

AMENDMENT SIMILARITIES

NICS (National Instant Criminal Background Check System) Improvement for records submitted by states:

Both Amendments require that the States do a better job of uploading records that are pertinent to NICS.

- **Grassley** penalizes non-compliant states and rewards compliant states by lowering or increasing Byrne JAG funds between 2-5%
- **Murphy** creates a benchmark system and penalizes states that fail to reach benchmarks by withholding Byrne Jag Funds between 10-15%

NICS Improvement for records submitted by federal agencies and federal courts

Grassley requires federal agencies, including federal courts, to prioritize the submission of records to NICS, establish a protocol for ongoing submission of records to NICS, report to Congress annually regarding NICS records, retention, submission, and how to purge records that are no longer operative.

Murphy requires that federal agencies, including federal courts, make an annual certification to Attorney General regarding their NICS records and submissions.

GRASSLEY AMENDMENT

Terrorism

Requires that law enforcement be notified if an individual attempting to acquire a firearm is either currently, or within the past five years was, under investigation for terrorism.

Gun Walking Technique

Requires that any DOJ component that contemplates the investigative tactic of “gun walking” obtain direct approval from AG, DAG, or AAG for Criminal Division.

Study on Mass Shootings

Commissions report from National Institute of Justice and National Academy of Sciences to study cause of mass shootings.

Reports to Congress

Requires reports to Congress on current enforcement of federal firearms laws to include prosecutions, declinations, and convictions;

Requires report to Congress on amount of ammunition purchased, used, and stockpiled, and needed by each federal agency.

Mental Health

Updates mental health definitions (mental defective to mentally incompetent; mental institution to psychiatric hospital), provides front end due process of notice and opportunity to be heard prior to adjudication of mentally incompetent or committed to psychiatric hospital.

Provides mechanism to no longer be considered mentally incompetent or committed to psychiatric hospital.

An appropriate official must make the determination that the patient BOTH no longer requires involuntary commitment AND the person is not a danger to himself or others. A patient can't simply leave the hospital and buy a gun. Even if the patient is discharged, the appropriate official must also conclude that he is not a danger to himself or others.

MURPHY AMENDMENT

Universal Background Checks

Requires universal background checks, not just for gun purchases, but for transfers;

This means having to use a Federal Firearms Licensee (FFL) to broker the transaction for a fee;

There are very narrow exceptions for only certain family members and temporary use – otherwise, must use FFL before transferring one's own personal property (for example, there's no exception for uncle/aunt transfer to niece/nephew or transfers between cousins);

Extremely narrow exception if life in imminent danger – anything less and the transfer must go through an FFL.

Felony Failure to Report

Makes it a felony, punishable by up to five years in prison, if fail to report a stolen *or lost* firearm within 48 hours;

As opposed to prohibited conduct, this requires affirmative steps by lawful firearm owners. Many examples where this would create issues:

- Home is not accessible due to natural disaster;
- Lost baggage for more than 48 hours during travel;
- Firearm is taken, without permission, by a family member for weeklong hunting trip;

The notification must go to both the Attorney General as well as the local authorities.

Mental Health

Focuses on existing terms and regulations and does not provide explicit front end due process, but references scheme from 2007 legislation. This provides less protection for individuals like veterans and seniors who might have grappled with mental health issues during a finite period of time, or could be deemed as mentally deficient by the VA or SSA for a simple fiduciary issue.