

**First Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 13-0043.01 Richard Sweetman x4333

**HOUSE BILL 13-1229**

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**HOUSE SPONSORSHIP**

**Fields and McCann,**

**SENATE SPONSORSHIP**

**Carroll,**

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**House Committees**

Judiciary  
Appropriations

**Senate Committees**

State, Veterans, & Military Affairs  
Appropriations

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**A BILL FOR AN ACT**

101 **CONCERNING CRIMINAL BACKGROUND CHECKS PERFORMED PURSUANT**  
102 **TO THE TRANSFER OF A FIREARM, AND, IN CONNECTION**  
103 **THEREWITH, MAKING AN APPROPRIATION.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

Unless a specified exception applies, before any person who is not a licensed gun dealer transfers or attempts to transfer possession of a firearm, he or she shall:

! Require that a background check be conducted of the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

HOUSE  
3rd Reading Unamended  
February 18, 2013

HOUSE  
Amended 2nd Reading  
February 15, 2013

prospective transferee; and

- ! Obtain approval of the transfer from the Colorado bureau of investigation (bureau) after a background check has been requested by a licensed gun dealer.

A prospective firearm transferor shall arrange for the services of one or more licensed gun dealers to obtain a background check. A prospective firearm transferee shall not accept possession of a firearm unless the prospective firearm transferor has obtained approval of the transfer from the bureau after a background check has been requested by a licensed gun dealer.

A prospective firearm transferee shall not knowingly provide false information to a prospective firearm transferor or to a licensed gun dealer for the purpose of acquiring a firearm.

A person who violates the new provisions commits a class 1 misdemeanor.

Under current law, the clerk of the court of every judicial district and probate court in the state must periodically report to the national instant criminal background check system subject to specified court orders relating to mental health or substance abuse.

The bill requires the clerk of the court to also report this information to the Colorado bureau of investigation.

A court, upon becoming aware that the basis upon which a record of a mentally ill person reported by the clerk of the court does not apply or no longer applies, shall:

- ! Update, correct, modify, or remove the record from any database that the federal or state government maintains and makes available to the national instant criminal background check system, consistent with the rules pertaining to the database; and
- ! Notify the attorney general that such basis does not apply or no longer applies.

The bill sets forth a judicial process whereby a person who has been prohibited from possessing a firearm may apply or petition for relief from federal firearms prohibitions, as permitted by federal law.

In granting relief to a petitioner, the court shall issue findings that:

- ! The petitioner is not likely to act in a manner that is dangerous to public safety; and
- ! Granting relief to the petitioner is not contrary to the public interest.

If the court denies relief to a petitioner, the petitioner may petition the court of appeals to review the denial, including the record of the denying court. A review of a denial shall be de novo in that the court of appeals may, but is not required to, give deference to the decision of the denying court. In reviewing a denial, the court of appeals may receive additional evidence necessary to conduct an adequate review.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 18-12-112 as  
3 follows:

4 **18-12-112. Private firearms transfers - background check**  
5 **required - penalty - definitions.** (1) (a) EXCEPT AS DESCRIBED IN  
6 SUBSECTION (6) OF THIS SECTION, BEFORE ANY PERSON WHO IS NOT A  
7 LICENSED GUN DEALER, AS DEFINED IN SECTION 12-26.1-106 (6), C.R.S.,  
8 TRANSFERS OR ATTEMPTS TO TRANSFER POSSESSION OF A FIREARM, HE OR  
9 SHE SHALL:

10 (I) REQUIRE THAT A BACKGROUND CHECK, IN ACCORDANCE WITH  
11 SECTION 24-33.5-424, C.R.S., BE CONDUCTED OF THE PROSPECTIVE  
12 TRANSFEREE; AND

13 (II) OBTAIN APPROVAL OF A TRANSFER FROM THE BUREAU AFTER  
14 A BACKGROUND CHECK HAS BEEN REQUESTED BY A LICENSED GUN  
15 DEALER, IN ACCORDANCE WITH SECTION 24-33.5-424, C.R.S.

16 (b) AS USED IN THIS SECTION, UNLESS THE CONTEXT REQUIRES  
17 OTHERWISE, "TRANSFEREE" MEANS A PERSON WHO DESIRES TO RECEIVE OR  
18 ACQUIRE A FIREARM FROM A TRANSFEROR. IF A TRANSFEREE IS NOT A  
19 NATURAL PERSON BUT A CORPORATION, ASSOCIATION, PARTNERSHIP, OR  
20 LIMITED LIABILITY COMPANY OR TRUST, THE REQUIREMENT DESCRIBED IN  
21 THIS SUBSECTION (1) SHALL BE INTERPRETED TO REQUIRE A BACKGROUND  
22 CHECK OF EACH MEMBER, PARTNER, OFFICER, OR OTHER PERSON WHO  
23 HOLDS A BENEFICIAL INTEREST IN THE CORPORATION, ASSOCIATION,  
24 PARTNERSHIP, OR LIMITED LIABILITY COMPANY OR TRUST.

