



NICS Reporting Requirements

Common Pleas Probate Division

The Ohio Attorney General's Bureau of Criminal Investigation (BCI) is responsible for maintaining the state's criminal history repository. BCI's databases are populated by data entered by law enforcement agencies, clerks of courts, judges, and other court staff. BCI must receive all of the necessary information to ensure complete and accurate information is available for background checks to be conducted at the state and federal levels.

Reporting Requirements for NICS Disqualifiers

The National Instant Criminal Background Check System (NICS) conducts record checks on persons who may be disqualified from owning or possessing firearms. These disqualifiers are set forth in 18 U.S.C. 922(g). The NICS databases are populated by data submitted by BCI and the Ohio Law Enforcement Automated Data System (LEADS). Below are the NICS disqualifiers and related reporting requirements relevant to common pleas probate division courts.

ADJUDICATED AS A MENTAL DEFECTIVE OR HAS BEEN COMMITTED TO ANY MENTAL INSTITUTION [18 U.S.C. 922(g)(4)]	
Reporting Requirement	Upon a finding that an individual is a person with a mental illness subject to a court order under R.C. 5122.141 or R.C. 5122.15 , a Notification Form for Record Checks Under O.R.C. 5122.311 is to be sent to BCI not later than 7 days after the adjudication or civil commitment. [R.C. 5122.311]
Reporter of Information	Probate judge or chief clinical officer of hospital
Party Responsible for Entry into NICS	Ohio Attorney General's Office - Bureau of Criminal Investigation

Adjudicated Mental Defective: The definition of a person who has been "adjudicated as a mental defective" as used in [18 U.S.C. 922\(g\)\(4\)](#) is broader than a "mentally ill person subject to a court order" as used in [R.C. 5122.311](#). *See below.* Guardianships under [R.C. Chapter 2111](#) are not included in this requirement under Ohio law.

- [27 C.F.R. 478.11](#) defines "adjudicated as a mental defective" as a determination that a person as a result of marked subnormal intelligence, mental illness, incompetency, condition, or disease:
 1. Is a danger to himself or to others; or
 2. Lacks the mental capacity to contract or manage his own affairs.
- [R.C. 5122.01](#) defines a "person with a mental illness subject to court order" as a person with a mental illness who, because of the person's illness:
 1. Represents a substantial risk of physical harm to self as manifested by evidence of threats of, or attempts at, suicide or serious self-inflicted bodily harm;
 2. Represents a substantial risk of physical harm to others as manifested by evidence of recent homicidal or other violent behavior, evidence of recent threats that place another in reasonable fear of violent behavior and serious physical harm, or other evidence of present dangerousness;

3. Represents a substantial and immediate risk of serious physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's basic physical needs because of the person's mental illness and that appropriate provision for those needs cannot be made immediately available in the community;
4. Would benefit from treatment for the person's mental illness and is in need of such treatment as manifested by evidence of behavior that creates a grave and imminent risk to substantial rights of others or the person;
5. (a) Would benefit from treatment as manifested by evidence of behavior that indicates all of the following:
 - i. The person is unlikely to survive safely in the community without supervision, based on a clinical determination;
 - ii. The person has a history of lack of compliance with treatment for mental illness and one of the following applies:
 - I. At least twice within the 36 months prior to the filing of an affidavit seeking court-ordered treatment of the person under R.C. 5122.111, the lack of compliance has been a significant factor in necessitating hospitalization in a hospital or receipt of services in a forensic or other mental health unit of a correctional facility, provided that the 36-month period shall be extended by the length of any hospitalization or incarceration of the person that occurred within the 36-month period.
 - II. Within the 48 months prior to the filing of an affidavit seeking court-ordered treatment of the person under R.C. 5122.111, the lack of compliance resulted in one or more acts of serious violent behavior toward self or others or threats of, or attempts at, serious physical harm to self or others, provided that the 48-month period shall be extended by the length of any hospitalization or incarceration of the person that occurred within the forty-eight-month period.
 - iii. The person, as a result of the person's mental illness, is unlikely to voluntarily participate in necessary treatment.
 - iv. In view of the person's treatment history and current behavior, the person is in need of treatment in order to prevent a relapse or deterioration that would be likely to result in substantial risk of serious harm to the person or others.
- (b) An individual who meets only the criteria described in division (B) (5) (a) of this section is not subject to hospitalization.

UNLAWFUL USER OF OR ADDICTED TO ANY CONTROLLED SUBSTANCE [18 U.S.C. 922(g)(3)]	
Reporting Requirement	Unknown
Reporter of Information	Unknown
Party Responsible for Entry into NICS	Unknown

Controlled Substance Disqualifier: See [21 U.S.C. 802](#) for context of an “unlawful user of or addicted to controlled substances” under [18 U.S.C. 922\(g\)\(3\)](#). The disqualification applies to marijuana even though Ohio law permits its qualified use.

Unlawful User or Addicted to any Controlled Substance: A person who has lost the power of self-control with reference to the use of a controlled substance; and any person who is a current user of a controlled substance in a manner other than prescribed by a licensed physician. [[27 C.F.R. 478.11](#)]

Upon notice of a drug-related or involved offense, NICS will research the arrest and disposition information to see if unlawful use of a controlled substance has occurred within the past 12 months. An inference of current use or possession may be drawn from the law enforcement incident report, self-admission, drug test results, etc. The terms of active probation, regardless of the charge, are researched to determine if there are any conditions that prohibit firearm possession or include drug testing.

Ohio law currently imposes no further reporting requirements on probate courts except as outlined in R.C. 5122.311. Federal law imposes reporting requirements upon courts when there is possession, self-admittance, or inference of drug use, but whether such requirements apply to probate courts are unknown. There is not an equivalent Ohio statute that requires such reporting.

Disqualifiers that are not applicable in probate courts:

- Felony conviction [[18 U.S.C. 922\(g\)\(1\)](#)]
- Fugitive from justice¹ [[18 U.S.C. 922\(g\)\(2\)](#)]
- Illegal alien [[18 U.S.C. 922\(g\)\(5\)](#)]
- Dishonorable discharge from armed forces [[18 U.S.C. 922\(g\)\(6\)](#)]
- Renounced U.S. citizenship [[18 U.S.C. 922\(g\)\(7\)](#)]
- Misdemeanor domestic violence conviction [[18 U.S.C. 922\(g\)\(9\)](#)]
- Under felony indictment or information [[18 U.S.C. 922\(n\)](#)]

¹ A “fugitive from justice” is defined as a person who has fled from any state to avoid prosecution for a crime or avoid giving testimony in a criminal proceeding. [18 U.S.C. 921\(a\)\(15\)](#).