


MEMORANDUM TO: Melody Braswell  
Department Clearance Officer  
United States Department of Justice

FROM: Trudy Lou Ford   
Section Chief  
National Instant Criminal Background System Section  
Federal Bureau of Investigation

SUBJECT: Revision of the current approved Fix NICS Act, State  
Implementation Plan Survey, (1110-0077)

Attached is the information collection request (ICR), Fix NICS Act, State Implementation Plan Survey, (1110-0077) and supplemental(s) for approval and submission to the Office of Management and Budget (OMB). The requirements of this collection are proscribed by Title 28, United States Code, Section 534. These forms are the means by which federal, state, and local law enforcement agencies report the completion of an arrest event.

The following documents are contained in this ICR package:

1. Supporting Statement for Paperwork Reduction Act Submission with burden statement
2. Law or authority mandating the information collection
3. Certification Statement
4. OMB form 83-I Paperwork Reduction Act Submission
5. Form used to collect the information
6. 60-day ICR notice that will be published in the Federal Register
7. 30-day ICR notice that will be published in the Federal Register

If there are any questions concerning this ICR, please contact Gerry Lynn Brovey, Federal Bureau of Investigation, Criminal Justice Information Services Division, Resources Management Section, Module C-2, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306; telephone (304) 625-4320, facsimile (304) 625-5093, email <gerry.brovey@fbi.gov>.

Thank you

Supporting Statement for Paperwork Reduction Act Submissions  
Revision of a currently approved collection  
Fix NICS Act State Implementation Plan Survey  
**OMB Control # 1110-0077**

Part A. Justification

**1. Necessity of Information:**

Congress passed the Fix NICS Act, Pub. L. 115-141, tit. VI, which aims to improve the National Instant Criminal Background Check System (NICS) in a number of ways, including by requiring the Attorney General, in coordination with each State, to establish an implementation plan for each State by March 2019. States used the Fix NICS Act State Implementation Plan Survey to establish those plans.

The plans are intended to “ensure maximum coordination and automation of the reporting or making available appropriate records to the [NICS]... and the verification of the accuracy of those records during a 4-year period specified in the plan.” In addition, the Act requires that each plan establish annual benchmarks to enable the Attorney General to assess the implementation compliance of each plan. These benchmarks include qualitative goals, quantitative measures, and a needs assessment with estimated compliance costs. At the end of each fiscal year, the Department of Justice (the Department) must determine whether each State is in substantial compliance with those annual benchmarks. In order to make those determinations, the Department has asked States to use the same form to provide annual updates on their progress toward meeting those benchmarks.

**2. Needs and Uses:**

This form is intended to collect information to aid in the identification and development of these key areas, and to satisfy the requirements of the implementation plan.

**2. Use of Technology:**

This form is being made electronically available to the submitter for their convenience.

**4. Efforts to Identify Duplication:**

The Department is the only federal agency tasked with implementing the Fix NICS Act, relying in part of the data from this collection..

**5. Methods to Minimize Burden on Small Businesses:**

This information will have no significant impact on small entities. Small businesses will not be affected by this collection.

**6. Consequences of Less Frequent Collection:**

The Department needs this information in order to comply with its responsibilities under the Fix NICS Act.

**7. Special Circumstances Influencing Collection:**

On March 23, 2018, President Trump signed into law the Consolidated Appropriations Act, 2018. See H.R. Res. 1625, 115th Cong. (2018) (enacted). Division S, Title VI of this appropriations law is known as the Fix NICS Act. The Act strives to strengthen the National Instant Criminal Background Check System (NICS), which is a program operated at the FBI CJIS Division in West Virginia. Section 107 of the Act required the Attorney General, in collaboration with the States, to establish an implementation plan for each State by March 23, 2019. Each plan was designed to ensure maximum coordination and automation of the reporting or making available of appropriate records to the NICS and the verification of the accuracy of those records during a 4-year period specified in the plan. The State Implementation Plan Survey is essential to the mission of the FBI CJIS NICS because States have used the collection to provide annual updates on their implementation plans, which is necessary in order for the Department of Justice to determine whether each State is in substantial compliance with its annual benchmarks, as required by the Fix NICS Act. In addition, the data collection is necessary in order to identify state records establishing NICS prohibitions that are not available to NICS and develop a plan to submit such records to one of the three systems NICS searches.

**8. Public Comments and Consultations:**

The FBI sponsors and participates in training seminars, meetings, and conferences with the user community. These meetings are held regularly and provide an open forum to discuss matters of mutual concern, including the state implementation plans. The FBI consults with users on an individual basis as needed. Additionally, the 30 and 60-day Notices of Information Collection will be published in the Federal Register.

**9. Payment of Gift to Claimants:**

The FBI does not provide any payment or gift to respondents.

**10. Assurance of Confidentiality:**

Information requested in this collection may be considered confidential business information. Its release is governed by law, regulations, and agency procedures.

**11. Justification for Sensitive Questions:**

This collection does not include questions of a sensitive nature.

**12. Estimate of Hour Burden:**

Number of respondents	56
Frequency of response	Annually
Total annual responses	56
Hours per response	40 hours (this includes collecting the information not just responding to the questions).
Annual hour burden	2,240 hours

The Number of Respondents is based on:

The total annual responses is based on the number of states and U.S. territories (to include the District of Columbia) required to have an implementation plan. The hours per response was an estimate based upon the information required within the response. The annual hour burden was determined by multiplying the number of respondents that will be contacted by the estimated time to read the form, then identifying the information requested and answer the questionnaire.

**13. Estimate of Cost Burden:**

Respondents will not incur any costs other than their time to respond. Respondents will not incur any capital, start up, or system maintenance costs associated with this information collection.

**14. Estimated Annualized Costs to Federal Government:**

Personnel Salaries:	\$ 138,283.00
Analysis of incoming information:	\$ 138,283.00
Conversion to electronic format:	\$ 0
Total Cost:	\$ 138,283.00

Conversion to electronic format: \$ 0

Total Cost: \$ 138,283.00

Because NICS accesses records in three FBI-maintained databases, staff from three areas within the FBI's CJIS Division will be involved in the on-going collaboration with state agencies as it relates to the Fix NICS Action. This includes the NICS Section, the NCIC Program and the Biometrics Services Section. Staff from these three areas played a key role in helping to determine the information needed on the required state implementation plan and have been active members of a Fix NICS Act multi-agency working group. To calculate an estimated expense for the federal government, the staff needed and the approximate time each would spend on Fix NICS tasks, as a result of information gleaned from state implementation plans, were considered. Another factor considered was that most of the identified staff already work in a liaison capacity within their respective areas, so the on-going liaison with state contacts as part of

the Fix NICS Act could be merged with their existing and normal job duties. It was estimated that approximately 10 percent of each staff member's time would be dedicated to items solely related to the Fix NICS Act. In addition, designated staff within the Bureau of Justice Statistics (BJS) and the Department of Justice will likewise be supporting the review of the state implementation plans and on-going collaboration and evaluation. Therefore, 10 percent of each person's annual salary was calculated and then added together to produce the total estimated cost to the federal government.

**NICS** – 5 staff x 10% annual salary (used GS scale, step 5, to establish RUS general salary)

GS 15 \$14,866.90 (annual salary \$148,669)

GS14 \$12,639.00 (\$126,390)

GS13 \$10,695.50 (\$106,955)

GS13 \$10,695.50 (\$106,955)

GS13 \$10,695.50 (\$106,955)

**NCIC** – 1 staff x 10% (used GS scale, step 5, to establish RUS general salary)

GS13 \$10,695.50 (\$106,955)

**BSS** – 2 staff x 10% (used GS scale, step 5, to establish RUS general salary)

GS13 \$10,695.50 (\$106,955)

GS12 \$8,994.70 (\$89,947)

**DOJ** – 2 staff x 10% (used GS scale, step 5, to establish DCB general salary)

GS15 16,828.20 (\$168,282)

GS15 16,828.20 (\$168,282)

**BJS** – 1 staff x 10% (used GS scale, step 5, to establish DCB general salary)

GS15 16,828.20 (\$168,282)

**15. Reasons for Change in Burden:**

Adjusted 2022 salary for RUS and DCB localities

**16. Plans for Publication:**

There are no plans to publish the information collected.

**17. Expiration Date Approval:**

As an emergency approval is being requested, the form will not contain an expiration date as this would likely be approved only after completion of the collection.

**18. Exceptions to the Certification Statement:**

There are no exceptions to the certification statement.

“(2) \$100,000,000 for each of fiscal years 2019 through 2028, of which, for each fiscal year—

“(A) \$67,000,000 shall be made available to the BJA Director to carry out this part; and

“(B) \$33,000,000 shall be made available to the COPS Director to carry out this part.

“(b) OFFSET.—Any funds appropriated for the Comprehensive School Safety Initiative of the National Institute of Justice in fiscal year 2018 shall instead be used for the purposes in subsection (a).”; and

(6) by adding at the end the following:

34 USC 10556.

**“SEC. 2706. RULES OF CONSTRUCTION.**

“(a) NO FUNDS TO PROVIDE FIREARMS OR TRAINING.—No amounts provided as a grant under this part may be used for the provision to any person of a firearm or training in the use of a firearm.

“(b) NO EFFECT ON OTHER LAWS.—Nothing in this part may be construed to preclude or contradict any other provision of law authorizing the provision of firearms or training in the use of firearms.”.

Fix NICS Act  
of 2018.

34 USC 10101  
note.

## TITLE VI—FIX NICS ACT

**SEC. 601. SHORT TITLE.**

This title may be cited as the “Fix NICS Act of 2018”.

**SEC. 602. ACCOUNTABILITY FOR FEDERAL DEPARTMENTS AND AGENCIES.**

Section 103 of the Brady Handgun Violence Prevention Act (34 U.S.C. 40901) is amended—

(1) in subsection (e)(1), by adding at the end the following:

“(F) SEMIANNUAL CERTIFICATION AND REPORTING.—

“(i) IN GENERAL.—The head of each Federal department or agency shall submit a semiannual written certification to the Attorney General indicating whether the department or agency is in compliance with the record submission requirements under subparagraph (C).