25 (2) (a) A PROSPECTIVE FIREARM TRANSFEROR WHO IS NOT A  
26 LICENSED GUN DEALER SHALL ARRANGE FOR A LICENSED GUN DEALER TO

1 OBTAIN THE BACKGROUND CHECK REQUIRED BY THIS SECTION.

2 (b) A LICENSED GUN DEALER WHO OBTAINS A BACKGROUND CHECK  
3 ON A PROSPECTIVE TRANSFEREE SHALL RECORD THE TRANSFER, AS  
4 PROVIDED IN SECTION 12-26-102, C.R.S., AND RETAIN THE RECORDS, AS  
5 PROVIDED IN SECTION 12-26-103, C.R.S., IN THE SAME MANNER AS WHEN  
6 CONDUCTING A SALE, RENTAL, OR EXCHANGE AT RETAIL. THE LICENSED  
7 GUN DEALER SHALL COMPLY WITH ALL STATE AND FEDERAL LAWS,  
8 INCLUDING 18 U.S.C. SEC. 922, AS IF HE OR SHE WERE TRANSFERRING THE  
9 FIREARM FROM HIS OR HER INVENTORY TO THE PROSPECTIVE TRANSFEREE.

10 (c) A LICENSED GUN DEALER WHO OBTAINS A BACKGROUND CHECK  
11 FOR A PROSPECTIVE FIREARM TRANSFEROR PURSUANT TO THIS SECTION  
12 SHALL PROVIDE THE FIREARM TRANSFEROR AND TRANSFEREE A COPY OF  
13 THE RESULTS OF THE BACKGROUND CHECK, INCLUDING THE BUREAU'S  
14 APPROVAL OR DISAPPROVAL OF THE TRANSFER.

15 (d) A LICENSED GUN DEALER MAY CHARGE A FEE FOR SERVICES  
16 RENDERED PURSUANT TO THIS SECTION, WHICH FEE SHALL NOT EXCEED  
17 TEN DOLLARS.

18 (3) (a) A PROSPECTIVE FIREARM TRANSFEREE UNDER THIS SECTION  
19 SHALL NOT ACCEPT POSSESSION OF THE FIREARM UNLESS THE PROSPECTIVE  
20 FIREARM TRANSFEROR HAS OBTAINED APPROVAL OF THE TRANSFER FROM  
21 THE BUREAU AFTER A BACKGROUND CHECK HAS BEEN REQUESTED BY A  
22 LICENSED GUN DEALER, AS DESCRIBED IN PARAGRAPH (b) OF SUBSECTION  
23 (1) OF THIS SECTION.

24 (b) A PROSPECTIVE FIREARM TRANSFEREE SHALL NOT KNOWINGLY  
25 PROVIDE FALSE INFORMATION TO A PROSPECTIVE FIREARM TRANSFEROR  
26 OR TO A LICENSED GUN DEALER FOR THE PURPOSE OF ACQUIRING A  
27 FIREARM.

1 (4) IF THE BUREAU APPROVES A TRANSFER OF A FIREARM  
2 PURSUANT TO THIS SECTION, THE APPROVAL SHALL BE VALID FOR THIRTY  
3 CALENDAR DAYS, DURING WHICH TIME THE TRANSFEROR AND TRANSFEREE  
4 MAY COMPLETE THE TRANSFER.

5 (5) A PERSON WHO TRANSFERS A FIREARM IN VIOLATION OF THE  
6 PROVISIONS OF THIS SECTION MAY BE JOINTLY AND SEVERALLY LIABLE FOR  
7 ANY CIVIL DAMAGES PROXIMATELY CAUSED BY THE TRANSFEREE'S  
8 SUBSEQUENT USE OF THE FIREARM.

