

# STATE OF NEW YORK

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8421

2023-2024 Regular Sessions

## IN ASSEMBLY

December 29, 2023

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Introduced by M. of A. BYRNES, GALLAHAN -- read once and referred to the Committee on Codes

AN ACT to amend the executive law, in relation to national instant criminal background checks; and to repeal certain provisions of the penal law, the executive law and the state finance law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 2 of section 400.02 of the penal law is  
2 REPEALED.

3 § 2. Subdivisions 1, 2, 3 and 4 of section 228 of the executive law,  
4 as added by chapter 371 of the laws of 2022, are amended to read as  
5 follows:

6 1. (a) The division is hereby authorized and directed to serve as a  
7 state point of contact for implementation of 18 U.S.C. sec. 922 (t), all  
8 federal regulations and applicable guidelines adopted pursuant thereto,  
9 and the national instant criminal background check system for the  
10 purchase of firearms [~~and ammunition~~].

11 (b) Upon receiving a request from a licensed dealer pursuant to  
12 section eight hundred ninety-six or eight hundred ninety-eight of the  
13 general business law, the division shall initiate a background check by  
14 (i) contacting the National Instant Criminal Background Check System  
15 (NICS) or its successor to initiate a national instant criminal back-  
16 ground check, and (ii) consulting the statewide firearms license and  
17 records database established pursuant to subdivision three of this  
18 section, in order to determine if the purchaser is a person described in  
19 sections 400.00 and 400.03 of the penal law, or is prohibited by state  
20 or federal law from possessing, receiving, owning, or purchasing a  
21 firearm [~~or ammunition~~].

22 2. (a) The division shall report the name, date of birth and physical  
23 description of any person prohibited from possessing a firearm pursuant

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 to 18 U.S.C. sec. 922(g) or (n) to the national instant criminal back-  
2 ground check system index, denied persons files.

3 (b) Information provided pursuant to this section shall remain privi-  
4 leged and confidential, and shall not be disclosed, except for the  
5 purpose of enforcing federal or state law regarding the purchase of  
6 firearms [~~or ammunition~~].

7 (c) Any background check conducted by the division, or delegated  
8 authority, of any applicant for a permit, firearms identification card,  
9 license, [~~ammunition sale,~~] or registration, in accordance with the  
10 requirements of section 400.00 of the penal law, shall not be considered  
11 a public record and shall not be disclosed to any person not authorized  
12 by law or this chapter to have access to such background check, includ-  
13 ing the applicant. Any application for a permit, firearms identification  
14 card, [~~ammunition sale,~~] or license, and any document reflecting the  
15 issuance or denial of such permit, firearms identification card, or  
16 license, and any permit, firearms identification card, license, certif-  
17 ication, certificate, form of register, or registration statement, main-  
18 tained by any state or municipal governmental agency, shall not be  
19 considered a public record and shall not be disclosed to any person not  
20 authorized by law to have access to such documentation, including the  
21 applicant, except on the request of persons acting in their governmental  
22 capacities for purposes of the administration of justice.

23 3. The division shall create and maintain a statewide firearms license  
24 and records database which shall contain records held by the division  
25 and any records that it is authorized to request from the division of  
26 criminal justice services, office of court administration, New York  
27 state department of health, New York state office of mental health, and  
28 other local entities. Such database shall be used for the certification  
29 and recertification of firearm permits under section 400.02 of the penal  
30 law, and assault weapon registration under subdivision sixteen-a of  
31 section 400.00 of the penal law[~~, and ammunition sales under section~~  
32 ~~400.03 of the penal law~~]. Such database shall also be used to initiate a  
33 national instant criminal background check pursuant to subdivision one  
34 of this section upon request from a licensed dealer. The division may  
35 create and maintain additional databases as needed to complete back-  
36 ground checks pursuant to the requirements of this section. The cost of  
37 any database or databases created shall be borne entirely by the state  
38 and shall not be passed on to consumers or retailers in the form of new  
39 fees or additional taxes.

40 4. The superintendent shall promulgate a plan to coordinate background  
41 checks for firearm [~~and ammunition~~] purchases pursuant to this section  
42 and to require any person, firm or corporation that sells, delivers or  
43 otherwise transfers any firearm [~~or ammunition~~] to submit a request to  
44 the division in order to complete the background checks in compliance  
45 with federal and state law, including the National Instant Criminal  
46 Background Check System (NICS), in New York state. Such plan shall  
47 include, but shall not be limited to, the following features:

48 (a) The creation of a centralized bureau within the division to  
49 receive and process all background check requests, which shall include a  
50 contact center unit and an appeals unit. Staff may include but is not  
51 limited to: bureau chief, supervisors, managers, different levels of  
52 administrative analysts, appeals specialists and administrative person-  
53 nel. The division shall employ and train such personnel to administer  
54 the provisions of this section. The costs of creating a centralized  
55 bureau within the division shall be borne entirely by the state and

1 shall not be passed on to consumers or retailers in the form of new fees  
2 or additional taxes.

3 (b) Procedures for carrying out the duties under this section, includ-  
4 ing hours of operation.

5 (c) An automated phone system and web-based application system,  
6 including a toll-free telephone number and/or web-based application  
7 option for any licensed dealer requesting a background check in order to  
8 sell, deliver or otherwise transfer a firearm which shall be operational  
9 every day that the bureau is open for business for the purpose of  
10 responding to requests in accordance with this section.

11 § 3. Subdivision 5 of section 228 of the executive law is REPEALED.

12 § 4. Paragraph c of subdivision 6 of section 228 of the executive law  
13 is REPEALED.

14 § 5. Section 99-pp of the state finance law, as added by chapter 371  
15 of the laws of 2022, is REPEALED.

16 § 6. This act shall take effect immediately.