

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

OTHER: Yes

The New Jersey SAFE Task Force on Gun Protection, Addiction, Mental Health and Families, and Education Safety: Report to Governor Chris Christie. [Trenton, N.J.] : [Office of the Attorney General], 2013.

Call number 974.90 W362, 2013

<http://dSPACE.njstatelib.org:8080/xmlui/handle/10929/34559>

"Christie signs extensive package of gun-control bills into law," NJ SPOTLIGHT, 8-9-13

"Christie cautious on guns," The Record, 8-9-13

"Christie signs limits on guns," The Philadelphia Inquirer, 8-9-13

"Christie balks on Controversial gun bills," The Star-Ledger, 8-9-13

"Christie signs 10 new gun bills, including local lawmakers' anti-trafficking measure," Burlington County Times, 8-9-13

"Tougher gun measures signed," CourierPostOnline.com, 8-9-13

"Christie signs some gun-control measures into law," The Trentonian, 8-9-13

LAW/KR

P.L.2013, CHAPTER 115, *approved August 8, 2013*
Assembly, No. 3717 (*Second Reprint*)

1 AN ACT concerning submission of certain mental health records to
2 the federal National Instant Criminal Background Check System
3 and ¹**[amending P.L.1965, c.59]** supplementing Title 30 of the
4 Revised Statutes¹.

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 ¹**[1.**Section 11 of P.L.1965, c.59 (C.30:4-24.3) is amended to
10 read as follows:

11 11. All certificates, applications, records, and reports made
12 pursuant to the provisions of Title 30 of the Revised Statutes and
13 directly or indirectly identifying any individual presently or
14 formerly receiving services in a noncorrectional institution under
15 Title 30 of the Revised Statutes, or for whom services in a
16 noncorrectional institution shall be sought under this act shall be
17 kept confidential and shall not be disclosed by any person, except
18 insofar as:

19 a. the individual identified or his legal guardian, if any, or, if
20 he is a minor, his parent or legal guardian, shall consent; or

21 b. disclosure may be necessary to carry out any of the
22 provisions of this act or of article 9 of chapter 82 of Title 2A of the
23 New Jersey Statutes; or

24 c. a court may direct, upon its determination that disclosure is
25 necessary for the conduct of proceedings before it and that failure to
26 make such disclosure would be contrary to the public interest; or

27 d. disclosure may be necessary to conduct an investigation into
28 the financial ability to pay of any person receiving services or his
29 chargeable relatives pursuant to the provisions of R.S.30:1-12.

30 **[e. disclosure is needed to comply with the data reporting**
31 **provisions of the NICS Improvement Amendments Act of 2007,**
32 **Pub. L. 110-180, and the Brady Handgun Violence Prevention Act**
33 **of 1993, Pub. L. 103-159.]**

34 Nothing in this section shall preclude disclosure, upon proper
35 inquiry, of information as to a patient's current medical condition to
36 any relative or friend or to the patient's personal physician or
37 attorney if it appears that the information is to be used directly or
38 indirectly for the benefit of the patient.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹**Senate SLP committee amendments adopted May 9, 2013.**

²**Assembly floor amendments adopted May 20, 2013.**

1 Nothing in this section shall preclude the professional staff of a
2 community agency under contract with the Division of Mental
3 Health Services in the Department of Human Services, or of a
4 screening service, short-term care or psychiatric facility as those
5 facilities are defined in section 2 of P.L.1987, c.116 (C.30:4-27.2)
6 from disclosing information that is relevant to a patient's current
7 treatment to the staff of another such agency.

8 All certificates, applications, records, and reports made pursuant
9 to the provisions of Title 30 of the Revised Statutes and directly or
10 indirectly identifying any individual presently or formerly receiving
11 services in a noncorrectional institution under Title 30 of the
12 Revised Statutes, or for whom services in a noncorrectional
13 institution shall be sought under this act shall be disclosed to
14 National Instant Criminal Background Check System in compliance
15 with the data reporting provisions of the NICS Improvement
16 Amendments Act of 2007, Pub.L. 110-180, and the Brady
17 Handgun Violence Prevention Act of 1993, Pub. L. 103-159.

