

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

H

1

HOUSE BILL 344

Short Title: Uniform MH Reporting Requirements for NICS. (Public)

Sponsors: Representatives Insko, Glazier, Luebke, and Foushee (Primary Sponsors).

*For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*

Referred to: Rules, Calendar, and Operations of the House.

March 20, 2013

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH UNIFORM STATE REQUIREMENTS FOR REPORTING INFORMATION CONCERNING MENTAL HEALTH AND SUBSTANCE ABUSE JUDICIAL DETERMINATIONS OR FINDINGS TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM AND TO MAKE THESE REQUIREMENTS MORE CONSISTENT WITH FEDERAL FIREARMS LAW.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 122C-54(d1) reads as rewritten:

"(d1) ~~After a judicial determination that an individual shall be involuntarily committed for either inpatient or outpatient mental health treatment pursuant to Article 5 of this Chapter, the clerk of superior court in the county where the judicial determination was made shall, as soon as practicable, cause a report of the commitment to be transmitted to the National Instant Criminal Background Check System (NICS). Reporting of an individual involuntarily committed to outpatient mental health treatment under this subsection shall only be reported if the individual is found to be a danger to self or others. The clerk shall also cause to be transmitted to NICS a record where an individual is found not guilty by reason of insanity or found mentally incompetent to proceed to criminal trial. The clerk, upon receipt of documentation that an affected individual has received a relief from disabilities pursuant to G.S. 122C-54.1 or any applicable federal law, shall cause the individual's record in NICS to be updated. Excluding Saturdays, Sundays, and holidays, not later than 48 hours after receiving notice of any of the following judicial determinations or findings, the clerk of superior court in the county where the determination or finding was made shall cause a record of the determination or finding to be transmitted to the National Instant Criminal Background Check System (NICS):~~

- (1) A determination that an individual shall be involuntarily committed to a facility for inpatient mental health treatment upon a finding that the individual is mentally ill and dangerous to self or others.
- (2) A determination that an individual shall be involuntarily committed to a facility for outpatient mental health treatment upon a finding that the individual is mentally ill and, based on the individual's treatment history, in need of treatment in order to prevent further disability or deterioration that would predictably result in dangerousness to self or others.
- (3) A determination that an individual shall be involuntarily committed to a facility for substance abuse treatment upon a finding that the individual is a substance abuser and dangerous to self or others.



1           (4)    A finding that an individual is not guilty by reason of insanity.

2           (5)    A finding that an individual is mentally incompetent to proceed to criminal  
3           trial.

4           (6)    A determination to grant a petition to an individual for the removal of a  
5           mental commitment bar to purchase, possess, or transfer a firearm pursuant  
6           to G.S. 122C-54.1 or any applicable federal law.

7           The 48-hour period for transmitting a record of a judicial determination or finding to the  
8           NICS under this subsection begins upon receipt by the clerk of a copy of the judicial  
9           determination or finding."

10          **SECTION 2.** The last two sentences of G.S. 122C-54(d1) are recodified as  
11          G.S. 122C-54(d2) and read as rewritten:

12          "(d2) The record of involuntary commitment for inpatient or outpatient mental health  
13          treatment or for substance abuse treatment required by subsection (d1) of this section shall be  
14          accessible only by an entity having proper access to NICS and shall remain otherwise  
15          confidential as provided by this Article. ~~The clerk shall effect the transmissions to NICS~~  
16          ~~required by the subsection according to protocols which shall be established by the~~  
17          ~~Administrative Office of the Courts.~~The Administrative Office of the Courts shall adopt rules  
18          to require clerks of court to transmit information to the NICS as required by subsection (d1) of  
19          this section in a uniform manner."

20          **SECTION 3.** G.S. 122C-54.1(a) reads as rewritten:

21          "(a) Any individual over the age of 18 may petition for the removal of the mental  
22          commitment bar to purchase, possess, or transfer a firearm when the individual no longer  
23          suffers from the condition that resulted in the individual's involuntary commitment for either  
24          inpatient or outpatient mental health or substance abuse treatment pursuant to Article 5 of this  
25          Chapter and no longer poses a danger to self or others for purposes of the purchase, possession,  
26          or transfer of firearms pursuant to 18 U.S.C. § 922, G.S. 14-404, and G.S. 14-415.12. The  
27          individual may file the petition with a district court judge upon the expiration of any current  
28          inpatient or outpatient commitment. No individual who has been found not guilty by reason of  
29          insanity may petition a court for restoration under this section."

30          **SECTION 4.** This act becomes effective October 1, 2013.