9 (6) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO:

10 (a) A TRANSFER OF AN ANTIQUE FIREARM, AS DEFINED IN 18 U.S.C.  
11 SEC. 921(a) (16), AS AMENDED, OR A CURIO OR RELIC, AS DEFINED IN 27  
12 CFR 478.11, AS AMENDED;

13 (b) A TRANSFER THAT IS A BONA FIDE GIFT BETWEEN IMMEDIATE  
14 FAMILY MEMBERS, WHICH ARE LIMITED TO SPOUSES, PARENTS, CHILDREN,  
15 SIBLINGS, GRANDPARENTS, GRANDCHILDREN, NIECES, NEPHEWS, FIRST  
16 COUSINS, AUNTS, AND UNCLES;

17 (c) A TRANSFER THAT OCCURS BY OPERATION OF LAW OR BECAUSE  
18 OF THE DEATH OF A PERSON FOR WHOM THE PROSPECTIVE TRANSFEROR IS  
19 AN EXECUTOR OR ADMINISTRATOR OF AN ESTATE OR A TRUSTEE OF A  
20 TRUST CREATED IN A WILL;

21 (d) A TRANSFER THAT IS TEMPORARY AND OCCURS WHILE IN THE  
22 HOME OF THE UNLICENSED TRANSFEREE IF:

23 (I) THE UNLICENSED TRANSFEREE IS NOT PROHIBITED FROM  
24 POSSESSING FIREARMS; AND

25 (II) THE UNLICENSED TRANSFEREE REASONABLY BELIEVES THAT  
26 POSSESSION OF THE FIREARM IS NECESSARY TO PREVENT IMMINENT DEATH  
27 OR SERIOUS BODILY INJURY TO THE UNLICENSED TRANSFEREE; ■

1 (e) THE TRANSFER IS A TEMPORARY TRANSFER OF POSSESSION  
2 WITHOUT TRANSFER OF OWNERSHIP OR A TITLE TO OWNERSHIP, WHICH  
3 TRANSFER TAKES PLACE:

4 (I) AT A SHOOTING RANGE LOCATED IN OR ON PREMISES OWNED OR  
5 OCCUPIED BY A DULY INCORPORATED ORGANIZATION ORGANIZED FOR  
6 CONSERVATION PURPOSES OR TO FOSTER PROFICIENCY IN FIREARMS;

7 (II) AT A TARGET FIREARM SHOOTING COMPETITION UNDER THE  
8 AUSPICES OF, OR APPROVED BY, A STATE AGENCY OR A NONPROFIT  
9 ORGANIZATION; OR

10 (III) WHILE HUNTING, FISHING, TARGET SHOOTING, OR TRAPPING  
11 IF:

12 (A) THE HUNTING, FISHING, TARGET SHOOTING, OR TRAPPING IS  
13 LEGAL IN ALL PLACES WHERE THE UNLICENSED TRANSFEREE POSSESSES  
14 THE FIREARM; AND

15 (B) THE UNLICENSED TRANSFEREE HOLDS ANY LICENSE OR PERMIT  
16 THAT IS REQUIRED FOR SUCH HUNTING, FISHING, TARGET SHOOTING, OR  
17 TRAPPING; ==

18 (f) A TRANSFER OF A FIREARM THAT IS MADE TO FACILITATE THE  
19 REPAIR OR MAINTENANCE OF THE FIREARM; EXCEPT THAT THIS PARAGRAPH

20 (f) DOES NOT APPLY UNLESS ALL PARTIES WHO POSSESS THE FIREARM AS  
21 A RESULT OF THE TRANSFER MAY LEGALLY POSSESS A FIREARM; OR

22 (g) ANY TEMPORARY TRANSFER THAT OCCURS WHILE IN THE  
23 CONTINUOUS PRESENCE OF THE OWNER OF THE FIREARM; OR

24 (h) A TEMPORARY TRANSFER FOR NOT MORE THAN SEVENTY-TWO  
25 HOURS. A PERSON WHO TRANSFERS A FIREARM PURSUANT TO THIS  
26 PARAGRAPH (h) MAY BE JOINTLY AND SEVERALLY LIABLE FOR DAMAGES  
27 PROXIMATELY CAUSED BY THE TRANSFEREE'S SUBSEQUENT USE OF THE

1 FIREARM.

2 (7) NOTHING IN SUBSECTION (6) OF THIS SECTION SHALL BE  
3 INTERPRETED TO LIMIT OR OTHERWISE ALTER THE APPLICABILITY OF  
4 SECTION 18-12-111 CONCERNING THE UNLAWFUL PURCHASE OR TRANSFER  
5 OF FIREARMS.

6 (8) (a) A PERSON WHO VIOLATES A PROVISION OF THIS SECTION  
7 COMMITS A CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED IN  
8 ACCORDANCE WITH SECTION 18-1.3-501. THE PERSON SHALL ALSO BE  
9 PROHIBITED FROM POSSESSING A FIREARM FOR TWO YEARS, BEGINNING ON  
10 THE DATE OF HIS OR HER CONVICTION.