18 (cf: P.L.2009, c.183, s.4)]¹

19
20 ¹1. In compliance with the federal NICS Improvement
21 Amendments Act of 2007, Pub.L. 110-180 ²and the Brady Handgun
22 Violence Prevention Act of 1993, Pub. L. 103-159² , the Attorney
23 General shall direct the Superintendent of the State Police to
24 collect, in cooperation with the Administrative Office of the Courts,
25 such data as may be required ²[by the United States Department of
26 Justice concerning persons who are subject to federal firearms
27 prohibitions set forth in] to make a determination as to whether a
28 person is disqualified from possessing or receiving a firearm under²
29 18 U.S.C. s.922 ²or applicable State law² , and to transmit such
30 data to the National Instant Criminal Background Check System
31 administered by the Federal Bureau of Investigation.¹

32
33 2. This act shall take effect immediately.
34
35
36
37

38 _____
39 Requires submission of certain mental health records to National
Instant Criminal Background Check System.

ASSEMBLY, No. 3717

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED JANUARY 28, 2013

Sponsored by:

Assemblywoman PAMELA R. LAMPITT

District 6 (Burlington and Camden)

Assemblyman TROY SINGLETON

District 7 (Burlington)

Assemblyman TIMOTHY J. EUSTACE

District 38 (Bergen and Passaic)

Assemblyman REED GUSCIORA

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

**Assemblywomen Watson Coleman, Mosquera, Spencer, Assemblymen
Schaer and Diegnan**

SYNOPSIS

Requires submission of certain mental health records to National Instant Criminal Background Check System.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/22/2013)

1 AN ACT concerning submission of certain mental health records to
2 the federal National Instant Criminal Background Check System
3 and amending P.L.1965, c.59.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. Section 11 of P.L.1965, c.59 (C.30:4-24.3) is amended to
9 read as follows:

10 11. All certificates, applications, records, and reports made
11 pursuant to the provisions of Title 30 of the Revised Statutes and
12 directly or indirectly identifying any individual presently or
13 formerly receiving services in a noncorrectional institution under
14 Title 30 of the Revised Statutes, or for whom services in a
15 noncorrectional institution shall be sought under this act shall be
16 kept confidential and shall not be disclosed by any person, except
17 insofar as:

18 a. the individual identified or his legal guardian, if any, or, if
19 he is a minor, his parent or legal guardian, shall consent; or

20 b. disclosure may be necessary to carry out any of the
21 provisions of this act or of article 9 of chapter 82 of Title 2A of the
22 New Jersey Statutes; or

23 c. a court may direct, upon its determination that disclosure is
24 necessary for the conduct of proceedings before it and that failure to
25 make such disclosure would be contrary to the public interest; or

26 d. disclosure may be necessary to conduct an investigation into
27 the financial ability to pay of any person receiving services or his
28 chargeable relatives pursuant to the provisions of R.S.30:1-12.

29 **[e. disclosure is needed to comply with the data reporting**
30 **provisions of the NICS Improvement Amendments Act of 2007,**
31 **Pub. L. 110-180, and the Brady Handgun Violence Prevention Act**
32 **of 1993, Pub. L. 103-159.]**

33 Nothing in this section shall preclude disclosure, upon proper
34 inquiry, of information as to a patient's current medical condition to
35 any relative or friend or to the patient's personal physician or
36 attorney if it appears that the information is to be used directly or
37 indirectly for the benefit of the patient.

38 Nothing in this section shall preclude the professional staff of a
39 community agency under contract with the Division of Mental
40 Health Services in the Department of Human Services, or of a
41 screening service, short-term care or psychiatric facility as those
42 facilities are defined in section 2 of P.L.1987, c.116 (C.30:4-27.2)
43 from disclosing information that is relevant to a patient's current
44 treatment to the staff of another such agency.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 All certificates, applications, records, and reports made pursuant
2 to the provisions of Title 30 of the Revised Statutes and directly or
3 indirectly identifying any individual presently or formerly receiving
4 services in a noncorrectional institution under Title 30 of the
5 Revised Statutes, or for whom services in a noncorrectional
6 institution shall be sought under this act shall be disclosed to
7 National Instant Criminal Background Check System in compliance
8 with the data reporting provisions of the NICS Improvement
9 Amendments Act of 2007, Pub.L. 110-180, and the Brady
10 Handgun Violence Prevention Act of 1993, Pub. L. 103-159.

