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Assembly Bill 46 Assures Background Database Up to Date for Firearm Purchase By Attorney General Catherine Cortez Masto

Following the tragedy at Virginia Tech, it was evident that the federal Brady firearms background check database (also known as "NICS") was missing vital records, especially records concerning individuals who have been found by a court to be mentally ill or incompetent.

The Virginia Tech gunman passed two background checks in order to purchase the weapons he used to attack his classmates, despite the fact that a court had determined he was a danger to himself or others and ordered him to obtain psychiatric treatment. Unfortunately, a record of the court's order was simply never entered into the Brady background check system.

In response, Congress enacted the NICS Improvement Amendments Act ("NIAA"). This law requires states to report relevant records to NICS, or face a possible loss of federal funding for law enforcement. The NIAA also implements a grant program for eligible states to receive assistance to upgrade their records systems.

Our state legislature, carrying out a piece of legislation presented by the state's Attorney General office, passed Assembly Bill (AB) 46 in order to remedy the loophole in our laws.

AB 46 enables Nevada to ensure the NICS database is up to date and complies with the NIAA. AB 46 also ensures that a court ruling stating a person is a danger to himself or others, is incompetent to stand trial, or is acquitted by reason of insanity is entered into NICS. This will help prevent people who are subject to such orders from purchasing a firearm.

AB 46 does not take away anyone's right to own a firearm. Both federal and State law already prohibit anyone who has been declared mentally ill,

incompetent, a danger to himself or others, or who has been involuntarily committed to a mental health facility, from owning or purchasing a firearm. AB 46 does not alter these legal proceedings. It merely requires that a record of those court orders be included in the NICS background check system.

Additionally, AB 46 provides a mechanism by which a person who was previously declared incompetent, mentally ill, or committed to a mental health facility can petition to have his or her right to own a firearm restored. Previously, under federal law, these persons had no way of ever regaining their Second Amendment right. The NIAA now permits people to petition to have their right restored. AB 46 implements this process for Nevada. Finally, AB 46 also provides a process for inspecting and correcting erroneous records.

AB 46 will ensure that critical records get sent to the NICS database so that background checks are meaningful and effective. By simply enforcing our existing laws, this legislation also protects Nevadan's gun rights by clarifying the circumstances when a record is sent, implementing a process for having one's Second Amendment right restored, and providing a process for correcting records.

Finally, AB 46 is a proactive attempt to prevent a tragedy like the Virginia Tech shooting from occurring in Nevada.