11 (b) WHEN A PERSON IS CONVICTED OF VIOLATING A PROVISION OF  
12 THIS SECTION, THE STATE COURT ADMINISTRATOR SHALL REPORT THE  
13 CONVICTION TO THE BUREAU AND TO THE NATIONAL INSTANT CRIMINAL  
14 BACKGROUND CHECK SYSTEM CREATED BY THE FEDERAL "BRADY  
15 HANDGUN VIOLENCE PREVENTION ACT" (PUB.L. 103-159), THE  
16 RELEVANT PORTION OF WHICH IS CODIFIED AT 18 U.S.C. SEC. 922 (t). THE  
17 REPORT SHALL INCLUDE INFORMATION INDICATING THAT THE PERSON IS  
18 PROHIBITED FROM POSSESSING A FIREARM FOR TWO YEARS, BEGINNING ON  
19 THE DATE OF HIS OR HER CONVICTION.

20 **SECTION 2.** In Colorado Revised Statutes, 13-5-142, amend (1)  
21 introductory portion, (2), (3) introductory portion, (3) (a), and (3) (b) (II);  
22 and add (1.5) and (4) as follows:

23 **13-5-142. National instant criminal background check system**  
24 **- reporting.** (1) Beginning July 1, 2002 ON AND AFTER THE EFFECTIVE  
25 DATE OF THIS SECTION, the clerk of the court of every judicial district in  
26 the state COURT ADMINISTRATOR shall periodically report SEND  
27 ELECTRONICALLY the following information to the national instant

1 criminal background check system created by the federal "Brady  
2 Handgun Violence Prevention Act" (Pub.L. 103-159), the relevant portion  
3 of which is codified at 18 U.S.C. sec. 922 (t) COLORADO BUREAU OF  
4 INVESTIGATION CREATED PURSUANT TO SECTION 24-33.5-401, C.R.S.,  
5 REFERRED TO WITHIN THIS SECTION AS THE "BUREAU":

6 (1.5) NOT MORE THAN FORTY-EIGHT HOURS AFTER RECEIVING  
7 NOTIFICATION OF A PERSON WHO SATISFIES THE DESCRIPTION IN  
8 PARAGRAPH (a), (b), OR (c) OF SUBSECTION (1) OF THIS SECTION, THE  
9 STATE COURT ADMINISTRATOR SHALL REPORT SUCH FACT TO THE BUREAU.

10 (2) Any report made by the clerk of the court of every judicial  
11 district in the state COURT ADMINISTRATOR pursuant to this section shall  
12 describe the reason for the report and indicate that the report is made in  
13 accordance with 18 U.S.C. sec. 922 (g) (4).

14 (3) The clerk of the court of every judicial district in the state  
15 COURT ADMINISTRATOR shall take all necessary steps to cancel a record  
16 made by that clerk THE STATE COURT ADMINISTRATOR in the national  
17 instant criminal background check system if:

18 (a) The person to whom the record pertains makes a written  
19 request to the clerk STATE COURT ADMINISTRATOR; and

20 (b) No less than three years before the date of the written request:

21 (II) The period of commitment of the most recent order of  
22 commitment or recommitment expired, or the A court entered an order  
23 terminating the person's incapacity or discharging the person from  
24 commitment in the nature of habeas corpus, if the record in the national  
25 instant criminal background check system is based on an order of  
26 commitment to the custody of the unit in the department of human  
27 services that administers behavioral health programs and services,



1 including those related to mental health and substance abuse; except that  
2 the ~~clerk~~ STATE COURT ADMINISTRATOR shall not cancel any record  
3 pertaining to a person with respect to whom two recommitment orders  
4 have been entered under section 27-81-112 (7) and (8), C.R.S., or who  
5 was discharged from treatment under section 27-81-112 (11), C.R.S., on  
6 the grounds that further treatment will not be likely to bring about  
7 significant improvement in the person's condition; or

8  
9           (4) PURSUANT TO SECTION 102 (c) OF THE FEDERAL "NICS  
10 IMPROVEMENT AMENDMENTS ACT OF 2007" (PUB.L. 110-180), A COURT,  
11 UPON BECOMING AWARE THAT THE BASIS UPON WHICH A RECORD  
12 REPORTED BY THE STATE COURT ADMINISTRATOR PURSUANT TO  
13 SUBSECTION (1) OF THIS SECTION DOES NOT APPLY OR NO LONGER APPLIES,  
14 SHALL:

15           (a) UPDATE, CORRECT, MODIFY, OR REMOVE THE RECORD FROM  
16 ANY DATABASE THAT THE FEDERAL OR STATE GOVERNMENT MAINTAINS  
17 AND MAKES AVAILABLE TO THE NATIONAL INSTANT CRIMINAL  
18 BACKGROUND CHECK SYSTEM, CONSISTENT WITH THE RULES PERTAINING  
19 TO THE DATABASE; AND

20           (b) NOTIFY THE ATTORNEY GENERAL THAT SUCH BASIS DOES NOT  
21 APPLY OR NO LONGER APPLIES.

