

H.R. 1446, the “Enhanced Background Checks Act of 2021”

The purpose of the Enhanced Background Checks Act of 2021 is to strengthen the background check procedures to be followed before a Federal firearms licensee may transfer a firearm to a person who is not such a licensee.

When an individual attempts to purchase a firearm from a licensed dealer, the FBI has three days to complete a background check. If the background check is not completed within three days, the firearm sale may proceed without a completed check. This provision- the “Charleston Loophole” allowed a gunman to purchase the firearm used to murder nine parishioners at Emanuel A.M.E. Church in Charleston, South Carolina in 2015.

The Enhanced Background Checks Act of 2021 addresses this deficiency by providing the FBI additional time to complete background checks, and gives notice to the FBI about which cases need to be prioritized for review.

Sec. 1: Short Title

Sec. 2: Amends the Brady Act (18 U.S.C. § 922) to require the following events before a firearm can be transferred:

1. The passage of 10 business days since a firearms licensee requested a NICS background check AND the system has not notified the licensee that the receipt of a firearm by such person would be unlawful;
2. The person trying to obtain the firearm submit an electronic petition for review to the U.S. Attorney General; and

(This petition requires the person to certify that they have no reason to believe that Federal, State, or local law prohibit them from purchasing or possessing a firearm AND requests the system respond within 10 days after the date the petition was submitted.)

3. The passage of 10 business days since the person trying to obtain the firearm submitted the petition AND the system has not noticed the licensee that the receipt of firearm by such person would be unlawful.

Further, this section outlines how long a licensee can rely on a system notification that the receipt of a firearm by a person would not be unlawful.

Sec. 3: Requires a GAO report to the House and Senate Judiciary Committees analyzing the extent to which this language has prevented firearms from being transferred to prohibited persons.

Sec. 4: Requires the FBI make an annual report to the public on the number of petitions received for which a determination was not made within the 10-day petition period.

Sec. 5: Requires a GAO report analyzing this Act’s effect on the safety of victims of domestic violence and whether any further amendments to the background check process are needed.

Sec. 6: Effective Date- 210 days after the date of the enactment of this Act.