

year 2009, \$250,000,000 for fiscal year 2010, \$250,000,000 for fiscal year 2011, \$125,000,000 for fiscal year 2012, and \$125,000,000 for fiscal year 2013.

(2) Allocations

For fiscal years 2009 and 2010, the Attorney General shall endeavor to allocate at least ½ of the authorized appropriations to those States providing more than 50 percent of the records required to be provided under sections 40912 and 40913 of this title. For fiscal years 2011, 2012, and 2013, the Attorney General shall endeavor to allocate at least ½ of the authorized appropriations to those States providing more than 70 percent of the records required to be provided under section¹ 40912 and 40913 of this title. The allocations in this paragraph shall be subject to the discretion of the Attorney General, who shall have the authority to make adjustments to the distribution of the authorized appropriations as necessary to maximize incentives for State compliance.

(f) User fee

The Federal Bureau of Investigation shall not charge a user fee for background checks pursuant to section 922(t) of title 18.

(Pub. L. 110–180, title I, §103, Jan. 8, 2008, 121 Stat. 2567.)

CODIFICATION

Section was formerly classified in a note under section 922 of Title 18, Crimes and Criminal Procedure, prior to editorial reclassification and renumbering as this section.

§ 40914. Penalties for noncompliance

(a) Attorney General report

(1) In general

Not later than January 31 of each year, the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the progress of the States in automating the databases containing information described under sections 40912 and 40913 of this title, and in providing that information pursuant to the requirements of sections 40912 and 40913 of this title.

(2) Authorization of appropriations

There are authorized to be appropriated to the Department of Justice, such funds as may be necessary to carry out paragraph (1).

(b) Penalties

(1) Discretionary reduction

(A) During the 2-year period beginning 3 years after January 8, 2008, the Attorney General may withhold not more than 3 percent of the amount that would otherwise be allocated to a State under section 10156 of this title if the State provides less than 50 percent of the records required to be provided under sections 40912 and 40913 of this title.

(B) During the 5-year period after the expiration of the period referred to in subparagraph (A), the Attorney General may withhold not

more than 4 percent of the amount that would otherwise be allocated to a State under section 10156 of this title if the State provides less than 70 percent of the records required to be provided under sections 40912 and 40913 of this title.

(2) Mandatory reduction

After the expiration of the periods referred to in paragraph (1), the Attorney General shall withhold 5 percent of the amount that would otherwise be allocated to a State under section 10156 of this title, if the State provides less than 90 percent of the records required to be provided under sections 40912 and 40913 of this title.

(3) Waiver by Attorney General

The Attorney General may waive the applicability of paragraph (2) to a State if the State provides substantial evidence, as determined by the Attorney General, that the State is making a reasonable effort to comply with the requirements of sections 40912 and 40913 of this title, including an inability to comply due to court order or other legal restriction.

(c) Reallocation

Any funds that are not allocated to a State because of the failure of the State to comply with the requirements of this chapter shall be reallocated to States that meet such requirements.

(d) Methodology

The method established to calculate the number of records to be reported, as set forth in section 40912(b)(1)(A) of this title, and State compliance with the required level of reporting under sections 40912 and 40913 of this title shall be determined by the Attorney General. The Attorney General shall calculate the methodology based on the total number of records to be reported from all subcategories of records, as described in section 40912(b)(1)(C) of this title.

(Pub. L. 110–180, title I, §104, Jan. 8, 2008, 121 Stat. 2568.)

CODIFICATION

Section was formerly classified in a note under section 922 of Title 18, Crimes and Criminal Procedure, prior to editorial reclassification and renumbering as this section.

§ 40915. Relief from disabilities program required as condition for participation in grant programs

(a) Program described

A relief from disabilities program is implemented by a State in accordance with this section if the program—

(1) permits a person who, pursuant to State law, has been adjudicated as described in subsection (g)(4) of section 922 of title 18 or has been committed to a mental institution, to apply to the State for relief from the disabilities imposed by subsections (d)(4) and (g)(4) of such section by reason of the adjudication or commitment;

(2) provides that a State court, board, commission, or other lawful authority shall grant the relief, pursuant to State law and in accordance with the principles of due process, if

¹ So in original. Probably should be “sections”.

the circumstances regarding the disabilities referred to in paragraph (1), and the person's record and reputation, are such that the person will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest; and

(3) permits a person whose application for the relief is denied to file a petition with the State court of appropriate jurisdiction for a de novo judicial review of the denial.