22           **SECTION 3.** In Colorado Revised Statutes, **add** 13-5-142.5 as  
23 follows:

24           **13-5-142.5. National instant criminal background check**  
25 **system - judicial process for awarding relief from federal**  
26 **prohibitions - legislative declaration.** (1) **Legislative declaration.** THE  
27 PURPOSE OF THIS SECTION IS TO SET FORTH A JUDICIAL PROCESS WHEREBY

1 A PERSON MAY APPLY OR PETITION FOR RELIEF FROM FEDERAL FIREARMS  
2 PROHIBITIONS IMPOSED PURSUANT TO 18 U.S.C. SEC. 922 (d) (4) AND (g)  
3 (4), AS PERMITTED BY THE FEDERAL "NICS IMPROVEMENT AMENDMENTS  
4 ACT OF 2007" (PUB.L. 110-180, SEC. 105).

5 (2) **Eligibility.** A PERSON MAY PETITION FOR RELIEF PURSUANT TO  
6 THIS SECTION IF:

7 (a) (I) HE OR SHE HAS BEEN FOUND TO BE INCAPACITATED BY  
8 ORDER OF THE COURT PURSUANT TO PART 3 OF ARTICLE 14 OF TITLE 15,  
9 C.R.S.;

10 (II) HE OR SHE HAS BEEN COMMITTED BY ORDER OF THE COURT TO  
11 THE CUSTODY OF THE UNIT IN THE DEPARTMENT OF HUMAN SERVICES THAT  
12 ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING  
13 THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE, PURSUANT  
14 TO SECTION 27-81-112 OR 27-82-108, C.R.S.; OR

15 (III) THE COURT HAS ENTERED AN ORDER FOR THE PERSON'S  
16 INVOLUNTARY CERTIFICATION FOR SHORT-TERM TREATMENT OF MENTAL  
17 ILLNESS PURSUANT TO SECTION 27-65-107, C.R.S., FOR EXTENDED  
18 CERTIFICATION FOR TREATMENT OF MENTAL ILLNESS PURSUANT TO  
19 SECTION 27-65-108, C.R.S., OR FOR LONG-TERM CARE AND TREATMENT OF  
20 MENTAL ILLNESS PURSUANT TO SECTION 27-65-109, C.R.S.; AND

21 (b) HE OR SHE IS A PERSON TO WHOM THE SALE OR TRANSFER OF A  
22 FIREARM OR AMMUNITION IS PROHIBITED BY 18 U.S.C. SEC. 922 (d) (4), OR  
23 WHO IS PROHIBITED FROM SHIPPING, TRANSPORTING, POSSESSING, OR  
24 RECEIVING A FIREARM OR AMMUNITION PURSUANT TO 18 U.S.C. SEC. 922  
25 (g) (4).

26 (3) **Due process.** IN A COURT PROCEEDING PURSUANT TO THIS  
27 SECTION:

1 (a) THE PETITIONER SHALL HAVE AN OPPORTUNITY TO SUBMIT HIS  
2 OR HER OWN EVIDENCE TO THE COURT CONCERNING HIS OR HER PETITION;

3 (b) THE COURT SHALL REVIEW THE EVIDENCE; AND

4 (c) THE COURT SHALL CREATE AND THEREAFTER MAINTAIN A  
5 RECORD OF THE PROCEEDING.

6 (4) **Proper record.** IN DETERMINING WHETHER TO GRANT RELIEF  
7 TO A PETITIONER PURSUANT TO THIS SECTION, THE COURT SHALL RECEIVE  
8 EVIDENCE CONCERNING, AND SHALL CONSIDER:

9 (a) THE CIRCUMSTANCES REGARDING THE FIREARMS PROHIBITIONS  
10 IMPOSED BY 18 U.S.C. SEC. 922 (g) (4);

11 (b) THE PETITIONER'S RECORD, WHICH MUST INCLUDE, AT A  
12 MINIMUM, THE PETITIONER'S MENTAL HEALTH RECORDS AND CRIMINAL  
13 HISTORY RECORDS; AND

14 (c) THE PETITIONER'S REPUTATION, WHICH THE COURT SHALL  
15 DEVELOP, AT A MINIMUM, THROUGH CHARACTER WITNESS STATEMENTS,  
16 TESTIMONY, OR OTHER CHARACTER EVIDENCE.