“(ii) SUBMISSION DATES.—The head of a Federal department or agency shall submit a certification to the Attorney General under clause (i)—

“(I) not later than July 31 of each year, which shall address all relevant records, including those that have not been transmitted to the Attorney General, in possession of the department or agency during the period beginning on January 1 of the year and ending on June 30 of the year; and

“(II) not later than January 31 of each year, which shall address all relevant records, including those that have not been transmitted to the Attorney General, in possession of the department or agency during the period beginning on July 1 of the previous year and ending on December 31 of the previous year.

“(iii) CONTENTS.—A certification required under clause (i) shall state, for the applicable period—

“(I) the total number of records of the Federal department or agency demonstrating that a person falls within one of the categories described in subsection (g) or (n) of section 922 of title 18, United States Code;

“(II) for each category of records described in subclause (I), the total number of records of the Federal department or agency that have been provided to the Attorney General; and

“(III) the efforts of the Federal department or agency to ensure complete and accurate reporting of relevant records, including efforts to monitor compliance and correct any reporting failures or inaccuracies.

“(G) IMPLEMENTATION PLAN.—

“(i) IN GENERAL.—Not later than 1 year after the date of enactment of this subparagraph, the head of each Federal department or agency, in coordination with the Attorney General, shall establish a plan to ensure maximum coordination and automated reporting or making available of records to the Attorney General as required under subparagraph (C), and the verification of the accuracy of those records, including the pre-validation of those records, where appropriate, during a 4-year period specified in the plan. The records shall be limited to those of an individual described in subsection (g) or (n) of section 922 of title 18, United States Code.

“(ii) BENCHMARK REQUIREMENTS.—Each plan established under clause (i) shall include annual benchmarks to enable the Attorney General to assess implementation of the plan, including—

“(I) qualitative goals and quantitative measures;

“(II) measures to monitor internal compliance, including any reporting failures and inaccuracies;

“(III) a needs assessment, including estimated compliance costs; and

“(IV) an estimated date by which the Federal department or agency will fully comply with record submission requirements under subparagraph (C).

“(iii) COMPLIANCE DETERMINATION.—Not later than the end of each fiscal year beginning after the date of the establishment of a plan under clause (i), the Attorney General shall determine whether the applicable Federal department or agency has achieved substantial compliance with the benchmarks included in the plan.

“(H) ACCOUNTABILITY.—The Attorney General shall publish, including on the website of the Department of Justice, and submit to the Committee on the Judiciary and the Committee on Appropriations of the Senate and the Committee on the Judiciary and the Committee on Appropriations of the House of Representatives a semi-annual report that discloses—



“(i) the name of each Federal department or agency that has failed to submit a required certification under subparagraph (F);

“(ii) the name of each Federal department or agency that has submitted a required certification under subparagraph (F), but failed to certify compliance with the record submission requirements under subparagraph (C);

“(iii) the name of each Federal department or agency that has failed to submit an implementation plan under subparagraph (G);

“(iv) the name of each Federal department or agency that is not in substantial compliance with an implementation plan under subparagraph (G);

“(v) a detailed summary of the data, broken down by department or agency, contained in the certifications submitted under subparagraph (F);

“(vi) a detailed summary of the contents and status, broken down by department or agency, of the implementation plans established under subparagraph (G); and

“(vii) the reasons for which the Attorney General has determined that a Federal department or agency is not in substantial compliance with an implementation plan established under subparagraph (G).

“(I) NONCOMPLIANCE PENALTIES.—For each of fiscal years 2019 through 2022, each political appointee of a Federal department or agency that has failed to certify compliance with the record submission requirements under subparagraph (C), and is not in substantial compliance with an implementation plan established under subparagraph (G), shall not be eligible for the receipt of bonus pay, excluding overtime pay, until the department or agency—

“(i) certifies compliance with the record submission requirements under subparagraph (C); or

“(ii) achieves substantial compliance with an implementation plan established under subparagraph (G).

“(J) TECHNICAL ASSISTANCE.—The Attorney General may use funds made available for the national instant criminal background check system established under subsection (b) to provide technical assistance to a Federal department or agency, at the request of the department or agency, in order to help the department or agency comply with the record submission requirements under subparagraph (C).

“(K) APPLICATION TO FEDERAL COURTS.—For purposes of this paragraph—

“(i) the terms ‘department or agency of the United States’ and ‘Federal department or agency’ include a Federal court; and

“(ii) the Director of the Administrative Office of the United States Courts shall perform, for a Federal court, the functions assigned to the head of a department or agency.”; and

(2) in subsection (g), by adding at the end the following: “For purposes of the preceding sentence, not later than 60 days after the date on which the Attorney General receives such information, the Attorney General shall determine whether or not the prospective transferee is the subject of an erroneous record and remove any records that are determined to be erroneous. In addition to any funds made available under subsection (k), the Attorney General may use such sums as are necessary and otherwise available for the salaries and expenses of the Federal Bureau of Investigation to comply with this subsection.”.

**SEC. 603. REAUTHORIZATION OF NICS ACT RECORD IMPROVEMENT PROGRAM.**

(a) **REQUIREMENTS TO OBTAIN WAIVER.**—Section 102 of the NICS Improvement Amendments Act of 2007 (34 U.S.C. 40912) is amended—

(1) in subsection (a), in the first sentence—

(A) by striking “the Crime Identification Technology Act of 1988 (42 U.S.C. 14601)” and inserting “section 102 of the Crime Identification Technology Act of 1998 (34 U.S.C. 40301)”; and

(B) by inserting “is in compliance with an implementation plan established under subsection (b) or” before “provides at least 90 percent of the information described in subsection (c)”; and

(2) in subsection (b)(1)(B), by inserting “or has established an implementation plan under section 107” after “the Attorney General”.

(b) **IMPLEMENTATION ASSISTANCE TO STATES.**—Section 103 of the NICS Improvement Amendments Act of 2007 (34 U.S.C. 40913) is amended—

(1) in subsection (b)(3), by inserting before the semicolon at the end the following: “, including through increased efforts to pre-validate the contents of those records to expedite eligibility determinations”;

(2) in subsection (e)—

(A) in paragraph (1)—

(i) by striking “and”; and

(ii) by inserting before the period at the end the following: “, and \$125,000,000 for each of fiscal years 2018 through 2022”; and

(B) by striking paragraph (2) and inserting the following—

“(2) **DOMESTIC ABUSE AND VIOLENCE PREVENTION INITIATIVE.**—

“(A) **ESTABLISHMENT.**—For each of fiscal years 2018 through 2022, the Attorney General shall create a priority area under the NICS Act Record Improvement Program (commonly known as ‘NARIP’) for a Domestic Abuse and Violence Prevention Initiative that emphasizes the need for grantees to identify and upload all felony conviction records and domestic violence records.

“(B) **FUNDING.**—The Attorney General—

“(i) may use not more than 50 percent of the amounts made available under this subsection for each

of fiscal years 2018 through 2022 to carry out the initiative described in subparagraph (A); and

“(ii) shall give a funding preference under NARIP to States that—

“(I) have established an implementation plan under section 107; and

“(II) will use amounts made available under this subparagraph to improve efforts to identify and upload all felony conviction records and domestic violence records described in clauses (i), (v), and (vi) of section 102(b)(1)(C) by not later than September 30, 2022.”; and

(3) by adding at the end the following:

“(g) TECHNICAL ASSISTANCE.—The Attorney General shall direct the Office of Justice Programs, the Bureau of Alcohol, Tobacco, Firearms, and Explosives, and the Federal Bureau of Investigation to—

“(1) assist States that are not currently eligible for grants under this section to achieve compliance with all eligibility requirements; and

“(2) provide technical assistance and training services to grantees under this section.”.

**SEC. 604. REAUTHORIZATION OF THE NATIONAL CRIMINAL HISTORY IMPROVEMENT PROGRAM.**

(a) STATE GRANT PROGRAM FOR CRIMINAL JUSTICE IDENTIFICATION, INFORMATION, AND COMMUNICATION.—Section 102 of the Crime Identification Technology Act of 1998 (34 U.S.C. 40301) is amended—

(1) in subsection (a)(3)—

(A) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively; and

(B) by inserting after subparagraph (B) the following:

“(C) identification of all individuals who have been convicted of a crime punishable by imprisonment for a term exceeding 1 year”;

(2) in subsection (b)(6)—

(A) by striking “(18 U.S.C. 922 note)” and inserting “(34 U.S.C. 40901(b))”; and

(B) by inserting before the semicolon at the end the following: “, including through increased efforts to pre-validate the contents of felony conviction records and domestic violence records to expedite eligibility determinations, and measures and resources necessary to establish and achieve compliance with an implementation plan under section 107 of the NICS Improvement Amendments Act of 2007”;

(3) in subsection (d), by inserting after “unless” the following: “the State has achieved compliance with an implementation plan under section 107 of the NICS Improvement Amendments Act of 2007 or”; and

(4) in subsection (e)(1), by striking “2002 through 2007” and inserting “2018 through 2022”.

(b) GRANTS FOR THE IMPROVEMENT OF CRIMINAL RECORDS.—Section 106(b)(1) of the Brady Handgun Violence Prevention Act (34 U.S.C. 40302(1)) is amended—

(1) in the matter preceding subparagraph (A)—

(A) by striking “as of the date of enactment of this Act” and inserting “, as of the date of enactment of the Fix NICS Act of 2018,”; and

(B) by striking “files,” and inserting the following: “files and that will utilize funding under this subsection to prioritize the identification and transmittal of felony conviction records and domestic violence records,”;

(2) in subparagraph (B), by striking “and” at the end;

(3) in subparagraph (C)—

(A) by striking “upon establishment of the national system,”; and

(B) by striking the period at the end and inserting “, and”; and

(4) by adding at the end the following—

“(D) to establish and achieve compliance with an implementation plan under section 107 of the NICS Improvement Amendments Act of 2007.”.

