National Instant Criminal Background Check System (NICS): NICS Update—Bipartisan Safer Communities Act

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Dating Misdemeanor Crime of Domestic Violence (DMCDV)

- Expands dating relationship prohibition to include *a person who has a current or recent former dating relationship with the victim*.
  - All criteria for the MCDV prohibition must still be established
- Applies to persons convicted on or after 6/25/2022.
  - Is *not* retroactive
- NICS Section began applying the “dating relationship” prohibition on 8/8/2022
DATING RELATIONSHIP DEFINED
18 USC 921(A)(37)

Dating Misdemeanor Crime of Domestic Violence (DMCDV)

- Dating relationship between:
  - “individuals who have or have recently had a continuing serious relationship of a romantic nature”

- Needs consideration:
  - Nature and length of relationship
  - Frequency and type of interaction

- Examples:
  - Boyfriend/girlfriend
  - Fiancé
  - Includes same-sex relationships
BSCA established the “dating” relationship as a temporary prohibition:
- Restoration 5-years from date of conviction or completion of sentence
- 5-year time is voided if a subsequent firearms-prohibiting conviction occurs

The Act provides that a conviction for any of the following will annul the restoration at the 5-year mark (or thereafter):
- Another DMCDV
- Any other offense that would disqualify the person under § 922(g); or
- Any other misdemeanor offense under federal, state, local, or tribal law which has, an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, regardless of the relationship to the victim.
Boyfriend Loophole

- 18 USC 921(a) did not include a boyfriend/girlfriend when they did not live together

- Kansas domestic violence law

- NICS Indices – State Disqualifier
DATABASES SEARCHED BY NICS

- Interstate Identification Index (III)
- National Crime Information Center (NCIC)
- NICS Indices

Department of Homeland Security’s U.S. Immigration and Customs Enforcement
Expanded Background Checks for Potential Firearm Transferees Under the Age of 21 (U21)

Additional outreach/research for potential juvenile criminal/delinquency information or juvenile mental health adjudications/commitments that may disqualify the receipt or possession of a firearm.

The following entities will be contacted based on the address the potential firearm transferee under the age of 21:

- State criminal history repositories/juvenile justice information systems;
- State custodians of mental health adjudications; and
- Local law enforcement agencies.

- BSCA allows for an additional delay up through 10 business days, if cause is obtained during the first 3 business days, to obtain and review such information.
EXAMPLES OF INFORMATION NEEDED

Possible disqualifying juvenile record

Potential prohibitors:

- Known felony or serious misdemeanor offenses/arrests
- Active warrants
- Arrests, admittance/known use, and/or a positive test of an unlawful controlled substance (to include recreational and/or medical marijuana)
- Interactions involving mental health concerns
- Active protection orders/extreme risk protection orders
- Court-ordered firearm restrictions
IN ACCORDANCE WITH THE BIPARTISAN SAFER COMMUNITIES ACT WHEN INDIVIDUALS UNDER 21 YEARS OF AGE SEEK THE TRANSFER OF A FIREARM THROUGH A FEDERAL FIREARMS LICENSEE THE FBI NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM IS REQUIRED TO CONTACT YOUR AGENCY FOR INFORMATION WE ARE PRIMARILY REACHING OUT TO YOU SEEKING RELEVANT JUVENILE INFORMATION ON THE SUBJECT BELOW HOWEVER IF YOU HAVE KNOWLEDGE OF OR POSSESS ANY INFORMATION THAT COULD IMPACT THE SUBJECTS ELIGIBILITY TO RECEIVE A FIREARM WE REQUEST YOU PROVIDE SUCH INFORMATION OR MAKE US AWARE BY EMAILING (PLEASE REPLACE THE SPACE WITH A PERIOD IN THE EMAIL ADDRESS) NICS_U21@FBI.GOV

PLEASE RESPOND TO THIS REQUEST WITHIN THREE BUSINESS DAYS INCLUDING THE NICS TRANSACTION NUMBER (NTN) LISTED BELOW PLEASE INDICATE WHETHER YOUR AGENCY DOES OR DOES NOT POSSESS PROHIBITING INFORMATION OR WHETHER YOUR AGENCY HAS KNOWLEDGE OF POTENTIALLY PROHIBITING INFORMATION FOR

NAME               NTN
SEX    RACE    DATE OF BIRTH    PLACE OF BIRTH
HEIGHT    WEIGHT    SOCIAL SECURITY NUMBER
RESIDENCE ADDRESS:

THE TYPES OF INFORMATION YOU MAY POSSESS INCLUDE BUT ARE NOT LIMITED TO AN INFERENCE OF DRUG USE WITHIN THE PAST YEAR ACTIVE WARRANTS ACTIVE PROTECTION ORDERS PENDING OR CONVICTED CRIMINAL CASES OR MENTAL HEALTH ADJUDICATIONS IF A MENTAL HEALTH ADJUDICATION IS LOCATED AND CANNOT BE SHARED DIRECTLY WITH THE NICS SECTION PLEASE INDICATE THIS IN YOUR EMAIL RESPONSE IF YOU HAVE QUESTIONS REGARDING THIS REQUEST PLEASE PROVIDE A NAME AND PHONE NUMBER AND THE NICS SECTION WILL CONTACT YOUR AGENCY FOR FURTHER DISCUSSION
Agencies will receive a secure link and access pin.

