

116TH CONGRESS
2D SESSION

H. R. 5836

To direct the Attorney General to prioritize the investigation and prosecution of Federal firearms offenses, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 10, 2020

Mrs. WAGNER introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To direct the Attorney General to prioritize the investigation and prosecution of Federal firearms offenses, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Prosecuting Gun
5 Crimes Saves Lives Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds as follows:

8 (1) Promoting public safety, addressing gun-
9 based homicides, and enforcing Federal firearms

1 laws are among the highest priorities of the Con-
2 gress.

3 (2) Point-of-sale background checks can reduce
4 the risk of gun-based homicides by preventing crimi-
5 nals and prohibited persons from purchasing fire-
6 arms while protecting access for law-abiding citizens.

7 (3) Under the Gun Control Act of 1968, cat-
8 egories of persons who may pose a threat to public
9 safety, including violent felons, fugitives from jus-
10 tice, and persons convicted of domestic violence
11 crimes, are prohibited from shipping, transporting,
12 receiving, or possessing firearms or ammunition.

13 (4) Thousands of prohibited persons illegally at-
14 tempt to purchase firearms every year. In 2017, the
15 FBI's NICS Section referred 112,090 denied trans-
16 actions to the Bureau of Alcohol, Tobacco, Firearms
17 and Explosives (ATF). Of these NICS denials, only
18 12, or 0.09 percent, were prosecuted in 2017.

19 (5) On March 12, 2018, former Attorney Gen-
20 eral Jeff Sessions issued a memo directing Depart-
21 ment of Justice prosecutors to prioritize "vigorous
22 and appropriate" prosecution of cases involving false
23 statements on Alcohol, Tobacco, Firearms and Ex-
24 plosives Form 4473. The memo stated that "Crimi-
25 nals and other prohibited persons who attempt to

1 thwart the background check process by lying on the
2 required forms threaten to undermine this important
3 crime prevention tool” and that “we must vigilantly
4 protect the integrity of the background system
5 through appropriate prosecution of those who at-
6 tempt to circumvent the law”. The Department of
7 Justice’s efforts to reclaim the integrity of the back-
8 ground check system yielded a 23-percent increase
9 in the number of defendants charged with unlawful
10 possession of a firearm in the 3 months following
11 issuance of the memo.

12 (6) On November 13, 2019, Attorney General
13 William Barr announced the launch of a new initia-
14 tive, Project Guardian, to reduce gun-based homi-
15 cides by investigating, prosecuting, and preventing
16 firearm crimes. Project Guardian will address gun-
17 based homicides by encouraging coordinated pros-
18 ecution efforts, enforcement of the background check
19 system, improved information-sharing, response to
20 mental health denials, and crime gun intelligence co-
21 ordination.

22 (7) Congress must ensure Federal, State, and
23 local entities tasked with preventing prohibited indi-
24 viduals from purchasing firearms, recovering fire-
25 arms from prohibited individuals, and investigating

1 and prosecuting lying and buying and lying and try-
2 ing cases have sufficient information and resources
3 to carry out their missions and promote public safe-
4 ty.

5 (8) Congress urges the Attorney General to
6 prioritize the investigation and prosecution of Fed-
7 eral firearm offenses to protect Americans and pre-
8 vent and deter the illegal purchase and possession of
9 firearms.

10 **SEC. 3. INFORMATION-SHARING WITH STATE FUSION CEN-**
11 **TERS.**

12 Not later than 60 days after the date of the enact-
13 ment of this Act, the Attorney General may direct the Bu-
14 reau of Alcohol, Tobacco, Firearms and Explosives to reg-
15 ularly provide to State and local law enforcement agencies,
16 including through State law enforcement fusion centers
17 (as defined in section 210A(j)(1) of the Homeland Secu-
18 rity Act of 2002) a report listing individuals for whom
19 the National Instant Criminal Background Check System
20 has issued firearm transfer denials, including the basis for
21 the denial, with the purpose of equipping law enforcement
22 with the information they need to prevent persons from
23 illegally purchasing, receiving, or possessing firearms.

