MADE AVAILABLE TO THE**
5 **NATIONAL INSTANT CRIMINAL BACKGROUND**
6 **CHECK SYSTEM.**

7 Section 103(e)(1) of the Brady Handgun Violence
8 Prevention Act (18 U.S.C. 922 note), is amended by add-
9 ing at the end the following:

10 “(F) APPLICATION TO FEDERAL
11 COURTS.—In this subsection—

12 “(i) the terms ‘department or agency
13 of the United States’ and ‘Federal depart-
14 ment or agency’ include a Federal court;
15 and

16 “(ii) for purposes of any request, sub-
17 mission, or notification, the Director of the
18 Administrative Office of the United States
19 Courts shall perform the functions of the
20 head of the department or agency.”.

21 **SEC. 107. PUBLICATION OF NICS INDEX STATISTICS.**

22 Not later than 180 days after the date of enactment
23 of this Act, and biannually thereafter, the Attorney Gen-
24 eral shall make the National Instant Criminal Background

1 Check System index statistics available on a publically ac-
2 cessible Internet website.

3 **SEC. 108. CLARIFICATION THAT SUBMISSION OF MENTAL**
4 **HEALTH RECORDS TO THE NATIONAL IN-**
5 **STANT CRIMINAL BACKGROUND CHECK SYS-**
6 **TEM IS NOT PROHIBITED BY THE HEALTH IN-**
7 **SURANCE PORTABILITY AND ACCOUNT-**
8 **ABILITY ACT.**

9 Information collected under section 102(c)(3) of the
10 NICS Improvement Amendments Act of 2007 (18 U.S.C.
11 922 note) to assist the Attorney General in enforcing
12 paragraphs (3) and (4) of section 922(g) of title 18,
13 United States Code, shall not be subject to the regulations
14 promulgated under section 264(c) of the Health Insurance
15 Portability and Accountability Act of 1996 (42 U.S.C.
16 1320d-2 note).

17 **SEC. 109. EFFECTIVE DATE.**

18 The amendments made by this title shall take effect
19 180 days after the date of enactment of this Act.

20 **TITLE II—REQUIRING A BACK-**
21 **GROUND CHECK FOR EVERY**
22 **FIREARM SALE**

23 **SEC. 201. PURPOSE.**

24 The purpose of this title is to extend background
25 check procedures to all sales and transfers of firearms.

1 **SEC. 202. FIREARMS TRANSFERS.**

2 (a) IN GENERAL.—Section 922 of title 18, United
3 States Code, is amended—

4 (1) by repealing subsection (s);

5 (2) by redesignating subsection (t) as sub-
6 section (s);

7 (3) in subsection (s), as redesignated—

8 (A) in paragraph (3)(C)(ii), by striking

9 “(as defined in subsection (s)(8))”; and

10 (B) by adding at the end the following:

11 “(7) In this subsection, the term ‘chief law en-
12 forcement officer’ means the chief of police, the
13 sheriff, or an equivalent officer or the designee of
14 any such individual.

15 “(8) The Federal Bureau of Investigation shall
16 not charge a user fee for a background check con-
17 ducted pursuant to this subsection.”; and

18 (4) by inserting after subsection (s), as redesi-
19 gnated, the following:

20 “(t)(1) In this subsection, the term ‘covered trans-
21 fer’—

22 “(A) means a transfer that the transferor, the
23 transferee, or both intends to be permanent, includ-
24 ing a transfer by sale, pledge, trade, gift, or consign-
25 ment; and

26 “(B) does not include—

1 “(i) a transfer between spouses, between
2 parents or spouses of parents and their children
3 or spouses of their children, between siblings or
4 spouses of siblings, or between grandparents or
5 spouses of grandparents and their grand-
6 children or spouses of their grandchildren, or
7 between aunts or uncles or their spouses and
8 their nieces or nephews or their spouses, or be-
9 tween first cousins, if the transferor does not
10 know or have reasonable cause to believe that
11 the transferee is prohibited from receiving or
12 possessing a firearm under Federal, State, or
13 local law;

14 “(ii) a transfer made from a decedent’s es-
15 tate by bequest, intestate succession, or by op-
16 eration of law; or

17 “(iii) a temporary transfer of a firearm,
18 unless the transferor knows or has reason to
19 believe that the transferee is prohibited from re-
20 ceiving or possessing a firearm under Federal,
21 State, or local law.