17 (5) **Proper findings.** (a) BEFORE GRANTING RELIEF TO A  
18 PETITIONER PURSUANT TO THIS SECTION, THE COURT SHALL ISSUE  
19 FINDINGS THAT:

20 (I) THE PETITIONER IS NOT LIKELY TO ACT IN A MANNER THAT IS  
21 DANGEROUS TO PUBLIC SAFETY; AND

22 (II) GRANTING RELIEF TO THE PETITIONER IS NOT CONTRARY TO  
23 THE PUBLIC INTEREST.

24 (b) (I) IF THE COURT DENIES RELIEF TO A PETITIONER PURSUANT TO  
25 THIS SECTION, THE PETITIONER MAY PETITION THE COURT OF APPEALS TO  
26 REVIEW THE DENIAL, INCLUDING THE RECORD OF THE DENYING COURT.

27 (II) A REVIEW OF A DENIAL SHALL BE DE NOVO IN THAT THE COURT

1 OF APPEALS MAY, BUT IS NOT REQUIRED TO, GIVE DEFERENCE TO THE  
2 DECISION OF THE DENYING COURT.

3 (III) IN REVIEWING A DENIAL, THE COURT OF APPEALS HAS  
4 DISCRETION, BUT IS NOT REQUIRED, TO RECEIVE ADDITIONAL EVIDENCE  
5 NECESSARY TO CONDUCT AN ADEQUATE REVIEW.

6 **SECTION 4.** In Colorado Revised Statutes, 13-9-123, amend (1)  
7 introductory portion, (2), (3) introductory portion, (3) (a), and (3) (b) (II);  
8 and add (1.5) and (4) as follows:

9 **13-9-123. National instant criminal background check system**  
10 **- reporting.** (1) Beginning July 1, 2002 ON AND AFTER THE EFFECTIVE  
11 DATE OF THIS SECTION, the clerk of the probate court STATE COURT  
12 ADMINISTRATOR shall periodically report SEND ELECTRONICALLY the  
13 following information to the national instant criminal background check  
14 system created by the federal "Brady Handgun Violence Prevention Act",  
15 Pub.L. 103-159, the relevant portion of which is codified at 18 U.S.C.  
16 sec. 922 (t) COLORADO BUREAU OF INVESTIGATION CREATED PURSUANT  
17 TO SECTION 24-33.5-401, C.R.S., REFERRED TO WITHIN THIS SECTION AS  
18 THE "BUREAU":

19 (1.5) NOT MORE THAN FORTY-EIGHT HOURS AFTER RECEIVING  
20 NOTIFICATION OF A PERSON WHO SATISFIES THE DESCRIPTION IN  
21 PARAGRAPH (a), (b), OR (c) OF SUBSECTION (1) OF THIS SECTION, THE  
22 STATE COURT ADMINISTRATOR SHALL REPORT SUCH FACT TO THE BUREAU.

23 (2) Any report made by the clerk of the probate court STATE  
24 COURT ADMINISTRATOR pursuant to this section shall describe the reason  
25 for the report and indicate that the report is made in accordance with 18  
26 U.S.C. sec. 922 (g) (4).

27 (3) The clerk of the probate court STATE COURT ADMINISTRATOR

1 shall take all necessary steps to cancel a record made by that clerk THE  
2 STATE COURT ADMINISTRATOR in the national instant criminal background  
3 check system if:

4 (a) The person to whom the record pertains makes a written  
5 request to the clerk STATE COURT ADMINISTRATOR; and

6 (b) No less than three years before the date of the written request:

7 (II) The period of commitment of the most recent order of  
8 commitment or recommitment expired, or the court entered an order  
9 terminating the person's incapacity or discharging the person from  
10 commitment in the nature of habeas corpus, if the record in the national  
11 instant criminal background check system is based on an order of  
12 commitment to the custody of the unit in the department of human  
13 services that administers behavioral health programs and services,  
14 including those related to mental health and substance abuse; except that  
15 the clerk STATE COURT ADMINISTRATOR shall not cancel any record  
16 pertaining to a person with respect to whom two recommitment orders  
17 have been entered under section 27-81-112 (7) and (8), C.R.S., or who  
18 was discharged from treatment under section 27-81-112 (11), C.R.S., on  
19 the grounds that further treatment will not be likely to bring about  
20 significant improvement in the person's condition; or

21 (4) PURSUANT TO SECTION 102 (c) OF THE FEDERAL "NICS  
22 IMPROVEMENT AMENDMENTS ACT OF 2007" (PUB.L. 110-180), A COURT,  
23 UPON BECOMING AWARE THAT THE BASIS UPON WHICH A RECORD  
24 REPORTED BY THE STATE COURT ADMINISTRATOR PURSUANT TO  
25 SUBSECTION (1) OF THIS SECTION DOES NOT APPLY OR NO LONGER APPLIES,  
26 SHALL:

27 (a) UPDATE, CORRECT, MODIFY, OR REMOVE THE RECORD FROM

1 ANY DATABASE THAT THE FEDERAL OR STATE GOVERNMENT MAINTAINS  
2 AND MAKES AVAILABLE TO THE NATIONAL INSTANT CRIMINAL  
3 BACKGROUND CHECK SYSTEM, CONSISTENT WITH THE RULES PERTAINING  
4 TO THE DATABASE; AND

5 (b) NOTIFY THE ATTORNEY GENERAL THAT SUCH BASIS DOES NOT  
6 APPLY OR NO LONGER APPLIES.