1 **SEC. 4. POINT OF CONTACT AND PARTIAL POINT OF CON-**
2 **TACT STATE GRANTS TO INCREASE INVES-**
3 **TIGATIONS AND PROSECUTIONS.**

4 (a) **IN GENERAL.**—Not later than 90 days after the
5 date of the enactment of this Act, and annually thereafter,
6 the Attorney General may make grants to eligible States
7 to investigate firearm transfer denials and increase inves-
8 tigations and prosecutions of persons who illegally pur-
9 chase, possess, or receive a firearm, or illegally attempt
10 to purchase, possess, or receive a firearm.

11 (b) **ELIGIBILITY.**—An eligible State is any State that
12 is a point of contact State or partial point of contact State
13 for the national instant criminal background check sys-
14 tem.

15 (c) **APPLICATION.**—To receive a grant under this sec-
16 tion, a State shall submit to the Attorney General an ap-
17 plication at such time, in such manner, and containing
18 such information as the Attorney General may reasonably
19 require.

20 (d) **PRIORITY.**—In awarding grants under this sec-
21 tion, the Attorney General may give priority to each eligi-
22 ble State that—

23 (1) establishes a task force that includes enti-
24 ties such as State and local law enforcement agen-
25 cies, State and local prosecutors, agencies con-
26 ducting background checks, and representatives

1 from the Bureau of Alcohol, Tobacco, Firearms and
2 Explosives; and

3 (2) certifies to the Attorney General that the
4 State is committed to investigating and prosecuting
5 persons who illegally purchase, possess, or receive
6 firearms or illegally attempt to purchase, possess, or
7 receive firearms.

8 (e) USE OF FUNDS.—A State that receives a grant
9 under this section shall use grant funds to coordinate and
10 execute investigations and prosecutions of persons who il-
11 legally purchase, possess, or receive a firearm, or illegally
12 attempt such purchase, possession, or receipt, including
13 the illegal purchase or possession of a firearm based on
14 a prior felony or any relevant misdemeanor convictions.

15 (f) EVALUATION.—Each State that receives a grant
16 under this section shall submit to the Attorney General,
17 not later than 1 year after receipt of such grant, an eval-
18 uation in such form and containing such information as
19 the Attorney General may reasonably require.

20 (g) AUTHORIZATION OF FUNDING.—There is author-
21 ized to be appropriated to carry out this section not more
22 than \$7,000,000 for each of fiscal years 2021 through
23 2025.

1 **SEC. 5. INCREASING FEDERAL PROSECUTION OF GUN VIO-**
2 **LENCE.**

3 (a) IN GENERAL.—Not later than 90 days after the
4 date of the enactment of this Act, the Attorney General
5 shall establish in each jurisdiction described in subsection
6 (c) a program that meets the requirements of subsection
7 (b), which shall be known as the “Prosecute Gun Crimes
8 Program”.

9 (b) PROGRAM ELEMENTS.—Each program estab-
10 lished under subsection (a) shall, for the jurisdiction con-
11 cerned—

12 (1) require that the United States attorney des-
13 ignate not less than 1 assistant United States attor-
14 neys to prosecute violations of Federal firearms
15 laws;

16 (2) provide for coordination with State and
17 local law enforcement officials in the identification of
18 violations of Federal firearms laws;

19 (3) provide for the establishment of agreements
20 with State and local law enforcement officials for the
21 referral to the Bureau of Alcohol, Tobacco, Firearms
22 and Explosives and the United States attorney for
23 the district in which the jurisdiction is located for
24 prosecution of persons arrested for violations of sec-
25 tion 922 or 924 of title 18, United States Code, or

1 section 5861 of the Internal Revenue Code of 1986,
2 relating to firearms;

3 (4) ensure that each person so referred be
4 charged with a violation of the most serious Federal
5 firearm offense consistent with the act committed,
6 while preserving prosecutorial discretion;

7 (5) provide for the hiring of agents for the Bu-
8 reau of Alcohol, Tobacco, Firearms and Explosives
9 to investigate violations of the provisions of law
10 specified in paragraph (3); and

11 (6) provide for the establishment of multijuris-
12 dictional task forces, coordinated by the Executive
13 Office of the United States attorneys, to investigate
14 and prosecute illegal straw purchasing rings that
15 purchase firearms in one jurisdiction and transfer
16 them in another.

17 (c) COVERED JURISDICTIONS.—

18 (1) IN GENERAL.—Subject to paragraph (2),
19 the jurisdictions described in this subsection are—

20 (A) the 15 cities or jurisdictions within the
21 50 States with a population equal to or greater
22 than 100,000 persons that had the highest per
23 capita rate of gun-based homicides according to
24 the uniform crime report of the Federal Bureau

1 of Investigation for the most recent year avail-
2 able; and

3 (B) the 3 tribal jurisdictions that have the
4 highest gun-based homicide crime rates, as de-
5 termined by the Attorney General.

