

STATE OF TEXAS

RESOLUTION

of the

TEXAS JUDICIAL COUNCIL

Joint Criminal Justice Committee and Civil Justice Committee Juvenile NICS Reporting Recommendations

WHEREAS, the Texas Judicial Council is the policymaking body for the Texas Judicial Branch, created under Chapter 71, Texas Government Code; and

WHEREAS, the Council is charged with improving the administration of justice; and

WHEREAS, as required by law, the National Instant Criminal Background Check System (NICS) conducts background checks on people who want to own a firearm or explosive; and

WHEREAS, under the Bipartisan Safer Communities Act of 2022, which was signed into law on June 25, 2022, when conducting criminal background checks on persons under the age of 21 seeking to possess a firearm NICS is required to immediately contact the criminal history repository or juvenile justice information system and the appropriate State custodian of mental health adjudication records, for the state in which the person resides; and

WHEREAS, Texas does not have a centralized source for statewide mental health adjudication information in juvenile cases and, in order to perform a thorough search, NICS is required to contact each of the more than 450 district and county clerks in the state; and

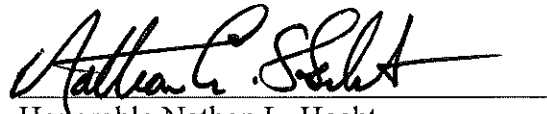
WHEREAS, though commitment proceedings for juveniles are held under Chapter 55 of the Family Code, they must be done according to the requirements of Chapter 574 or 593 of the Health and Safety Code; and

WHEREAS, mental health adjudications conducted under the requirements of Chapter 574 or 593 of the Health and Safety Code in criminal cases are reported to NICS and therefore, mental health adjudications in juvenile cases conducted under these same requirements could also be reported to NICS; and

WHEREAS, because Texas law defines "federal prohibited person information" as

information regarding a person's acquittal by reason of insanity, lack of mental responsibility, and incompetence to stand trial in the context of criminal cases and not juvenile cases there is confusion as to whether this information as it relates to juvenile cases should or may be reported to NICS;

NOW THEREFORE, BE IT RESOLVED that the Texas Judicial Council requests the Legislature clarify juvenile NICS reporting requirements.

A handwritten signature in black ink, appearing to read "Nathan L. Hecht", written over a horizontal line.

Honorable Nathan L. Hecht
Chair, Texas Judicial Council