

114TH CONGRESS  
2D SESSION

# H. R. 4980

To require the National Instant Criminal Background Check System to make a final disposition of requests to correct its records within 60 days, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 18, 2016

Mr. EMMER of Minnesota (for himself, Mr. ABRAHAM, Mr. DESJARLAIS, Mr. FINCHER, Mr. FORBES, Mr. GUINTA, Mr. JODY B. HICE of Georgia, Mr. KELLY of Pennsylvania, Mr. KING of Iowa, Mr. ZINKE, Mr. COOK, Mr. WESTERMAN, and Mr. GOSAR) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To require the National Instant Criminal Background Check System to make a final disposition of requests to correct its records within 60 days, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Firearm Due Process  
5 Protection Act”.

1 **SEC. 2. DEADLINE FOR FINAL DISPOSITION OF REQUESTS**  
2 **TO CORRECT RECORDS OF THE NATIONAL IN-**  
3 **STANT CRIMINAL BACKGROUND CHECK SYS-**  
4 **TEM.**

5 Section 103(g) of the Brady Handgun Violence Pre-  
6 vention Act (18 U.S.C. 922 note) is amended—

7 (1) by striking “If” and inserting the following:

8 “(1) IN GENERAL.—If”;

9 (2) by adding at the end the following: “The  
10 Attorney General shall make a final disposition of  
11 any information so submitted, within 60 days after  
12 receipt of the information.”; and

13 (3) by adding after and below the end the fol-  
14 lowing new paragraph:

15 “(2) PRIVATE RIGHT OF ACTION.—

16 “(A) IN GENERAL.—An individual ag-  
17 grieved by a violation of the last sentence of  
18 paragraph (1) may bring an action in the  
19 United States district court for the district in  
20 which the individual attempted to acquire a  
21 firearm for a declaratory judgment on the eligi-  
22 bility of the individual to receive and possess a  
23 firearm.

24 “(B) EXPEDITED HEARING.—The court  
25 shall hold a hearing on such an action within  
26 30 days after the action is brought.

1           “(C) BURDEN OF PROOF.—At such a hear-  
2           ing, the United States shall bear the burden of  
3           proving by clear and convincing evidence that  
4           the individual is ineligible to receive or possess  
5           a firearm.

6           “(D) REMEDIES.—If the government does  
7           not so prove the ineligibility, the court shall  
8           order the Attorney General to correct or remove  
9           the erroneous records of the national instant  
10          criminal background check system with respect  
11          to the individual within 5 business days, and  
12          shall award the individual the costs of bringing  
13          the action and a reasonable attorney’s fee.”.

14 **SEC. 3. ANNUAL REPORTS TO THE CONGRESS ON DISPOSI-**  
15 **TION OF CHALLENGES TO ACCURACY OF**  
16 **RECORDS OF THE NATIONAL INSTANT CRIMI-**  
17 **NAL BACKGROUND CHECK SYSTEM.**

18          The Director of the Federal Bureau of Investigation  
19 shall submit annually to the Committee on the Judiciary  
20 of the House of Representatives and the Committee on  
21 the Judiciary of the Senate a written report that speci-  
22 fies—

23           (1) the total number of challenges to the accu-  
24          racy of the records of the National Instant Criminal  
25          Background Check System (in this section referred

1 to as the “NICS system”) established under section  
2 103 of the Brady Handgun Violence Prevention Act  
3 that were received by the NICS system during the  
4 year covered by the report;

5 (2) the total number of the challenges that were  
6 processed to final disposition by the NICS system;

7 (3) the total number of the challenges with re-  
8 spect to which the initial determination of the NICS  
9 system was reversed, and with respect to those chal-  
10 lenges, the total number in which each reason for  
11 the initial determination was made;

12 (4) the total number of the challenges with re-  
13 spect to which the initial determination of the NICS  
14 system was not reversed, and with respect to those  
15 challenges, the total number in which each reason  
16 for not doing so was made; and

17 (5) the average length of time needed to com-  
18 plete the processing of the challenges referred to in  
19 paragraph (2).

20 **SEC. 4. SENSE OF THE CONGRESS.**

21 It is the sense of the Congress that—

22 (1) the right of the people to keep and bear  
23 arms is a fundamental component of self-government  
24 and the preservation of individual liberty;

1           (2) deprivation of the constitutional right to  
2           bear arms requires due process under the Fifth and  
3           Fourteenth Amendments to the Constitution of the  
4           United States; and

5           (3) ignoring appeals of determinations made by  
6           the National Instant Criminal Background Check  
7           System violates due process.

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