



NEW YORK STATE SENATOR

Michael Gianaris

Starting Thursday: Paulin, Gianaris Law To Keep Guns Out Of The Wrong Hands By Extending The Time Limit For Background Checks Takes Effect

MICHAEL GIANARIS September 12, 2019

| ISSUE: **GUNS, GUN REFORM, BACKGROUND CHECKS, CHARLESTON LOOPHOLE**



NEW YORK, N.Y. – On Thursday, a new law will take effect to increase the time interval before a firearm, shotgun, or rifle may be sold to an individual whose background check requires additional scrutiny and follow up by the Federal Bureau of Investigation ([A.2690 / S. 2374](#)). Assembly Member Amy Paulin and Senate Deputy Majority Leader Michael Gianaris drafted the measure in the face of repeated failure at the federal level to strengthen and

make universal the National Instant Criminal Background Check System (NICS). Although nearly 90% of background checks will be processed within hours or days, the new law extends the time limit up to 30 days to provide sufficient time for law enforcement to do a thorough investigation of the most difficult cases. The goal of the law is to keep guns out of the hands of potentially dangerous and prohibited purchasers, including some who may be on the FBI's Terror Watch List.

"Most background checks come back quickly and cleanly from NICS," said **Assemblymember Amy Paulin**. "This law will not hinder a law-abiding citizen's ability to purchase of a gun. But I've talked to the FBI and on too many of these cases, they just need more time. Given the constant challenges we face keeping our families and communities safe from mass shootings, from terrorism, from domestic violence and from so much else, I'm proud that New York has shown such leadership in keeping guns out of the wrong hands."

"Common sense gun safety reform will save lives, period. Stronger background checks will keep guns away from dangerous people," said **Senate Deputy Leader Michael Gianaris**. "I am proud to have written some of America's toughest gun safety laws and to be part of a new New York Senate which prioritizes the safety of our families and schools. I am glad this will take effect and spare people heartache and tragedy."

Approximately 10% of the background checks for gun purchases utilizing NICS – including those following the universal background check system in New York as required under the NY SAFE Act – do not come back as either "proceed" or "deny." They come back designated as "delayed" and the case is referred to an FBI examiner for additional investigation to determine if the buyer is one of 9 categories of prohibited purchaser. Prior to this law taking effect, if the background check did not come back with a clear "proceed" or "deny" designation after three business days, the buyer would have been provided the firearm at the dealer's discretion.

Persons of interest who are on the FBI's Terror Watch list usually receive "delayed" designations on their background checks. Under current federal law, being on the Terror Watch list in and of itself is not sufficient to deny an individual a gun, but it is a flag for the FBI to conduct more rigorous scrutiny of the individual's background. The new law increases the time interval before the dealer has the discretion to hand over the firearm to 30 calendar days so that the FBI has sufficient time to complete their investigation.

The law does not just affect cases where individuals are on the Terror Watch List.

The Gifford Law Center to Prevent Gun Violence nicknamed this issue with the background checks system the "Charleston loophole." Dylann Roof, the confessed shooter at Emanuel African Methodist Episcopal Church in Charleston, received a "delayed" designation on his background check and would have been denied the weapon that he would later use in that tragedy because of a prior drug arrest if there had been sufficient time to complete the check.

Similarly, domestic violence misdemeanors are known to take the longest of any prohibited factor to be noted appropriately in NICS. According to a 2016 report by the Government Accountability Office, 30% of cases of domestic violence misdemeanors take 11 calendar days or more to be adequately taken into account in NICS, creating a window of opportunity whereby a convicted abuser could have begun a background check, received a "delay" designation, but still be provided the weapon before NICS had been properly updated, putting the victim at further risk.

RELATED LEGISLATION

2019-S2374

-
- Introduced

 - ◦ In Committee Assembly
 - In Committee Senate

 - ◦ On Floor Calendar Assembly
 - On Floor Calendar Senate

 - ◦ Passed Assembly
 - Passed Senate

 - Delivered to Governor

 - Signed By Governor

 -

Establishes an extension of time of up to thirty calendar days for national instant background checks

January 24, 2019

Signed by Governor

Sponsored by **Michael Gianaris**

Do you support this bill?