

“Donna’s Law”
[“*The Voluntary Do-Not-Sell List*”]

Handbook

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Donna's Law

A Voluntary Do-Not-Sell List to Prevent Firearm Suicide

Donna's Law would allow individuals who know they are vulnerable to suicide to voluntarily and confidentially suspend their *own* ability to purchase and possess firearms. In this way, people could protect themselves against impulsive gun suicide during future crises.

Firearm suicide is a pressing yet preventable epidemic

- Well over 20,000 Americans die by firearm suicide each year
- Many suicide attempts are impulsive and involve recently purchased firearms
- Research shows that firearm purchase delays significantly reduce overall suicide
- In one survey, 46% of individuals receiving psychiatric treatment said they would voluntarily restrict their own ability to purchase firearms

Donna's Law...

Protects the vulnerable: Participants could add their own names to a state "Do-Not-Sell List" and to the federal background check system. Firearm dealers both in-state and across the country who are required to check the federal system before a sale would be barred from selling a firearm to any participant.

Allows registrants to change their minds by requesting removal. Removal would be automatic but would take effect only after a "cooling off" period of 21 days.

Provides easy sign-up and removal options, including with any healthcare provider.

Protects privacy by securing personal information and preventing employment, education, and other discrimination based on participation.

This common-sense solution has already been enacted in Utah, Virginia, and Washington state with bipartisan support. Bills have also been introduced in over a dozen other states and Congress.

Please help prevent firearm suicide by supporting Donna's Law

Who's Donna? Donna Nathan bought a handgun and killed herself with it later that same day. Donna didn't want to die. She had courageously battled bipolar disorder for decades. Donna voluntarily checked herself into a psychiatric hospital multiple times, precisely to treat her thoughts of suicide. She did everything she could to avoid killing herself. Donna's Law would have given her one more protection: putting that fatal gun out of reach. It is too late for Donna, but the law named for her could save many others.

For more information (including research, media coverage, and draft legislation), please contact Professor Fred Vars (fvars@law.ua.edu), Katrina Brees (katrinabrees@gmail.com), or visit donnaslaw.com. Donna's Law was featured in an extended segment on CBS Sunday Morning: <https://www.cbsnews.com/video/donnas-law-a-tool-for-preventing-suicide/>.

Preface: Origin Stories

Fred Vars

The depression following my first manic episode was almost unbearable. I had fallen so far so fast with no guarantee it would ever get better. I was terrified that I would kill myself. I didn't want to die, but, after experiencing psychosis, I couldn't trust my mind anymore. I stayed out of the kitchen because I feared I'd cut myself with the knives. I avoided our twelfth-floor windows, fearing I might jump. That kind of fear doesn't go away completely; a part of me will always be in that apartment. Out of that part of my brain came the novel idea to allow people who fear suicide to suspend their own ability to purchase a firearm. After years of research and advocacy, that idea has become law in three states (WA, VA, and UT).

Katrina Brees

I know my mom didn't shoot herself because she wanted to be dead. She did it because she was in unbearable pain and in the throes of a psychiatric episode. My mom, Donna Nathan, loved her life. She loved to dance to Cajun music and The Beatles. She'd grab the sides of her skirt and wave it back and forth while she sang the lyrics, stepping to the beat and tossing her red hair. She loved her partner, Pat, and their four cats, kids, and grandbabies. She lived in the home of her dreams. She had access to great health care and had successfully battled many medical conditions. For decades, her bipolar disorder had been relatively well managed with a small amount of medication and she led a very full life.

Until one day her medication stopped working. Her doctor prescribed a new drug that produced a series of extreme side effects including insomnia, tremors, panic attacks and eventually suicidality. My mom became suicidal, so she did everything she had been trained to do to protect herself from suicide. She voluntarily committed herself into an inpatient psychiatric facility. She would commit herself three times in the 3 months before her death. She gave up all her freedoms and comforts in order to save herself from suicide.

In the last weeks before she died, our family encouraged her to go back into inpatient care where she could be protected, but she said she was too frail to go back to "jail." Pat quit his job and watched over her full time from home instead. Her friends and family committed themselves to daily contact with her with streams of encouraging texts and calls. Between appointments, Donna was in daily e-mail contact with her psychiatrist.

Her last search on her phone was for "gun stores" and then she let her phone provide her with driving directions to the closest one, just a couple miles away. She had

said she was going to the mall to buy underwear that morning. It was only a moment after she left that Pat felt deeply concerned. He called her repeatedly and got no answer and then called the police to attempt to intervene on her suicide attempt. She had never even held a gun before, but in a short time she had her first gun. A .38 caliber with a box of rose gold bullets with pink plastic centers that promote breast cancer awareness. She drove to a special spot at the park near her house and wrote a note that said "Pat, I'm sorry. I love you." And then she shot herself and died.

<https://firearmslaw.duke.edu/2022/05/time-to-live-safer-gun-safes-and-smarter-smart-guns>

Research Shows That Donna's Law Will Save Many Lives

- There were 26,328 firearm suicide deaths in the United States in 2021.[1]
- Buying a gun is associated with an increased risk of suicide. One study found that the suicide rate among recent gun purchasers was 57 times the overall rate,[2] which translates into hundreds of suicides each year.
- Many suicide attempts are impulsive. One study of survivors of firearm suicide attempts found that a majority had suicidal thoughts for less than a day.[3]
- With firearms, there are very few second chances. About 85% of gun suicide attempts result in death. In contrast, only about 5% of suicide attempts with pills end in death.[4]
- Research shows that delaying access to firearms significantly reduces gun suicide, without increasing non-gun suicide.[5] Some people who would have attempted suicide with a gun make no attempt at all and some people switch to a less lethal method.
- Surviving one suicide attempt usually makes all the difference. The vast majority of suicide attempt survivors go on to die of something other than suicide. Only around 10% of serious suicide attempt survivors eventually die by suicide.[6] Most people take advantage of their second chance, which they will rarely get if they use a gun.
- Research supports the Voluntary Do-Not-Sell List in particular:
 - o People are successfully requesting to be added to the Lists in all three states.
 - o Many more people want to sign up. In one study, 46% of people receiving psychiatric care said they would sign up.[7] Around 30% of a large, nationally representative sample said they would sign up.[8]
 - o Details vary state to state, but being on the List temporarily suspends one's ability to quickly purchase a firearm. For those who chose to participate, it is reasonable to expect a reduction in overall suicide risk at least as great as the reduction observed with mandatory firearm purchase delays (see above).[5]