(b) Authority to provide relief from certain disabilities with respect to firearms

If, under a State relief from disabilities program implemented in accordance with this section, an application for relief referred to in subsection (a)(1) of this section is granted with respect to an adjudication or a commitment to a mental institution or based upon a removal of a record under section 40912(c)(1)(B) of this title, the adjudication or commitment, as the case may be, is deemed not to have occurred for purposes of subsections (d)(4) and (g)(4) of section 922 of title 18.

(Pub. L. 110–180, title I, §105, Jan. 8, 2008, 121 Stat. 2569.)

CODIFICATION

Section was formerly classified in a note under section 922 of Title 18, Crimes and Criminal Procedure, prior to editorial reclassification and renumbering as this section.

§ 40916. Illegal immigrant gun purchase notification

(a) In general

Notwithstanding any other provision of law or of this chapter, all records obtained by the National Instant Criminal Background Check system relevant to whether an individual is prohibited from possessing a firearm because such person is an alien illegally or unlawfully in the United States shall be made available to U.S. Immigration and Customs Enforcement.

(b) Regulations

The Attorney General, at his or her discretion, shall promulgate guidelines relevant to what records relevant to illegal aliens shall be provided pursuant to the provisions of this chapter.

(Pub. L. 110–180, title I, §106, Jan. 8, 2008, 121 Stat. 2570.)

CODIFICATION

Section was formerly classified in a note under section 922 of Title 18, Crimes and Criminal Procedure, prior to editorial reclassification and renumbering as this section.

SUBCHAPTER II—FOCUSING FEDERAL ASSISTANCE ON THE IMPROVEMENT OF RELEVANT RECORDS

§ 40931. Continuing evaluations

(a) Evaluation required

The Director of the Bureau of Justice Statistics (referred to in this section as the “Director”) shall study and evaluate the operations of the National Instant Criminal Background Check System. Such study and evaluation shall

include compilations and analyses of the operations and record systems of the agencies and organizations necessary to support such System.

(b) Report on grants

Not later than January 31 of each year, the Director shall submit to Congress a report containing the estimates submitted by the States under section 40912(b) of this title.

(c) Report on best practices

Not later than January 31 of each year, the Director shall submit to Congress, and to each State participating in the National Criminal History Improvement Program, a report of the practices of the States regarding the collection, maintenance, automation, and transmittal of information relevant to determining whether a person is prohibited from possessing or receiving a firearm by Federal or State law, by the State or any other agency, or any other records relevant to the National Instant Criminal Background Check System, that the Director considers to be best practices.

(d) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2009 through 2013 to complete the studies, evaluations, and reports required under this section.

(Pub. L. 110–180, title II, §201, Jan. 8, 2008, 121 Stat. 2570.)

CODIFICATION

Section was formerly classified in a note under section 922 of Title 18, Crimes and Criminal Procedure, prior to editorial reclassification and renumbering as this section.

SUBCHAPTER III—GRANTS TO STATE COURT SYSTEMS FOR THE IMPROVEMENT IN AUTOMATION AND TRANSMITTAL OF DISPOSITION RECORDS

§ 40941. Disposition records automation and transmittal improvement grants

(a) Grants authorized

From amounts made available to carry out this section, the Attorney General shall make grants to each State, consistent with State plans for the integration, automation, and accessibility of criminal history records, for use by the State court system to improve the automation and transmittal of criminal history dispositions, records relevant to determining whether a person has been convicted of a misdemeanor crime of domestic violence, court orders, and mental health adjudications or commitments, to Federal and State record repositories in accordance with sections 40912 and 40913 of this title and the National Criminal History Improvement Program.

(b) Grants to Indian tribes

Up to 5 percent of the grant funding available under this section may be reserved for Indian tribal governments for use by Indian tribal judicial systems.

(c) Use of funds

Amounts granted under this section shall be used by the State court system only—