



**STATE OF VERMONT**  
SENATE

**MEMORANDUM**

To: Sen. Sears, Chair, Senate Committee on Judiciary  
From: Sen. Ayer, Chair, Senate Committee on Health and Welfare  
Date: February 26, 2015  
Subject: Recommendations on S.31, sections 5 and 6

The Senate Committee on Health and Welfare (Committee) has reviewed and taken testimony on sections 5 and 6 of S.31, an act relating to possession and transfer of firearms. It thanks the Senate Committee on Judiciary for the opportunity to comment on this bill.

The Committee asked the following two questions of witnesses:

- 1) What are the data that support sending the names of adjudicated psychiatric patients to the National Instant Criminal Background Check System (NICS) database?*
- 2) What evidence supports the assertion that background checks promote public health?*

The majority of the Committee supports reporting the names of adjudicated individuals with mental illness to NICS for the following reasons:

- Testimony and research indicate that small subgroups of individuals with serious mental illness, including psychiatric inpatients and individuals experiencing first episode psychosis, are at elevated risk of gun violence.
- Testimony and research point to a heightened risk of violence toward self or others in the period surrounding psychiatric hospitalizations.
- Research consistently shows higher risk of committing violence, in general, among persons with co-occurring mental illness and substance abuse disorders and histories of trauma or abuse.
- Current federal mental health disqualification for gun ownership has reduced gun violence somewhat.
- As proposed by S.31, courts would send the name and minimal personally identifiable information of an adjudicated patient to the NICS. No medical records or diagnoses are

transferred. As the outcome of court proceedings are a matter of public record, concerns pertaining to HIPAA violations are unfounded.

While the Committee supports reporting the names of specifically described persons with mental illness to NICS, it recommends limiting the category of patients to be reported as is currently proposed by S.31. The population to be reported under S.31 is specific, defined by an established process, and far more limited than federal law.

The Committee agreed that the relief from disability proceeding could use some modification and observed the following about S.31:

- The process for declaring an individual “dangerous to self or others” should mirror the process for declaring an individual “not likely dangerous”.
- The Committee is unsure of whether the Vermont Supreme Court should hear relief from disability cases de novo and recommends that the Senate Committee on Judiciary look into this matter further.
- The Committee is unsure of the significance of a five-year waiting period prior to applying for relief from disability and is open to exploring other options, as some states are known to have a shorter waiting period.
- It may be difficult and expensive to find a psychiatrist willing to testify that a previously adjudicated person is not likely commit acts causing danger to self or others, which is the threshold for relief from disability.

The Committee believes that it is important that the Senate Committee on Judiciary note the following:

- Nationally, four percent of violent crime is perpetrated by individuals with mental illness. It is more likely that these individuals will be victims of crime, rather than perpetrators.
- S.31 does not require the reporting of persons who have demonstrated very dangerous symptoms, but who have not been committed to the custody of the Commissioner of Mental Health.
- Mental illness alone rarely causes gun violence.
- Major mental illness plays a significant role in gun suicides, which account for over half of gun deaths in Vermont.

Much of the testimony and documentation that the Committee relied on to make this recommendation can be viewed at the Committee’s web page.

The Committee also asked witnesses to testify regarding how public health is affected by background checks. That testimony focused largely on domestic abuse and abusers and is available on our web page.