7 **SECTION 5.** In Colorado Revised Statutes, **add** 13-9-124 as  
8 follows:

9 **13-9-124. National instant criminal background check system**  
10 **- judicial process for awarding relief from federal prohibitions -**  
11 **legislative declaration. (1) Legislative declaration.** THE PURPOSE OF  
12 THIS SECTION IS TO SET FORTH A JUDICIAL PROCESS WHEREBY A PERSON  
13 MAY APPLY OR PETITION FOR RELIEF FROM FEDERAL FIREARMS  
14 PROHIBITIONS IMPOSED PURSUANT TO 18 U.S.C. SEC. 922 (d) (4) AND (g)  
15 (4), AS PERMITTED BY THE FEDERAL "NICS IMPROVEMENT AMENDMENTS  
16 ACT OF 2007" (PUB.L. 110-180, SEC. 105).

17 (2) **Eligibility.** A PERSON MAY PETITION FOR RELIEF PURSUANT TO  
18 THIS SECTION IF:

19 (a) (I) HE OR SHE HAS BEEN FOUND TO BE INCAPACITATED BY  
20 ORDER OF THE COURT PURSUANT TO PART 3 OF ARTICLE 14 OF TITLE 15,  
21 C.R.S.;

22 (II) HE OR SHE HAS BEEN COMMITTED BY ORDER OF THE COURT TO  
23 THE CUSTODY OF THE UNIT IN THE DEPARTMENT OF HUMAN SERVICES THAT  
24 ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING  
25 THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE, PURSUANT  
26 TO SECTION 27-81-112 OR 27-82-108, C.R.S.; OR

27 (III) THE COURT HAS ENTERED AN ORDER FOR THE PERSON'S

1 INVOLUNTARY CERTIFICATION FOR SHORT-TERM TREATMENT OF MENTAL  
2 ILLNESS PURSUANT TO SECTION 27-65-107, C.R.S., FOR EXTENDED  
3 CERTIFICATION FOR TREATMENT OF MENTAL ILLNESS PURSUANT TO  
4 SECTION 27-65-108, C.R.S., OR FOR LONG-TERM CARE AND TREATMENT OF  
5 MENTAL ILLNESS PURSUANT TO SECTION 27-65-109, C.R.S.; AND

6 (b) HE OR SHE IS A PERSON TO WHOM THE SALE OR TRANSFER OF A  
7 FIREARM OR AMMUNITION IS PROHIBITED BY 18 U.S.C. SEC. 922 (d) (4), OR  
8 WHO IS PROHIBITED FROM SHIPPING, TRANSPORTING, POSSESSING, OR  
9 RECEIVING A FIREARM OR AMMUNITION PURSUANT TO 18 U.S.C. SEC. 922  
10 (g) (4).

11 (3) **Due process.** IN A COURT PROCEEDING PURSUANT TO THIS  
12 SECTION:

13 (a) THE PETITIONER SHALL HAVE AN OPPORTUNITY TO SUBMIT HIS  
14 OR HER OWN EVIDENCE TO THE COURT CONCERNING HIS OR HER PETITION;

15 (b) THE COURT SHALL REVIEW THE EVIDENCE; AND

16 (c) THE COURT SHALL CREATE AND THEREAFTER MAINTAIN A  
17 RECORD OF THE PROCEEDING.