22 “(2) Beginning on the date that is 18 months after
23 the date of enactment of the Protecting Gun Sellers Act
24 of 2013 or 30 days after the date on which the consumer
25 portal established under paragraph (3) is operational,

1 whichever is later, it shall be unlawful for any person who
2 is not licensed under this chapter to make a covered trans-
3 fer of a firearm to any other person who is not licensed
4 under this chapter, unless—

5 “(A) the covered transfer is made after a li-
6 censed importer, licensed manufacturer, or licensed
7 dealer has first taken possession of the firearm for
8 the purpose of complying with subsection (s), if upon
9 taking possession of the firearm, the licensee com-
10 plies with all requirements of this chapter as if the
11 licensee were transferring the firearm from the li-
12 censee’s business inventory to the unlicensed trans-
13 feree;

14 “(B) the covered transfer is made in accordance
15 with regulations promulgated by the Attorney Gen-
16 eral under paragraph (3) and after the unlicensed
17 transferee has undergone a background check;

18 “(C) the covered transfer is made—

19 “(i) after the transferee has presented to
20 the transferor a permit for transfer of a firearm
21 that—

22 “(I) allows the transferee to possess
23 or acquire a firearm; and

1 “(II) was issued not more than 5
2 years earlier by the State in which the
3 transfer is to take place; and

4 “(ii) in a State in which the law of the
5 State requires that a permit for transfer of a
6 firearm be issued only after an authorized gov-
7 ernment official has verified that the informa-
8 tion available to the official does not indicate
9 that possession of a firearm by the transferee
10 would be in violation of State or Federal law;
11 or

12 “(D) the covered transfer is made between an
13 unlicensed transferor and an unlicensed transferee
14 residing in the same State, which takes place in such
15 State, if—

16 “(i) the Attorney General certifies that the
17 law in the State in which the transfer takes
18 place requires that the unlicensed transferee
19 comply with subsection (s) before the transfer
20 takes place to assure the unlicensed transferee
21 is not prohibited from receiving or possessing a
22 firearm; and

23 “(ii) the transfer was conducted in compli-
24 ance with the laws of the State.

1 “(3)(A) Not later than 2 years after the date of en-
2 actment of the Protecting Gun Sellers Act of 2013, the
3 Attorney General shall, using competitive bidding prac-
4 tices, authorize the establishment of an Internet-based,
5 consumer portals that will allow a person who is not li-
6 censed under this chapter to run a self-background check
7 using the National Instant Criminal Background Check
8 System for the purpose of conducting a covered transfer
9 under this subsection.

10 “(B) In authorizing the establishment of the con-
11 sumer portals required under subparagraph (A), the At-
12 torney General shall ensure that—

13 “(i) the consumer portal may be accessed
14 through an Internet website;

15 “(ii) an unlicensed transferee who completes a
16 background check using the consumer portal and
17 would not be in violation of subsection (g) or (n) of
18 section 922 or of State law by receiving a firearm
19 shall be provided a temporary permit, valid for a 30-
20 day period beginning on the date on which the back-
21 ground check is completed, that—

22 “(I) signifies that the unlicensed transferee
23 is not prohibited from legally purchasing or
24 possessing a firearm; and

1 “(II) may be used, during the 30-day pe-
2 riod, by the unlicensed transferee for a covered
3 transfer of a firearm under this subsection, in
4 compliance with any applicable State or Federal
5 law;

6 “(iii) the temporary permit described in clause
7 (ii) shall—

8 “(I) be made available to the unlicensed
9 transferee as an electronic printable document
10 and be accessible through an Internet website,
11 mobile application, or other means determined
12 appropriate by the Attorney General; and