**SEC. 605. IMPROVING INFORMATION SHARING WITH THE STATES.**

(a) **IN GENERAL.**—Title I of the NICS Improvement Amendments Act of 2007 (34 U.S.C. 40911 et seq.) is amended by adding at the end the following:

**“SEC. 107. IMPLEMENTATION PLAN.**

34 USC 40917.

“(a) **IN GENERAL.**—Not later than 1 year after the date of enactment of the Fix NICS Act of 2018, the Attorney General, in coordination with the States and Indian tribal governments, shall establish, for each State or Indian tribal government, a plan to ensure maximum coordination and automation of the reporting or making available of appropriate records to the National Instant Criminal Background Check System established under section 103 of the Brady Handgun Violence Prevention Act (34 U.S.C. 40901) and the verification of the accuracy of those records during a 4-year period specified in the plan. The records shall be limited to those of an individual described in subsection (g) or (n) of section 922 of title 18, United States Code

“(b) **BENCHMARK REQUIREMENTS.**—Each plan established under this section shall include annual benchmarks to enable the Attorney General to assess the implementation of the plan, including—

“(1) qualitative goals and quantitative measures; and

“(2) a needs assessment, including estimated compliance costs.

“(c) **COMPLIANCE DETERMINATION.**—Not later than the end of each fiscal year beginning after the date of the establishment of an implementation plan under this section, the Attorney General shall determine whether each State or Indian tribal government has achieved substantial compliance with the benchmarks included in the plan.

“(d) **ACCOUNTABILITY.**—The Attorney General—

“(1) shall disclose and publish, including on the website of the Department of Justice—

“(A) the name of each State or Indian tribal government that received a determination of failure to achieve substantial compliance with an implementation plan under subsection (c) for the preceding fiscal year; and

“(B) a description of the reasons for which the Attorney General has determined that the State or Indian tribal government is not in substantial compliance with the

implementation plan, including, to the greatest extent possible, a description of the types and amounts of records that have not been submitted; and

“(2) if a State or Indian tribal government described in paragraph (1) subsequently receives a determination of substantial compliance, shall—

“(A) immediately correct the applicable record; and

“(B) not later than 3 days after the determination, remove the record from the website of the Department of Justice and any other location where the record was published.

“(e) INCENTIVES.—For each of fiscal years 2018 through 2022, the Attorney General shall give affirmative preference to all Bureau of Justice Assistance discretionary grant applications of a State or Indian tribal government that received a determination of substantial compliance under subsection (c) for the fiscal year in which the grant was solicited.”

(b) TABLE OF CONTENTS.—The table of contents in section 1(b) of the NICS Improvement Amendments Act of 2007 (Public Law 110-180; 121 Stat. 2559) is amended by inserting after the item relating to section 106 the following:

“Sec. 107. Implementation plan.”

## **TITLE VII—STATE SEXUAL RISK AVOIDANCE EDUCATION PROGRAM**

### **SEC. 701. FULL PAYMENT BY SECRETARY FOR STATE SEXUAL RISK AVOIDANCE EDUCATION PROGRAM.**

(a) IN GENERAL.—Paragraph (1) of section 510(d) of the Social Security Act (42 U.S.C. 710(d)) is amended by inserting before the period at the end the following: “, except that section 503(a) shall be applied by substituting ‘the total of the sums’ for ‘four-sevenths of the total of the sums’”.

(b) TECHNICAL CORRECTIONS.—Section 510(a)(1)(A) of the Social Security Act (42 U.S.C. 710(a)(1)(A)) is amended—

(1) by striking “subsection (e)(1)” and inserting “subsection (f)(1)”; and

(2) by striking “subsection (e)(2)” and inserting “subsection (f)(2)”.

## **TITLE VIII—SMALL BUSINESS CREDIT AVAILABILITY ACT**

Small Business  
Credit  
Availability Act.

15 USC 80a-51  
note.

### **SEC. 801. SHORT TITLE.**

This title may be cited as the “Small Business Credit Availability Act”.

### **SEC. 802. EXPANDING ACCESS TO CAPITAL FOR BUSINESS DEVELOPMENT COMPANIES.**

(a) IN GENERAL.—Section 61(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-60(a)) is amended—

(1) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively; and

### Paperwork Certification

In submitting this request for OMB approval, I certify the Fix NICS Act, State Implementation Plan Survey (1110-0077) submitted for approval is necessary for the proper performance of our agency and the proposed data collection represents no burden on respondents consistent with the need for information. The requirements of the Privacy Act and OMB Directives have been complied with including the paperwork reduction regulations, statistical standards or directives, and any other information policy directives, and other informational policy directives promulgated under the Paperwork Reduction Act of 1995.

Trudy Lou Ford

Trudy Lou Ford  
Section Chief

National Instant Criminal Background Check System Section  
Criminal Justice Information Services Division

3/18/2022

Date

# PAPERWORK REDUCTION ACT SUBMISSION

Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the Supporting Statement, and any additional documentation to: **Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.**

1. Agency/Subagency originating request <b>FBI/CJIS</b>	2. OMB control number a. <u>1110</u> - <u>0077</u> b. <input checked="" type="checkbox"/> None
3. Type of information collection (check one) a. <input type="checkbox"/> New collection b. <input checked="" type="checkbox"/> Revision of a currently approved collection c. <input type="checkbox"/> Extension, without change, of a currently approved collection d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired f. <input type="checkbox"/> Existing collection in use without an OMB control number	4. Type of review requested (check one) a. <input checked="" type="checkbox"/> Regular b. <input type="checkbox"/> Emergency - Approval requested by: ___/___/___ c. <input type="checkbox"/> Delegated
3a. Public Comments Has the agency received public comments on this information collection? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	5. Small entities Will this information collection have a significant economic impact on a substantial number of small entities? ___ Yes <input checked="" type="checkbox"/> No
7. Title <b>FIX NICS Act State Implementation Plan Survey</b>	6. Requested expiration date a. <input checked="" type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: ___/___/___
8. Agency form number(s) (if applicable) <u>1110-0077</u>	
9. Keywords <b>FIX NICS Act, State Implementation Plan Survey</b>	
10. Abstract <b>In March 2018, Congress passed the Fix NICS Act, Pub. L. 115-141, tit. VI, which aims to improve the National Instant Criminal Background Check System (NICS) in a number of ways, including by requiring the Attorney General, in coordination with each State, to establish an implementation plan.</b>	
11. Affected public (Mark primary with "P" and all others that apply with "X") a. <input type="checkbox"/> Individuals or households b. <input type="checkbox"/> Business or other for-profit c. <input type="checkbox"/> Not-for-profit institutions d. <input type="checkbox"/> Farms e. <input type="checkbox"/> Federal Government f. <input checked="" type="checkbox"/> State, Local or Tribal Government	12. Obligation to respond (Mark primary with "P" and all others that apply with "X") a. <input checked="" type="checkbox"/> Voluntary b. <input checked="" type="checkbox"/> Required to obtain or retain benefits c. <input type="checkbox"/> Mandatory
13. Annual reporting and recordkeeping hour burden a. Number of respondents <u>56</u> b. Total annual responses <u>56</u> 1. Percentage of these responses collected electronically <u>100</u> c. Total annual hours requested <u>2,240</u> d. Current OMB inventory <u>N/A</u> e. Difference <u>0</u> f. Explanation of difference 1. Program change <u>No</u> 2. Adjustment <u>N/A</u>	14. Annual reporting and recordkeeping cost burden (in thousands of dollars) a. Total annualized capital/startup costs <u>0</u> b. Total annual costs (O&M) <u>138,283.00</u> c. Total annualized cost requested <u>0</u> d. Current OMB inventory <u>N/A</u> e. Difference <u>-N/A</u> f. Explanation of difference 1. Program change <u>N/A</u> 2. Adjustment <u>N/A</u>
15. Purpose of information collection (Mark primary with "P" and all others that apply with "X") a. <input type="checkbox"/> Application for benefits b. <input type="checkbox"/> Program evaluation c. <input type="checkbox"/> General purpose statistics d. <input type="checkbox"/> Audit e. <input type="checkbox"/> Program planning or management f. <input type="checkbox"/> Research g. <input checked="" type="checkbox"/> Regulatory or compliance	16. Frequency of recordkeeping or reporting (check all that apply) a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure c. <input checked="" type="checkbox"/> Reporting 1. <input type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly 4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually 7. <input type="checkbox"/> Biennially 8. <input checked="" type="checkbox"/> Other (describe) <u>IX collection</u>
17. Statistical methods Does this information collection employ statistical methods? ___ Yes <input checked="" type="checkbox"/> No	18. Agency contact (person who can best answer questions regarding the content of this submission) Name: <u>Gerry Lynn Brovey, Supervisory Information Liaison Specialist</u> Phone: <u>(304) 625-4320</u>

## 19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9.

**Note:** The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It uses plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention period for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
  - (i) Why the information is being collected;
  - (ii) Use of information;
  - (iii) Burden estimate;
  - (iv) Nature of response (voluntary, required for a benefit, or mandatory);
  - (v) Nature and extent of confidentiality; and
  - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of the instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of these provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee

*Nancy Rowford*

Date

*3/18/2022*



# Instructions For Completing OMB Form 83-I

Please answer all questions and have the Senior Official or designee sign the form. These instructions should be used in conjunction with 5 CFR 1320, which provides information on coverage, definitions, and other matters of procedure and interpretation under the Paperwork Reduction Act of 1995.

## 1. Agency/Subagency originating request

Provide the name of the agency or subagency originating the request. For most cabinet-level agencies, a subagency designation is also necessary. For non-cabinet agencies, the subagency designation is generally unnecessary.

## 2. OMB control number

- If the information collection in this request has previously received or now has an OMB control or comment number, enter the number.
- Check "None" if the information collection in this request has not previously received an OMB control number. Enter the four digit agency code for your agency.