11 (cf: P.L.2009, c.183, s.4)

12

13 2. This act shall take effect immediately.

14

15

16

STATEMENT

17

18 This bill requires the State to submit certain mental health
19 records to the National Instant Criminal Background Check System.

20 The United States Department of Justice established the National
21 Instant Criminal Background Check System (NICS) for federally
22 licensed gun dealers to conduct background checks on prospective
23 gun purchasers. The NICS attains or accesses records from state
24 police, local police and other agencies to determine if the
25 prospective gun purchaser is prohibited from owning a firearm.
26 The NICS relies on states to submit this information. As a result, if
27 the states do not submit the information, the NICS database will
28 have incomplete or inaccurate records, thereby allowing some
29 individuals to purchase guns who should be prohibited.

30 This State has begun the process of implementing an electronic
31 system to submit mental health records to NICS, however
32 submission of these records is not mandatory under current State
33 law. The provisions of this bill would make the submission
34 mandatory.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3717

STATE OF NEW JERSEY

DATED: FEBRUARY 13, 2013

The Assembly Law and Public Safety Committee reports favorably Assembly Bill No. 3717.

Assembly Bill No. 3717 requires the State to submit certain mental health records to the National Instant Criminal Background Check System (NICS).

The United States Department of Justice established NICS for federally licensed gun dealers to conduct background checks on prospective gun purchasers. NICS attains or accesses records from state police, local police and other agencies to determine if the prospective gun purchaser is prohibited from owning a firearm. NICS relies on states to submit this information. As a result, if the states do not submit the information, the NICS database will have incomplete or inaccurate records, thereby allowing some individuals to purchase guns who should be prohibited from doing so.

This State has begun the process of implementing an electronic system to submit mental health records to NICS. However, submission of these records is not mandatory under current State law. The provisions of this bill would make the submission mandatory.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 3717
STATE OF NEW JERSEY
215th LEGISLATURE

DATED: FEBRUARY 28, 2013

SUMMARY

- Synopsis:** Requires submission of certain mental health records to National Instant Criminal Background Check System.
- Type of Impact:** Minimal or no increase in administrative costs.
- Agencies Affected:** Administrative Office of the Courts (AOC); Department of Law and Public Safety, Division of State Police; county governments.

Office of Legislative Services Estimate

Fiscal Impact	<u>Years 1-3</u>
State Cost	Minimal or no increase.
Local Cost	Minimal or no increase.

- The bill is expected to have minimal or no cost, as the State is already taking steps to provide mental health records to the federal government, and is expected to be in compliance with the bill in the near future.
- The administrative cost of entering information into the electronic system and reporting data to the federal government (made mandatory under the bill) is expected to be minimal, and can be absorbed in the normal operational budgets of the affected agencies.

BILL DESCRIPTION

Assembly Bill No. 3717 of 2013 requires the State to submit certain mental health records to the National Instant Criminal Background Check System (NICS).

The United States Department of Justice established NICS for federally licensed gun dealers to conduct background checks on prospective gun purchasers. NICS attains or accesses records from state police, local police, and other agencies to determine if the prospective gun purchaser is prohibited from owning a firearm. NICS relies on states to submit this information in a complete, accurate, and timely manner.

The State has begun the process of implementing an electronic system to submit mental health records to NICS. Submission of these records is not mandatory under current State law. The provisions of this bill would make the submission mandatory.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received. However, the Administrative Office of the Courts (AOC) provided background information regarding the State's development of an electronic system for identifying and reporting mental health information to NICS.

OFFICE OF LEGISLATIVE SERVICES

The bill is expected to generate minimal or no additional cost, as the State is already taking steps to provide mental health records to NICS, and is expected to be in compliance with the bill in the near future.

The AOC has received two federal NICS Act Record Improvement Program grants, in federal fiscal years 2010 and 2011. The first, for \$860,331, was for the development of an electronic system to record and submit mental health information to NICS. The second, for \$2,772,560, was for the input of past records into the system. According to the AOC, the system has been developed and the loading of past records is nearly complete. Once the testing of the system is completed, the records will be submitted to the State Police, who will then submit them to NICS. Subsequently, new records will continue to be entered into the system. The last county will be added to the system on April 1, 2013.