Notes

1. <https://www.cdc.gov/nchs/fastats/suicide.htm> (U.S.).
2. Wintemute GJ, Parham CA, Beaumont JJ, Wright M, Drake C. Mortality among recent purchasers of handguns. *N Engl J Med.* 1999;341(21):1583-1589.
3. Peterson LG, Peterson M, O'Shanick GJ, Swann A. Self-inflicted gunshot wounds: lethality of method versus intent. *Am J Psychiatry.* 1985;142(2):228-231.
4. Miller M, Azrael D, Barber C. Suicide mortality in the United States: the importance of attending to method in understanding population-level disparities in the burden of suicide. *Ann Rev Pub Health.* 2012;33:393-408; <https://www.hsph.harvard.edu/means-matter/means-matter/risk/>.
5. Griffin Edwards, Eric Nesson, Josh Robinson, & Fredrick Vars, The Effect of Mandatory Handgun Purchase Delays on Homicide and Suicide, 128 *Econ. J.* 3117 (2017).
6. Owens D, Horrocks J, House A. Fatal and non-fatal repetition of self-harm: systematic review. *Brit J Psychiatry.* 2002;181:193-199.
7. Fredrick Vars, Karen Cropsey, Cheryl McCullumsmith, & Richard Shelton, Willingness of Mentally Ill Individuals To Sign Up for a Novel Proposal To Prevent Firearm Suicide, *Suicide & Life-Threat. Behav.* (2016).
8. Ian Ayres & Fredrick Vars, *Weapon of Choice: Fighting Gun Violence While Respecting Gun Rights* (Harv. Univ. Press, 2020).

Key Elements of Donna's Law Explained

Suspend One's Own Ability to Buy a Gun (Four Registration Options)

Because Donna's Law is voluntary, it will only save lives if people sign up. That requires educating people about it and providing easy and secure ways to sign up. The draft bill includes four different registration options. Critically, each method is designed to prevent anyone from fraudulently registering someone else.

The first option is in-person registration at the DMV. All three enacting states have in-person registration options. It is important to preserve at least one in-person option for people who may not have access to other methods. The enacting states so far limit in-person registration to either a county clerk's office or to a police station. The DMV is fully capable of verifying identity and would be a lot easier for people to find and a lot less intimidating than a courthouse or police station.

The second sign-up option in the model bill is in-person registration through any healthcare provider. This is probably the single most important registration option. Utah uses it already. Educating healthcare providers is much easier than educating the public at large, and providers can offer the option to people at risk. Two obvious opportunities where healthcare providers should offer Donna's Law are: (1) in the emergency department after a failed suicide attempt, and (2) to patients being released from inpatient psychiatric care. Both categories of people are at substantially elevated risk of suicide.

The third option, mail-in registration, is currently used in Virginia. Along with a signed application form, the individual must include a photocopy of a government-issued ID.

The fourth option, text registration, is taken almost verbatim from an Alabama statute that allows taxpayers to authorize the state to mail confidential tax information if the taxpayer authorizes it by text message. This text registration option has been included in a few state bills that did not pass. Including the text registration option would greatly improve accessibility and participation. Almost everyone has a cell phone.

The Voluntary Suspension Is Reversible

The model bill allows a participant at any time after registration to request removal of their name from the List. All such requests are granted, but the participant's ability to purchase a firearm is restored 21 days after the request is received, *not*

instantaneously. This “cooling-off” period is a key feature of Donna’s Law. Research shows that purchase delays like this reduce gun suicide *without* any increase in non-gun suicide. The data simply do *not* support the common misconception that someone who decides to attempt suicide will die by another method, either in that moment or later. Allowing people to protect themselves with a delay period is the primary way that Donna’s Law will reduce suicide.

Some bills provide that a participant’s name will be automatically removed without a request for removal after a certain period of time (30, 90, and 180 days have all been proposed). Automatic removal would reduce the positive impact of Donna’s Law. Many people who know they are at elevated risk of suicide will remain at risk throughout their lives. Requiring them to register again is unduly burdensome. For example, people with serious drinking problems recognize that they will be an “alcoholic” for life. Suicidal episodes can strike quickly and without warning. A participant’s next suicidal crisis may happen more than 180 days later. If people want to sign up for an indefinite period, with removal only upon request, they should be allowed to do so.

It may be helpful to draw an analogy to advance directives for medical care. People execute advance directives when they have mental capacity in order to guide their treatment if they lose mental capacity. Another useful analogy is the “no-gambling” list, which exists in many states. Individuals with a gambling problem add their own names to the list in order to prevent themselves from gambling later. A person is unlikely to sign up while they are playing blackjack in a casino. The same person faced with an empty bank account the next day may make a better decision.

Penalties on Transfer and Possession

The goal of Donna’s Law is prevention, not punishment. To deter profitable sales to people on the List, there must be some penalty for intentionally transferring a firearm to a person who the transferor knows is on the List. The model bill imposes a criminal penalty on such transfers of the same magnitude as transfers to other prohibited categories of transferees.

Penalties on firearm receipt or possession by individuals who are on the List have drawn a great deal of attention. Again, the goal of Donna’s Law is to prevent suicide, not to penalize people because they voluntarily chose to sign up and later obtain a firearm for a suicide attempt. The prospect of punishment will not deter an individual in this situation, because that individual does not plan to be alive long enough to be punished. The possibility of a criminal penalty on possession may deter some people from participating. There is a strong argument that a person on the List who obtains a firearm for a failed suicide attempt should not be punished at all.

Prosecutorial discretion is not a solution. David Patton was a federal public defender in New York. One mentally ill client of his was prosecuted for illegal possession of the handgun that the client had used in a failed suicide attempt. The client obviously needed treatment, not punishment. Multiple pleas for mercy and reason were unavailing; the prosecutor would not relent. As a result, the client ended up with both a felony conviction and a substantial prison term.

<https://www.yalelawjournal.org/essay/federal-public-defense-in-an-age-of-inquisition>.

An outcome like this would be doubly cruel and unjust for a person whose restriction on firearm access was self-imposed.

Unfortunately, the FBI has taken the position that for states to use the federal NICS background check system for Donna's Law, there must be "some kind of penalty" on possession by a participant. In an email to the Washington State Patrol, an FBI representative named Celeste M. Cochran (cmcochran@fbi.gov) stated that "the restriction would need to be in the state's felon in possession statute or would need to have *some kind of penalty* if the individual attempted to purchase while on this list" (emphasis added). Importantly, possession does not have to be a crime: a small civil penalty is sufficient. That conclusion is consistent with the federal NICS statute, which requires only that "receipt of a firearm" "would violate" "State . . . law." 18 U.S.C. sec. 922(t). The federal statute does not say "State *criminal law*" (emphasis added).

The model bill penalizes knowing firearm receipt or possession by someone who on the List with a small civil fine or a few hours of community service. The Washington statute does the same:

(7)(a) A person, whether an adult or a juvenile, commits the civil infraction of unlawful possession of a firearm if the person has in the person's possession or has in the person's control a firearm after the person files a voluntary waiver of firearm rights under RCW 9.41.350 and the form has been accepted by the clerk of the court and the voluntary waiver has not been lawfully revoked.