## 3. Type of information collection (check one)

- Check "New collection" when the collection has not previously been used or sponsored by the agency.
- Check "Revision" when the collection is currently approved by OMB, and the agency request includes a material change to the collection instrument, instructions, its frequency of collection, or the use to which the information is to be put.
- Check "Extension" when the collection is currently approved by OMB, and the agency wishes only to extend the approval past the current expiration date without making any material change in the collection instrument, instructions, frequency of collection, or the use to which the information is to be put.
- Check "Reinstatement without change" when the collection previously had OMB approval, but the approval has expired or was withdrawn before this submission was made, and there is no change to the collection.
- Check "Reinstatement with change" when the collection previously had OMB approval, but the approval has expired or was withdrawn before this submission was made, and there is change to the collection.
- Check "Existing collection in use without OMB control number" when the collection is currently in use but does not have a currently valid OMB control number.

## 4. Type of review requested (check one)

- Check "Regular" when the collection is submitted under 5 CFR 1320.10, 1320.11, or 1320.12 with a standard 60 day review schedule.
- Check "Emergency" when the agency is submitting the request under 5 CFR 1320.13 for emergency processing and provides the required supporting material. Provide the date by which the agency requests approval.
- Check "Delegated" when the agency is submitting the collection under the conditions OMB has granted the agency delegated authority.

## 5. Small entities

Indicate whether this information collection will have a significant impact on a substantial number of small entities. A small entity may be (1) a small business which is deemed to be one that is independently owned and operated and that is not dominant in its field of operation; (2) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field; or (3) a small government jurisdiction which is a government of a city, county, town, township, school district, or special district with a population of less than 50,000.

## 6. Requested expiration date

- Check "Three years" if the agency requests a three year approval for the collection.
- Check "Other" if the agency requests approval for less than three years. Specify the month and year of the requested expiration date.

## 7. Title

Provide the official title of the information collection. If an official title does not exist, provide a description which will distinguish this collection from others.

## 8. Agency form number(s) (if applicable)

Provide any form number the agency has assigned to this collection of information. Separate each form number with a comma.

## 9. Keywords

Select and list at least two keywords (descriptors) from the "Federal Register Thesaurus of Indexing Terms" that describe the subject area(s) of the information collection. Other terms may be used but should be listed after those selected from the thesaurus. Separate keywords with commas. Keywords should not exceed two lines of text.

## 10. Abstract

Provide a statement, limited to five lines of text, covering the agency's need for the information, uses to which it will be put, and a brief description of the respondents.

## 11. Affected public

Mark all categories that apply, denoting the primary public with a "P" and all others that apply with "X."

## 12. Obligation to respond

Mark all categories that apply, denoting the primary obligation with a "P" and all others that apply with "X."

- Mark "Voluntary" when the response is entirely discretionary and has no direct effect on any benefit or privilege for the respondent.
- Mark "Required to obtain or retain benefits" when the response is elective, but is required to obtain or retain a benefit.
- Mark "Mandatory" when the respondent must reply or face civil or criminal sanctions.

## 13. Annual reporting and recordkeeping hour burden

- Enter the number of respondents and/or recordkeepers. If a respondent is also a recordkeeper, report the respondent only once.
- Enter the number of responses provided annually. For recordkeeping as compared to reporting activity, the number of responses equals the number of recordkeepers.
1. Enter the estimated percentage of responses that will be submitted/collected electronically using magnetic media (i.e., diskette), electronic mail, or electronic data interchange. Facsimile is **not** considered an electronic submission.
- Enter the total annual recordkeeping and reporting hour burden.
- Enter the burden hours currently approved by OMB for this collection of information. Enter zero (0) for any new submission or for any collection whose OMB approval has expired.
- Enter the difference by subtracting line d from line c. Record a negative number (d larger than c) within parentheses.
- Explain the difference. The difference in line e must be accounted for in lines f.1. and f.2.

f.1. "Program change" is the result of deliberate Federal government action. All new collections and any subsequent revision of existing collections (e.g., the addition or deletion of questions) are recorded as program changes.

f.2. "Adjustment" is a change that is not the result of a deliberate Federal government action. Changes resulting from new estimates or action not controllable by the Federal government are recorded as adjustments.

## 14. Annual reporting and recordkeeping cost burden (in thousands of dollars)

The costs identified in this item must exclude the cost of hour burden identified in Item 13.

- Enter the total dollar amount of annualized cost for all respondents of any associated capital or start-up costs.
- Enter recurring annual dollar amount of cost for all respondents associated with operating or maintaining systems or purchasing services.
- Enter total (14.a. + 14.b.) annual reporting and recordkeeping cost burden.
- Enter any cost burden currently approved by OMB for this collection of information. Enter zero (0) if this is the first submission after October 1, 1995.
- Enter the difference by subtracting line d from line c. Record a negative number (d larger than c) within parenthesis.
- Explain the difference. The difference in line e must be accounted for in lines f.1. and f.2.
- f.1. "Program change" is the result of deliberate Federal government action. All new collections and any subsequent revisions or changes resulting in cost changes are recorded as program changes.

f.2. "Adjustment" is a change that is not the result of a deliberate Federal government action. Changes resulting from new estimations or actions not controllable by the Federal government are recorded as adjustments.

#### 15. Purpose of information collection

Mark all categories that apply, denoting the primary purpose with a "P" and all others that apply with "X."

a. Mark "Application for benefits" when the purpose is to participate in, receive, or qualify for a grant, financial assistance, etc., from a Federal agency or program.

b. Mark "Program evaluation" when the purpose is a formal assessment, through objective measures and systematic analysis, of the manner and extent to which Federal programs achieve their objectives or produce other significant effects.

c. Mark "General purpose statistics" when the data is collected chiefly for use by the public or for general government use without primary reference to the policy or program operations of the agency collecting the data.

d. Mark "Audit" when the purpose is to verify the accuracy of accounts and records.

e. Mark "Program planning or management" when the purpose relates to progress reporting, financial reporting and grants management, procurement and quality control, or other administrative information that does not fit into any other category.

f. Mark "Research" when the purpose is to further the course of research, rather than for a specific program purpose.

g. Mark "Regulatory or compliance" when the purpose is to measure compliance with laws or regulations.

#### 16. Frequency of recordkeeping or reporting

Check "Recordkeeping" if the collection of information explicitly includes a recordkeeping requirement.

Check "Third party disclosure" if a collection of information includes third-party disclosure requirements as defined by 1320.3(c).

Check "Reporting" for information collections that involve reporting and check the frequency of reporting that is requested or required of a respondent. If the reporting is on "an event" basis, check "On occasion."

#### 17. Statistical methods

Check "Yes" if the information collection uses statistical methods such as sampling or imputation. Generally, check "No" for applications and audits (unless a random auditing scheme is used). Check "Yes" for statistical collections, most research collections, and program evaluations using scientific methods. For other types of data collection, the use of sampling, imputation, or other statistical estimation techniques should dictate the response for this item. Ensure that supporting documentation is provided in accordance with Section B of the Supporting Statement.

#### 18. Agency contact

Provide the name and telephone number of the agency person best able to answer questions regarding the content of this submission.

#### 19. Certification for Paperwork Reduction Act Submissions

The Senior Official or designee signing this statement certifies that the collection of information encompassed by the request complies with 5 CFR 1320.9. Provisions of this certification that the agency cannot comply with should be identified here and fully explained in item 18 of the attached Supporting Statement. NOTE: The Office that "develops" and "uses" the information to be collected is the office that "conducts or sponsors" the collection of information. (See 5 CFR 1320.3(d)).

## Certification Requirement for Paperwork Reduction Act Submissions

5 CFR 1320.9 reads "As part of the agency submission to OMB of a proposed collection of information, the agency (through the head of the agency, the Senior Official, or their designee) shall certify (and provide a record supporting such certification) that the proposed collection of information--

"(a) is necessary for the proper performance of the functions of the agency, including that the information to be collected will have practical utility;

"(b) is not unnecessarily duplicative of information otherwise reasonably accessible to the agency;

"(c) reduces to the extent practicable and appropriate the burden on persons who shall provide information to or for the agency, including with respect to small entities, as defined in the Regulatory Flexibility Act (5 U.S.C. § 601(6)), the use of such techniques as:

"(1) establishing differing compliance or reporting requirements or timetables that take into account the resources available to those who are to respond;

"(2) the clarification, consolidation, or simplification of compliance and reporting requirements; or collections of information, or any part thereof;

"(3) an exemption from coverage of the collection of information, or any part thereof;

"(d) is written using plain, coherent, and unambiguous terminology and is understandable to those who are to respond;

"(e) is to be implemented in ways consistent and compatible, to the maximum extent practicable, with the existing reporting and recordkeeping practices of those who are to respond;

"(f) indicates for each recordkeeping requirement the length of time persons are required to maintain the records specified;

"(g) informs potential respondents of the information called for under §1320.8(b)(3); [see below]

"(h) has been developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected, including the processing of the information in a manner which shall enhance, where appropriate, the utility of the information to agencies and the public;

"(i) uses effective and efficient statistical survey methodology appropriate to the purpose for which the information is to be collected; and

"(j) to the maximum extent practicable, uses appropriate information technology to reduce burden and improve data quality, agency efficiency and responsiveness to the public."

NOTE: 5 CFR 1320.8(b)(3) requires that each collection of information:

"(3) informs and provides reasonable notice to the potential persons to whom the collection of information is addressed of:

"(i) the reasons the information is planned to be and/or has been collected;

"(ii) the way such information is planned to be and/or has been used to further the proper performance of the functions of the agency;

"(iii) an estimate, to the extent practicable, of the average burden of the collection (together with a request that the public direct to the agency any comments concerning the accuracy of this burden estimate and any suggestions for reducing this burden);

"(iv) whether responses to the collection of information are voluntary, require to obtain or retain a benefit (citing authority) or mandatory (citing authority);

"(v) the nature and extent of confidentiality to be provided, if any (citing authority); and

"(vi) the fact that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number."