To fulfill the requirements of the bill, data must be entered into the system on an ongoing basis, and the State Police must report the data to NICS. Both activities could generate administrative costs that are not mandatory under current law. (It seems likely that counties would be responsible for the data entry, but the Office of Legislative Services has not been able to verify this.) The actions taken thus far in implementing the program, which were not mandated by the State, seem to suggest that the affected agencies expect to absorb these costs within their normal operating budgets.

Section: Human Services
Analyst: David Drescher
Assistant Fiscal Analyst
Approved: David J. Rosen
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 3717

STATE OF NEW JERSEY

DATED: MAY 9, 2013

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 3717 (1R).

This bill requires the State to submit certain mental health records to the National Instant Criminal Background Check System (NICS).

Specifically, the bill requires the Attorney General, in compliance with the federal NICS Improvement Amendments Act of 2007, to direct the Superintendent of State Police to collect, in cooperation with the Administrative Office of the Courts (AOC), data required by the United States Department of Justice concerning persons who are subject to federal firearms prohibitions. The data is to be transmitted to the National Instant Criminal Background Check System administered by the Federal Bureau of Investigation.

The United States Department of Justice established NICS for federally licensed gun dealers to conduct background checks on prospective gun purchasers. NICS attains or accesses records from state police, local police and other agencies to determine if the prospective gun purchaser is prohibited from owning a firearm. NICS relies on states to submit this information.

This State has begun the process of implementing an electronic system to submit mental health records to NICS. However, submission of these records is not mandatory under current State law. The provisions of this bill would make the submission mandatory.

This bill is identical to Senate Bill No. 2492 (SCS) as also reported by the committee.

FISCAL IMPACT:

This legislation is expected to generate minimal or no additional cost, as the State is already taking steps to provide relevant records to NICS, and is expected to be in compliance with the bill in the near future.

The AOC received two federal NICS Act Record Improvement Program grants in federal fiscal years 2010 and 2011. The first, for \$860,331, was for the development of an electronic system to record and submit mental health information to NICS. The second, for \$2,772,560, was for the input of past records into the system.

According to the AOC, the system has been developed and the loading of past records is nearly complete. Once the testing of the system is completed, the records will be submitted to the State Police, who will then submit them to NICS. Subsequently, new records will continue to be entered into the system.

To fulfill the requirements of the bill, data must be entered into the system on an ongoing basis, and the State Police must report the data to NICS. Both activities could generate administrative costs that are not mandatory under current law; however, the actions taken thus far in implementing the program, which were not mandated by the State, seem to suggest that the affected agencies expect to absorb these costs within their normal operating budgets.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 3717

STATE OF NEW JERSEY 215th LEGISLATURE

DATED: MAY 15, 2013

SUMMARY

- Synopsis:** Requires submission of certain mental health records to National Instant Criminal Background Check System.
- Type of Impact:** Minimal or no increase in administrative costs.
- Agencies Affected:** Administrative Office of the Courts (AOC); Department of Law and Public Safety, Division of State Police; county governments.

Office of Legislative Services Estimate

Fiscal Impact	<u>Years 1-3</u>
State Cost	Minimal or no increase.
Local Cost	Minimal or no increase.

- The bill is expected to have minimal or no cost, as the State is already taking steps to provide mental health records to the federal government, and is expected to be in compliance with the bill in the near future.
- The administrative cost of entering information into the electronic system and reporting data to the federal government (made mandatory under the bill) is expected to be minimal, and can likely be absorbed in the normal operational budgets of the affected agencies.

BILL DESCRIPTION

Assembly Bill No. 3717 (1R) of 2013 requires the State to submit certain mental health records to the National Instant Criminal Background Check System (NICS).

The bill requires the Attorney General, in compliance with the federal NICS Improvement Amendments Act of 2007, to direct the Superintendent of State Police to collect, in cooperation with the Administrative Office of the Courts (AOC), data required by the United States Department of Justice concerning persons who are subject to federal firearms prohibitions. The

data is to be transmitted to the NICS System administered by the Federal Bureau of Investigation.

