

115TH CONGRESS  
2D SESSION

# H. R. 5717

To authorize the Attorney General to make grants to States that have in place laws that authorize the seizure of firearms from dangerous individuals, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 9, 2018

Mrs. BROOKS of Indiana (for herself, Mr. DEUTCH, Mr. UPTON, Mrs. DINGELL, Mr. FORTENBERRY, Mr. PAULSEN, Mr. COFFMAN, Mr. DENT, Mr. BERA, Mr. COSTELLO of Pennsylvania, Mr. CARSON of Indiana, Mr. MACARTHUR, and Mr. MOULTON) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To authorize the Attorney General to make grants to States that have in place laws that authorize the seizure of firearms from dangerous individuals, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Jake Laird Act of  
5 2018”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1           (1) The term “firearm” has the meaning given  
2 that term in section 921 of title 18, United States  
3 Code.

4           (2) The term “dangerous” means, with respect  
5 to an individual, that the individual—

6                   (A) presents an imminent risk of injuring  
7 himself or herself, or another individual; or

8                   (B) the individual—

9                           (i) may present a risk of injuring him-  
10 self or herself, or another individual; and

11                           (ii)(I) has a mental illness that may  
12 be controlled by medication, but has dem-  
13 onstrated a pattern of not voluntarily and  
14 consistently taking such medication, except  
15 under supervision;

16                           (II) is the subject of documented evi-  
17 dence that would give rise to a reasonable  
18 belief that the individual has a propensity  
19 for violent or emotionally unstable conduct;  
20 or

21                           (III) poses a significant danger of  
22 personal injury to himself or herself, or an-  
23 other individual, by possessing a firearm.

1 **SEC. 3. GRANTS FOR FIREARM SEIZURE LAW.**

2 (a) AUTHORIZATION.—The Attorney General is au-  
3 thorized to make grants to States that have in place a  
4 law which authorizes the seizure of a firearm from a dan-  
5 gerous individual in accordance with section 4.

6 (b) USE OF FUNDS.—A State that receives a grant  
7 under this section may use such grant to implement the  
8 law described in subsection (a), and to train law enforce-  
9 ment officers and prosecutors on the implementation of  
10 such law.

11 (c) APPLICATION.—A State seeking a grant under  
12 this section shall submit to the Attorney General an appli-  
13 cation at such time, in such manner, and containing such  
14 information as the Attorney General may reasonably re-  
15 quire, including a copy of the law described in subsection  
16 (a).

17 **SEC. 4. REQUIREMENTS FOR FIREARM SEIZURE LAW.**

18 In order to be eligible for a grant under this section,  
19 a State law shall provide for a process that is substantially  
20 similar to the following:

21 (1) WARRANT TO SEIZE A FIREARM FROM A  
22 DANGEROUS INDIVIDUAL.—

23 (A) ISSUANCE.—A court of competent ju-  
24 risdiction may issue a warrant authorizing a  
25 law enforcement officer to seize a firearm from  
26 a person that the court determines there is

1           probable cause to believe is dangerous and in  
2           possession of a firearm.

3           (B) AFFIDAVIT REQUIRED.—A law en-  
4           forcement officer seeking a warrant described in  
5           subparagraph (A) shall submit to the court an  
6           affidavit, which contains the following informa-  
7           tion:

8                   (i) Facts supporting the law enforce-  
9                   ment officer's probable cause to believe  
10                  that the individual is dangerous and in  
11                  possession of a firearm, including a de-  
12                  scription of the law enforcement officer's  
13                  interaction with the individual, or with an-  
14                  other individual who provided information  
15                  relating to the individual against whom the  
16                  warrant is sought, and who the law en-  
17                  forcement officer determines is credible  
18                  and reliable.

19                   (ii) The specific location of the fire-  
20                  arm.

21           (2) SEIZURE OF A FIREARM WITHOUT A WAR-  
22           RANT.—A law enforcement officer may seize a fire-  
23           arm from an individual who the law enforcement of-  
24           ficer determines there is probable cause to believe is

1 dangerous without obtaining a warrant under para-  
2 graph (1) in the case of exigent circumstances.