18 (4) **Proper record.** IN DETERMINING WHETHER TO GRANT RELIEF  
19 TO A PETITIONER PURSUANT TO THIS SECTION, THE COURT SHALL RECEIVE  
20 EVIDENCE CONCERNING, AND SHALL CONSIDER:

21 (a) THE CIRCUMSTANCES REGARDING THE FIREARMS PROHIBITIONS  
22 IMPOSED BY 18 U.S.C. SEC. 922 (g) (4);

23 (b) THE PETITIONER'S RECORD, WHICH MUST INCLUDE, AT A  
24 MINIMUM, THE PETITIONER'S MENTAL HEALTH RECORDS AND CRIMINAL  
25 HISTORY RECORDS; AND

26 (c) THE PETITIONER'S REPUTATION, WHICH THE COURT SHALL  
27 DEVELOP, AT A MINIMUM, THROUGH CHARACTER WITNESS STATEMENTS,

1 TESTIMONY, OR OTHER CHARACTER EVIDENCE.

2 (5) **Proper findings.** (a) BEFORE GRANTING RELIEF TO A  
3 PETITIONER PURSUANT TO THIS SECTION, THE COURT SHALL ISSUE  
4 FINDINGS THAT:

5 (I) THE PETITIONER IS NOT LIKELY TO ACT IN A MANNER THAT IS  
6 DANGEROUS TO PUBLIC SAFETY; AND

7 (II) GRANTING RELIEF TO THE PETITIONER IS NOT CONTRARY TO  
8 THE PUBLIC INTEREST.

9 (b) (I) IF THE COURT DENIES RELIEF TO A PETITIONER PURSUANT TO  
10 THIS SECTION, THE PETITIONER MAY PETITION THE COURT OF APPEALS TO  
11 REVIEW THE DENIAL, INCLUDING THE RECORD OF THE DENYING COURT.

12 (II) A REVIEW OF A DENIAL SHALL BE DE NOVO IN THAT THE COURT  
13 OF APPEALS MAY, BUT IS NOT REQUIRED TO, GIVE DEFERENCE TO THE  
14 DECISION OF THE DENYING COURT.

15 (III) IN REVIEWING A DENIAL, THE COURT OF APPEALS HAS  
16 DISCRETION, BUT IS NOT REQUIRED, TO RECEIVE ADDITIONAL EVIDENCE  
17 NECESSARY TO CONDUCT AN ADEQUATE REVIEW.

18 **SECTION 6.** In Colorado Revised Statutes, 18-12-101, **add** (1)  
19 (b.5) as follows:

20 **18-12-101. Definitions - peace officer affirmative defense.**

21 (1) As used in this article, unless the context otherwise requires:

22 (b.5) "BUREAU" MEANS THE COLORADO BUREAU OF  
23 INVESTIGATION CREATED IN SECTION 24-33.5-401, C.R.S.

24 **SECTION 7.** In Colorado Revised Statutes, 18-12-202, **repeal** (1)  
25 as follows:

26 **18-12-202. Definitions.** As used in this part 2, unless the context  
27 otherwise requires:



1 (1) "~~Bureau~~" means the Colorado bureau of investigation within  
2 the department of public safety.

3 **SECTION 8.** In Colorado Revised Statutes, 18-12-103.5, **amend**  
4 (2) as follows:

5 **18-12-103.5. Defaced firearms - contraband - destruction.**

6 (2) Defaced firearms ~~which~~ THAT are deemed to be contraband shall be  
7 placed in the possession of the Colorado bureau of investigation or of a  
8 local law enforcement agency designated by the Colorado bureau of  
9 investigation and shall be destroyed or rendered permanently inoperable.

10 **SECTION 9. Appropriation.** (1) In addition to any other  
11 appropriation, there is hereby appropriated, out of any moneys in the  
12 general fund not otherwise appropriated, to the department of public  
13 safety, for the fiscal year beginning July 1, 2013, the sum of \$1,612,006  
14 and 27.4 FTE, or so much thereof as may be necessary, to be allocated for  
15 the implementation of this act as follows:

16 (a) \$360,288 for the executive director's office; and

17 (b) \$1,251,718 and 27.4 FTE for the state point of contact-national  
18 instant criminal background check program.

19 **SECTION 10. Appropriation.** (1) In addition to any other  
20 appropriation, there is hereby appropriated, out of any moneys in the  
21 instant criminal background check cash fund created in section  
22 24-33.5-424 (3.5) (b), Colorado Revised Statutes, not otherwise  
23 appropriated, to the department of public safety, for the fiscal year  
24 beginning July 1, 2013, the sum of \$1,612,006 and 27.4 FTE, or so much  
25 thereof as may be necessary, to be allocated for the implementation of this  
26 act as follows:

27 (a) \$360,288 for the executive director's office; and

1 (b) \$1,251,718 and 27.4 FTE for the state point of contact-national  
2 instant criminal background check program.

3 **SECTION 11. Effective Date.** This act takes effect July 1, 2013;  
4 except that section 9 of this act takes effect only if House Bill 13-1228  
5 does not become law, and section 10 of this act takes effect only if House  
6 Bill 13-1228 becomes law.

7 **SECTION 12. Safety clause.** The general assembly hereby finds,  
8 determines, and declares that this act is necessary for the immediate  
9 preservation of the public peace, health, and safety.