13 “(II) contain—

14 “(aa) the name of the unlicensed
15 transferee;

16 “(bb) the date of expiration of the
17 permit;

18 “(cc) a unique pin number that can
19 be used to verify the validity of the permit
20 by the unlicensed transferor of a firearm;
21 and

22 “(dd) any other protections necessary
23 to prevent fraud;

24 “(iv) the consumer portal be designed in a man-
25 ner that allows for maximum privacy and security

1 protections so that a user of the consumer portal
2 may only run a self-background check and not run
3 a background check on any other person; and

4 “(v) any information obtained by the consumer
5 portal from an individual shall be destroyed within
6 24 hours from the time at which the information
7 was obtained, except for—

8 “(I) information required for the unli-
9 censed transferor to verify the validity of the
10 permit, including—

11 “(aa) the unique serial number as-
12 signed to a temporary permit; and

13 “(bb) the date of birth associated with
14 the unique serial number; and

15 “(II) any record of a person who—

16 “(aa) attempts to complete a back-
17 ground check; and

18 “(bb) would be in violation of sub-
19 section (g) or (n) of section 922 if the per-
20 son received or possessed a firearm.

21 “(4)(A) Notwithstanding any other provision of this
22 chapter, the Attorney General may implement this sub-
23 section with regulations.

1 “(B) Regulations promulgated under this paragraph
2 may not include any provision requiring licensees to facili-
3 tate transfers in accordance with paragraph (2)(A).

4 “(C) Regulations promulgated under this paragraph
5 may not include any provision requiring persons not li-
6 censed under this chapter to keep records of background
7 checks or firearms transfers.

8 “(D) Regulations promulgated under this paragraph
9 may not include any provision placing a cap on the fee
10 licensees may charge to facilitate transfers in accordance
11 with paragraphs (2)(A).

12 “(5) No department, agency, officer, or employee of
13 the United States may—

14 “(A) require that any record or portion thereof
15 generated by a consumer portal be recorded at or
16 transferred to a facility owned, managed, or con-
17 trolled by the United States or any State or political
18 subdivision thereof, except as provided by section
19 923(g)(4); or

20 “(B) use a consumer portal to establish any
21 system for the registration of firearms, firearm own-
22 ers, or firearm transactions or dispositions, except
23 with respect to persons, prohibited by section 922
24 (g) or (n) of title 18, United States Code or State
25 law, from receiving a firearm.

1 “(6) The Attorney General shall establish, and make
2 available to the public, a sample form, which may be used,
3 on a voluntary basis, by a transferor to document informa-
4 tion relating to each firearm transfer conducted by the
5 transferor, for the purpose of assisting law enforcement
6 officers during a criminal investigation.

7 “(7) If the consumer portal established under this
8 subsection is ever permanently shutdown or defunded, this
9 subsection shall have no force or effect beginning on the
10 date on which the consumer portal is non-operational.

11 “(8)(A) Paragraph (2) shall not apply to a covered
12 transfer in a State that has enacted legislation that has—

13 “(i) establishes requirements for background
14 checks for covered transfers that are, in the deter-
15 mination of the Attorney General, similar to the re-
16 quirements described in this subsection; and

17 “(ii) allows for the State to have primary en-
18 forcement authority of covered transfers occurring
19 within the State.

20 “(B) In establishing requirements that are similar to
21 the requirements under this subsection, a State may allow
22 for geographic or technological exemptions for rural areas
23 within the State that are remote and lack the technological
24 capabilities needed to access the consumer portal.”.

25 (b) ACCOUNTABILITY.—

1 (1) IN GENERAL.—Beginning 90 days after the
2 date of enactment of this Act, and every 60 days
3 thereafter, the Inspector General of the Department
4 of Justice shall conduct an audit of not fewer than
5 50 percent of all background checks conducted for
6 the purposes of a covered transfer of a firearm
7 under section 922(t) of title 18, United States Code,
8 as amended by this Act, to—

9 (A) prevent waste, fraud, and abuse of the
10 background check system; and

11 (B) ensure compliance with the require-
12 ment to destroy certain information within 24
13 hours under section 922(t)(3)(B)(v).