# Supporting Statement for Paperwork Reduction Act Submissions

## General Instructions

A Supporting Statement, including the text of the notice to the public required by 5 CFR 1320.5(a)(1)(iv) and its actual or estimated date of publication in the Federal Register, must accompany each request for approval of a collection of information. The Supporting Statement must be prepared in the format described below, and must contain the information specified in Section A below. If an item is not applicable, provide a brief explanation. When Item 17 of the OMB Form 83-1 is checked "Yes", Section B of the Supporting Statement must be completed. OMB reserves the right to require the submission of additional information with respect to any request for approval.

## Specific Instructions

### A. Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-1), describe any methods used to minimize burden.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:  
\* requiring respondents to report information to the agency more often than quarterly;  
\* requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;  
\* requiring respondents to submit more than an original and two copies of any document;

\* requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;

\* in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;

\* requiring the use of a statistical data classification that has not been reviewed and approved by OMB;

\* that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or

\* requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years - even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

9. Explain any decision to provide any payment or gift to respondents, other than reenumeration of contractors or grantees.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information

is requested, and any steps to be taken to obtain their consent.

12. Provide estimates of the hour burden of the collection of information. The statement should:  
\* Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.  
\* If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-1.

\* Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 13.

13. Provide an estimate for the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

\* The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.

\* If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use

existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.

\* Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

14. Provide estimates of annualized costs to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies may also aggregate cost estimates from Items 12, 13, and 14 in a single table.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.

#### **B. Collections of Information Employing Statistical Methods**

The agency should be prepared to justify its decision not to use statistical methods in any case where such methods might reduce burden or improve accuracy of results. When Item 17 on the Form OMB 83-I is checked, "Yes," the following documentation should be included in the Supporting Statement to the extent that it applies to the methods proposed:

1. Describe (including a numerical estimate) the potential respondent universe and any sampling or other respondent selection methods to be used. Data on the number of entities (e.g., establishments, State and local government units, households, or persons) in the universe covered by the collection and in the corresponding sample are to be provided in tabular form for the universe as a whole and for each of the strata in the proposed sample. Indicate expected response rates for the collection as a whole. If the collection had been conducted previously, include the actual response rate achieved during the last collection.

2. Describe the procedures for the collection of information including:

- \* Statistical methodology for stratification and sample selection,
- \* Estimation procedure,
- \* Degree of accuracy needed for the purpose described in the justification,
- \* Unusual problems requiring specialized sampling procedures, and
- \* Any use of periodic (less frequent than annual) data collection cycles to reduce burden.

3. Describe methods to maximize response rates and to deal with issues of non-response. The accuracy and reliability of information collected must be shown to be adequate for intended uses. For collections based on sampling, a special justification must be provided for any collection that will not yield "reliable" data that can be generalized to the universe studied.

4. Describe any tests of procedures or methods to be undertaken. Testing is encouraged as an effective means of refining collections of information to minimize burden and improve utility. Tests must be approved if they call for answers to identical questions from 10 or more respondents. A proposed test or set of test may be submitted for approval separately or in combination with the main collection of information.

5. Provide the name and telephone number of individuals consulted on statistical aspects of the design and the name of the agency unit, contractor(s), grantee(s), or other person(s) who will actually collect and/or analyze the information for the agency.

# FIX NICS ACT: STATE IMPLEMENTATION PLAN UPDATE

## I. INTRODUCTION & INSTRUCTIONS

In March 2018, Congress passed the Fix NICS Act, Pub. L. 115-141, tit. VI, which aims to improve the National Instant Criminal Background Check System (NICS) in a number of ways, including by requiring the Attorney General, in coordination with each state, to establish an implementation plan. The plan is intended to “ensure maximum coordination and automation of the reporting or making available appropriate records to the [NICS] ... and the verification of the accuracy of those records during a 4-year period specified in the plan.” In addition, the Act requires that each plan establish annual benchmarks to enable the Attorney General to assess the progress of each plan. These benchmarks include qualitative goals, quantitative measures, and a needs assessment with estimated compliance costs.

This form is intended to collect information to aid in the identification and development of these key areas and to satisfy the requirements of the implementation plan. To that end, please provide concrete data and specific information where available.

We recognize that preparing your state’s implementation plan will be a significant undertaking, and appreciate your efforts. While completing this form is voluntary, states that prepare implementation plans and demonstrate progress toward meeting the benchmarks they set will be given preference in all Bureau of Justice Assistance grant funding for fiscal years 2023 through 2026. And more fundamentally, they will strengthen the NICS system and help to keep firearms out of the hands of people who are prohibited by law from having them.

At the end of each fiscal year, the statute requires the Attorney General to determine whether each state “has achieved substantial compliance with the benchmarks included in the plan.” The names of states that have not done so must be published, including on the Department of Justice website, along with the reasons for that determination. If a state chooses not to complete this form, no implementation plan or benchmarks can be established, and the Attorney General will not be able to make a determination of substantial compliance for that state.

**Updated Implementation Plans must be submitted by August of each year. Your response to these questions will serve as your state’s Implementation Plan.**

### Collaboration Is Key

State agency executives, judicial agencies, and other entities should collaborate in answering these questions and completing this form. The scope of the information being requested is broad and spans across agencies involved in criminal justice processes. Your state may want to consider creating a task force for NICS-related purposes, if one is not already in place.

### How to Make Relevant Records Available to the NICS

There are ten federal firearm prohibitors. Local and state agencies are believed to create and likely house needed and relevant records for the NICS in seven of those categories. Within each record section of this document, information is provided about how NICS users establish each

## FIX NICS ACT: STATE IMPLEMENTATION PLAN UPDATE

federal prohibitor based on statutory and regulatory text and court decisions.<sup>1</sup> Please reference this information when assessing what records your state has that are relevant to each category. In addition, a glossary of terms is provided at the end of this document. Please note, when relevant, your response in each section should consider populations of records that your state has in reference to the past ten years (2012-2022).<sup>23</sup> If you are unable to provide information for this time frame, please note the period of time covered or the date of your record count in the response.

In conducting the background check, the NICS compares the potential transferee's personal identifying information with information contained in three databases: the National Crime Information Center (NCIC), the Interstate Identification Index (III), and the NICS Indices. The NCIC contains information on wanted persons, protection orders, and other persons identified as relevant to the NICS searches. The III provides for the decentralized interstate exchange of millions of criminal history records and functions as part of the Next Generation Identification (NGI) System. The NICS Indices contains information that may not be in the NCIC or NGI/III but is relevant to firearm background checks.

If records are relevant to the NCIC or NGI/III, you should make them available to the appropriate system, rather than the NICS Indices. Records submitted to the NCIC and NGI/III are available to local, state, tribal and federal authorities for a wide variety of both criminal justice and noncriminal justice purposes. As a result, the records in the NCIC and the NGI/III benefit not only firearm related background checks, but also law enforcement investigations and eligibility determinations for various employment or volunteer positions involving vulnerable persons such as the elderly, the disabled, and children.

In contrast, the NICS Indices can only be used during the course of a NICS background check. A match to a "hit" in the NICS Indices triggers an automatic denial of the firearm transfer. Therefore, contributors must ensure that a record is *independently adequate* to show that an individual is prohibited from shipping, transporting, possessing or receiving firearms before submitting it to the NICS Indices. A "hit" in either the NCIC or the NGI/III does not prompt an automatic determination and therefore NICS users must assess each on a case-by-case basis.

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<sup>1</sup> Information is based on the Gun Control Act of 1968, 18 U.S.C. §§ 921-22; 27 C.F.R. 478.11; and court decisions interpreting those provisions.

<sup>2</sup> For purposes of compliance evaluation and the creation of implementation plans, we are requesting information from this ten year time frame. However, older records may be relevant for NICS purposes. Therefore, if you have any population of records older than ten years that your state would like to make part of your plan, please so indicate. The Department of Justice is willing to work with any entity in the collection and completion of relevant records, no matter the age. Please note that not all categories of records will have a ten year population available due to inherent expiration dates, such as protection orders, indictments, etc.

## **FIX NICS ACT: STATE IMPLEMENTATION PLAN UPDATE**

### Submission of Implementation Plan

The completed implementation plan can be e-mailed to: [nicsliaison@fbi.gov](mailto:nicsliaison@fbi.gov)

### Questions

For questions about the implementation plan, please contact NICS Business Relations Team at (844) 265-6716 or [nicsliaison@fbi.gov](mailto:nicsliaison@fbi.gov).

For additional information about your state/agency's current record submissions to the FBI CJIS Division, which houses and maintains the databases searched by the NICS, please contact the following program offices:

NCIC: NCIC Operations and Policy Unit, [ioau@fbi.gov](mailto:ioau@fbi.gov).

NGI/III: Biometric Services Section, (304) 625-3652, [FBI-III@fbi.gov](mailto:FBI-III@fbi.gov)

NICS Indices: Business Relations Team, (844) 265-6716, [nicsliaison@fbi.gov](mailto:nicsliaison@fbi.gov)



## FIX NICS ACT: STATE IMPLEMENTATION PLAN UPDATE

### II. PLAN TO IMPROVE RECORD-SHARING THROUGH MAXIMUM COORDINATION AND AUTOMATION

#### A. Criminal History Records

Criminal history records are used to establish multiple federal firearm prohibitors. States contribute arrest fingerprints to establish criminal history records at the national level within the NGI System. Each state's central criminal history record repository relies on integration between an Automated Fingerprint Identification System (AFIS) and a Computerized Criminal History (CCH) to provide fingerprints and corresponding arrest and disposition information to the NGI System. The NICS utilizes the III, which functions as part of the NGI System, to access these criminal history records.

