



2026 South Dakota Legislature

House Bill 1114

Introduced by: **Representative Muckey**

1 **An Act to require that certain mental health information be submitted to and**
2 **subsequently removed from the National Instant Criminal Background Check**
3 **System.**

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 **Section 1. That § 23-7-47 be AMENDED:**

6 **23-7-47.** The prosecuting attorney shall report to the attorney general for
7 reporting to the National Instant Criminal Background Check System the name and other
8 identifying information of any person who is acquitted of a crime by reason of insanity
9 pursuant to § 23A-26-5 or who is determined to be incompetent to stand trial pursuant to
10 § 23A-10A-4. The prosecuting attorney shall submit the report to the attorney general, in
11 the manner and form prescribed by the attorney general, ~~within seven working days no~~
12 later than two hours after the date of the verdict acquitting for insanity or the adjudication
13 of incompetency. The report may not include information relating to the person's diagnosis
14 or treatment.

15 **Section 2. That § 23-7-48 be AMENDED:**

16 **23-7-48.** The attorney general shall transmit to the National Instant Criminal
17 Background Check System administered by the Federal Bureau of Investigation the name
18 and other identifying information of any:

19 (1) Any person who is prohibited from possessing a firearm under 18 U.S.C.
20 § 922(g)(4) (January 1, 2026), because the:
21 (a) The person was acquitted of a crime by reason of insanity pursuant to
22 § 23A-26-5, the;
23 (b) The person was determined to be incompetent to stand trial pursuant to
24 § 23A-10A-4, or the; or

(c) The person was involuntarily committed pursuant to chapter 27A-10 based on a finding that the person is a danger to self, as defined in subdivision 27A-1-1(7)(a), or a danger to others, as defined in subdivision 27A-1-1(6); and

(2) Any person who is ordered apprehended under § 27A-10-2 on the basis of a petition for an involuntary commitment filed in accordance with § 27A-10-1.

Section 3. That a NEW SECTION be added to chapter 23-7:

The attorney general shall:

(1) Transmit any information received in accordance with § 23-7-48 to the National Instant Criminal Background Check System within one working day;

(2) Provide a copy of the transmitted information described in subdivision 23-7-48(2) to the individual who is the subject of the transmittal or to the individual's guardian;

(3) Request that any of the transmitted information described in subdivision 23-7-48(2) be removed from the National Instant Criminal Background Check System after a period of eighteen months; and

(4) Provide to the individual who is the subject of the transmitted information or to the individual's guardian, notice that the information has been removed from the National Instant Criminal Background Check System, as provided for in subdivision (3) of this section.

Section 4. That § 27A-10-24 be AMENDED:

27A-10-24. If the board of mental illness considers a petition for an involuntary commitment filed in accordance with § 27A-10-1, regardless of whether the board orders or denies an involuntary commitment based on a finding pursuant to § 27A-10-9.1 that the person is a danger to self as defined in subdivision 27A-1-1(7)(a), or a danger to others as defined in subdivision 27A-1-1(6), the chair of the board ~~shall~~ must report to the attorney general for reporting to the National Instant Criminal Background Check System the ~~involuntarily committed person's~~ name and other identifying information of the person who was the subject of the petition. The chair shall submit the report to the attorney general, in the manner and form prescribed by the attorney general, ~~within seven working days after the date of the final order of involuntary commitment~~ within two hours after the determination. The report may not include information relating to the person's diagnosis or treatment.