(b) The civil infraction of unlawful possession of a firearm is a class 4 civil infraction punishable according to chapter 7.80 RCW.

(c) Each firearm unlawfully possessed under this subsection (7) shall be a separate infraction.

(d) The court may, in its discretion, order performance of up to two hours of community restitution in lieu of a monetary penalty prescribed for a civil infraction under this subsection (7).

Wash. Rev. Code Ann. § 9.41.040 (West)

Frequently Asked Questions (FAQs)

Does Donna's Law violate the Second Amendment?

Donna's Law does not violate the Second Amendment, or any other law protecting the right to bear arms. The right to bear arms includes the right not to bear arms.[1] The government cannot force any civilian to own or carry a firearm. Many people choose not to own a gun. An individual is allowed to take the next step and choose to waive their right to bear arms. That's true for nearly all constitutional rights. For example, you have a constitutional right to a jury trial for serious crimes, but you can choose to waive that right and plead guilty (most people do). The criminal justice system would cease to function if no one were allowed to plead guilty. There is no suggestion in any court case---including the U.S. Supreme Court's recent cases---that the Second Amendment cannot be waived. There is no basis in the U.S. Constitution for such a radical proposition.

Gun owners recognize that the right to bear arms protects individual choices about firearms and does not mandate any particular choice. When asked directly about Donna's Law, a majority of gun owners supported it.[2]

1. Joseph Blocher, The Right Not to Keep or Bear Arms, 64 Stanford Law Review 1-54 (2012). https://scholarship.law.duke.edu/faculty_scholarship/2464
2. Ian Ayres & Fredrick E. Vars, Gun Owners Support the Right Not to Bear Arms, 69 Emory L. J. 1131 (2020). <https://scholarlycommons.law.emory.edu/elj/vol69/iss5/6>

Will anyone sign up?

Many people (perhaps a hundred or so) have already signed up in the three enacting states (WA, VA, & UT). Many, many more want to. In one study, 46% of people receiving psychiatric care said they would sign up.[2] Around 30% of a large, nationally representative sample said they would sign up.[3]

3. Fredrick Vars, Karen Cropsey, Cheryl McCullumsmith, & Richard Shelton, Willingness of Mentally Ill Individuals To Sign Up for a Novel Proposal To Prevent Firearm Suicide, Suicide & Life-Threat. Behav. (2016).
4. Ian Ayres & Fredrick E. Vars, Weapon of Choice: Fighting Gun Violence While Respecting Gun Rights (Harv. Univ. Press, 2020).

Will people just use another suicide method?

If that were true, then suicide using methods other than firearms would be higher in states with firearm purchase delays. That's just not true. Firearm suicides are lower in those states, but there's no evidence of method substitution.[5] That means some people who can't immediately buy a gun are deterred altogether, and others attempt suicide with less deadly methods. What is true for waiting periods is also true for other firearm restrictions and for other suicide methods. See "Means Matter," <https://www.hsph.harvard.edu/means-matter/>.

5. Griffin Edwards, Eric Nesson, Josh Robinson, & Fredrick Vars, The Effect of Mandatory Handgun Purchase Delays on Homicide and Suicide, 128 Econ. J. 3117 (2017).

Will people be coerced into signing up?

There have been no allegations of coercion in any of the enacting states, for several reasons. First, coercion is a crime. The model bill states: "It shall be an [*appropriate misdemeanor*] to coerce another person to add or remove themselves from the List." Second, it is independently illegal to discriminate for or against anyone on the List. Threats will therefore be less credible. For example, an employer who threatens to fire an employee if they don't register would be guilty of not just coercion, but also a second crime if the employer followed through on the threat. Employees will be less likely to be coerced because they know the boss cannot legally follow through on a threat. Third, because the List is strictly confidential, it would be difficult for anyone trying to coerce someone else to register to determine whether or not the coercion was effective. The intended victim of coercion could say that they had registered when they hadn't, without little or no chance of that lie being detected. Finally, someone who was pressured into signing up can turn right around and request to have their name removed. At worst, coercion will limit firearm access for just a few weeks.

Will someone else be able to sign me up?

All four registration methods outlined above and set forth in the model bill require identity verification. In addition, the model bill provides: "A person who knowingly makes a false statement as part of a request to be added to or removed from the List commits the offense of perjury under [*appropriate state perjury/false statements statute*]. This includes, but is not limited to, making a request on behalf of someone else." In the unlikely event that a person nonetheless fools the system and registers someone else, the victim can immediately request to be removed from the List and get back their ability to purchase firearms in 21 days under the model bill. Or the individual

can use the expedited removal process to restore their firearm purchase ability in 72 hours or fewer (see the answer to the next FAQ below). To be sure, having a firearm purchase denied and having to request removal from the List are burdensome, but the situation can be corrected quickly and easily.

What if someone needs to buy a gun quickly for self-defense?

That is why there is an expedited removal process. That process takes 72 hours or fewer. The judge must approve expedited removal if the request is “voluntary, knowing, and intelligent.” That is the same standard that judges use to decide whether to accept a guilty plea, or to waive other constitutional rights. The basic question is “do you know what you’re doing?” The question is *not*: “Do I agree with your decision?” Whether the participant is a suicide risk or has a good reason for wanting to buy a gun do not matter. A person’s name will be promptly removed from the List so long as the judge finds that the individual understands what they are doing.

What if the FBI does not remove names as promised?

The NICS State Prohibitor file includes individuals who cannot legally possess firearms under state law. Donna’s Law participants fall into that category. Here’s the statutory language used successfully in Washington state, both to add names and to remove them. It is a good idea to use general language like this (rather than reference the “State Prohibitor” file by name), because the FBI could theoretically change the file name.

The Washington state patrol must enter the voluntary waiver of firearm rights into the national instant criminal background check system and any other federal or state computer-based systems used by law enforcement agencies or others to identify prohibited purchasers of firearms within twenty-four hours of receipt of the form.

...

Within seven days of receiving a revocation of a voluntary waiver of firearm rights, the Washington state patrol must remove the person from the national instant criminal background check system, and any other federal or state computer-based systems used by law enforcement agencies or others to identify prohibited purchasers of firearms in which the person was entered, unless the person is otherwise ineligible to possess a firearm under RCW 9.41.040, and destroy all records of the voluntary waiver.

Wash. Rev. Code Ann. § 9.41.350 (West). If there are further questions about the mechanics, this email may be helpful:

From: Fischer, Stephen G. (CJIS) (FBI) <Stephen.Fischer@ic.fbi.gov>
Sent: Wednesday, November 2, 2016 12:12 PM
To: Fredrick Vars <fvars@law.ua.edu>
Subject: . . . two questions about NICS

Please see the responses to your questions, provided by NICS staff:

- (1) After a state submits information to the FBI on an individual barred by state law, how long does it take the FBI to process this information so that the person will fail a background check?