1. Is your state planning a system upgrade to any part of your criminal history record repository? Yes or No.
  - a. If yes, which system is your state upgrading? AFIS, CCH, or other (please explain)? Please provide details of the system upgrade, including a projected timeline and estimated costs.
  - b. If no, please provide an explanation.
2. Are there records in your state repository that have not been sent to the NGI System and consequently are not indexed or accessible by the III (records without an FBI Universal Control Number)? Yes or No.
  - a. If yes, please describe any reasons the records are not submitted to the NGI System, including any hurdles or challenges your state faces.
  - b. Please describe any plan to submit the records to the NGI System, including a projected timeline and estimated costs, or explain why no plan has been established. If there is no plan, are you willing to work with the Department of Justice (DOJ) to identify possible solutions?
3. Does your state have hard copy criminal arrest fingerprint cards that have not been automated? Yes or No.
  - a. If yes, please describe any reasons for having hard copy criminal arrest fingerprint cards, including any hurdles or challenges your state faces with respect to automation.
  - b. Please describe any plan to submit the records to the NGI System, including a projected timeline and estimated costs, or explain why no plan has been established. If there is no plan, are you willing to work with DOJ to identify possible solutions?
4. If your state practices cite and release, are individuals fingerprinted upon conviction at the court? Yes, No, or Not Applicable.

## FIX NICS ACT: STATE IMPLEMENTATION PLAN UPDATE

- a. If yes, please explain the process your state follows to provide these criminal arrest fingerprints to the NGI System.
  - b. If no, please provide an explanation, including any hurdles or challenges your state faces.
5. Are there local agencies that are not submitting criminal arrest fingerprints to the state to update the state criminal history record repository? Yes or No.
- a. If yes, please describe the plan to address the issue, including a projected timeline and estimated costs, or explain why no plan has been established. If there is no plan, are you willing to work with DOJ to identify possible solutions?
6. Does your state have a plan to take control of any of your state's pseudo pointer records in the NGI System? Yes or No.
- a. If yes, has your state requested a Correlation file? Yes or No. Please describe any plan to take control of your state's pseudo-pointer records, including a projected timeline and estimated costs.
  - b. If there is no plan, please explain why no plan has been established, including any hurdles or challenges your state faces.
7. Does your state submit dispositions for those pseudo-pointer arrests that your state cannot take control, set the active state pointer and begin maintenance and dissemination responsibility? Yes or No.
- a. If yes, how are the dispositions sent to the NGI System? Electronically or hard copy disposition forms.
  - b. If no, please provide any reasons for not submitting the dispositions to the NGI System. Are you willing to work with DOJ to identify possible solutions?
8. Are dispositions electronically received and processed within your state? Yes or No.
- a. Please explain how your state processes dispositions within your state.
9. Are indictments noted on the arrest record prior to conviction? Yes or No.
- a. If yes, where on the arrest record is the indictment noted?
10. As a practice, do dispositions from your state include the following:
- a. Firearm restrictions? Yes or No.
  - b. Level of conviction? Yes or No.
  - c. Victim relationship? Yes or No.

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### **B. Felony Conviction or Qualifying Misdemeanor Conviction Records**

NICS Prohibitor Information: Pursuant to 18 U.S.C § 922(g)(1), any person “who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year” is prohibited from shipping, transporting, possessing or receiving firearms under federal firearms laws. Please note the following three important things about this prohibitor: *First*, this category of records applies to any person who has been convicted of any offense that is *punishable* by imprisonment for a term exceeding one year, whether or not such term of imprisonment was imposed.

*Second*, the term “offense punishable by imprisonment for a term exceeding one year” does not include (a) any federal or state offenses pertaining to antitrust violations, unfair trade practices, restraints of trade or other similar offenses relating to the regulation of business practices, or (b) any state offense classified by the laws of the state as a misdemeanor and punishable by a term of imprisonment of two years or less.

*Third*, what constitutes a conviction of such a crime shall be determined in accordance with the law of the jurisdiction in which the proceedings were held: Any conviction that has been expunged, or set aside, or for which a person has been pardoned or has had civil rights restored, shall not be considered a conviction, unless such pardon, expungement or restoration of civil rights expressly provides that the person may not ship, transport, possess or receive firearms.

These types of records are generally found within the NGI/III or the NICS Indices. Some examples of records and record information that are relevant to this prohibitor include final criminal dispositions (including dismissals), crime severity levels/classifications, statute citations and subsections, pardons, judgment and commitment orders from the courts, certificates of relief, and expungements.

Because arrest and conviction records can be relevant to a number of different federal and state firearm prohibitions, the NICS user community needs access to all records of arrest and conviction. It is very important that records be made available and that they are complete so a timely eligibility determination can be made. With this in mind, please answer the following questions regarding your state’s records.

1. Please provide an explanation and quantify (if possible) any incomplete reporting, including any hurdles or challenges your state faces in making these types of records available to the NICS.
2. Does your state have any plans or projects underway to address any challenges identified in Question 1? If yes, please describe them in detail including estimated costs. If no, are you willing to work with DOJ to identify possible solutions?
3. Please set numeric goals (either raw numbers or percentages) for improved record reporting over the next four years. If your state is already making all relevant records available to the NICS, you may skip this question.

## FIX NICS ACT: STATE IMPLEMENTATION PLAN UPDATE

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4. Please describe any processes currently in place, or planned for implementation, to ensure or improve the accuracy and completeness of the records shared with the NICS. Please also describe any known challenges to verifying the accuracy and completeness of your state's records, along with any plans to address those challenges.
5. Please provide any additional information that is relevant to understanding your state's reporting of records in this category.

### **C. Fugitive from Justice Wanted Person File Records**

NICS Prohibitor Information: Pursuant to 18 U.S.C. § 922(g)(2), any person "who is a fugitive from justice" is prohibited from shipping, transporting, possessing or receiving firearms under federal firearms laws. This prohibitor covers the following categories of individuals:

- (1) Any person who has fled from any state to avoid prosecution for a felony or a misdemeanor;
- (2) Any person who leaves the state to avoid giving testimony in any criminal proceeding;
- (3) Any person who knows that misdemeanor or felony charges are pending against such person and who leaves the state of prosecution.

Please note that a person is not a fugitive from justice merely because he or she has an outstanding civil traffic citation; a criminal warrant must have been issued.

These types of records are generally found within the NCIC or the NICS Indices. Some examples of records that are relevant to this prohibitor include misdemeanor/felony warrants and charging documents.

The NICS user community needs access to all potential fugitive from justice records, regardless of whether they meet the prohibiting criteria explained above or not. It is very important that records are made available and that they are complete so a timely eligibility determination can be made. With this in mind, please answer the following questions regarding your state's records.

1. Please provide an explanation and quantify (if possible) any incomplete reporting, including any hurdles or challenges your state faces in making these types of records available to the NICS.

## FIX NICS ACT: STATE IMPLEMENTATION PLAN UPDATE

2. Does your state have any plans or projects underway to address any challenges identified in Question 1? If yes, please describe them in detail including estimated costs. If no, are you willing to work with DOJ to identify possible solutions?
3. Please set numeric goals (either raw numbers or percentages) for improved record reporting over the next four years. If your state is already making all relevant records available to the NICS, you may skip this question.

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4. Please describe any processes currently in place, or planned for implementation, to ensure or improve the accuracy and completeness of the records shared with the NICS. Please also describe any known challenges to verifying the accuracy and completeness of your state's records, along with any plans to address those challenges.
5. Please provide any additional information that is relevant to understanding your state's reporting of records in this category.

### **D. Unlawful User/Addicted to Controlled Substance Records**

NICS Prohibitor Information: Pursuant to 18 U.S.C. § 922(g)(3), any person “who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802])” is prohibited from shipping, transporting, possessing or receiving firearms under federal firearms laws. The Bureau of Alcohol, Tobacco, Firearm and Explosives (ATF) has clarified through regulations that this prohibitor covers the following categories of individuals:

- (1) Any person who uses a controlled substance and has lost the power of self-control with reference to the use of the controlled substance;
- (2) Any person who is a current user of a controlled substance in a manner other than as prescribed by a licensed physician.

Please note the following three important things about this prohibitor:

*First*, unlawful use is not limited to the use of drugs on a particular day, or within a matter of days or weeks before receiving a firearm. Instead, the unlawful use only needs to have occurred recently enough to indicate that the individual is actively engaged in such conduct. A person may be an unlawful current user of a controlled substance even though the substance is not being used at the precise time the person seeks to acquire a firearm.

## FIX NICS ACT: STATE IMPLEMENTATION PLAN UPDATE

*Second*, an inference of current use may be drawn from evidence of recent use or possession of a controlled substance, or a pattern of use or possession that reasonably covers the present time. For example,

- A conviction for use or possession of a controlled substance within the past year; or
- Multiple arrests for use or possession of a controlled substance within the past five years if the most recent arrest occurred within the past year.

*Third*, the term “controlled substance” includes but is not limited to marijuana, depressants, stimulants and narcotic drugs. It does not include distilled spirits, wine, malt beverages or tobacco (as those terms are defined or used in Subtitle E of the Internal Revenue Code of 1986, as amended). See 21 U.S.C. § 802; 21 C.F.R. Part 1308. Marijuana is listed in the Controlled Substances Act as a Schedule I controlled substance. 21 U.S.C. § 812(c)(10). There are no exceptions in federal law for marijuana used for purported medicinal purposes. Accordingly, as a matter of federal law, anyone who uses marijuana, regardless of whether their state has passed legislation purporting to authorize marijuana use and regardless of whether they possess a state-issued marijuana card, is considered an “unlawful drug user” under 18 U.S.C. § 922(g)(3).

These types of records are generally located within the NGI/III or the NICS Indices. Some examples of records and record information relevant to this prohibitor include drug-related convictions, drug-related arrests, failed drug test reports, probation reports, final criminal dispositions, crime severity levels/classifications, statute citations and subsections, pardons, certificates of relief, and expungements.

It is very important that these records are made available and that they are complete so a timely eligibility determination can be made. With this in mind, please answer the following questions regarding your state’s records.

1. Please provide an explanation and quantify (if possible) any incomplete reporting, including any hurdles or challenges your state faces in making these types of records available to the NICS.
2. Does your state have any plans or projects underway to address any challenges identified in Question 1? If yes, please describe them in detail including estimated costs. If no, are you willing to work with DOJ to identify possible solutions?
3. Please set numeric goals (either raw numbers or percentages) for improved record reporting over the next four years. If your state is already making all relevant records available to the NICS, you may skip this question.