14 (2) REPORT TO CONGRESS.—The Inspector
15 General of the Department of Justice shall—

16 (A) submit a report describing the results
17 of each audit conducted under this paragraph
18 to the Committee on the Judiciary of the Sen-
19 ate and the Committee on the Judiciary of the
20 House of Representatives; and

21 (B) publish each report submitted under
22 subparagraph (A) on the homepage of the offi-
23 cial public website of the Department of Jus-
24 tice.

1 (c) PROHIBITION OF NATIONAL GUN REGISTRY.—
2 Section 923 of title 18, United States Code, is amended
3 by adding at the end the following:

4 “(m) The Attorney General may not consolidate or
5 centralize the records of the—

6 “(1) acquisition or disposition of firearms, or
7 any portion thereof, maintained by—

8 “(A) a person licensed under this chapter;

9 “(B) an unlicensed transferor under sec-
10 tion 922(t); or

11 “(2) possession or ownership of a firearm,
12 maintained by any medical or health insurance enti-
13 ty.”.

14 (d) LIMITATION ON AUTHORIZATION TO SEIZE,
15 COPY, OR REPRODUCE RECORDS AND DOCUMENTS.—Sec-
16 tion 923 of title 18, United States Code, as amended by
17 subsection (b) of this Act, is amended by adding at the
18 end the following:

19 “(n)(1) An officer of the Bureau of Alcohol, Tobacco,
20 Firearms, and Explosive may only seize, copy, or repro-
21 duce a record or document of a person licensed under this
22 chapter, an unlicensed transferor of a firearm, or an unli-
23 censed transferee of a firearm if the record or document—

24 “(A) constitutes material evidence of a violation
25 of law; or

1 “(B) is necessary in the conduct of a bona fide
2 criminal investigation.

3 “(2) If any officer of the Bureau of Alcohol, Tobacco,
4 Firearms, and Explosives violates paragraph (1), the At-
5 torney General—

6 “(A) may impose a civil penalty of not more
7 than \$1,000 on the officer for a first violation; and

8 “(B) shall terminate the officer for a second
9 violation.”.

10 (e) TECHNICAL AND CONFORMING AMENDMENT.—

11 (1) SECTION 922.—Section 922(y)(2) of title
12 18, United States Code, is amended, in the matter
13 preceding subparagraph (A), by striking “,
14 (g)(5)(B), and (s)(3)(B)(v)(II)” and inserting “and
15 (g)(5)(B)”.

16 (2) CONSOLIDATED AND FURTHER CONTINUING
17 APPROPRIATIONS ACT, 2012.—Section 511 of title V
18 of division B of the Consolidated and Further Con-
19 tinuing Appropriations Act, 2012 (18 U.S.C. 922
20 note) is amended by striking “subsection 922(t)”
21 and inserting “section 922(s)” each place it appears.

22 **SEC. 203. EFFECTIVE DATE.**

23 The amendments made by this title shall take effect
24 180 days after the date of enactment of this Act.

1 **TITLE III—NATIONAL COMMIS-**
2 **SION ON MASS VIOLENCE**

3 **SEC. 301. SHORT TITLE.**

4 This title may be cited as the “National Commission
5 on Mass Violence Act of 2013”.

6 **SEC. 302. NATIONAL COMMISSION ON MASS VIOLENCE.**

7 (a) ESTABLISHMENT OF COMMISSION.—There is es-
8 tablished a commission to be known as the National Com-
9 mission on Mass Violence (in this title referred to as the
10 “Commission”) to study the availability and nature of fire-
11 arms, including the means of acquiring firearms, and all
12 positive and negative impacts of the availability and na-
13 ture of firearms on incidents of mass violence or in pre-
14 venting mass violence.

