

CONFERENCE OF CHIEF JUSTICES CONFERENCE OF STATE COURT ADMINISTRATORS

Resolution 14

In Support of Improvements to the National Instant Criminal Background Check System

WHEREAS, the Conference of Chief Justices and the Conference of State Court Administrators have, in previous resolutions, expressed their support for efforts to ensure that current, accurate information is made available to the National Instant Criminal Background Check System (NICS); and

WHEREAS, Congress is considering legislation, such as the NICS Improvement Amendments Act of 2007, which is designed to address problems related to incomplete and outdated information available to NICS as a result of delays in updating federal and state record repositories or the inability of jurisdictions to share data electronically; and

WHEREAS, legislation, such as the NICS Improvement Amendments Act of 2007, recognizes the importance of making criminal disposition records available to NICS and the importance of including state courts in planning at the state level by executive branch agencies to establish or upgrade information and identification technologies for firearms determinations; and

WHEREAS, such legislation would impose financial penalties on states that do not provide the required information in a timely manner by reducing the states' Justice Assistance Grant funds; and

WHEREAS, information regarding these adjudications and commitments is not in automated format in most jurisdictions and may require automation upgrades and adoption of state legislation to allow for full implementation of the new requirements; and

WHEREAS, such legislation would require states to establish a Relief from Disabilities program, whereby persons adjudicated mentally defective or committed to a mental institution would be permitted to apply to the state for relief from the disabilities-for-purposes-of firearms eligibility; and

WHEREAS, as part of the Relief for Disabilities program, state courts would be required to determine whether or not the relief should be granted and to permit de novo judicial review when relief is denied; and

WHEREAS, these requirements for the Relief for Disabilities program will result in increased state court filings and increased state court time to conduct the de novo judicial reviews; and

WHEREAS, such legislation recognizes the particular challenges that state courts have had in automating and transmitting criminal disposition records to federal and state record repositories, and therefore authorizes a targeted grant program for state courts; and

WHEREAS, state courts have effectively leveraged other federal funding, such as the Court Improvement Program, to implement relevant systemic improvements;

NOW, THEREFORE, BE IT RESOLVED that the Conferences express appreciation for the recognition of the state court role in improving NICS; and

BE IT FURTHER RESOLVED that the Conferences request that the proposed grants for state court systems be made available to the highest court of each state and territory and distributed in the same manner as Court Improvement Program funds with each state receiving a sufficient grant amount to effectuate these changes and the remainder of the funds distributed to the applicant states based on population.

Adopted at the COSCA 2007 Annual Meeting on August 1, 2007.