119TH CONGRESS
2D SESSION

S. _____

To help prevent suicide by giving people more control over their own lethal means purchase decisions, through the creation of a voluntary purchase delay database.

IN THE SENATE OF THE UNITED STATES

Mrs. SHAHEEN introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To help prevent suicide by giving people more control over their own lethal means purchase decisions, through the creation of a voluntary purchase delay database.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as ''Donna's Law''.

SEC. 2. VOLUNTARY PURCHASE DELAY DATABASE.

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by inserting after section 925D the following:

"§ 925E. Creating a voluntary purchase delay process in the National Instant Criminal Background Check System

''(a) DEFINITIONS.—In this section:

''(1) DATABASE.—The term 'Database' means the Voluntary Purchase Delay Database established under subsection (b).

''(2) MENTAL HEALTH PROFESSIONAL.—The term 'mental health professional' means a person who is licensed, certified, or otherwise recognized or authorized under State law to provide mental health services, including a psychiatrist, psychologist, or clinical social worker.

''(3) NICS.—The term 'NICS' means the national instant criminal background check system established under section 103 of the Brady Handgun Violence Prevention Act (34 U.S.C. 40901).

''(b) ESTABLISHMENT.—The Attorney General shall establish and maintain a secure internet-based platform, separate from other databases in NICS, which shall be known as the 'Voluntary Purchase Delay Database'.

''(c) USE BY NICS.—Whenever NICS receives a lawful request from a licensed importer, licensed manufacturer, licensed dealer, or law enforcement agency for information about the eligibility of an individual to possess or receive a firearm, NICS shall—

''(1) access the Database; and

''(2) if the name of the prospective firearms transferee is in the Database, provide to the requestor a response of 'Denied', indicating that it would be unlawful to transfer a firearm to the prospective firearms transferee because the name of the prospective firearms transferee is in the database.

''(d) OPERATIONS.—The Attorney General shall promulgate regulations to ensure that the Database is easily accessible, user-friendly, and, at a minimum, does the following:

''(1) Verifies the identity of an individual who elects to add his or her name to, or requests removal of his or her name from, the Database.

''(2) Allows an individual to add his or her name to the Database—

''(A) by providing necessary documentation of the identity of the individual, including government-issued photo identification, along with any additional documentation determined necessary by the Attorney General, through a secure online portal; or

''(B) by providing the documentation referred to in subparagraph (A) by mail or electronic mail.

"(3) Prevents unauthorized disclosure of the identity of, or personal information about, an individual who has added his or her name to the Database.

"(4) Provides prior notice to an individual described in paragraph (1) of the legal effect of having the name of the individual included in the Database.

"(5) Allows an individual described in paragraph (1) to list up to 5 electronic mail addresses to be contacted if the individual—

"(A) attempts to purchase a firearm from a licensed importer, licensed manufacturer, or licensed dealer while the name of the individual is in the Database; or

"(B) requests removal of his or her name from the Database.

"(6) Provides prior notice to an individual described in paragraph (1) that listing an electronic mail address under paragraph (5) shall constitute an express authorization for the Attorney General to contact the address for the purposes described in paragraph (5).

"(7) Provides information about how to voluntarily relinquish a firearm.

"(e) USE OF INFORMATION.—

''(1) INADMISSIBILITY AS EVIDENCE.—The addition or removal of the name of an individual to or from the Database by that individual may not be admissible as evidence in any legal proceeding, except—

''(A) in a proceeding under section 925A of this title or section 103(g) of the Brady Handgun Violence Prevention Act (34 U.S.C. 40901(g)), as evidence that—

''(i) the individual properly removed his or her name from the Database; or

''(ii) a licensed importer, licensed manufacturer, or licensed dealer unlawfully transferred a firearm to an individual whose name was included in the Database; or

''(B) in a prosecution under section 922(d)(11).

''(2) LIMITATION ON USE.—Any information about an individual that is contained in, or transmitted to, the Database shall not be used for any purpose other than to determine the eligibility of the individual to receive a firearm.

"(3) PROHIBITIONS ON USE IN RELATION TO EMPLOYMENT, OR PROVISION OF A BENEFIT OR SERVICE.—

"(A) NO CONDITION OF EMPLOYMENT OR PROVISION OF BENEFIT OR SERVICE.—

"(i) IN GENERAL.—An individual may not be required to add the name of the individual to, or remove the name of the individual from, the Database as a condition of employment or of receiving any benefit or service.

"(ii) PRIVATE RIGHT OF ACTION.—An individual aggrieved by a violation of clause (i) may bring a civil action in an appropriate district court of the United States for appropriate relief, including reasonable attorney fees.