15 (b) MEMBERSHIP.—

16 (1) APPOINTMENTS.—The Commission shall be
17 composed of 12 members, of whom—

18 (A) 6 members shall be appointed by the
19 Majority Leader of the Senate, in consultation
20 with the Democratic leadership of the House of
21 Representatives, 1 of whom shall serve as
22 Chairman of the Commission; and

23 (B) 6 members shall be appointed by the
24 Speaker of the House of Representatives, in
25 consultation with the Republican leadership of

1 the Senate, 1 of whom shall serve as Vice
2 Chairman of the Commission.

3 (2) PERSONS ELIGIBLE.—

4 (A) IN GENERAL.—The members ap-
5 pointed to the Commission shall include—

6 (i) individuals who have expertise, by
7 both experience and training, in—

8 (I) firearms;

9 (II) mental health;

10 (III) school safety; and

11 (IV) mass media; and

12 (ii) well-known and respected among
13 their peers in their respective fields of ex-
14 pertise.

15 (B) EXPERTS.—In identifying the individ-
16 uals to serve on the Commission, the appointing
17 authorities shall take special care to identify ex-
18 perts in the fields described in section
19 303(a)(2).

20 (C) PARTY AFFILIATION.—Not more than
21 6 members of the Commission shall be from the
22 same political party.

23 (3) COMPLETION OF APPOINTMENTS; VACAN-
24 CIES.—Not later than 30 days after the date of en-
25 actment of this title, the appointing authorities

1 under paragraph (1) shall each make their respective
2 appointments. Any vacancy that occurs during the
3 life of the Commission shall not affect the powers of
4 the Commission, and shall be filled in the same
5 manner as the original appointment not later than
6 30 days after the vacancy occurs.

7 (4) OPERATION OF THE COMMISSION.—

8 (A) MEETINGS.—

9 (i) IN GENERAL.—The Commission
10 shall meet at the call of the Chairman.

11 (ii) INITIAL MEETING.—The initial
12 meeting of the Commission shall be con-
13 ducted not later than 30 days after the
14 later of—

15 (I) the date of the appointment
16 of the last member of the Commis-
17 sion; or

18 (II) the date on which appro-
19 priated funds are available for the
20 Commission.

21 (B) QUORUM; VACANCIES; VOTING;
22 RULES.—A majority of the members of the
23 Commission shall constitute a quorum to con-
24 duct business, but the Commission may estab-
25 lish a lesser quorum for conducting hearings

1 scheduled by the Commission. Each member of
2 the Commission shall have 1 vote, and the vote
3 of each member shall be accorded the same
4 weight. The Commission may establish by ma-
5 jority vote any other rules for the conduct of
6 the Commission's business, if such rules are not
7 inconsistent with this title or other applicable
8 law.

9 **SEC. 303. DUTIES OF THE COMMISSION.**

10 (a) STUDY.—

11 (1) IN GENERAL.—It shall be the duty of the
12 Commission to conduct a comprehensive factual
13 study of incidents of mass violence, including inci-
14 dents of mass violence not involving firearms, in the
15 context of the many acts of senseless mass violence
16 that occur in the United States each year, in order
17 to determine the root causes of such mass violence.

18 (2) MATTERS TO BE STUDIED.—In determining
19 the root causes of these recurring and tragic acts of
20 mass violence, the Commission shall study any mat-
21 ter that the Commission determines relevant to
22 meeting the requirements of paragraph (1), includ-
23 ing at a minimum—

24 (A) the role of schools, including the level
25 of involvement and awareness of teachers and

1 school administrators in the lives of their stu-
2 dents and the availability of mental health and
3 other resources and strategies to help detect
4 and counter tendencies of students towards
5 mass violence;

6 (B) the effectiveness of and resources
7 available for school security strategies to pre-
8 vent incidents of mass violence;

9 (C) the role of families and the availability
10 of mental health and other resources and strat-
11 egies to help families detect and counter ten-
12 dencies toward mass violence;

13 (D) the effectiveness and use of, and re-
14 sources available to, the mental health system
15 in understanding, detecting, and countering
16 tendencies toward mass violence, as well as the
17 effects of treatments and therapies;

