



National Instant Criminal Background Check System (NICS) & Mental Health
Law & Justice Interim Committee – 63rd Montana Legislature
February 13, 2014

What is NICS?

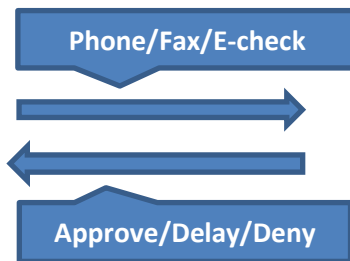
A program managed by the FBI to determine if a person is federally prohibited from firearms prior to the individual’s purchase or possession of a firearm.

How does Montana connect to NICS?

MT Firearm Purchases



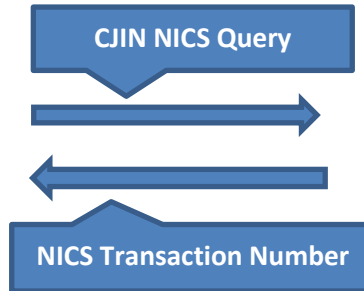
Montana Federal Firearm Licensed Dealers



MT Concealed Weapon Permits



Montana Sheriff’s Offices



Montana Reporting on the Mental Health Federal Prohibitor to Firearms

The Gun Control Act of 1968 – Title 18 USC Chapter 44 Section 922 (g) provides a list of federal prohibitors to firearms with section (4) advising it is unlawful for any person “who has been adjudicated as a mental defective or who has been committed to a mental institution” to receive, possess or transport any firearm or ammunition. This includes individuals determined by a court, board, commission, or other lawful authority to be:

1. **A danger to themselves or others**
2. Lacking mental capacity to manage his own affairs
3. Incompetent to stand trial or found not guilty by reason of insanity
4. Involuntarily committed for treatment (not evaluation) to a mental facility.”

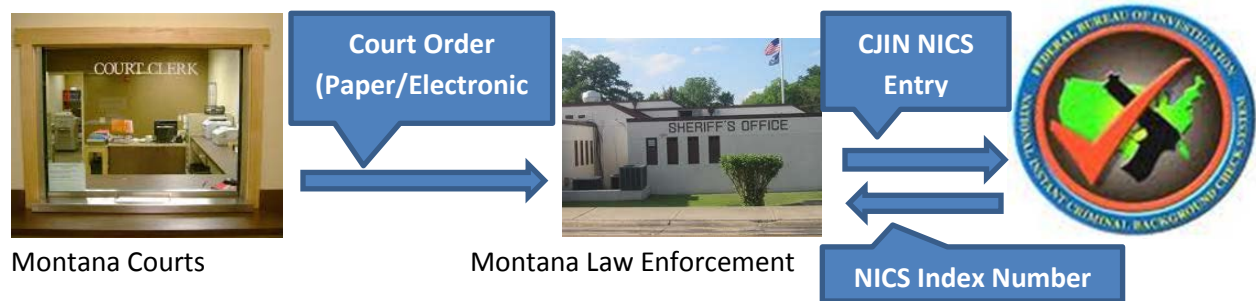
NICS can currently access records of Montana individuals found by a court to be mentally incompetent to stand trial; acquitted/not guilty by reason of mental defect; or guilty but mentally ill. NICS can access these records through an Interstate Identification Index (III) query of Montana criminal history records.

However, Montana’s involuntary commitment information is not currently available to NICS. The Montana Department of Justice reviewed 53-21-166 MCA and did not see an authorized exception for sharing involuntary commitment records with law enforcement and NICS, so this information has not been shared.

How could Montana report Involuntary Commitments to NICS?

If the statute were changed to authorize it, the same processes we currently use for court issued warrants and protection orders could be used for court issued involuntary commitment orders.

NICS Mental Defective Reporting (Proposed)



Costs?

- Montana’s CJIN system is already programmed for NICS Index entries, so there would be no programming costs or delays for system development.
- Record management does require manpower at the local law enforcement agency level.

What information would be shared with NICS?

- Basic information for identifying an individual (i.e. Name, Date of Birth, Sex, etc...) and the Category of Prohibited Persons code “D” for adjudicated mental defective.
- **No medical information on the individual’s condition or treatment would be included in the record.**

Quality Control Programs?

- Law enforcement agencies are already trained & certified in record entry and maintaining the confidentiality of records.
- Annual record validation processes are already in place for other files and would be expanded to cover these records as well.
- FBI & CJIN audits on records already occur triennially.

How would NICS be updated if rights to firearms were restored through a relief process?

If Montana established a relief from disabilities process, the Court would send law enforcement notice of the granted relief. Law enforcement would then enter that information into CJIN to pass on to NICS.

Is automation of these processes possible?

Possibly. An interface between the Courts system and CJIN could be used to electronically transmit an involuntary commitment order or granted relief document to the Sheriff's office. The transmission could start completion of a NIC record entry form. The Sheriff's office would then enter the additional identifiers required and transmit the final record to NICS through CJIN.

Creating effective interface transactions to transmit orders between Courts and CJIN would be costly. However, if Montana had an ATF approved relief from disabilities process, Montana would be eligible to apply for federal NICS Improvement Amendment Act (NIAA) grants that could fund such an important project.