The categories in the NICS Index mirror prohibitions under 18 U.S.C. and include state prohibitions. It is important to note that the NICS Index is ever-changing. Contributors enter, modify and delete NICS Index entries with frequency. In addition, certain prohibitive categories contain an expiration date, which could necessitate the related information's removal from the NICS Index. Each contributor to the NICS Index is responsible for the accuracy and validity of its own NICS index entries.

- (2) After a state submits information to the FBI for such an individual who has had their rights restored under state law, how long does it take for the person to be removed so that he will pass a background check?

The process of entering, modifying or deleting NICS Index entries is performed by contributing agencies. Once a deletion is performed by the contributor and if there are no other disqualifying records that exist in the other NICS databases that are searched it is plausible that the individual may then be immediately proceeded (pass) during a background check.

Further details pertaining to the NICS Index may be found at the following site:
<https://www.fbi.gov/file-repository/nics-index-brochure.pdf/view>

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States control the contents of the NICS State Prohibitor files, not the FBI. No federal action is needed to add or subtract names.

Distrust of government may be a reason not to sign up, but it is not a valid reason to oppose Donna's Law. If an individual doesn't trust the federal (or state) government to promptly remove their name from the List, then that individual doesn't have to sign up. But distrust of government is not a good reason to prohibit someone else from

signing up. Some people do trust the government enough to want to sign up. Everyone ought to be able to decide for themselves how best to protect their own lives. Most gun owners agree: they support Donna's Law.[6]

6. Ian Ayres & Fredrick E. Vars, Gun Owners Support the Right Not to Bear Arms, 69 Emory L. J. 1131 (2020). <https://scholarlycommons.law.emory.edu/elj/vol69/iss5/6>

How much will Implementation cost?

Donna's Law does not require significant expenditures. The fiscal notes in all three enacting states were so low that formal budget committee review was not required. The highest estimated cost of implementation was \$50,000 in Virginia. See Virginia ("\$50,000"); Washington ("Indeterminate, but less than \$50,000."); Utah ("Enactment of this legislation likely will not materially impact state revenue.").

The main reasons for the low cost of implementation are: (1) the NICS federal background check system is operational and fully funded; (2) the NICS "State Prohibitor" file is designed to include people barred under state law, but not federal law, which is exactly the case with Donna's Law participants; and (3) every state is already reporting names into the NICS database. In other words, the infrastructure for Donna's Law is already built. The only significant new expenditure will come from processing requests to be added and removed from the List. Someone in the NICS reporting agency, or other state agency, will have to spend some time processing requests. If participation is very high, that could require a new full-time employee, but significant costs beyond that are unlikely.

The cost of not enacting Donna's Law will be measured in lives, not dollars.

Will Donna's Law stigmatize mental illness and suicide?

Everyone is presumed to have the mental capacity to make their own decisions, whether or not they have a mental health diagnosis. The decision to suspend one's ability to purchase a firearm is no different. Donna's Law says nothing about mental illness. The program is open to anyone. Some serious mental illnesses are associated with an elevated risk of suicide, but there are many other reasons people attempt suicide. Donna's Law empowers everyone to protect themselves against impulsive gun suicide.

The National Alliance on Mental Illness (NAMI), which is the nation's largest grassroots mental health organization, publicly endorsed the federal bill. The nation's leading suicide prevention organization, the American Foundation for Suicide

Prevention (AFSP), has not only endorsed Donna's Law, but has made Donna's Law one of its priorities for advocacy across the country.

Will Donna's Law be a slippery slope?

This is usually the last argument made against Donna's Law. That is probably because the slippery slope argument is not actually a criticism of Donna's Law as proposed. Rather, the slippery slope argument is that enacting Donna's Law will make some other bad outcome more likely. It is not always clear what next stop or stops down the slope are feared, but the government confiscating firearms is usually at the bottom of the hill.

Donna's Law is the firearm regulation *least* likely to lead to more objectionable regulations. Why? Unlike other firearm restrictions, Donna's Law is voluntary. It therefore sets no precedent for mandatory gun laws of any kind. If Donna's Law is a step down a slippery slope, it is not a slope that ends with gun confiscation. At most, passing Donna's Law today might increase the probability of the legislature passing a more restrictive version of Donna's Law in the future. Still, the only people who would be affected are people who choose to be affected. Any person who fears a slippery slope with respect to Donna's Law can step off the hill simply by choosing not to participate.

Appendix A: Articles Supporting Donna's Law

My Mom Died By Suicide. If This One Thing Had Been Different, I Believe She'd Still Be With Us.

"The moment my mom left, her boyfriend knew something was off. He called the police over and over begging for help, but there was nothing they could do."

By Katrina Brees (HuffPost, September 24, 2022)

Before she died by suicide, my mom, Donna, had a beautiful life. She was hilarious and fun. Her fluffy red curls would sway to the beat while she two-stepped to Cajun music. She lived in a colorfully painted, art-filled house with gardens bursting with flowers. She was in love with her boyfriend of 12 years, Pat. Her days were filled with pottery, gardening and her grandbaby — with another on the way.

My mom had bipolar disorder, and she had faced ups and downs over her 30-year struggle with the disease. For decades, a light dose of lithium had kept her stable, but one day it stopped working. She was prescribed a new medication, but it did not stabilize her, and over the following months she experienced a horrific series of side effects. The drug came with a warning for the potential to increase suicide risk, and she was self-aware as suicidal ideation began to plague her. She vocalized her need for help, and our family mobilized to protect her and make sure she had access to the best medical care available.

In the months leading up to her death, she voluntarily entered psychiatric wards three times. While the hospitalizations helped stabilize her, the experiences meant giving up her comforts and separated from her beloved family and pets. It wasn't easy, but she was in the fight for her life and did not want to die. Once she came home from her third hospitalization, Pat quit his job to take care of her full time. She had daily contact with her psychiatrist, but getting off the medication required her to slowly taper over the course of two months. She died a week before she was due to finally end taking the drug.

On June 26, 2018, my mom told Pat she was going to the mall to buy underwear. It was highly unusual for her to go out by herself, but Pat hoped it was a sign of her improving condition. He watched her on their home's security cameras to make sure she was safe walking to her car. She petted her kitties on the front porch before leaving. But, the moment she left, Pat knew something was off. He feared she would try to harm herself and called the police immediately. He

continued to call the police over and over begging for help, but there was nothing the police could do.

The call came in from my dad the next morning.

My mom's suicide was shocking, but it wasn't a surprise — it had been my biggest fear for some time. But hearing that it was a gun death was earth-shatteringly unbelievable. My mother never owned a gun; our family owned no guns. A gun felt so not her — not us. How she gotten a gun was beyond my ability to even imagine.