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4. Please describe any processes currently in place, or planned for implementation, to ensure or improve the accuracy and completeness of the records shared with the NICS. Please also describe any known challenges to verifying the accuracy and completeness of your state's records, along with any plans to address those challenges.
5. Please provide any additional information that is relevant to understanding your state's reporting of records in this category.

### **E. Mental Health Adjudication and Commitment Records**

NICS Prohibitor Information: Pursuant to 18 U.S.C. § 922(g)(4), any person “who has been adjudicated as a mental defective or who has been committed to a mental institution” is prohibited from shipping, transporting, possessing or receiving firearms under federal firearms laws. The ATF has clarified through regulations that this prohibitor covers the following circumstances and categories of individuals:

- (1) A determination by a court, board, commission or other lawful authority that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition or disease:
  - Is a danger to himself, herself, or others; or
  - Lacks the mental capacity to contract or manage his or her own affairs.

This includes a person found to be insane by a court in a criminal case, and a person found incompetent to stand trial or found not guilty by reason of lack of mental responsibility.

- (2) A formal commitment of a person to a mental institution by a court, board, commission or other lawful authority. This includes commitment to a mental institution involuntarily, commitment for mental defectiveness or mental illness or commitment for other reasons, such as for drug use. It does not include a person in a mental institution for observation or a voluntary admission to a mental institution.

Please note the following important things about this prohibitor:

*First*, “mental institution” includes mental health facilities, mental hospitals, sanitariums, psychiatric facilities and other facilities that provide diagnoses by licensed professionals of mental retardation or mental illness, including a psychiatric ward in a general hospital.

*Second*, “mental defective” does not include a person who has been granted relief from the disability through a qualifying federal or state relief from disability program as authorized by the NICS Improvement Amendments Act of 2007.

These types of records are generally located within the NGI/III or NICS Indices. Some examples of records relevant to this prohibitor include involuntary commitments to a mental

## FIX NICS ACT: STATE IMPLEMENTATION PLAN UPDATE

health facility for treatment, negative adjudications of mental health in a criminal matter, a finding by a court, board, commission, or other lawful authority that a person represents a danger to himself or others, or is unable to contract or manage his/her own affairs.

Please answer the following questions regarding your state's records when considering the information provided above.

1. Please provide an explanation and quantify (if possible) any incomplete reporting, including any hurdles or challenges your state faces in making all qualifying records available to the NICS.
2. Does your state have any plans or projects underway to address any challenges identified in Question 1? If yes, please describe them in detail including estimated costs. If no, are you willing to work with DOJ to identify possible solutions?
3. Please set numeric goals (either raw numbers or percentages) for improved record reporting over the next four years. If your state is already making all relevant records available to the NICS, you may skip this question.

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4. Please describe any processes currently in place, or planned for implementation, to ensure or improve the accuracy and completeness of the records shared with the NICS. Please also describe any known challenges to verifying the accuracy and completeness of your state's records, along with any plans to address those challenges.
5. Please provide any additional information that is relevant to understanding your state's reporting of records in this category.

### **F. Domestic Violence Restraining/Protection Order Records**

NICS Prohibitor Information: Title 18, U.S.C. § 922(g)(8) prohibits the shipping, transporting, possessing or receiving firearms under federal firearms laws by any person who is subject to a court order that:

- Was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;
- Restrains such person from harassing, stalking or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; *and*



## FIX NICS ACT: STATE IMPLEMENTATION PLAN UPDATE

- Includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child, *or* by its terms expressly prohibits the use, attempted use or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury.

The ATF has clarified through regulation that the term “intimate partner” means (1) the spouse of the person, (2) a former spouse of the person, (3) an individual who is a parent of a child of the person, or (4) an individual who cohabits or has cohabited with the person.

Generally, these types of records are located within the NCIC or the NICS Indices. Some examples of records relevant to this prohibitor include protective/restraining orders, incident reports or other documents that establish the relationship of the protected parties to the respondent.

It can be difficult to assess whether a protective/restraining order meets all of the criteria described above. Therefore, it is recommended that agencies ensure access to all active orders for NICS purposes. By doing so, the NICS user community can make timely and accurate determinations. Since there are several criteria that must be evaluated, it is also very important that these records be as complete as possible. With this in mind, please answer the following questions regarding your state’s records.

1. Please provide an explanation and quantify (if possible) any incomplete reporting, including any hurdles or challenges your state faces in making these types of records available to the NICS.
2. Does your state have any plans or projects underway to address any challenges identified in Question 1? If yes, please describe them in detail including estimated costs. If no, are you willing to work with DOJ to identify possible solutions?
3. Please set numeric goals (either raw numbers or percentages) for improved record reporting over the next four years. If your state is already making all relevant records available to the NICS, you may skip this question.

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4. Please describe any processes currently in place, or planned for implementation, to ensure or improve the accuracy and completeness of the records shared with the NICS. Please also describe any known challenges to verifying the accuracy and completeness of your state’s records, along with any plans to address those challenges.
5. Please provide any additional information that is relevant to understanding your state’s reporting of records in this category.

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### **G. Misdemeanor Crimes of Domestic Violence (MCDV) Records**

NICS Prohibitor Information: Pursuant to 18 U.S.C. § 922(g)(9), any person “who has been convicted in any court of a misdemeanor crime of domestic violence” is prohibited from shipping, transporting, possessing or receiving firearms under federal firearms laws. This prohibitor covers any person who has been convicted of a local, state, tribal or federal offense that meets all of the following criteria:

- (1) The offense is a misdemeanor under local, state, tribal or federal law, *or*, in states that do not classify offenses as misdemeanors, is an offense that is punishable by imprisonment for a term of one year or less, and includes offenses that are punishable only by a fine (this is true whether or not the state statute specifically defines the offense as a “misdemeanor” or as a “misdemeanor crime of domestic violence”);
- (2) The offense has, as an element, the use or attempted use of physical force (*e.g.*, assault and battery), or the threatened use of a deadly weapon; and
- (3) The offense was committed by a current or former spouse, parent or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent or guardian (*e.g.*, the equivalent of a “common law” marriage even if such relationship is not recognized under the law), or by a person similarly situated to a spouse, parent or guardian of the victim (*e.g.*, two persons who are residing at the same location in an intimate relationship with the intent to make that place their home would be similarly situated to a spouse).

Note that a person is not considered to have been convicted of a misdemeanor crime of domestic violence if the conviction has been expunged or set aside, or is an offense for which the person has been pardoned or has had civil rights restored (if the law of the jurisdiction in which the proceedings were held provides for the loss of civil rights upon conviction for such an offense), unless the pardon, expungement or restoration of civil rights expressly provides that the person may not ship, transport, possess or receive firearms and the person is not otherwise prohibited by the law of the jurisdiction in which the proceedings were held from receiving or possessing any firearms.

Generally, these types of records are located within the NGI/III or the NICS Indices. Some examples of records that may be relevant to this prohibitor include misdemeanor level final criminal dispositions, documents establishing the specific statute and subsection(s) of misdemeanor convictions, documents establishing the relationship of the victim to the defendant, documents detailing the specific behaviors the subject has been convicted of committing, or specific behaviors the subject has pled guilty to committing.

It can be difficult to assess whether a potential misdemeanor arrest meets all of the criteria described above. Therefore, it is recommended that agencies ensure access to all relevant arrests for NICS purposes. By doing so, the NICS user community can make timely and accurate determinations. Since there are several criteria that must be evaluated, it is also very

## FIX NICS ACT: STATE IMPLEMENTATION PLAN UPDATE

important that these records be as complete as possible. With this in mind, please answer the following questions regarding your state's records.

1. Please provide an explanation and quantify (if possible) any incomplete reporting, including any hurdles or challenges your state faces in making these types of records available to the NICS.
2. Does your state have any plans or projects underway to address any challenges identified in Question 1? If yes, please describe them in detail including estimated costs. If no, are you willing to work with DOJ to identify possible solutions?
3. Please set numeric goals (either raw numbers or percentages) for improved record reporting over the next four years. If your state is already making all relevant records available to the NICS, you may skip this question.

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4. Please describe any processes currently in place, or planned for implementation, to ensure or improve the accuracy and completeness of the records shared with the NICS. Please also describe any known challenges to verifying the accuracy and completeness of your state's records, along with any plans to address those challenges.
5. Please provide any additional information that is relevant to understanding your state's reporting of records in this category.

### **H. Indictment/Information Records**

NICS Prohibitor Information: Pursuant to 18 U.S.C. § 922(n), any person "who is under indictment for a crime punishable by imprisonment for a term exceeding one year" is prohibited from shipping, transporting or receiving firearms under federal firearms laws. The ATF has clarified through regulations that this prohibitor covers a person under indictment or information in any court under which a crime punishable by imprisonment for a term exceeding one year may be prosecuted.

Generally, records relevant to this prohibitor are located in the NGI/III or the NICS Indices. Some examples of records that are relevant to this prohibitor include criminal history records noting when a subject has been placed under indictment by a grand jury or placed under information by a prosecuting attorney, documents that establish the range of possible punishments related to the offense and documents establishing the projected trial date.

The NICS user community needs access to all indictment/information records. It is very important that these records are made available and that they are complete so a timely

## FIX NICS ACT: STATE IMPLEMENTATION PLAN UPDATE

eligibility determination can be made. With this in mind, please answer the following questions regarding your state's records.

1. Please provide an explanation and quantify (if possible) any incomplete reporting including any hurdles or challenges your state faces in making these types of records available to the NICS.
2. Does your state have any plans or projects underway that address any challenges identified in Question 1? If yes, please describe them in detail including estimated costs. If no, are you willing to work with the DOJ to identify possible solutions?
3. Please set numeric goals (either raw numbers or percentages) for improved record reporting over the next four years. If your state is already making all relevant records available to the NICS, you may skip this question.