6 (d) ANNUAL REPORTS.—Not later than 1 year after
7 the date of the enactment of this Act, and annually there-
8 after, the Attorney General shall submit to the Committee
9 on the Judiciary of the Senate and the Committee on the
10 Judiciary of the House of Representatives a report con-
11 taining the following information:

12 (1) The number of individuals indicted for such
13 violations of Federal firearms laws during that year.

14 (2) The increase or decrease in the number of
15 individuals indicted for such violations of Federal
16 firearms laws during that year under a program es-
17 tablished under this section when compared with the
18 year preceding that year.

19 (3) To the extent the information is available,
20 the average length of the sentences of imprisonment
21 of the individuals convicted of violations of Federal
22 firearms laws under such a program.

23 (4) The number of multijurisdictional task
24 forces established and the number of individuals ar-
25 rested, indicted, convicted or acquitted of charges for

1 violations of the crimes specified in subsection
2 (b)(3).

3 (e) LIMITATIONS ON AUTHORIZATION OF APPRO-
4 PRIATIONS.—

5 (1) IN GENERAL.—For the salaries and ex-
6 penses of assistant United States attorneys and Bu-
7 reau of Alcohol, Tobacco, Firearms and Explosives
8 agents participating in the program established
9 under this section, there are authorized to be appro-
10 priated \$15,000,000 for each of fiscal years 2021,
11 2022, and 2023.

12 (2) USE OF FUNDS.—

13 (A) ASSISTANT UNITED STATES ATTOR-
14 NEYS.—The assistant United States attorneys
15 hired using amounts made available under
16 paragraph (1) of this subsection shall prosecute
17 violations of Federal firearms laws specified in
18 subsection (b)(3).

19 (B) ATF AGENTS.—The Bureau of Alco-
20 hol, Tobacco, Firearms and Explosives agents
21 hired using amounts made available under
22 paragraph (1) of this subsection shall, to the
23 maximum extent practicable, concentrate their
24 investigations on violations of Federal firearms
25 laws specified in subsection (b)(3).

1 **SEC. 6. PROSECUTION OF FELONS WHO ATTEMPT TO ILLE-**
2 **GALLY PURCHASE FIREARMS.**

3 (a) **TASK FORCE.**—

4 (1) **ESTABLISHMENT.**—There is established in
5 the Department of Justice a task force, which shall
6 be known as the Felon Firearm Task Force (re-
7 ferred to in this section as the “Task Force”), to
8 strengthen the efforts of the Department of Justice
9 to investigate and prosecute cases of convicted felons
10 who illegally attempt to purchase a firearm.

11 (2) **MEMBERSHIP.**—The members of the Task
12 Force shall be—

13 (A) the Deputy Attorney General, who
14 shall serve as the Chairperson of the Task
15 Force;

16 (B) the Assistant Attorney General for the
17 Criminal Division;

18 (C) the Director of the Bureau of Alcohol,
19 Tobacco, Firearms and Explosives;

20 (D) the Director of the Federal Bureau of
21 Investigation; and

22 (E) such other officers or employees of the
23 Department of Justice as the Attorney General
24 may designate.

25 (3) **DUTIES.**—The Task Force shall provide—

1 (A) direction for the investigation and
2 prosecution of cases of convicted felons at-
3 tempting to illegally purchase a firearm; and

4 (B) recommendations to the Attorney Gen-
5 eral relating to—

6 (i) the allocation and reallocation of
7 resources of the Department of Justice for
8 investigation and prosecution of such
9 cases;

10 (ii) enhancing cooperation among enti-
11 ties of the Federal Government in the in-
12 vestigation and prosecution of such cases;

13 (iii) enhancing cooperation among
14 Federal, State, and local authorities re-
15 sponsible for the investigation and prosecu-
16 tion of such cases; and

17 (iv) changes in rules, regulations, or
18 policy to improve the effective investigation
19 and prosecution of such cases.

20 (4) MEETINGS.—The Task Force shall meet
21 not less than once each year.

22 (5) TERMINATION.—The Task Force shall ter-
23minate on the date that is 5 years after the date of
24the enactment of this Act.