18 (E) whether medical doctors and other
19 mental health professionals have the ability,
20 without negative legal or professional con-
21 sequences, to notify law enforcement officials
22 when a patient is a danger to himself or others;

23 (F) the nature and impact of the alien-
24 ation of the perpetrators of such incidents of

1 mass violence from their schools, families, peer
2 groups, and places of work;

3 (G) the role that domestic violence plays in
4 causing incidents of mass violence;

5 (H) the effect of depictions of mass vio-
6 lence in the media and entertainment industry,
7 and any impact of such depictions on incidents
8 of mass violence;

9 (I) the availability and nature of firearms,
10 including the means of acquiring such firearms,
11 and all positive and negative impacts of such
12 availability and nature on incidents of mass vio-
13 lence or in preventing mass violence;

14 (J) the role of current prosecution rates in
15 contributing to the availability of weapons that
16 are used in mass violence;

17 (K) the availability of information regard-
18 ing the construction of weapons, including ex-
19 plosive devices, and any impact of such infor-
20 mation on such incidents of mass violence;

21 (L) the views of law enforcement officials,
22 religious leaders, mental health experts, and
23 other relevant officials on the root causes and
24 prevention of mass violence; and

1 (M) any other area that the Commission
2 determines contributes to the causes of mass vi-
3 olence, including incidents in which firearms
4 were used to stop mass violence.

5 (3) TESTIMONY OF VICTIMS AND SURVIVORS.—

6 In determining the root causes of these recurring
7 and tragic incidents of mass violence, the Commis-
8 sion shall, in accordance with section 304(a), take
9 the testimony of victims and survivors to learn and
10 memorialize their views and experiences regarding
11 such incidents of mass violence.

12 (b) RECOMMENDATIONS.—Based on the findings of
13 the study required under subsection (a), the Commission
14 shall make recommendations to the President and Con-
15 gress to address the causes of these recurring and tragic
16 incidents of mass violence and to reduce such incidents
17 of mass violence.

18 (c) REPORTS.—

19 (1) INTERIM REPORT.—Not later than 3
20 months after the date on which the Commission first
21 meets, the Commission shall submit to the President
22 and Congress an interim report describing any ini-
23 tial recommendations of the Commission.

24 (2) FINAL REPORT.—Not later than 6 months
25 after the date on which the Commission first meets,

1 the Commission shall submit to the President and
2 Congress a comprehensive report of the findings and
3 conclusions of the Commission, together with the
4 recommendations of the Commission.

5 (3) SUMMARIES.—The report under paragraph
6 (2) shall include a summary of—

7 (A) the reports submitted to the Commis-
8 sion by any entity under contract for research
9 under section 304(e); and

10 (B) any other material relied on by the
11 Commission in the preparation of the report.

12 **SEC. 304. POWERS OF THE COMMISSION.**

13 (a) HEARINGS.—

14 (1) IN GENERAL.—The Commission may hold
15 such hearings, sit and act at such times and places,
16 administer such oaths, take such testimony, and re-
17 ceive such evidence as the Commission considers ad-
18 visable to carry out its duties under section 303.

19 (2) WITNESS EXPENSES.—Witnesses requested
20 to appear before the Commission shall be paid the
21 same fees as are paid to witnesses under section
22 1821 of title 28, United States Code.

23 (b) INFORMATION FROM FEDERAL AGENCIES.—The
24 Commission may secure directly from any Federal agency
25 such information as the Commission considers necessary

1 to carry out its duties under section 303. Upon the request
2 of the Commission, the head of such agency may furnish
3 such information to the Commission.

4 (c) INFORMATION TO BE KEPT CONFIDENTIAL.—

5 (1) IN GENERAL.—The Commission shall be
6 considered an agency of the Federal Government for
7 purposes of section 1905 of title 18, United States
8 Code, and any individual employed by any individual
9 or entity under contract with the Commission under
10 subsection (d) shall be considered an employee of the
11 Commission for the purposes of section 1905 of title
12 18, United States Code.