The United States Department of Justice established NICS for federally licensed gun dealers to conduct background checks on prospective gun purchasers. The NICS attains or accesses records from state police, local police and other agencies to determine if the prospective gun purchaser is prohibited from owning a firearm. The NICS relies on states to submit this information in a complete, accurate, and timely manner.

The State has begun the process of implementing an electronic system to submit mental health records to NICS. However, submission of these records is not mandatory under current State law. The provisions of this bill would make the submission mandatory.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received. However, the AOC provided background information regarding the State's development of an electronic system for identifying and reporting mental health information to NICS.

OFFICE OF LEGISLATIVE SERVICES

The bill is expected to generate minimal or no additional cost, as the State is already taking steps to provide mental health records to NICS, and is expected to be in compliance with the bill in the near future.

The AOC has received two federal NICS Act Record Improvement Program grants, in federal fiscal years 2010 and 2011. The first, for \$860,331, was for the development of an electronic system to record and submit mental health information to NICS. The second, for \$2,772,560, was for the input of past records into the system. According to the AOC, the system has been developed and the loading of past records is nearly complete. Once the testing of the system is completed, the records will be submitted to the State Police, who will then submit them to NICS. Subsequently, new records will continue to be entered into the system. The last county was scheduled to be added to the system on April 1, 2013.

To fulfill the requirements of the bill, data must be entered into the system on an ongoing basis, and the State Police must report the data to NICS. Both activities could generate administrative costs that are not mandatory under current law. (It seems likely that counties would be responsible for the data entry, but the Office of Legislative Services has not been able to verify this.) The actions taken thus far in implementing the program, which were not mandated by the State, seem to suggest that the affected agencies expect to absorb these costs within their normal operating budgets.

Section: Human Services

Analyst: David Drescher
Assistant Fiscal Analyst

Approved: David J. Rosen
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 3717

with Assembly Floor Amendments
(Proposed by Assemblywoman LAMPITT)

ADOPTED: MAY 20, 2013

Assembly Bill No. 3717(1R) requires certain mental health records required by federal law to be submitted to the National Instant Criminal Background Check System (NICS).

These Assembly amendments clarify that all records, including those required by federal law and those required by State law, that are needed to determine whether a person is disqualified from possessing or receiving a firearm must be submitted to NICS.

The amendments also clarify that submission of these records is in compliance with both the NICS Improvement Amendments Act and the Brady Handgun Violence Prevention Act.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 3717

STATE OF NEW JERSEY 215th LEGISLATURE

DATED: JUNE 3, 2013

SUMMARY

- Synopsis:** Requires submission of certain mental health records to National Instant Criminal Background Check System.
- Type of Impact:** Minimal or no increase in administrative costs.
- Agencies Affected:** Administrative Office of the Courts (AOC); Department of Law and Public Safety, Division of State Police; county governments.

Office of Legislative Services Estimate

Fiscal Impact	<u>Years 1-3</u>
State Cost	Minimal or no increase.
Local Cost	Minimal or no increase.

- The bill is expected to have minimal or no cost, as the State is already taking steps to provide mental health records to the federal government, and is expected to be in compliance with the bill in the near future.
- The administrative cost of entering information into the electronic system and reporting data to the federal government (made mandatory under the bill) is expected to be minimal, and can likely be absorbed in the normal operational budgets of the affected agencies.

BILL DESCRIPTION

Assembly Bill No. 3717 (2R) of 2013 requires the State to submit certain mental health records to the National Instant Criminal Background Check System (NICS).

The bill requires the Attorney General, in compliance with the federal NICS Improvement Amendments Act of 2007, to direct the Superintendent of State Police to collect, in cooperation with the Administrative Office of the Courts (AOC), data required to make a determination as to whether a person is disqualified from possessing or receiving a firearm under 18 U.S.C. s.992 or

applicable State law. The data is to be transmitted to the NICS, which is administered by the Federal Bureau of Investigation.