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4. Please describe any processes currently in place, or planned for implementation, to ensure or improve the accuracy and completeness of the records shared with the NICS. Please also describe any known challenges to verifying the accuracy and completeness of your state's records, along with any plans to address those challenges.

Please provide any additional information that is relevant to understanding your state's reporting of records in this category.

### III. FUNDING

- A. Has your state previously received state or federal funding for projects aimed at improving record reporting, as it relates to the prohibiting category of records addressed here since the passage of the NICS Improvement Amendments Act of 2007? Yes or No.
  1. If yes, how have you used the funding to improve the reporting of these records?
  2. If no, why not?
- B. Is your state currently seeking state or federal funding to address any of the hurdles identified that are impacting your ability to report records needed for the NICS? Yes or No.
  1. If yes, through what mechanism?

## **FIX NICS ACT: STATE IMPLEMENTATION PLAN UPDATE**

### **IV. ADDITIONAL INFORMATION**

Please utilize the section below to provide any other information or explanation your state may wish to share that provides substantial evidence of your state's efforts to address any hurdles or obstacles to reporting relevant records.

**FIX NICS ACT: STATE IMPLEMENTATION PLAN UPDATE**

**V. CERTIFICATION AND POINT-OF-CONTACT INFORMATION**

\_\_\_\_\_  
**Submitting State**

\_\_\_\_\_  
**Submission Date**

The undersigned hereby certify to the Attorney General of the United States that the data provided with this implementation plan was submitted consistent with the guidelines provided on the various record types needed by the NICS.

\_\_\_\_\_  
Signature/Title

\_\_\_\_\_  
Date

To support ongoing collaboration and coordination with the Attorney General, please utilize the contact(s) listed below as representatives of the state for purposes of this implementation plan.

\_\_\_\_\_  
Signature/Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
*Contact Number*

\_\_\_\_\_  
*Contact E-Mail*

\_\_\_\_\_  
Signature/Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
*Contact Number*

\_\_\_\_\_  
*Contact E-Mail*

## **FIX NICS ACT: STATE IMPLEMENTATION PLAN UPDATE**

### **VI. GLOSSARY OF TERMS**

**Accuracy** – This term refers to the overall quality of records. Accurate records are those found to be free from error, that represent truth and/or fact, and that are maintained in a manner reflecting care and due diligence.

**Available** – A record is deemed available if it contains the minimum data required for entry into the NGI/III, NCIC or the NICS Indices and is housed within one or more of the aforementioned databases.

**Benchmark** – A standard, or a set of standards, used as a point of reference for evaluating performance or level of quality.

**Cite and Release** – The issuance of a citation in lieu of arrest provides the offender with a written or electronic order issued by a law enforcement or other authorized official. The citation releases the person on the promise to appear in court (or other government office) at a specified date and time.

**Completeness** – In the context of records, completeness has the connotation of ensuring that all required information is included when the record is completed and/or needed/necessary information is added to supplement the record with due diligence.

**Compliance Cost** – An expenditure of time or money in conforming with government requirements. These costs can include, for example, the cost of systems needed to collect information for compliance reporting, cost of personnel needed to monitor the compliance system, or cost to compile and issue reports.

**Conviction** – A court's Judgment and Conviction Order, whether it involves multiple counts or a single count, represents a "conviction."

**Interstate Identification Index (III)** – A national index pointer system for the interstate and Federal/State exchange of criminal history records information.

**National Crime Information Center (NCIC)** – A national electronic clearinghouse of crime data. It contains relevant records for NICS purposes such as fugitives from justice, orders of protection, suspected terrorists and gang members, and more.

**Needs Assessment** – A systematic process for determining and addressing needs or gaps between current conditions and desired conditions. The discrepancy between the current condition and wanted condition must be measured to appropriately identify the need.

**National Instant Criminal Background Check System (NICS)** – A national system that checks available records to determine if prospective transferees are disqualified from receiving firearms or explosives.

## FIX NICS ACT: STATE IMPLEMENTATION PLAN UPDATE

NICS Indices – Formerly known as the NICS Index, it contains records provided by local, state, tribal and federal agencies about persons known to have a verified and established firearm and/or explosive prohibition.

Pseudo Pointer – Each criminal history record in the NGI System contains III pointers. These pointers indicate whether a state or the FBI is responsible for the maintenance and dissemination of the various portions of a criminal history record. If a III state is responsible for disseminating its record for a subject, the pointer will be the active state identification number. If the FBI is responsible for disseminating the record for a subject in a state or territory not participating in the III or for a III participant that has not assumed responsibility for that particular record, the III pointer will be a pseudo-pointer.

### Paperwork Reduction Act Notice

This notice is given under the Paperwork Reduction Act of 1995. The Paperwork Reduction Act requires that the Federal Bureau of Investigation inform individuals and other entities of the following when asking for information. The information collected will document the current status and future commitment of each submitting entity in making identified records available for purposes related to the National Instant Criminal Background Check System (NICS.) The NICS is utilized nationwide to determine a person's eligibility to purchase and possess a firearm, explosives and/or related permit. The availability to accurate and complete records is crucial in allowing NICS to benefit public safety. The information requested is necessary to support the requirements set forth within the Fix NICS Act of 2018.

The estimate average burden associated with this collection is 40 hours per respondent, depending on individual circumstances. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Washington, DC 20530.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.



**DEPARTMENT OF JUSTICE**

**Federal Bureau of Investigation, Criminal Justice Services Division**

**OMB Number 1110-0077**

**Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of an approved Collection**

**AGENCY:** Federal Bureau of Investigation, Criminal Justice Information Services Division, Department of Justice

**ACTION:** 60 Day Notice.

**SUMMARY:** The Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division, is submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

**DATES:** The Department of Justice encourages public comment and will accept input until [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]

**FOR FURTHER INFORMATION CONTACT:** If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Gerry Lynn Brovey, Supervisory Information Liaison Specialist, FBI, CJIS, Resources Management Section, Administrative Unit, Module C-2, 1000 Custer Hollow Road, Clarksburg, West Virginia, 26306; phone: 304-625-4320 or email [glbrovey@fbi.gov](mailto:glbrovey@fbi.gov). Written comments and/or recommendations for the proposed information collection should be sent within 30 days of publication of other notice to [www.reginfo.gov/public/dp/PRAMain](http://www.reginfo.gov/public/dp/PRAMain). Find this particular information collection by selecting "Currently under 30-day Review – Open for Public Comments" or by using the search function.

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Federal Bureau of Investigation, Criminal Justice Information Services Division, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

**OVERVIEW OF THIS INFORMATION COLLECTION:**

1. Type of Information Collection: Revision of a currently approved collection.
2. The Title of the Form/Collection: FIX NICS Act State Implementation Plan Survey
3. The agency form number, if any, and the applicable component of the Department sponsoring the collection: There is no agency form number for this collection. The applicable component within the Department of Justice is the Federal Bureau of Investigation, Criminal Justice Information Services Division.
4. Affected public who will be asked or required to respond, as well as a brief abstract: Individuals or households. Primary: State, local, federal and tribal law enforcement agencies. This collection is needed for the reporting or making available of appropriate records to the National Instant

Criminal Background Check System (NICS) established under section 103 of the Brady Handgun Violence Prevention Act. Acceptable data is stored as part of the NICS of the FBI.

5. An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: It is estimated 56 respondents will complete each form within approximately 2,400 minutes.
6. An estimate of the total public burden (in hours) associated with the collection: There are an estimated 2, 240 total annual burden hours anticipated with this collection.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: [To be completed by Department Clearance Officer]

Melody Braswell,

Department Clearance Officer for PRA,

U.S. Department of Justice.

Billing Code: [To be completed by the Department Clearance Officer]

**DEPARTMENT OF JUSTICE**

**Federal Bureau of Investigation, Criminal Justice Services Division**

**OMB Number 1110-0077**

**Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of an approved collection**

**AGENCY:** Federal Bureau of Investigation, Criminal Justice Information Services Division, Department of Justice

**ACTION:** 30 Day Notice.

**SUMMARY:** The Department of Justice, Federal Bureau of Investigation (FBI), Criminal Justice Information Services Division, is submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

**DATES:** The Department of Justice encourages public comment and will accept input until [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]

**FOR FURTHER INFORMATION CONTACT:** If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instruments with instructions or additional information, please contact Gerry Lynn Brovey, Supervisory Information Liaison Specialist, FBI, CJIS, Resources Management Section, Administrative Unit, Module C-2, 1000 Custer Hollow Road, Clarksburg, West Virginia, 26306; phone: 304-625-4320 or email [glbovey@fbi.gov](mailto:glbovey@fbi.gov). Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to

[www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting "Currently under 30-day Review - Open for Public Comments" or by using the search function.

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Federal Bureau of Investigation, Criminal Justice Information Services Division, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

**OVERVIEW OF THIS INFORMATION COLLECTION:**

1. Type of Information Collection: Revision of a currently approved collection.
2. The Title of the Form/Collection: FIX NICS Act State Implementation Plan Survey

3. The agency form number, if any, and the applicable component of the Department sponsoring the collection: There is no agency form number for this collection. The applicable component within the Department of Justice is the Federal Bureau of Investigation, Criminal Justice Services Division.
4. Affected public who will be asked or required to respond, as well as a brief abstract: Primary: State, local, federal and tribal law enforcement agencies. This collection is needed for the reporting or making available of appropriate records to the National Instant Criminal Background Check System (NICS) established under section 103 of the Brady Handgun Violence Prevention Act. Acceptable data is stored as part of the NICS of the FBI.
5. 5. An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: It is estimated 56 respondents will complete each form within approximately 2,400 minutes.
6. 6. An estimate of the total public burden (in hours) associated with the collection: There are an estimate 2, 240 total annual burden hours anticipated for the collection.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: [To be completed by Department Clearance Officer]

Melody Braswell,

Department Clearance Officer for PRA,

U.S. Department of Justice.

Billing Code: [To be completed by the Department Clearance Officer]