The grief was like being sliced open. The trauma was so physical. My body was filled with pain. Even writing this now, four years later, I feel the pain returning. It starts in the back of my mouth and spreads through my throat and up my skull. The tightness around my throat feels like I'm being strangled. The stress pulls my shoulders up and balls my fists. My back hurts. My knees ache. My eyeballs sting.

I called the gun dealer the next day. I politely asked if I could return her gun. He told me "all sales are final" and then hung up on me.

I posted the following on my Facebook page:

"My mom bought a gun in New Orleans on Tuesday and drove to the Tree of Life and opened the box and shot herself. I'm telling you all because gun control is not only about homicide, it is twice+ as likely to be a suicide. People suffering from bipolar and depression have no way to protect themselves from a suicidal gun purchase in Louisiana. I wish my mom could have registered herself as being unfit to buy a gun. She would have signed it years ago to protect herself and our family. I hope one day we can give people with bipolar and depression a better chance at living, but we are a long way off. I'm sorry to be so raw, I feel raw. I can't believe how impossible it was to get my mom help and how easy it was for her to buy a gun. RIP Mama Donna Nathan. It's OK to share this if you like."

The post went viral.

Yes, I didn't want my mom to have been able to buy a gun, but nothing would bring her back. And now I was worried about my own mental health. The trauma of her death threw me into a deep depression. I didn't feel safe, and I became determined to give myself and others the missing tool that could help us survive.

I envisioned Donna's Law, named for my mother, as a way to enable people who feel they are at risk for suicide to willingly suspend their ability to purchase a gun. One can remove the prohibition whenever they choose. It takes several weeks processing time for their ability to pass a background check to restore their access. And as it's a completely voluntary and personal prohibition, it does not interfere with one's Second Amendment rights.

Donna's Law was brought to life by myself and University of Alabama law professor Fred Vars, who wrote the model legislation. Our local newspaper picked up the story of my quest and endorsed the bill. Through that media attention, I was able to secure a state representative to sponsor Donna's Law in Louisiana. I got my day at the State Capitol, but the bill was deferred and never brought forward for a vote.

However, three other states — Washington, Virginia and Utah — have adopted legislation and on July 13, 2022, House Bill H.R. 8361, known as The Preventing Suicide Through Voluntary Firearm Purchase Delay Act, was introduced by Congresswoman Pramila Jayapal (D WA) and Congressman John Curtis (R UT).

The bill will require the Attorney General to “establish and maintain a secure internet-based platform, separate from other databases in the national instant criminal background check system.” An individual can remove themselves from the list at any time, but there is a 21-day waiting period before they are able to purchase a firearm again. There is also a provision that they can be removed from the list within 24 hours if a mental health professional declares that an individual “does not present a substantial risk of harm to self.” There is no limit to the number of times a person can add or remove themselves from the list. The bill is being endorsed by the American Foundation for Suicide Prevention, Depression and Bipolar Support Alliance, National Alliance on Mental Illness, National Education Association, and Suicide Awareness Voices of Education.

I'm not at the end of this story yet. Hopefully this bill is enacted federally, so others might be able to protect themselves and their families. Sixty percent of deaths from guns in the U.S. are suicides and guns are responsible for roughly half of suicide deaths in this country. We often assume that people who die by suicide wanted to die, but it is often not the case. Many people, like my mom, want to live and if given protection during times of crisis, they can survive.

I know my mom would have signed up for this prohibition. She gave up all of her freedoms and comforts to commit herself to inpatient hospitalizations in an effort to save her life. Who knows what could have happened if she had this one

additional tool. I know this legislation won't prevent every suicide, but it will save 100% of somebody's mom.

You can help me by asking your congressperson to support the Preventing Suicide Through Voluntary Firearm Purchase Delay Act H.R. 8361. More info is available at www.DonnasLaw.com.

If you or someone you know needs help, dial 988 or call 1-800-273-8255 for the National Suicide Prevention Lifeline. You can also get support via text by visiting suicidepreventionlifeline.org/chat. Outside of the U.S., please visit the International Association for Suicide Prevention for a database of resources.

Katrina Brees is a parade-based artist activist in New Orleans. Her creative contributions to the Mardi Gras culture include audience favorites such as her dance troupe, The Bearded Oysters and The Kolossos Bike Zoo. Katrina began her activism as a trendsetter within the Green the Gras movement, encouraging ecologically responsible parading.

Like me, many Americans struggle with suicidal thoughts. This law can help us.

By Bryan Barks (The Washington Post, August 30, 2022)

Despite the tireless work of mental health professionals and suicide prevention advocates, tens of thousands of Americans die by suicide each year. While suicide is a complex problem with no single solution, preventing it requires innovative tools. One of these is a bipartisan bill newly proposed in Congress that would separate those struggling with suicidal thoughts from the weapon most likely to make a suicide attempt fatal: guns.

I should know. I was 19 when I was diagnosed with bipolar disorder. The darkness has hovered above me my entire adult life. Depression and suicidality swirl together like a rain cloud, waiting to pour. I look up, hoping my life won't come apart. Most days, it doesn't. Most days, I am well. Most days, I go to work and try to prevent suicide among other people. But sometimes, I am unwell. And when I am unwell, I often think about methods I could use to kill myself. When I am dangerously unwell, I research those methods in depth.

At such times, I have been lucky and have gotten help that saved my life. During periods of acute suicidality, I have received inpatient psychiatric treatment numerous times. Too many others never do. In 2020, nearly 46,000 people died by suicide.

I take precautions to prevent and cope with the dark moments. It's easier to prepare for periods of illness ahead of time. But even after 12 years of managing this illness, I cannot always feel a mood episode coming on. Often, it feels as if I only see the signs in hindsight. It's harder to grapple with these moments when I am not well, when I am not thinking clearly.

When I am well, I want nothing more than to preserve my peace, protect my life and fend off the suicidal urges that the unwell version of myself feels compelled to act on. For me and others like me, there is a need for tools to help us preempt suicidal crises while our minds are clear and calm.

This is where House Bill H.R. 8361 comes in. The bipartisan bill, introduced in July, is known as the Preventing Suicide Through Voluntary Firearm Purchase Delay Act. It would allow individuals to voluntarily put themselves on a federal no-buy list, preventing them from buying guns from a licensed dealer. The bill would require the attorney general to establish and maintain a secure internet-based database, separate from other databases in the national instant

criminal background check system. This would be known as the “Voluntary Purchase Delay Database.”

If someone later wished to remove themselves from the database, they could do so after a 21-day waiting period — a safeguard against the impulsivity that sometimes characterizes suicide attempts. As currently written, the bill also includes a more controversial provision that would allow individuals to be removed after 24 hours with a note from a mental health professional.