"(B) PROHIBITION ON INQUIRIES.—A person may not inquire, consider, or reveal whether the name of an individual is, or has ever been, added to the Database, for the purpose of determining the eligibility of that individual for employment or for a benefit or service.

"(f) PROCEDURES FOR REMOVING NAME FROM DATABASE.—The Attorney General shall establish proce-

dures by which an individual may remove his or her name from the Database, which shall include the following:

''(1) Removal upon request made to the Attorney General by the applicable individual, which shall take effect on the date that is 21 days after the date on which the request is received.

''(2) An expedited removal process, under which removal takes effect not later than 24 hours after the time at which a removal request is submitted, that ensures to the greatest extent possible that the individual does not pose substantial risk of harm to self or others. The Attorney General shall determine the criteria that an individual must satisfy in order to use the expedited removal process, and shall consider input from stakeholders in development of the expedited removal process.

''(g) NO LIMIT ON NUMBER OF ADDITIONS OR REMOVALS.—There shall be no limit on the number of times an individual may add or remove his or her name from the Database.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 44 of title 18, United States Code, is amended by inserting after the item relating to section 925D the following:

''925E. Creating a voluntary purchase delay process in the National Instant Criminal Background Check System.''.

SEC. 3. EFFECT OF REGISTRATION WITH VOLUNTARY PURCHASE DELAY DATABASE.

(a) PROHIBITION ON SALE OR OTHER DISPOSITION.—Section 922(d) of title 18, United States Code, is amended, in the first sentence—

(1) in paragraph (10), by striking ''or'' at the end;

(2) by redesignating paragraph (11) as paragraph (12); and

(3) by inserting after paragraph (10) the following:

''(11) is an individual whose name is included in the Voluntary Purchase Delay Database established under section 925E; or''.

(b) INCORPORATION OF INFORMATION INTO THE NICS SYSTEM.—

(1) IN GENERAL.—Section 922(t)(1)(B)(ii) of title 18, United States Code, is amended by inserting ''or that the sale or other disposition of a firearm to such other individual would violate subsection (d)(11) of this section'' before the semicolon.

(2) CORRECTION OF ERRONEOUS INFORMATION.—Section 103(g) of the Brady Handgun Violence Prevention Act (34 U.S.C. 40901(g)) is amended by inserting ''or that sale or other disposition of a firearm to a prospective transferee would

violate subsection (d)(11) of such section or State law'' before the first comma.

(c) INCLUSION IN EXCEPTION TO PROHIBITION RELATING TO ESTABLISHMENT OF REGISTRATION SYSTEMS WITH RESPECT TO FIREARMS.—Section 103(i)(2) of the Brady Handgun Violence Prevention Act (34 U.S.C. 40901(i)(2)) is amended by inserting ''or persons to whom the sale or other disposition of a firearm would violate section 922(d)(11) of title 18, United States Code, or State law'' before the period.

SEC. 4. EDUCATION AND OUTREACH CAMPAIGN REGARDING THE VOLUNTARY PURCHASE DELAY DATABASE.

The Attorney General, in consultation with the Centers for Disease Control and Prevention, the National Center for Injury Prevention and Control, the National Institute of Mental Health, the National Suicide Prevention Lifeline, the Substance Abuse and Mental Health Services Administration, the Division of Behavioral Health of the Indian Health Service, and the Department of Veterans Affairs, shall provide for the planning and implementation of a national public-private partnership for an education campaign to raise awareness of the Voluntary Purchase Delay Database established under sec-

tion 925E of title 18, United States Code, as added by section 2, that, at a minimum—

(1) provides information about this Act and the amendments made by this Act;

(2) explains how an individual may add his or her name to the Voluntary Purchase Delay Database, and the effects of doing so; and

(3) provides information about how to voluntarily relinquish a firearm (as defined in section 921 of title 18, United States Code).

SEC. 5. RULE OF CONSTRUCTION.

(a) DEFINITIONS.—In this section, the terms ''Database'' and ''mental health professional'' have the meanings given those terms in section 925E of title 18, United States Code, as added by section 2.

(b) RULE OF CONSTRUCTION.—

(1) IN GENERAL.—This Act and the amendments made by this Act shall not be construed to create a duty or obligation of any mental health professional, and a mental health professional shall not be held liable in a civil action arising from an act or omission relating to the Database.

(2) EXCEPTION FOR INTENTIONAL MISUSE.—Nothing in paragraph (1) shall be construed to ex-

empt a mental health professional from liability for intentional misuse of the Database.

SEC. 6. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 1 year after the date of enactment of this Act.

SEC. 7. SEVERABILITY.

If any provision of this Act or any amendment made by this Act, or any application of such provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of the provisions of this Act and the amendments made by this Act, and the application of the provision or amendment to any other person or circumstance, shall not be affected.