

Section by Section Summary of Grassley-Cruz-Tillis
“Protecting Communities and Preserving the Second Amendment Act of 2021”

§ 1 – Short Title; Table of Contents

§ 2 – Definitions

§ 3 – Reauthorization and Improvements to NICS.

- Authorizes NICS Improvement Act grants to States for providing relevant records at \$20 million per year for fiscal years 2022 through 2026. The Inspector General of the DOJ will conduct yearly audits of these grants.
- Eliminates the unworkable requirement that states must estimate the total number of records and provide a percentage of records before getting these grants.

§ 4 – Availability of Records to NICS.

- Requires the Attorney General to issue guidance within 45 days of this Act’s enactment to federal agencies about which records they must submit to NICS.

§ 5 – Definitions Relating to Mental Health.

- Replaces “has been adjudicated as a mental defective” with “has been adjudicated mentally incompetent,” and defines the term to include only those adjudications that provide substantial front-end due process protections.
- Clarifies that an order finding mental incompetence is not applicable if a later adjudication determines that the individual is no longer a danger to himself or to others; cured of mental disease; mentally competent; or no longer requiring involuntary treatment by, or commitment to, a psychiatric hospital.

§ 6 – Conditions for Treatment of Certain Persons as Adjudicated Mentally Incompetent.

- Requires a judicial authority to determine whether a veteran is a danger to himself or herself to count as adjudicated mentally incompetent for purposes of federal gun laws.

§ 7 – Reports and Certifications to Congress.

- Requires federal agencies to submit an annual report to Congress on the number and description of records they submit to NICS and efforts made to consistently do so.
- Requires the Attorney General to report to Congress on information relating to any case presented to DOJ for review or prosecution under 18 U.S.C. § 922 and § 924, and Internal Revenue Code § 5861.

§ 8 – Increasing Federal Prosecution of Gun Violence.

- Requires federal officials working with state officials in certain jurisdictions to come to agreements about enforcing gun laws.
- Creates multijurisdictional task forces to investigate illegal straw purchasing rings and requires U.S. Attorneys to designate at least one Assistant U.S. Attorney to prosecute firearms cases, and provides for the hiring of ATF agents to investigate violations.

- The covered jurisdictions include:
 - The 10 jurisdictions with a population of at least 100,000 people that had the highest total number of homicides;
 - The 5 jurisdictions with the highest per capita rate of homicide; and
 - The 3 tribal jurisdictions with the highest homicide crime rates.
- Requires DOJ to submit an annual report about the efficacy of the program to the Senate Judiciary Committee and the House Judiciary Committee.
- Authorizes \$15 million per year for 3 three years for salaries and expenses of Assistant U.S. Attorneys and ATF agents investigating and prosecuting these crimes.

§ 9 – Prosecution of Felons and Fugitives who Attempt to Illegally Purchase Firearms.

- Creates a task force within the DOJ (“the Felon and Fugitive Firearm Task Force”) to investigate and prosecute felons and fugitives who illegally attempt to purchase a firearm.
- Authorizes up to \$10 million per year for fiscal years 2022 through 2026, which is funded through the Asset Forfeiture Fund.

§ 10 – Limitations on Operations by the Department of Justice.

- Requires top DOJ officials (specifically, the AG, Deputy AG, or Assistant AG for Criminal Division) to personally approve any programs for selling guns to criminals, such as the Obama Administration’s Fast and Furious operation, with better safeguards.

§ 11 – Straw Purchasing of Firearms.

- Creates two new criminal offenses (§ 932 and § 933) designed to target illegal straw purchasing of firearms and illegal trafficking in firearms, with a statutory maximum sentence of 15 years for each offense.
- Directs the U.S. Sentencing Commission to amend its guidelines to ensure that persons convicted of an offense under § 932 or § 933 are subject to serious penalties.

§ 12 – Increased Penalties for Lying and Buying

- Increases the statutory maximum sentence for lying and buying firearms from 5 years to 10 years.

§ 13 – Amendments to section 924(a).

- Increases statutory maximum sentence from 10 years to 15 years for transferring a firearm to a prohibited person or for illegally possessing a firearm.

§ 14 – Amendments to section 924(h).

- Increases the statutory maximum sentence for transferring a firearm to someone with knowledge that it will be used for a crime of violence, drug trafficking crime, export crime, foreign narcotics kingpin crime, or terrorism from 10 years to 15 years.

§ 15 – Amendments to section 924(k).

- Amends the criminal prohibition on exporting or smuggling firearms to cover terrorist activities.

§ 16 – Multiple Sales Reports for Rifles and Shotguns.

- Ends the ATF’s perceived authority to issue “demand letters” collecting information on purchasers of certain rifles.

§ 17 – Study by the National Institutes of Justice and National Academy of Sciences on the Causes of Mass Shootings.

- Commissions the NIJ (jointly with an independent panel of 5 experts appointed by the National Academy of Sciences) to conduct a peer-reviewed study to examine the underlying causes and triggers of mass shootings.
- The study must be submitted to Congress and must address, among other things, the extent to which mass shooting events are related to or influenced by mental illness, violent or adult-themed video games, familial relationships, exposure to bullying, and previous mass shooting events.

§ 18 – Reports to Congress Regarding Ammunition Purchases by Federal Agencies.

- Requires that federal agencies report to Congress on their ammunition purchases.

§ 19 – Reduction of Byrne JAG Funds for State Failure to Provide Mental Health Records to NICS.

- Sets penalties in the next 5 years that are mandatory and increased from 4 percent to 5 percent, and increases penalties thereafter from 5 percent to 10 percent.

§ 20 – Firearm Commerce Modernization.

- Allows interstate firearms sales by permitting out-of-state dealers to sell in a state so long as they comply with all state laws in which they are selling the firearm.
- Allows members of the U.S. military to buy firearms in their state of residence or where they are stationed.

§ 21 – Firearm Dealer Access to Law Enforcement Information.

- Allows, but does not require, firearm dealers to access NICS to run background checks on their employees, with the employees’ notice and consent.

§ 22 – Interstate Transportation of Firearms or Ammunition.

- Allows interstate transportation of firearms or ammunition in vehicles, subject to certain conditions (*e.g.*, if the gun is unloaded, placed in the trunk, or in a locked case), and preempts state law to the contrary.

§ 23 – Preventing Duplicative Grants.

- Requires the Attorney General to report to the Senate and House Judiciary Committees if he or she awards duplicate NICS-related grants for the same purpose.