The United States Department of Justice established NICS for federally licensed gun dealers to conduct background checks on prospective gun purchasers. The NICS attains or accesses records from state police, local police, and other agencies to determine if a prospective gun purchaser is prohibited from owning a firearm. The NICS relies on states to submit this information in a complete, accurate, and timely manner.

The State has begun the process of implementing an electronic system to submit mental health records to NICS. However, submission of these records is not mandatory under current State law. The provisions of this bill would make the submission mandatory.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received. However, the AOC provided background information regarding the State's development of an electronic system for identifying and reporting mental health information to NICS.

OFFICE OF LEGISLATIVE SERVICES

The bill is expected to generate minimal or no additional cost, as the State is already taking steps to provide mental health records to NICS, and is expected to be in compliance with the bill in the near future.

The AOC has received two federal NICS Act Record Improvement Program grants, in federal fiscal years 2010 and 2011. The first, for \$860,331, was for the development of an electronic system to record and submit mental health information to NICS. The second, for \$2,772,560, was for the input of past records into the system. According to testimony given by the Acting Administrative Director of the New Jersey Courts to the Senate Law and Public Safety Committee on May 2, 2013, the system has been developed and the loading of past records, and submission of those records to NICS, was expected to be completed by the end of May. In the future, new records will continue to be entered into the system.

To fulfill the requirements of the bill, data must be entered into the system on an ongoing basis (primarily the responsibility of county adjusters), and the State Police must report the data to NICS. Both activities could generate administrative costs that are not mandatory under current law. The actions taken thus far in implementing the program, which were not mandated by the State, seem to suggest that the affected agencies expect to absorb these costs within their normal operating budgets.

Section: Human Services

*Analyst: David Drescher
Associate Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE, No. 2492

STATE OF NEW JERSEY
215th LEGISLATURE

INTRODUCED JANUARY 28, 2013

Sponsored by:

Senator BARBARA BUONO

District 18 (Middlesex)

Senator NIA H. GILL

District 34 (Essex and Passaic)

SYNOPSIS

Requires submission of certain mental health records to National Instant Criminal Background Check System.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 4/26/2013)

1 AN ACT concerning submission of certain mental health records to
2 the federal National Instant Criminal Background Check System
3 and amending P.L.1965, c.59.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. Section 11 of P.L.1965, c.59 (C.30:4-24.3) is amended to
9 read as follows:

10 11. All certificates, applications, records, and reports made
11 pursuant to the provisions of Title 30 of the Revised Statutes and
12 directly or indirectly identifying any individual presently or
13 formerly receiving services in a noncorrectional institution under
14 Title 30 of the Revised Statutes, or for whom services in a
15 noncorrectional institution shall be sought under this act shall be
16 kept confidential and shall not be disclosed by any person, except
17 insofar as:

18 a. the individual identified or his legal guardian, if any, or, if
19 he is a minor, his parent or legal guardian, shall consent; or

20 b. disclosure may be necessary to carry out any of the
21 provisions of this act or of article 9 of chapter 82 of Title 2A of the
22 New Jersey Statutes; or

23 c. a court may direct, upon its determination that disclosure is
24 necessary for the conduct of proceedings before it and that failure to
25 make such disclosure would be contrary to the public interest; or

26 d. disclosure may be necessary to conduct an investigation into
27 the financial ability to pay of any person receiving services or his
28 chargeable relatives pursuant to the provisions of R.S.30:1-12.

29 **[**e. disclosure is needed to comply with the data reporting
30 provisions of the NICS Improvement Amendments Act of 2007,
31 Pub. L. 110-180, and the Brady Handgun Violence Prevention Act
32 of 1993, Pub. L. 103-159.**]**

33 Nothing in this section shall preclude disclosure, upon proper
34 inquiry, of information as to a patient's current medical condition to
35 any relative or friend or to the patient's personal physician or
36 attorney if it appears that the information is to be used directly or
37 indirectly for the benefit of the patient.