The Preventing Suicide Through Voluntary Firearm Purchase Delay Act is not unprecedented. Three states — Utah, Virginia and Washington — currently have similar voluntary self-prohibition laws. Washington’s law went into effect in 2019, Utah’s and Virginia’s in 2021. As the laws are new, the data on the effectiveness of voluntary self-prohibition is limited, but the federal bill’s sponsors — Rep. Pramila Jayapal (D-Wash.) and Rep. John Curtis (R-Utah) — represent two of the states with such laws on the books, indicating confidence in the model.

People like me, who recognize that they are prone to suicidality, need this act. Research shows that access to firearms increases the risk of suicide. By allowing individuals to preemptively put a barrier between themselves and the most lethal method, we can save lives. This bill would give people prone to suicidality the agency to make decisions about their own access to guns during periods when they are not actively suicidal.

I have mental clarity most of the time, but I know the storms will come again. I want to have the ability to preempt crises. I want to have the ability to protect myself from the version of me that is not thinking clearly. People who are prone to suicidal thoughts and behaviors need this bill, which allows us to protect ourselves from our unwell selves. We need this policy, which gives us the agency to make preemptive decisions about our own health.

Please, give us the tools to preserve our lives.

If you or someone you know needs help, call the Suicide and Crisis Lifeline at 988 or visit [988lifeline.org](https://www.988lifeline.org). You can also text a crisis counselor by messaging the Crisis Text Line at 741741.

Bryan Barks is a writer and mental health advocate in Baltimore.

A new tool to reduce veteran suicide

BY IAN AYRES AND FREDRICK VARS (The Hill, Veterans Day, 2020)

On this Veterans Day, we have to remember our sacred duty toward those who sacrifice for our country. Abraham Lincoln described the imperative “to care for him who shall have borne the battle and for his widow and his orphan.” This duty extends far beyond the physical effects of battle to the psychological scars that can often lead to suicide. Access to firearms is a deadly part of this issue that our leaders cannot afford to ignore.

An estimated 20 veterans die daily from suicide. About 70 percent of the suicides by veterans involve firearms versus 50 percent of the suicides by those who are not veterans. This problem is likely worsened with isolation, economic dislocation, and rising gun sales associated with the pandemic. Congress enacted recent legislation aimed to reduce veteran suicide, but it removed a critical provision over gun safety at the last minute.

Limited access to firearms amid a suicide crisis is proven to save lives. A mandate for an individual who buys a firearm to wait for a period of time before receiving the gun has been shown to reduce firearm suicide with no significant substitution of other methods. Most people who consider firearm suicide without access to a gun do not switch to any alternative method. Those who do seek methods that are less deadly than firearms, as the vast majority of individuals who survive a suicide attempt will not try again. Owning a gun is tied to a much higher risk of suicide.

Two states have acted on these statistics with a new law. In Washington and soon in Virginia, anyone can confidentially add their own name to a “do not sell” list that blocks future gun purchases. One can later change his or her mind and be removed from the list, but that would take effect after a delay period. It enforces a waiting period for gun purchases. For Virginia, both purchases and possession of firearms are barred.

Research shows that those at risk of suicide would take advantage of this. But how about veterans who own firearms at higher rates? Could veterans support this law? Would they sign up for it if states use it? We conducted a recent survey of 1,000 veterans to find out. A majority of them support the list. In the raw results, the ban on both purchases and possession was less popular among veterans than a ban on only purchases. But this difference was not significant

after control of other variables, and a slight majority of veterans with the survey still back the more restrictive measure.

A significant fraction of veterans would sign up for the program. Overall, 22 percent of veterans said they would sign up for the sole restriction on purchases. The double restriction for both purchases and possession was less attractive, as 14 percent said they would sign up for it. Veterans were much less likely to give up their right to own a firearm than to give up the right to buy one. But the bottom line is that many in this higher risk group are willing to allow distance between themselves and firearms.

While Congress missed a chance to address gun suicide among veterans, the Department of Veterans Affairs has been more proactive. It launched a recent initiative to reduce suicide by encouraging veterans to safely store firearms. The “do not sell” list can save even more lives and should now be among the programs enacted by states around the country. This measure will not end veteran suicide, however, it would likely reduce it.

Ian Ayres is a professor and deputy dean of Yale Law School. Fredrick Vars is a professor at University of Alabama Law School. They are the authors of [“Weapon of Choice: Fighting Gun Violence While Respecting Gun Rights.”](#)

If you or someone you know needs help, call the Suicide and Crisis Lifeline at 988 or visit 988lifeline.org. You can also text a crisis counselor by messaging the Crisis Text Line at 741741.

Voluntary Do-Not-Sell Lists — An Innovative Approach to Reducing Gun Suicides

Fredrick E. Vars, J.D. (New England Journal of Medicine, 383;14 Oct. 1, 2020)

Suicide is a public health crisis. Self-harm was the 10th leading cause of death in the United States in 2018, claiming tens of thousands of lives.¹ No single policy can be expected to eliminate a problem of this magnitude. In April 2020, however, Virginia joined Washington State in adopting an innovative tool — allowing people to place themselves on a “do not sell firearms” list — that could prevent a substantial number of suicides. Clinicians can counsel patients at risk for suicide about this option where it is available.

Roughly half of all suicides involve a firearm, according to the Centers for Disease Control and Prevention, and firearms are by far the deadliest common means of suicide. The laws establishing the new programs, known in Washington as the Voluntary Waiver of Firearm Rights program and in Virginia as the Voluntary Do Not Sell Firearms List, allow people to confidentially put their own names into the federal firearm background-check system to prevent their own future gun purchases. Participants can change their minds and request to have their names removed from the system, but there is a delay in implementing such requests. Delaying firearm purchases has been found to reduce gun suicides without increasing the number of suicides carried out by other means,¹ so substitution of other methods is unlikely to undermine the life-saving potential of these laws.

Laws establishing voluntary do-not-sell programs can be, and have been, tailored to align with policy preferences and existing gun laws in individual states. The three most important implementation choices are related to registration, removal of names from do-not-sell lists, and the scope of restrictions. Bills in California, Louisiana, and Tennessee sought to maximize participation in these programs by providing for easy, Internet-based registration, but the estimated cost of creating and maintaining a secure website proved to be a substantial barrier to passage. Requiring in-person registration (as Washington has done) is less expensive for the state, but more burdensome for participants. Providing a registration-by-mail option (as Virginia has done) may achieve higher participation at relatively low cost.

Provisions related to the removal of names from do-not-sell lists also vary. In Washington, people who have chosen to participate in the state’s program can change their minds beginning 7 days after registration, but they must request to

be removed from the list in person at a county clerk's office. Virginia's law permits requests for removal both in person and by mail, but removal doesn't take effect until 21 days after the request has been filed. Bills introduced in Wisconsin and Utah provided that names would be removed after a fixed amount of time, a provision that limits ongoing protection against suicide. In contrast, a bill introduced in California would have required that a removal request made during the first year after registration be supported by a declaration from a clinician that the person did not present a danger to self or others.

