



February 28, 2019

VOTE NO ON H.R. 1112, the Enhanced Background Checks Act of 2019

Dear Representative:

On behalf of the American Civil Liberties Union, the Bazelon Center for Mental Health, and the Autistic Self Advocacy Network, we urge members of the House of Representatives to oppose passage of H.R. 1112, the Enhanced Background Checks Act of 2019 because the bill dramatically expands the reach of the National Instant Criminal Background Check Service (NICS) to encompass virtually any individual adjudicated to have a psychiatric or neurological diagnosis. As a result, the bill improperly perpetuates unfounded assumptions that people with mental disabilities should be considered dangerous and are prone to violence.

Section 3 of H.R.1112 changes the language of subsections (d)(4) and (g)(4) of the Gun Control Act¹ by removing the phrase “adjudicated as a mental defective” (currently defined to include individuals determined by a court, board, commission or other lawful authority to be a danger to themselves or others due to a mental impairment or to lack the mental capacity to contract or manage their own affairs²) and replaces it with “adjudicated with mental illness, severe developmental disability, or severe emotional instability.” This new standard drastically expands the number of people with disabilities who would be placed within NICS, without any meaningful due process to ascertain if they pose a danger to themselves or others.

While our organizations understand and respect the view that those who have been adjudicated as posing a danger to themselves or others should be prohibited from gun ownership, we emphatically disagree that any individual should be placed into a government database or have their rights restricted on the basis of diagnosis rather than on behavior. This would set a terrible precedent, with implications far beyond gun ownership. Many have proposed limiting the rights of people with mental health disabilities and other disabilities to vote, parent, manage their own health care or otherwise enjoy crucial civil rights and liberties that Americans rightly cherish. To validate this kind of prejudice runs contrary to any reasonable conception of disability rights and civil liberties.

It may not have been the intention of the committee to modify the scope of the NICS database in this way, intending instead merely to update the terminology it used to reflect modern sensibilities. But the actual language and end result are untenable. We urge Members to vote NO.

Sincerely,

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Bazelon Center for Mental Health Law

¹ 18 U.S.C. § 922 (d)(4) and (g)(4).

² 27 C.F.R. § 478.11.