1 (b) AUTHORIZATION FOR USE OF FUNDS.—Section
2 524(c)(1) of title 28, United States Code, is amended—

3 (1) in subparagraph (H), by striking “and” at
4 the end;

5 (2) in subparagraph (I), by striking the period
6 at the end and inserting “; and”; and

7 (3) by inserting after subparagraph (I) the fol-
8 lowing:

9 “(J) the investigation and prosecution of
10 cases of convicted felons who illegally attempt
11 to purchase a firearm, in accordance with sec-
12 tion 6(a) of the Prosecuting Gun Crimes Saves
13 Lives Act, except that—

14 “(i) not more than \$5,000,000 shall
15 be available to the Attorney General for
16 each of fiscal years 2021 through 2024
17 under this subparagraph; and

18 “(ii) not more than 5 percent of the
19 amounts made available under this sub-
20 paragraph may be used for the administra-
21 tive costs of the task force established
22 under such section.”.

1 **SEC. 7. REPORT TO CONGRESS ON FIREARMS PROSECU-**
2 **TIONS.**

3 (a) REPORT TO CONGRESS.—Beginning February 1,
4 2021, and on February 1 of each year thereafter through
5 2029, the Attorney General shall submit to the Commit-
6 tees on the Judiciary and on Appropriations of the Senate
7 and of the House of Representatives a report containing
8 the information furnished under subsection (b) during the
9 fiscal year that ended on September 30 of the preceding
10 year.

11 (b) SUBJECT OF ANNUAL REPORT.—Not later than
12 90 days after the date of the enactment of this Act, the
13 Attorney General shall require each component of the De-
14 partment of Justice, including each Office of the United
15 States Attorney, to furnish for the purposes of the report
16 required by subsection (a) information relating to any case
17 presented to the Department of Justice for review or pros-
18 ecution, in which the objective facts of the case provide
19 probable cause to believe that there has been a violation
20 of section 922 or 924 of title 18, United States Code, or
21 section 5861 of the Internal Revenue Code of 1986.

22 (c) ELEMENTS OF ANNUAL REPORT.—With respect
23 to each case described in subsection (b), the report sub-
24 mitted under subsection (a) shall include information indi-
25 cating—

1 (1) whether in any such case, a decision has
2 been made not to charge an individual with a viola-
3 tion of the relevant provision of law or any other
4 provision of Federal criminal law;

5 (2) in any case described in paragraph (1), a
6 description of why no charge was filed under the rel-
7 evant provision of law;

8 (3) whether, in any case described in subsection
9 (b), an indictment, information, or other charge has
10 been brought against any person, or the matter is
11 pending;

12 (4) whether, in the case of an indictment, infor-
13 mation, or other charge referred to in paragraph (3),
14 the charging document contains a count or counts
15 alleging a violation of the relevant provision of law;

16 (5) in any case described in paragraph (4) in
17 which the charging document contains a count or
18 counts alleging a violation of the relevant provision
19 of law, whether a plea agreement of any kind has
20 been entered into with the charged individual;

21 (6) whether any plea agreement described in
22 paragraph (5) required the individual to plead guilty
23 or enter a plea of nolo contendere, or otherwise
24 caused a court to enter a conviction against the indi-
25 vidual for a violation of the relevant provision of law;

1 (7) in any case described in paragraph (6) in
2 which the plea agreement did not require the indi-
3 vidual to plead guilty or enter a plea of nolo
4 contendere, or otherwise cause a court to enter a
5 conviction against that individual for a violation of
6 the relevant provision of law, the charges to which
7 the individual pled guilty;

8 (8) in the case of an indictment, information, or
9 other charge described in paragraph (3), in which
10 the charging document contains a count alleging a
11 violation of the relevant provision of law, the result
12 of any trial of the charges;

13 (9) in the case of an indictment, information, or
14 other charge described in paragraph (3), in which
15 the charging document did not contain a count or
16 counts alleging a violation of the relevant provision
17 of law, the nature of the other charges brought and
18 the result of any trial of such other charges brought;

19 (10) the number of persons who attempted to
20 purchase a firearm but were denied a firearm be-
21 cause of a background check conducted in accord-
22 ance with section 922(t) of title 18, United States
23 Code; and

- 1 (11) the number of prosecutions conducted in
- 2 relation to persons described in paragraph (10).

○