13 (2) DISCLOSURE.—Information obtained by the
14 Commission or the Attorney General under this title
15 and shared with the Commission, other than infor-
16 mation available to the public, shall not be disclosed
17 to any person in any manner, except—

18 (A) to Commission employees or employees
19 of any individual or entity under contract to the
20 Commission under subsection (d) for the pur-
21 pose of receiving, reviewing, or processing such
22 information;

23 (B) upon court order; or

1 (C) when publicly released by the Commis-
2 sion in an aggregate or summary form that
3 does not directly or indirectly disclose—

4 (i) the identity of any person or busi-
5 ness entity; or

6 (ii) any information which could not
7 be released under section 1905 of title 18,
8 United States Code.

9 (d) CONTRACTING FOR RESEARCH.—The Commis-
10 sion may enter into contracts with any entity for research
11 necessary to carry out the duties of the Commission under
12 section 303.

13 **SEC. 305. COMMISSION PERSONNEL MATTERS.**

14 (a) COMPENSATION OF MEMBERS.—Each member of
15 the Commission who is not an officer or employee of the
16 Federal Government shall be compensated at a rate equal
17 to the daily equivalent of the annual rate of basic pay pre-
18 scribed for level IV of the Executive Schedule under sec-
19 tion 5315 of title 5, United States Code, for each day (in-
20 cluding travel time) during which such member is engaged
21 in the performance of the duties of the Commission. All
22 members of the Commission who are officers or employees
23 of the United States shall serve without compensation in
24 addition to that received for their services as officers or
25 employees of the United States.

1 (b) TRAVEL EXPENSES.—The members of the Com-
2 mission shall be allowed travel expenses, including per
3 diem in lieu of subsistence, at rates authorized for employ-
4 ees of agencies under subchapter I of chapter 57 of title
5 5, United States Code, while away from their homes or
6 regular places of business in the performance of service
7 for the Commission.

8 (c) STAFF.—

9 (1) IN GENERAL.—The Chairman of the Com-
10 mission may, without regard to the civil service laws
11 and regulations, appoint and terminate an executive
12 director and such other additional employees as may
13 be necessary to enable the Commission to perform
14 its duties. The employment and termination of an
15 executive director shall be subject to confirmation by
16 a majority of the members of the Commission.

17 (2) COMPENSATION.—The executive director
18 shall be compensated at a rate not to exceed the rate
19 payable for level V of the Executive Schedule under
20 section 5316 of title 5, United States Code. The
21 Chairman may fix the compensation of other em-
22 ployees without regard to the provisions of chapter
23 51 and subchapter III of chapter 53 of title 5,
24 United States Code, relating to classification of posi-
25 tions and General Schedule pay rates, except that

1 the rate of pay for such employees may not exceed
2 the rate payable for level V of the Executive Sched-
3 ule under section 5316 of such title.

4 (3) **DETAIL OF GOVERNMENT EMPLOYEES.**—
5 Any Federal Government employee, with the ap-
6 proval of the head of the appropriate Federal agen-
7 cy, may be detailed to the Commission without reim-
8 bursement, and such detail shall be without inter-
9 ruption or loss of civil service status, benefits, or
10 privilege.

11 (d) **PROCUREMENT OF TEMPORARY AND INTERMIT-**
12 **TENT SERVICES.**—The Chairman of the Commission may
13 procure temporary and intermittent services under section
14 3109(b) of title 5, United States Code, at rates for individ-
15 uals not to exceed the daily equivalent of the annual rate
16 of basic pay prescribed for level V of the Executive Sched-
17 ule under section 5316 of such title.

18 **SEC. 306. AUTHORIZATION OF APPROPRIATIONS.**

19 There are authorized to be appropriated to the Com-
20 mission and any agency of the Federal Government assist-
21 ing the Commission in carrying out its duties under this
22 title such sums as may be necessary to carry out the pur-
23 poses of this title. Any sums appropriated shall remain
24 available, without fiscal year limitation, until expended.

1 SEC. 307. TERMINATION OF THE COMMISSION.

2 The Commission shall terminate 30 days after the
3 Commission submits the final report under section
4 303(c)(2).