The critical scope-of-restriction question is whether to prevent only the purchase of new firearms or to also prohibit firearm possession by people who sign up for a do-not-sell program. A purchase-only restriction can be effective because many suicides involve recently purchased firearms.² The rationale for prohibiting possession is to prevent suicides using firearms that weren't recently purchased, which still account for most gun suicides. Washington's law restricts purchase only — as most bills introduced in other states have proposed doing — but Virginia's law also penalizes firearm possession as a misdemeanor resulting in a fine.

Whatever the precise mechanisms, these programs will save lives only if people sign up for them. There are good reasons to think many would. Laws creating voluntary do-not-sell programs are sometimes known as "Donna's Law," after Donna Nathan, who in 2018 voluntarily admitted herself for inpatient psychiatric treatment. Unlike civil commitment, a voluntary admission generally doesn't result in termination of gun rights. In the midst of a crisis later that year, Nathan was therefore able to legally purchase a handgun and use it to kill herself the same day. Nathan's daughter, Katrina Brees, believes that her mother would have willingly restricted her own legal ability to purchase a gun if she had had that option.

Data show that many people want to restrict their own ability to purchase firearms. In a survey of 200 patients receiving psychiatric care in Alabama, 46% said they would register for a do-not-sell program if it were available.³ A more general survey of Internet users found that 31% wanted to participate in such a program.⁴ Even if actual participation doesn't reach such high levels, these laws could save many lives.

Clinicians routinely assess their patients' risk of suicide, yet they are limited in terms of the practical interventions they can use for patients who are not actively suicidal but who fear they may become so. When a mentally ill patient is actively

suicidal, a doctor can initiate proceedings to involuntarily hospitalize the patient. The requisite level of danger is sometimes not specified in the statute, but, either expressly or as a matter of practice, the level of danger must be high and such danger must be fairly immediate to justify such a deprivation of liberty. In a few states, mental health professionals can also cut off a person's access to firearms by directly petitioning a court for an extreme risk protection order (ERPO). In other states with ERPO laws, the patient's family or law enforcement must file the petition; a clinician can make a recommendation for firearm removal but can't file the petition. The standards for firearm removal included in ERPO laws vary, but all such laws are focused on periods of high risk. Civil commitment and ERPOs can be powerful tools for addressing emergencies and extended periods of substantially elevated risk, if a high level of danger is detected.

In contrast, laws like those passed in Washington and Virginia can reduce suicide risk consensually and indefinitely in advance of a crisis. The majority of people who die by suicide see a primary care provider in the year before their death.⁵ Clinicians are in an ideal position to counsel appropriate patients about putting their names on a do-not-sell list.

Doctors regularly encourage people to execute advance directives for medical decisions. Voluntary do-not-sell lists create the option for patients to execute an advance directive for firearm-related decisions. Laws that create such programs enhance patient autonomy by empowering patients to protect themselves from themselves. The laws preserve patients' central role in their own health care decision making, unlike other interventions designed for moments of crisis.

Some doctors may be reluctant to discuss firearms with patients, but a conversation about do-not-sell programs should not be confrontational. Such programs give people who have chosen not to own a firearm the chance to solidify that choice. A doctor who raises the possibility of participation in one of these programs is reaffirming a patient's existing preference, not pushing for a change in views or behaviors regarding sensitive gun-related topics. Clinicians need only educate the patient about this option — the choice to participate remains the patient's alone.

The problem of suicide is so vast that an array of solutions is needed. Laws establishing voluntary do-not-sell programs are certainly no panacea — they may have a limited effect on a person's risk of committing suicide using long-held firearms, for example, and private gun transfers allowed without a background check in some states will escape their reach — but they are a creative and

promising approach. Clinicians in Washington, and soon those in Virginia, can lead the way in educating patients about their options under these laws. Clinicians elsewhere can support efforts to pass such laws in their own states.

NOTES

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If you or someone you know needs help, call the Suicide and Crisis Lifeline at 988 or visit [988lifeline.org](https://www.988lifeline.org). You can also text a crisis counselor by messaging the Crisis Text Line at 741741.

Appendix B: Model State Bill (March 1, 2024)

“Donna’s Law” (or “The [State Name] Voluntary Do-Not-Sell Act”)

BE IT ENACTED BY [XXX]:

SECTION 1. *[DEFINITIONS]*

- (a) This Act is known and may be cited as “Donna’s Law” *[or “The Voluntary Do-Not-Sell Act”]*.
- (b) For purposes of this Act, the “Agency” is the state agency responsible for transmitting state records to the national instant criminal background check system. *[This is usually the state law enforcement agency.]*
- (c) For purposes of this Act, the “List” is the state record of current participants.
- (d) For purposes of this Act, “health care provider” means a person who provides health care or professional services related to health care and is acting within the scope of the person’s license, certification, practice, education, or training.

SECTION 2. *[FORMS]*

- (a) The Agency shall develop a form requesting to be added to the List, a form requesting to be removed from the List, and a form requesting to be removed from the List on an expedited basis. The forms must contain a signature line for the requesting person and state that the form is signed under penalty of perjury. The forms must include all information necessary for identification and entry of the person into the national instant criminal background check system to identify prohibited possessors or purchasers of firearms.
- (b) The forms must be made available to the public on the Agency’s official website, *[the official websites of the Health, Public Health, Mental Health departments, the state courts, and the [appropriate court] in every county, or their equivalents]*. The forms must be distributed to all *[appropriate court]* clerks and to all facilities in which health care providers provide health care or professional services related to health care within the scope of the provider’s license, certification, practice, education, or training.
- (c) The Agency shall ensure that the form requesting to be added to the List provides an email notification option that allows the person, at the time of the request to be added or thereafter, to provide one or more email addresses of another person or persons to be notified by the Agency within 24 hours if the

person on the List subsequently requests removal. Providing an email address under this subsection constitutes an express authorization of the use of the email address for purposes of this subsection only.

SECTION 3. [PROCESS]

(a) A person may submit a signed form requesting to be added to the List to an appropriate employee at any state department of motor vehicles (DMV) office, which has the effect of prohibiting the person from receiving or possessing a firearm while the person is on the List. The DMV employee must request valid government-issued photo identification to verify the person's identity prior to accepting the form. By the end of the business day on which the form was received, the DMV office must transmit the accepted form to the Agency.

(b) A person may submit a signed form requesting to be added to the List to any health care provider. The health care provider shall verify the person's identity before accepting the form and may not accept a form from someone other than the person named on the form. By the end of the business day on which the form was received, the provider shall electronically deliver the person's completed form to the Agency.

(c) A person may submit by mail a signed form requesting to be added to the List to the Agency. The form must be accompanied by a photocopy of a government-issued form of identification to verify the person's identity prior to accepting the form.

