



January 30, 2017

The Honorable Mitch McConnell
Senate Majority Leader
317 Russell Senate Office Building
Washington, DC 20510

The Honorable Chuck Schumer
Senate Minority Leader
322 Hart Senate Office Building
Washington, DC 20510

Dear Majority Leader McConnell and Minority Leader Schumer:

The Arc of the United States (The Arc) writes to urge you to support a Congressional Review Act (CRA) resolution to disapprove the Final Rule issued by the Social Security Administration (SSA) on December 19, 2016, "Implementation of the NICS Improvement Amendments Act of 2007."¹ This rule would require the Social Security Administration to forward the names of all Social Security and Supplemental Security Income (SSI) disability beneficiaries who use a representative payee to help manage their benefits, and who have been found eligible by meeting or equaling an SSA mental impairment listing, to the National Instant Criminal Background Check System (NICS).

The Arc is the largest national community-based organization advocating for people with intellectual and developmental disabilities (I/DD) and their families, with over 660 state and local chapters nationwide. The Arc is devoted to promoting and protecting the human and civil rights of people with intellectual and developmental disabilities and has over 60-years of history of advocating for the rights of children and adults with disabilities. The Arc is concerned about the safety of all Americans, including through gun violence. However, The Arc - and many other members of the Consortium for Citizens with Disabilities (CCD) - opposes the rule for a number of reasons, including:

- The damaging message that may be sent by an SSA policy change, which focused on reporting individuals who receive assistance from representative payees in managing their benefits to the NICS gun database. The current public dialogue is replete with inaccurate stereotyping of people with mental disabilities as violent and dangerous, and there is a real concern that the kind of policy change encompassed by this rule will reinforce those unfounded assumptions.

¹ 81 Fed. Reg. 91702 (Dec. 19, 2016).

- The absence of any data suggesting that there is any connection between the need for a representative payee to manage one's Social Security disability benefits and a propensity toward gun violence.
- The absence of any meaningful due process protections when interfering with a constitutional right prior to the SSA's transmittal of names to the NICS database. Although the NICS Improvements Act of 2007 allows agencies to transmit the names of individuals who have been "adjudicated" to lack the capacity to manage their own affairs, SSA's process does not constitute an adjudication and does not include a finding that individuals are broadly unable to manage their own affairs.
- The potential for the rule to deter some people with mental impairments from seeking access to the Social Security and SSI disability benefits that they are eligible for, out fear of being added to the NICS or having their privacy violated.

We urge Congress to act, through the CRA process, to disapprove this new rule and prevent the damage that it inflicts on the disability community.

Respectfully Submitted,

Marty Ford
Senior Executive Officer, Public Policy