



## Policy Option:

### SB 940: Closing Mental Health Loopholes in Illinois' Background Checks

#### What does it mean?

Under the federal Gun Control Act of 1968, the sale of firearms to certain individuals, including the mentally ill, is prohibited. Federal law defines a person as mentally ill if they have been adjudicated as a mental defective or involuntarily committed to a mental institution.<sup>1</sup> Since 1998, the Brady Handgun Violence Prevention Act (the Brady Act) requires a federal firearms licensee (FFL) to conduct a background check when selling a firearm to ensure that these prohibited purchasers do not possess firearms.<sup>2</sup> Data concerning prohibited persons are maintained at the state level in Illinois by the Department of State Police, and at the federal level by the Federal Bureau of Investigation's National Instant Criminal Background Check System (NICS). However, it is estimated that NICS only contains about 9% of all relevant mental health records.<sup>3</sup>

To ensure that mental health records are submitted to state law enforcement officials and NICS so that individuals with dangerous mental illnesses are not able purchase guns, hospitals and mental health facilities must be required to submit records to state law enforcement, who in turn must submit these records to the FBI to be entered into NICS.

#### What would it *really* do?

As the Virginia Tech tragedy has exposed, loopholes that allow prohibited purchasers to buy guns, particularly those with mental health disorders considered to be a threat to themselves or others, must be closed. Requiring all hospitals and mental health facilities to supply relevant records to law enforcement will ensure that law enforcement officials have the necessary information to screen for prohibited purchasers. Currently in Illinois, only some mental health records are provided to law enforcement. By requiring hospitals and mental health facilities to provide all relevant records and by requiring state submission of records to NICS, screening for prohibited purchasers will be more rigorous on both a state and federal level. Illinois law already requires these records to be kept confidential, to protect patient privacy.

#### What does the public think?

- An April 2007 ABC News Poll: VA Tech, Guns, and Mental Illness, found that 83% of Americans think states should be required to report mentally ill people to a federal database, in order to prevent them from buying guns.<sup>4</sup>
- A March 2007 Illinois survey conducted by a bipartisan polling team, found overwhelming voter support for policies which would restrict access to firearms<sup>5</sup>.

#### What are the facts?

- 91% of those adjudicated mentally ill or involuntarily committed are not in the federal background check system and cannot be stopped by the NICS gun buyer background check.<sup>6</sup>
- For every 100,000 gun buyers, only 3.3—or one in 30,000—were rejected because of mental health.<sup>7</sup>

#### Have Other States or Jurisdictions Enacted Similar Legislation?

According to the FBI, only 22 states submit any mental health records to NICS.<sup>8</sup> Illinois is not one of these states.

## Final Thought

Requiring hospitals and mental health facilities to supply all relevant mental health records to state law enforcement for screening on a timely basis is just common-sense. Furthermore, for the NICS to work effectively stopping prohibited purchasers from buying firearms, states must provide all relevant mental health records.

## Passed Legislation

**SB 940 (Amended by Kotowski)** – this bill amends the Mental Health and Developmental Disabilities Confidentiality Act to require that all public and private hospitals and mental health institutions provide mental health records for the purpose of determining whether an individual who may be or may have been a patient is disqualified because of that status from receiving or retaining a Firearm Owner's Identification Card to the Department of State Police. Furthermore, this bill will amend the FOID Card Act require the state to report the information of any person prohibited from having a FOID card to the FBI's National Instant Criminal Background Check System.

## Illinois Media Coverage on SB 940

**8/31/2007** – "Blagojevich Signs Gun Control Legislation," by Kurt Erickson, *The Bloomington Pantagraph*

"The lessons we learned as a nation from the Virginia Tech tragedy are still very fresh in our minds," Blagojevich said in a statement. "We must do what we can to prevent future tragedies and make sure guns are kept out of the hands of individuals who could pose a threat to the public."

**5/01/2007** – Letter to the Editor – Dr. Jim Webster, M.D. President, Chicago Board of Health "Common-sense laws would curb gun violence," *The Springfield State Journal-Register*

"...I enthusiastically support the efforts of Attorney General Lisa Madigan reported in The State-Journal Register...to close loopholes in current laws so that those with mental health problems are not able to access guns..."

**05/03/2007** – Letter to the Editor – Jerie Beth Karkos, M.D., "Common-sense Laws Can Curb Violence," *The Springfield State Journal-Register*

"...I applaud the efforts of Illinois Attorney General Lisa Madigan to close loopholes in current laws, so that those with severe, unstable mental health problems are not able to access guns easily...We need more elected officials to step and look for ways to prevent these tragedies..."

**4/25/07** – "Madigan Reviewing Gun Owner ID Cards", by Mike Ramsey, *The Springfield State Journal-Register*

"...Illinois Attorney General Lisa Madigan on Tuesday said her office is determining whether the state's system of issuing gun-owner identification cards should be tightened in the wake of last week's Virginia Tech massacre... 'There should be ways to check (applications), but like many things, we're really currently relying on individuals who want to obtain firearms to truthfully provide us with information,' Madigan said following an appearance before the City Club of Chicago.

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1 18 U.S.C. § 922(b)(1), (d)

2 18 U.S.C. § 922(s)

3 Jim Kessler, Missing Records: Holes in Background Check System Allow Illegal Buyers to Get Guns, A Third Way Report, May 2007 at [http://www.third-way.com/data/product/file/86/Third\\_Way\\_Missing\\_Records\\_Report.pdf](http://www.third-way.com/data/product/file/86/Third_Way_Missing_Records_Report.pdf)

4 ABC News Poll: VA Tech, Guns, and Mental Illness, ABC News, April 22, 2007 at [abcnews.go.com/images/US/1037a1VaTechGuns.pdf](http://abcnews.go.com/images/US/1037a1VaTechGuns.pdf)

5 Overbrook Research (R) and Lake Research Partners (D) completed 603 telephone surveys with Illinois registered voters between February 17-25, 2007. Polling results available at [www.icpgv.org](http://www.icpgv.org)

6 Jim Kessler, Missing Records: Holes in Background Check System Allow Illegal Buyers to Get Guns, A Third Way Report, May 2007.

7 Ibid.

8 FBI Press Release, April 9, 2007. These states are: Alabama, Arizona, Arkansas, California, Colorado, Florida, Iowa, Kansas, Kentucky, Maryland, Michigan, Missouri, New Hampshire, New York, North Carolina, Ohio, South Carolina, Tennessee, Utah, Virginia, Washington and Wyoming.