

# C.R.S. 13-9-123

## Copy Citation

Statutes current through Chapter 220 of the 2021 Regular Session and effective as of June 10, 2021. The inclusion of the 2021 legislation is not final. It will be final later in 2021 after reconciliation with the official statutes, produced by the Colorado Office of Legislative Legal Services.

- [Colorado Revised Statutes Annotated](#)
- [Title 13. Courts and Court Procedure \(§§ 13-1-101 — 13-94-111\)](#)
- [Courts of Record \(Arts. 1 — 9\)](#)
- [Article 9. Probate Court of Denver \(§§ 13-9-101 — 13-9-124\)](#)

## 13-9-123. National instant criminal background check system - reporting

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**(1)** On and after March 20, 2013, the state court administrator shall send electronically the following information to the Colorado bureau of investigation created pursuant to section 24-33.5-401, referred to in this section as the "bureau":

**(a)** The name of each person who has been found to be incapacitated by order of the court pursuant to part 3 of article 14 of title 15, C.R.S.;

**(b)** The name of each person who has been committed by order of the court to the custody of the office of behavioral health in the department of human services pursuant to section 27-81-112; and

**(c)** The name of each person with respect to whom the court has entered an order for involuntary certification for short-term treatment of a mental health disorder pursuant to section 27-65-107, for extended certification for treatment of a mental health disorder pursuant to section 27-65-108, or for long-term care and treatment of a mental health disorder pursuant to section 27-65-109.

**(1.5)** Not more than forty-eight hours after receiving notification of a person who satisfies the description in paragraph (a), (b), or (c) of subsection (1) of this section, the state court administrator shall report such fact to the bureau.

**(2)** Any report made by the state court administrator pursuant to this section shall describe the reason for the report and indicate that the report is made in accordance with 18 U.S.C. sec. 922 (g)(4).

**(3)** The state court administrator shall take all necessary steps to cancel a record made by the state court administrator in the national instant criminal background check system if:

**(a)** The person to whom the record pertains makes a written request to the state court administrator; and

**(b)** No less than three years before the date of the written request:

**(I)** The court entered an order pursuant to section 15-14-318, C.R.S., terminating a guardianship on a finding that the person is no longer an incapacitated person, if the record in the national instant criminal background check system is based on a finding of incapacity;

**(II)** The period of certification or commitment of the most recent order of certification, commitment, recertification, or recommitment expired, or the court entered an order terminating the person's incapacity or discharging the person from certification or commitment in the nature of habeas corpus, if the record in the national instant criminal background check system is based on an order of certification or commitment to the custody of the office of behavioral health in the department of human services; except that the state court administrator shall not cancel any record pertaining to a person with respect to whom two recommitment orders have been entered pursuant to section 27-81-112 (7) and (8), or who was discharged from treatment pursuant to section 27-81-112 (11), on the grounds that further treatment is not likely to bring about significant improvement in the person's condition; or

**(III)** The record in the case was sealed pursuant to section 27-65-107 (7), or the court entered an order discharging the person from certification in the nature of habeas corpus pursuant to section 27-65-113, if the record in the national instant criminal background check system is based on a court order for involuntary certification for short-term treatment of a mental health disorder.

(4) Pursuant to section 102 (c) of the federal "NICS Improvement Amendments Act of 2007" (Pub.L. 110-180), a court, upon becoming aware that the basis upon which a record reported by the state court administrator pursuant to subsection (1) of this section does not apply or no longer applies, shall:

(a) Update, correct, modify, or remove the record from any database that the federal or state government maintains and makes available to the national instant criminal background check system, consistent with the rules pertaining to the database; and

(b) Notify the attorney general that such basis does not apply or no longer applies.

## History

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**Source:** **L. 2002:** Entire section added, p. 754, § 2, effective January 1, 2003. **L. 2010:** (1)(b), (1)(c), (3)(b)(II), and (3)(b)(III) amended, (SB 10-175), ch. 188, p. 781, § 16, effective April 29. **L. 2013:** IP(1), (2), IP(3), (3)(a), and (3)(b)(II) amended and (1.5) and (4) added, (HB 13-1229), ch. 47, p. 134, § 4, effective March 20. **L. 2017:** IP(1), (1)(b), and (3)(b)(II) amended, (SB 17-242), ch. 263, p. 1252, § 7, effective May 25. **L. 2018:** (1)(c) and (3)(b)(III) amended, (SB 18-091), ch. 35, p. 383, § 10, effective August 8. **L. 2020:** (1)(b) amended, (SB 20-007), ch. 286, p. 1414, § 44, effective July 13; (3)(b)(II) and (3)(b)(III) amended, (SB 20-136), ch. 70, p. 282, § 4, effective September 14.

### ▼ Annotations

#### State Notes

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## ANNOTATION

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**Certification for involuntary short-term mental health treatment entered by a professional person under § 27-65-107 is not a court order under subsection (1)(c) of this section** and a person's information should not be sent to the bureau for forwarding on to the National Instant Criminal Background Check System, which would subject the person to federal firearms prohibitions. *Ray v. People*, 2019 COA 24, 456 P.3d 54.

#### Research References & Practice Aids

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#### Cross references:

For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017. For the legislative declaration in SB 18-091, see section 1 of chapter 35, Session Laws of Colorado 2018. For the legislative declaration in SB 20-136, see section 1 of chapter 70, Session Laws of Colorado 2020.