Click on the link or copy the link into the web browser.

Link: https://ngg50001.str5.nics.cjis:8443/ExternalSub/faces/PegaMashup.xhtml?M4mxA8S3m4VVP6lywE1FbIrGXuVz0alg3W5knNakZ1FsWe9dAuMcv62if5%28E8IO%2F9B4f5HRhSnP%0
Ac7eMrL10hWfl1
Pin: 7680da78

Enter the pin provided in the body of the initial request.
NICS REQUEST FOR INFORMATION

In accordance with the Bipartisan Safer Communities Act, when issuing a firearm through a federal firearms license, the FBI’s National Instant Criminal Background Check System (NICS) Section is required to contact your agency for information about you seeking relevant juvenile information on the subject below. If your agency has any information that could impact the subject’s eligibility, please provide this information. Please respond to this request within three business days to indicate whether your agency does or does not possess prohibiting records or knowledge of potentially prohibiting records.

**Subject Information**

- **Name**
- **Gender**
- **Race**
- **DOB**
- **Place of Birth**
- **Height**
- **Social Security Number**
- **Weight**
- **Residential Address Information**

The types of information you may possess include but are not limited to an inference of drug use within the past year, active warrants, active protection orders, pending or convicted criminal cases and mental health adjudications. If a mental health adjudication is located and cannot be shared directly with the NICS Section, please indicate this in your response. If you have any questions regarding this request, please provide a name and phone number and the NICS Section will contact your agency for further discussion.

Click on the radio button corresponding with the appropriate response.

- Records/information found
- Please contact the following agency/agencies (Please enter agencies in the comments box below)
- No additional juvenile records
- Unable to share due to state law

If necessary, attach documents or make comments and click SUBMIT.
Additional Concerns

- How expunged records affect NICS Checks
- Juvenile records – states, III, NICS
- Extreme Risk Protection Orders
Additional Concerns

- Private gun sales

- NCHIP Grant – Match and extensions
WASHINGTON, PA.—Tuesday, February 7, 1989

Student held in Mapletown gun incident

By Jim Moore

MAPLETON — A 17-year-old student walked into Mapleton High School with a .410 gauge, pump shotgun Monday morning and fired two shots into lockers and threatened a male teacher before handing his gun down and surrendering.

Five separate charges have been filed against Donald S. Howard Jr. of Davidson, who is being held in the Westmoreland County Juvenile Detention Center pending a hearing.

Although school officials and state officials to discuss the details of the incident, it was learned that Howard walked several miles to school carrying the shotgun and entered the school through a side door.

Apparently, one or more students noticed Howard with the gun and went to the school office. The student then went to science teacher Michael Lubich and told him Howard had a gun. Lubich then told principal Terry Branch, who called police.

Howard allegedly made threats against female teacher and fired two shots into hallway lockers. Guaspone said the shots were not fired in his direction.

Minutes later, Howard threw the shotgun at Guaspone and walked away down the hallway. He then quietly surrendered to state police Cpl. Sheldon Episone and Troopers Joe Palmer and Paul Rapp.

Guaspone refused to speculate on the motive behind the incident, saying it was a personal matter, and considering it was involved in juvenile affairs.

During the 30-minute incident, faculty and administrative personnel made sure students remained in their classrooms or in the gymnasium.

District Superintendent Alton P. Polk praised the actions of Guaspone and Lubich in their attempt to calm Howard and other students. Guaspone was not hurt, while students were being led from the area of the incident.

Troopers Joe Palmer, right, and Francis Supplee lead Donald Howard from Mapleton High School Monday morning after Howard allegedly fired two shotgun blasts into lockers.

Mapleton student charged in school shooting incident

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Guaspone and faculty members of the Student Assistance Program led into action moment after the disorder began resolving the students in their classrooms.

Ironically, Well said he recently was talking about the advantages of teaching in a rural setting as opposed to urban areas, where violence is common.

Howard, a freshman, has been charged with aggravated assault, making terroristic threats, recklessly endangerment, institutional vandalism and possession of a weapon on school property.

Howard from Mapleton High School after allegedly fired two shotgun blasts into lockers.

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RESOURCES AND CONTACT INFORMATION

NICS information can be found in the NICS Resources Community on JusticeConnect, located on the Law Enforcement Enterprise Portal (LEEP).

Log onto www.cjis.gov and click on “Apply for an Account.”

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Questions???