38 Nothing in this section shall preclude the professional staff of a
39 community agency under contract with the Division of Mental
40 Health Services in the Department of Human Services, or of a
41 screening service, short-term care or psychiatric facility as those
42 facilities are defined in section 2 of P.L.1987, c.116 (C.30:4-27.2)
43 from disclosing information that is relevant to a patient's current
44 treatment to the staff of another such agency.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 All certificates, applications, records, and reports made pursuant
2 to the provisions of Title 30 of the Revised Statutes and directly or
3 indirectly identifying any individual presently or formerly receiving
4 services in a noncorrectional institution under Title 30 of the
5 Revised Statutes, or for whom services in a noncorrectional
6 institution shall be sought under this act shall be disclosed to
7 National Instant Criminal Background Check System in compliance
8 with the data reporting provisions of the NICS Improvement
9 Amendments Act of 2007, Pub.L. 110-180, and the Brady
10 Handgun Violence Prevention Act of 1993, Pub. L. 103-159.

11 (cf: P.L.2009, c.183, s.4)

12

13 2. This act shall take effect immediately.

14

15

16

STATEMENT

17

18 This bill requires the State to submit certain mental health
19 records to the National Instant Criminal Background Check System.

20 The United States Department of Justice established the National
21 Instant Criminal Background Check System (NICS) for federally
22 licensed gun dealers to conduct background checks on prospective
23 gun purchasers. The NICS attains or accesses records from state
24 police, local police and other agencies to determine if the
25 prospective gun purchaser is prohibited from owning a firearm.
26 The NICS relies on states to submit this information. As a result, if
27 the states do not submit the information, the NICS database will
28 have incomplete or inaccurate records, thereby allowing some
29 individuals to purchase guns who should be prohibited.

30 This State has begun the process of implementing an electronic
31 system to submit mental health records to NICS, however
32 submission of these records is not mandatory under current State
33 law. The provisions of this bill would make the submission
34 mandatory.

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 2492**

STATE OF NEW JERSEY

DATED: APRIL 30, 2013

The Senate Law and Public Safety Committee reports favorably a Senate Committee Substitute for Senate Bill No. 2492.

This committee substitute requires the State to submit certain mental health records to the National Instant Criminal Background Check System (NICS).

The substitute requires the Attorney General, in compliance with the federal NICS Improvement Amendments Act of 2007, to direct the Superintendent of State Police to collect, in cooperation with the Administrative Office of the Courts, data required by the United States Department of Justice concerning persons who are subject to federal firearms prohibitions. The data is to be transmitted to the National Instant Criminal Background Check System administered by the Federal Bureau of Investigation.

According to the sponsor, the United States Department of Justice established NICS for federally licensed gun dealers to conduct background checks on prospective gun purchasers. NICS attains or accesses records from state police, local police and other agencies to determine if the prospective gun purchaser is prohibited from owning a firearm. NICS relies on states to submit this information. As a result, if the states do not submit the information, the NICS database will have incomplete or inaccurate records, thereby allowing some individuals to purchase guns who should be prohibited from doing so.

This State has begun the process of implementing an electronic system to submit mental health records to NICS. However, submission of these records is not mandatory under current State law. The provisions of this substitute would make the submission mandatory.

This Senate Committee Substitute is identical to Assembly Bill No. 3717 (1R), as amended and reported by the committee on this date.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 2492**

STATE OF NEW JERSEY

DATED: MAY 9, 2013

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2492 (SCS).

This bill requires the State to submit certain mental health records to the National Instant Criminal Background Check System (NICS).

Specifically, the bill requires the Attorney General, in compliance with the federal NICS Improvement Amendments Act of 2007, to direct the Superintendent of State Police to collect, in cooperation with the Administrative Office of the Courts (AOC), data required by the United States Department of Justice concerning persons who are subject to federal firearms prohibitions. The data is to be transmitted to the National Instant Criminal Background Check System administered by the Federal Bureau of Investigation.

The United States Department of Justice established NICS for federally licensed gun dealers to conduct background checks on prospective gun purchasers. NICS attains or accesses records from state police, local police and other agencies to determine if the prospective gun purchaser is prohibited from owning a firearm. NICS relies on states to submit this information.

This State has begun the process of implementing an electronic system to submit mental health records to NICS. However, submission of these records is not mandatory under current State law. The provisions of this bill would make the submission mandatory.

This bill is identical to Assembly Bill No. 3717 (1R), as also reported by the committee.

FISCAL IMPACT:

This legislation is expected to generate minimal or no additional cost, as the State is already taking steps to provide relevant records to NICS, and is expected to be in compliance with the bill in the near future.

