



ALAN WILSON  
ATTORNEY GENERAL

September 24, 2025

The Honorable Carolyn E. Woodruff  
Judge of Probate  
Post Office Box 219  
York, South Carolina 29745

Dear Judge Woodruff:

Attorney General Alan Wilson referred your letter to the Opinions section for a response. You seek an opinion on the following:

Where South Carolina law permits a Probate Court to involuntarily commit a child under the age of sixteen to a mental institution pursuant to § 44-24-10 (1) and § 44-24-140; and

Where South Carolina law requires a Probate Court to submit information pertaining to all orders “related to adjudications and commitments” to the South Carolina Law Enforcement Division (SLED) for transmission to the National Instant Criminal Background Check System (NICS) “for purposes directly related to the Brady Act” pursuant to S.C. Code Ann. § 23-31-1020 (C) & (D); and

Where the Brady Act itself prohibits the sale or disposal of firearms or ammunition to a person “adjudicated as a mental defective or [who] has been committed to any mental institution at 16 years of age or older,” 18 U.S.C. § 922(d)(4):

Is it proper for SLED to provide NICS with information regarding children under the age 16 who have been committed to involuntary mental health treatment at a mental institution?

You further note, “I do not question whether information pertaining to children under sixteen who have been committed for drug use should be transmitted to NICS as 18 U.S.C. § 922 (d) and (d)(3) have no ‘under sixteen’ reference akin to the mental health commitments.”

As discussed more fully below, we do not believe South Carolina law gives SLED discretion to withhold information relating to the adjudication as a mental defective or commitment to a mental institution from NICS because of the individual’s age.

**Law/Analysis**

Following the adjudication as a mental defective or commitment to a mental institution, Section 23-31-1020 provides:

- (A) The Judicial Department and the Chief of SLED, or the chief's designee, shall work in conjunction with a court of competent jurisdiction in developing procedures for the collection and submission of information of persons who have been adjudicated as a mental defective or who have been committed to a mental institution.
- (B) When a court submits this information to SLED by court order, SLED shall transmit the information to the National Instant Criminal Background Check System (NICS) established pursuant to the Brady Handgun Violence Protection Act of 1993, Pub. L. (pg.79) 103-159.
- (C) The court shall submit the information to SLED by court order within five days from the filing of each order related to adjudications and commitments. Under no circumstances may the court or SLED submit information pursuant to this section relating to a person's diagnosis or treatment.
- (D) SLED shall keep information submitted by the court confidential, and that information only may be disclosed to NICS pursuant to this section, for purposes directly related to the Brady Act, or as provided in subsection (E).

S.C. Code Ann. § 23-31-1020 (2025).

When construing a statute, the primary goal is to understand and give effect to the intent of the legislature. Hodges v. Rainey, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000). Where possible, legislative intent "should be ascertained primarily from the plain language of the statute." State v. Hudson, 366 S.C. 237, 246, 519 S.E.2d 577, 581 (Ct. App. 1999). We believe the plain language of Section 23-31-1020 permits us to answer your question without resorting to other rules of statutory construction.

Section 23-31-1020(C) requires the court to submit information relating to all adjudications as a mental defect and commitments to a mental institution to SLED, regardless of the person's age. Similarly, § 23-31-1020(B) requires SLED to submit the information received from courts to NICS, regardless of the person's age. Both provisions are mandatory, and neither provision provides for discretion based upon the person's age.

As you note, § 23-31-1020(D) instructs SLED to keep information it receives relating to adjudications and commitments confidential and limits SLED to providing information to NICS

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for purposes directly related to the Brady Act. While the Brady Act, in relevant part, only prohibits the possession of a firearm by an individual who has been adjudicated as a mental defective or has been committed to any mental institution at 16 years of age or older, see 18 U.S.C. § 922(d)(4), it does not limit the information NICS may review in determining whether an individual is prohibited from possessing a firearm.

Thus, it does not appear improper for SLED to provide to NICS information relating to all adjudications as a mental defective and commitments to a mental institution, regardless of whether that information leads to a determination that the individual is prohibited from possessing a firearm or not. To interpret the statute otherwise would require SLED to first make a determination about whether a person's adjudication or commitment prohibits them possessing a firearm before exercising discretion based on that determination and, possibly, withholding information from NICS. Section 23-31-1020 does not provide SLED with either the authority to determine whether a particular adjudication or commitment prohibits an individual from possessing a firearm under 18 U.S.C. § 922(d)(4) or discretion to withhold information received from a court from NICS, and I am unaware of another statute that does so.

#### Conclusion

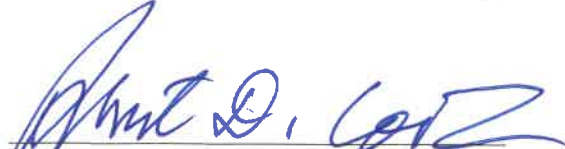
Section 23-31-1020(C) requires probate courts to inform SLED of adjudications and commitments within five days. Section 23-31-1020(D) then requires SLED to submit that information to NICS. The statute does not provide for discretion in either of these steps. Should the General Assembly wish to give SLED discretion regarding which information is submitted to NICS, it may do so. Presently, I am unaware of any statutorily granted discretion which would allow SLED to withhold information related to an adjudication or commitment from NICS based on the age of the individual.

Sincerely,



David Leggett  
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
Solicitor General Emeritus