3 (3) RETURN FILED WITH COURT.—Not later  
4 than 48 hours after serving a warrant issued under  
5 paragraph (1) or seizing a firearm under paragraph  
6 (2), the law enforcement officer who served the war-  
7 rant shall file a return with the court that includes  
8 the following information:

9 (A) The time and date on which the war-  
10 rant was served, or the firearm was seized, as  
11 applicable.

12 (B) The name and address of the indi-  
13 vidual with respect to whom the warrant was  
14 issued, or from whom the firearm was seized, as  
15 applicable.

16 (C) The quantity of firearms seized, and a  
17 description of each such firearm.

18 (4) HEARING.—

19 (A) IN GENERAL.—Not later than 21 days  
20 after a return is filed under paragraph (3), the  
21 court shall hold a hearing to determine whether  
22 the individual is dangerous. If the court deter-  
23 mines that the individual is dangerous, the  
24 court shall—

1 (i) order that the law enforcement  
2 agency maintain possession of the firearm;

3 (ii) in the case of an individual who  
4 has a license to carry a firearm, revoke  
5 such license; and

6 (iii) enter an order restraining that  
7 individual from acquiring a firearm.

8 (B) NOTICE.—The court shall provide no-  
9 tice of such hearing to the government, and to  
10 the individual from whom the firearm was  
11 seized.

12 (C) BURDEN OF PROOF.—At a hearing  
13 under subparagraph (A), the government shall  
14 have the burden of proving, by clear and con-  
15 vincing evidence, that the individual is dan-  
16 gerous, and that the firearm should not be re-  
17 turned to the individual from whom it was  
18 seized.

19 (D) FIREARM OWNED BY ANOTHER INDI-  
20 VIDUAL.—If the court determines that the fire-  
21 arm seized is owned by an individual other than  
22 the individual with respect to whom the warrant  
23 was issued, the court shall order the return of  
24 the firearm to that individual.

1           (E) INCLUSION IN NICS.—In the case that  
2 a court enters an order described in subpara-  
3 graph (A), the appropriate person shall make  
4 such information available to the Attorney Gen-  
5 eral to be included in the National Instant  
6 Criminal Background Check System.

7 (5) PETITION FOR RETURN OF FIREARM.—

8           (A) IN GENERAL.—Beginning on the date  
9 that is 180 days after the date on which a court  
10 entered an order described in clauses (i)  
11 through (iii) of paragraph (4)(A), an individual  
12 against whom such an order was entered may  
13 petition the court for the reversal of such order.

14           (B) GRANTING OF PETITION.—The court  
15 shall grant a petition filed under subparagraph  
16 (A) if the petitioner proves by a preponderance  
17 of the evidence that the individual is not dan-  
18 gerous.

19           (C) DENIAL OF PETITION.—If the court  
20 denies a petition under this section, the indi-  
21 vidual against whom such order was entered  
22 may file another petition under this section be-  
23 ginning on the date that is 180 days after such  
24 denial.

1           (6) DISPOSAL OF FIREARM.—In the case that  
2           an order under paragraph (4)(A)(i) is still in effect  
3           on the date that is 5 years after the date on which  
4           it was entered, the court, after giving notice to the  
5           appropriate parties, may order the law enforcement  
6           agency with custody of such firearm to dispose of  
7           the firearm in accordance with any applicable policy  
8           of the jurisdiction in which the firearm was seized.

9           (7) REQUEST TO SELL FIREARM.—

10           (A) IN GENERAL.—An individual whose  
11           firearms were retained by a law enforcement  
12           agency pursuant to an order under paragraph  
13           (4)(A)(i) may petition the court for the law en-  
14           forcement agency to sell the firearm in accord-  
15           ance with any applicable policy of the jurisdic-  
16           tion in which the firearm was seized, and pro-  
17           vide the proceeds of such sale to the individual.  
18           The court shall grant such order unless the se-  
19           rial number on the firearm is damaged.

20           (B) TIMING.—A petition described in sub-  
21           paragraph (A) may be filed any time prior to  
22           the entry of an order under paragraph (6).

23           (C) SALE.—A law enforcement agency or-  
24           dered to sell a firearm under this section shall  
25           sell the firearm not later than 1 year after the



1 entry of such order, and may retain not more  
2 than 8 percent of the sale cost to cover the  
3 costs of the sale.

4 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

5 There is authorized to be appropriated \$50,000,000  
6 to carry out this Act for each of fiscal years 2019 through  
7 2021.

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