The AOC received two federal NICS Act Record Improvement Program grants in federal fiscal years 2010 and 2011. The first, for \$860,331, was for the development of an electronic system to record and submit mental health information to NICS. The second, for \$2,772,560, was for the input of past records into the system.

According to the AOC, the system has been developed and the loading of past records is nearly complete. Once the testing of the system is completed, the records will be submitted to the State Police, who will then submit them to NICS. Subsequently, new records will continue to be entered into the system.

To fulfill the requirements of the bill, data must be entered into the system on an ongoing basis, and the State Police must report the data to NICS. Both activities could generate administrative costs that are not mandatory under current law; however, the actions taken thus far in implementing the program, which were not mandated by the State, seem to suggest that the affected agencies expect to absorb these costs within their normal operating budgets.

LEGISLATIVE FISCAL ESTIMATE
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2492
STATE OF NEW JERSEY
215th LEGISLATURE

DATED: MAY 15, 2013

SUMMARY

- Synopsis:** Requires submission of certain mental health records to National Instant Criminal Background Check System.
- Type of Impact:** Minimal or no increase in administrative costs.
- Agencies Affected:** Administrative Office of the Courts (AOC); Department of Law and Public Safety, Division of State Police; county governments.

Office of Legislative Services Estimate

Fiscal Impact	<u>Years 1-3</u>
State Cost	Minimal or no increase.
Local Cost	Minimal or no increase.

- The substitute is expected to have minimal or no cost, as the State is already taking steps to provide mental health records to the federal government, and is expected to be in compliance with the substitute in the near future.
- The administrative cost of entering information into the electronic system and reporting data to the federal government (made mandatory under the substitute) is expected to be minimal, and can likely be absorbed in the normal operational budgets of the affected agencies.

BILL DESCRIPTION

The Senate Committee Substitute for Senate Bill No. 2492 of 2013 requires the State to submit certain mental health records to the National Instant Criminal Background Check System (NICS).

The substitute requires the Attorney General, in compliance with the federal NICS Improvement Amendments Act of 2007, to direct the Superintendent of State Police to collect, in cooperation with the Administrative Office of the Courts (AOC), data required by the United States Department of Justice concerning persons who are subject to federal firearms prohibitions.

The data is to be transmitted to the NICS System administered by the Federal Bureau of Investigation.

The United States Department of Justice established NICS for federally licensed gun dealers to conduct background checks on prospective gun purchasers. The NICS attains or accesses records from state police, local police and other agencies to determine if the prospective gun purchaser is prohibited from owning a firearm. The NICS relies on states to submit this information in a complete, accurate, and timely manner.

The State has begun the process of implementing an electronic system to submit mental health records to NICS. However, submission of these records is not mandatory under current State law. The provisions of this substitute would make the submission mandatory.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received. However, the AOC provided background information regarding the State's development of an electronic system for identifying and reporting mental health information to NICS.

OFFICE OF LEGISLATIVE SERVICES

The substitute is expected to generate minimal or no additional cost, as the State is already taking steps to provide relevant records to NICS, and is expected to be in compliance with the substitute in the near future.

The AOC has received two federal NICS Act Record Improvement Program grants, in federal fiscal years 2010 and 2011. The first, for \$860,331, was for the development of an electronic system to record and submit mental health information to NICS. The second, for \$2,772,560, was for the input of past records into the system. According to the AOC, the system has been developed and the loading of past records is nearly complete. Once the testing of the system is completed, the records will be submitted to the State Police, who will then submit them to NICS. Subsequently, new records will continue to be entered into the system. The last county was scheduled to be added to the system on April 1, 2013.

To fulfill the requirements of the substitute, data must be entered into the system on an ongoing basis, and the State Police must report the data to NICS. Both activities could generate administrative costs that are not mandatory under current law. It seems likely that counties would be responsible for the data entry, but the Office of Legislative Services has not been able to verify this. The actions taken thus far in implementing the program, which were not mandated by the State, seem to suggest that the affected agencies expect to absorb these costs within their normal operating budgets.

Section: Human Services

*Analyst: David Drescher
Assistant Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).