

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.)

**Editorial Notes**

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 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.)

**Editorial Notes**

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.)

**Editorial Notes**

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.

**§ 40917. Implementation plan**

**(a) In general**

Not later than 1 year after March 23, 2018, the Attorney General, in coordination with the States and Indian tribal governments, shall establish, for each State or Indian tribal government, a plan to ensure maximum coordination and automation of the reporting or making available of appropriate records to the National Instant Criminal Background Check System established under section 40901 of this title and the verification of the accuracy of those records during a 4-year period specified in the plan. The

records shall be limited to those of an individual described in subsection (g) or (n) of section 922 of title 18<sup>1</sup>

**(b) Benchmark requirements**

Each plan established under this section shall include annual benchmarks to enable the Attorney General to assess the implementation of the plan, including—

- (1) qualitative goals and quantitative measures; and
- (2) a needs assessment, including estimated compliance costs.

**(c) Compliance determination**

Not later than the end of each fiscal year beginning after the date of the establishment of an implementation plan under this section, the Attorney General shall determine whether each State or Indian tribal government has achieved substantial compliance with the benchmarks included in the plan.

**(d) Accountability**

The Attorney General—

(1) shall disclose and publish, including on the website of the Department of Justice—

(A) the name of each State or Indian tribal government that received a determination of failure to achieve substantial compliance with an implementation plan under subsection (c) for the preceding fiscal year; and

(B) a description of the reasons for which the Attorney General has determined that the State or Indian tribal government is not in substantial compliance with the implementation plan, including, to the greatest extent possible, a description of the types and amounts of records that have not been submitted; and

(2) if a State or Indian tribal government described in paragraph (1) subsequently receives a determination of substantial compliance, shall—

(A) immediately correct the applicable record; and

(B) not later than 3 days after the determination, remove the record from the website of the Department of Justice and any other location where the record was published.

**(e) Incentives**

For each of fiscal years 2018 through 2022, the Attorney General shall give affirmative preference to all Bureau of Justice Assistance discretionary grant applications of a State or Indian tribal government that received a determination of substantial compliance under subsection (c) for the fiscal year in which the grant was solicited.

(Pub. L. 110-180, title I, §107, as added Pub. L. 115-141, div. S, title VI, §605(a), Mar. 23, 2018, 132 Stat. 1137.)

<sup>1</sup> So in original. Probably should be followed by a period.

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.)

**Editorial Notes**

**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 or-