(d) A person may submit a form requesting to be added to the List electronically to the Agency by short message service or multimedia messaging service with a copy of a government-issued form of identification with photo and a photographic portrait of the person that contains exchangeable image file format data proving that the photographic portrait was taken within one hour prior to transmission to the Agency.

(e) The Agency must enter the person requesting to be added to the List into the national instant criminal background check system and other federal or state computer-based systems used by law enforcement agencies to identify prohibited purchasers and possessors of firearms within twenty-four (24) hours of receipt of the form. The Agency shall notify such person by mail that he or she has been enrolled onto the List.

(f) *Normal Removal.* At any time after requesting to be added to the List, the person may submit a signed form requesting to be removed from the List by

any of the methods set forth in subsections (a)-(d). Unless the person is otherwise prohibited from possessing or purchasing a firearm under state or federal law, twenty-one (21) calendar days after receipt of the request for removal:

- (1) the Agency shall remove the person and all of their information from the national instant criminal background check system and other federal or state computer-based systems used by law enforcement to identify prohibited possessors and purchasers of firearms in which the person's information was entered; and
- (2) the Agency shall destroy all identifying records related to the person being added and removed from the List.

(g) *Expedited Removal*. At any time after requesting to be added to the List, the person may file a signed expedited removal request form with the *[appropriate court]*. There shall be no filing fees for such a request. The court within forty-eight (48) hours of receipt shall hold a hearing with adequate notice to the person. The court shall determine by a preponderance of the evidence whether the request is voluntary, knowing, and intelligent. No later than twenty-four (24) hours after the conclusion of the hearing, the court shall inform the person of the court's determination and, if the court determines that the request is voluntary, knowing, and intelligent, the court shall instruct the Agency to immediately remove the person from the List, unless the person is otherwise prohibited from possessing or purchasing a firearm under state or federal law. If the court determines that the request is not voluntary, knowing, and intelligent, the person may nonetheless request removal using the normal removal process outlined in subsection (f). If ordered by the Court:

- (1) the Agency shall remove the person and all of their information from the national instant criminal background check system and other federal or state computer-based systems used by law enforcement to identify prohibited possessors and purchasers of firearms in which the person's information was entered; and
- (2) the Agency shall destroy all identifying records related to the person being added and removed from the List.

SECTION 4. *[PENALTIES]*

(a) A person who knowingly makes a false statement as part of a request to be added to or removed from the List commits the offense of perjury under *[appropriate state perjury/false statements statute]*. This includes, but is not limited to, making a request on behalf of someone else.

(b) It shall be an *[appropriate class of felony---knowingly transferring a firearm to a person who is prohibited by federal law can be punished by up to 10 years---that may be too harsh, but the penalty has to be big enough to deter sales]* to intentionally sell or transfer a firearm to a person who is known by the transferor to be on the List.

(c) A person on the List who knowingly receives or possesses a firearm shall be subject to a fine not exceeding one hundred dollars (\$100) or four (4) hours of community service.

(d) It shall be an *[appropriate misdemeanor]* to coerce another person to add or remove themselves from the List.

SECTION 5. *[CONFIDENTIALITY]*

(a) A person's being added to the List, being on the List, or being removed from the List shall not be considered by a court in a legal proceeding in which the person executing the form is a party, except a civil proceeding under subsection 3(b) or a criminal prosecution under subsection 3(a).

(b) Records obtained and produced under this section are confidential and are not open records pursuant to *[appropriate open records act]*, except that such information may be disclosed to a law enforcement officer acting in the performance of the officer's official duties, to the parties in the course of a criminal prosecution, or to the applicant with respect to the applicant's own information. Notwithstanding any contrary state law or regulation, or repeal of any part of this Act, the provisions of this subsection shall not expire and these records shall remain confidential.

SECTION 6. *[ANTI-DISCRIMINATION]*

(a) An insurer as defined in *[appropriate statute]* may not inquire as to whether a person is on the List. An insurer may not deny coverage, modify the terms of an insurance contract, or discriminate in any other way against an individual because that person has requested to be added to the List, is on the

List, has requested to be removed from the List, or was on the List at any time in the past.

(b)(1) An employer as defined in *[appropriate statute]* may not inquire as to whether a person is on the List. An employer not may refuse to consider, interview, or hire an individual and may not take any adverse action related to employment against a current or former employee because that person has requested to be added to the List, is on the List, has requested to be removed from the List, or was on the List at any time in the past.

(b)(2) Section (b)(1) does not apply with respect to any position that requires an employee to possess a firearm.

(c) A person may not take any adverse action related to housing because a person has requested to be added to the List, is on the List, has requested to be removed from the List, or was on the List at any time in the past.

(d) The State, its agencies, or political subdivisions may not condition or alter any governmental benefits or services because a person has requested to be added to the List, is on the List, has requested to be removed from the List, or was on the List at any time in the past.

(e) An educational institution as defined in *[appropriate statute]*, may not inquire whether an individual is on the list or take any adverse action related to education because a person has requested to be added to the List, is on the List, has requested to be removed from the List, or was on the List at any time in the past, unless the institution is acting as an employer and is in compliance with subsection (b)(2).

(f) A health care provider may not deny any service to or take any adverse action related to healthcare because a person has requested to be added to the List, is on the List, has requested to be removed from the List, or was on the List at any time in the past.

(g) A violation of subsections (a) through (f) of this section gives rise to a private cause of action, following the same procedures and remedies outlined in *[appropriate analogous state anti-discrimination law]*.

(h) A knowing violation of subsections (a) through (f) of this section that is shown to be part of pattern or practice is a *[appropriate class of misdemeanor]*, punishable by imprisonment for up to one year and a fine of no less than \$1000

and no more than \$10,000 for an individual defendant or a fine of no less than \$10,000 and no more than \$200,000 for a group of individuals or an entity.

SECTION 7. *[IMPLEMENTATION]*

(a) The Board of Examiners in Counseling, Board of Examiners in Social Work, Board of Nursing, Board of Examiners in Psychology, Board of Medical Examiners, and other state licensing entities for health care providers *[these board names may need to be adjusted to fit state law and other boards may need to be added]* shall adopt rules to inform licensees about the List and to encourage licensees to inform the public about the List.

(b) It shall be a non-binding best practice for health care providers to explain the List and to offer the List as an option to any recipient of their services whom the health care provider knows has attempted suicide, has reason to believe may have attempted suicide, or may be at elevated risk of suicide for another reason.

(c) The Agency may promulgate rules necessary to effectuate the purposes of this Act pursuant to the Uniform Administrative Procedures Act, compiled in *[appropriate statute]*.

(d) For purposes of developing forms and promulgating rules, this Act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, this Act takes effect on *[a later date that gives the state enough time to comply with the requirements of this Act (shouldn't be more than a year)]*, the public welfare requiring it.