



Written by [Raven Clabough](#) on May 4, 2016

Obama Admin Seeks to Curtail Gun Rights of Those on Disability Benefits

The Obama administration is moving forward with plans to use the Social Security Administration to disarm American citizens deemed ineligible by government bureaucrats to possess a firearm. Earlier this year, President Obama signed an executive order that permits the Social Security Administration to report individuals to the FBI's database used to determine an individual's eligibility to purchase a firearm. On April 28, the rule was signed and posted to the Federal Register by Acting Commissioner Carolyn W. Colvin, [guns.com reports](#).



The White House released a fact sheet regarding the proposal on January 4, which states, "The reporting that SSA, in consultation with the Department of Justice, is expected to require will cover appropriate records of the approximately 75,000 people each year who have a documented mental health issue, receive disability benefits, and are unable to manage those benefits because of their mental impairment, or who have been found by a state or federal court to be legally incompetent."

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According to the *LA Times*, the proposal is "part of a concerted effort by the Obama administration after the 2012 Sandy Hook Elementary School shooting in Newtown, Conn. to strengthen gun control."

The *LA Times* [reported](#) last year:

The push is intended to bring the Social Security Administration in line with laws regulating who gets reported to the National Instant Criminal Background Check System, or NICS, which is used to prevent gun sales to felons, drug addicts, immigrants in the country illegally and others.

A potentially large group within Social Security are people who, in the language of federal gun laws, are unable to manage their own affairs due to "marked subnormal intelligence, or mental illness, incompetency, conditions, or disease."

Townhall.com observes that the Department of Veterans Affairs already participates in a similar process by reporting individuals who were declared too incompetent to manage their disability and pension payments and assigned a fiduciary to the National Instant Criminal Background Check System. Under the Obama administration's plan, the Social Security Administration would be the latest federal agency to participate in the background-check system.

The U.S. Department of Health and Human Services even altered the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule to allow for communication between specific entities regarding an individual's mental health. In January, HHS modified the rule to "expressly permit certain HIPAA covered entities to disclose to the National Instant Criminal Background Check System (NICS)



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the identities of individuals who are subject to a Federal ‘mental health prohibitor’ that disqualifies them from shipping, transporting, possessing, or receiving a firearm.”

On Friday, the Social Security Administration released a [draft](#) of the proposed rule. It reads,

Federal law makes it unlawful for certain persons to ship, transport, receive, or possess any firearm or ammunition that has been shipped or transported in interstate or foreign commerce. As relevant to our programs, the Federal prohibition on the possession or receipt of firearms or ammunition applies to a person who, in the language of the statute, “has been adjudicated as a mental defective.”

The proposal uses five factors to determine whether SSA recipients who receive Disability Insurance or Supplemental Security Income (SSI) have been “adjudicated as a mental defective” and therefore qualify as being federally prohibited from owning a firearm. The five factors are as follows:

- The claim with the SSA was filed based on disability,
- The disability meets the requirements of the Mental Disorders Listing of Impairments established in SSA rules,
- The individual has “a primary diagnosis code” in SSA records based on mental impairment,
- The individual is between the age of 18 and retirement age, and
- The individual’s payments are being made through a representative payee because he or she is incapable of managing the payments because of his or her impairment.

According to the *LA Times*, approximately 4.2 million adults could be impacted by the rule as they receive monthly payments through “representative payees.”

The Social Security website provides an exhaustive list for what is considered when determining [mental impairment or disorder](#). Items that are evaluated include daily activities such as “taking public transportation, paying bills, maintaining a residence, caring appropriately for your grooming and hygiene, using telephones and directories, and using a post office, as well as social activities including ‘the ability to get along with others, such as family members, friends, neighbors, grocery clerks, landlords or bus drivers.’”

The rule also proposes an option for individuals who wish to restore their ability to own firearms, though it would remain at the SSA’s discretion. The individual would have to “establish to [SSA’s] satisfaction that the circumstances regarding the disability, and the applicant’s record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.”

The proposed rule will be open for comments for 60 days.

The National Rifle Association, which has been an outspoken critic of the proposal, [contends](#) that while the proposal is “procedurally more narrowly-tailored than the indefensible procedures of the Veteran’s Administration (VA),” it is still disconcerting, particularly as it enables “anonymous bureaucrats” to review government-compiled files and draw conclusions without allowing the individual the ability to attend a formal hearing and stage his or her defense.

The proposal has provoked criticism from mental health experts and advocates for the disabled, who contend that using financial competence to prohibit gun ownership is wrong.



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“Someone can be incapable of managing their funds but not be dangerous, violent or unsafe,” said Dr. Marc Rosen, a Yale psychiatrist who has studied how veterans with mental health problems manage their money. “They are very different determinations.”

Rosen notes that veterans may even feel compelled to avoid seeking help for their mental health problems just to avoid losing their Second Amendment-protected rights.

And Ari Ne’eman, a member of the National Council on Disability, asserts that the proposal unfairly targets people with disabilities.

Constitutionally minded critics, such as former Texas Representative Ron Paul, contend that this proposal creates an easy system for anti-gun politicians to deprive individuals of their Second Amendment-guaranteed rights.

“Mandatory depression screening will not just raise insurance costs,” notes Paul. “In order to ensure that the screening mandate is being properly implemented, the government will need to create a database containing the results of the screenings. Those anti-gun politicians who want to forbid anyone labeled ‘mentally ill’ from owning a firearm will no doubt want to use this database as a tool to deprive individuals of their Second Amendment rights.”

In an effort to stop the Obama administration, Texas Congressman Sam Johnson introduced [legislation](#) last year to prevent the Social Security Administration from denying social security recipients their Second Amendment-protected rights without the constitutional due process.

When introducing his legislation, Johnson said, “It’s no secret President Obama isn’t a fan of our 2nd Amendment. Because he failed to push his gun control agenda through Congress, his Administration is now seeking to deny millions of law-abiding Americans their right to bear arms by going through Social Security. Old age or a disability does not make someone a threat to society. These folks should be able to defend themselves just like everyone else, and Social Security has no business stripping them of that right.”

The bill, entitled the Social Security Beneficiary 2nd Amendment Rights Protection Act, is waiting for a vote in Congress.



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