

No. 20-56174

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IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

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MATTHEW JONES, *et al.*,

*Plaintiffs / Appellants,*

vs.

XAVIER BECERRA, in his official capacity as Attorney General of  
the State of California, *et al.*,

*Defendants / Appellees.*

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ON APPEAL FROM THE UNITED STATES DISTRICT  
COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

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**BRIEF OF *AMICI CURIAE* GIFFORDS LAW CENTER TO  
PREVENT GUN VIOLENCE, BRADY, THE AMERICAN  
FEDERATION OF TEACHERS, AND THE CALIFORNIA  
FEDERATION OF TEACHERS IN SUPPORT OF  
APPELLEES AND AFFIRMANCE**

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January 26, 2021

## **CORPORATE DISCLOSURE STATEMENT**

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## INTEREST OF AMICI CURIAE<sup>1</sup>

*Amicus curiae* Giffords Law Center to Prevent Gun Violence (“Giffords Law Center”) is a non-profit policy organization dedicated to researching, writing, enacting, and defending laws and programs proven to effectively reduce gun violence. The organization was founded more than a quarter-century ago following a gun massacre at a San Francisco law firm and was renamed Giffords Law Center in October 2017 after joining forces with the gun-safety organization founded by former Congresswoman Gabrielle Giffords. Today, Giffords Law Center provides free assistance and expertise to lawmakers, advocates, legal professionals, law enforcement officials, and citizens who seek to improve the safety of their communities. Giffords Law Center has provided informed analysis as an *amicus* in many other firearm-related cases, including *District of Columbia v. Heller*, 554 U.S. 570 (2008), *McDonald v. City of Chicago*, 561 U.S. 742 (2010), *Fyock v.*

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<sup>1</sup> Appellants and Appellees have both consented to *amici curiae* filing this brief. See Fed. R. App. P. 29(a)(2). No counsel for a party authored this brief in whole or in part; no such counsel or party made a monetary contribution intended to fund the preparation or submission of this brief; and no person other than *amici curiae*, their members, or their counsel made such a monetary contribution. See Fed. R. App. P. 29(a)(4)(E).

*City of Sunnyvale*, 779 F.3d 991 (9th Cir. 2015), and *Teixeira v. County of Alameda*, 873 F.3d 670 (9th Cir. 2017) (en banc).<sup>2</sup>

*Amicus curiae* Brady (formerly the Brady Center to Prevent Gun Violence) is a non-profit organization dedicated to reducing gun violence through education, research, and legal advocacy. Brady has a substantial interest in ensuring that the Constitution and state laws are properly interpreted to allow strong government action to prevent gun violence. Through its Legal Action Project, Brady has filed numerous briefs in support of government regulation of firearms, including in *McDonald*, 561 U.S. 742, *United States v. Hayes*, 555 U.S. 415 (2009), *Heller*, 554 U.S. 570, and *Fyock*, 779 F.3d 991. Further, Brady filed *amicus* briefs supporting federal minimum age laws in *Nat'l Rifle Ass'n of Am., Inc. v. Bureau of Alcohol, Tobacco, Firearms, and*

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<sup>2</sup> Several courts have cited research and information from Giffords Law Center's *amicus* briefs in Second Amendment rulings. *E.g.*, *Hirschfeld v. Bureau of Alcohol, Tobacco, Firearms & Explosives*, 417 F. Supp. 3d 747, 754, 759 (W.D. Va. 2019); *Ass'n of N.J. Rifle & Pistol Clubs v. Att'y Gen. N.J.*, 910 F.3d 106, 121-22 (3d Cir. 2018); *Md. Shall Issue v. Hogan*, 353 F. Supp. 3d 400, 403-05 (D. Md. 2018); *Stimmel v. Sessions*, 879 F.3d 198, 204, 208, 210 (6th Cir. 2018); *Peruta v. County of San Diego*, 824 F.3d 919, 943 (9th Cir. 2016) (en banc) (Graber, J., concurring). Giffords Law Center filed the last two briefs under its former name, the Law Center to Prevent Gun Violence.

*Explosives*, 700 F.3d 185 (5th Cir. 2012) and *Hirschfeld v. Bureau of Alcohol, Tobacco, Firearms, and Explosives*, No. 19-2250 (4th Cir. 2020).

*Amicus curiae* the American Federation of Teachers (“AFT”) is a union representing 1.7 million members in more than 3,000 affiliates nationwide, including educators and other school personnel, healthcare professionals, and public employees. The AFT has a long history of championing commonsense gun safety laws that protect its members, their families, and the communities the organization serves.

*Amicus curiae* the California Federation of Teachers (“CFT”) is the state affiliate of the American Federation of Teachers. Through its local union affiliates, the CFT represents approximately 100,000 teachers, education professionals, and classified employees working in California’s K-12 school districts, community college districts, the University of California system, and public and private schools and colleges. In recent years, the CFT and its affiliates have adopted resolutions and otherwise supported measures to maintain and affirm schools as weapon-free zones, improve public safety through sensible gun safety policies, and adopt federal and state assault weapons bans.

## INTRODUCTION AND SUMMARY OF ARGUMENT

America is in the throes of a gun violence epidemic. Each year, nearly 38,000 Americans die from gun violence—an average of 100 people per day.<sup>3</sup> The data makes clear that this epidemic is especially devastating to young people: 18-to-20-year-olds are at disproportionate risk of falling victim to gun violence, both at the hands of others and through suicide. They also disproportionately use firearms to commit crime, including mass shootings.<sup>4</sup> Cognitive science explains these troubling statistics: 18-to-20-year-olds are more impulsive and volatile than adults because their brains are still developing. That impulsivity makes them more likely to use guns irresponsibly.

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<sup>3</sup> Centers for Disease Control and Prevention, Web-Based Injury Statistics Query System (WISQARS), Fatal Injury Reports, <https://www.cdc.gov/injury/wisqars> (last visited Jan. 24, 2021). Figures represent an average of the five years of most recently available data: 2014 to 2018.

<sup>4</sup> See Federal Bureau of Investigation, U.S. Department of Justice Uniform Crime Reporting Program Data: Supplementary Homicide Reports, 2014–2018, Ann Arbor Inter-university Consortium for Political and Social Research (Data showing that, although 18-to-20-year-olds make up just 4% of California’s population, they account for 13% of homicide offenders, and that 70% of offenders in this age range used firearms to kill. This count includes all offenders, including co-offenders.).



California lawmakers recognized this when they enacted California Penal Code § 27510 (“Section 27510”). Section 27510 amended a 2011 law that restricted 18-to-20-year-olds from purchasing handguns, but did not extend to long guns—a category that includes assault rifles. Following the devastating February 2018 school shooting in Parkland, Florida, in which a 19-year-old gunman used an assault rifle to kill seventeen people and wound seventeen others, the California Legislature re-examined the distinction between handguns and long guns. SB 1100 Senate Floor Analysis (May 26, 2018), at 5 (considering Parkland massacre).<sup>5</sup> In particular, the Legislature considered the fact that 11,500 of the 26,682 guns entered into the California Department of Justice Automated Firearms Systems database were long guns. *Assembly Standing Committee on Public Safety Hearing of 06-19-2018*, 2017-2018 Sess. (Cal. 2018) (statement of Sen. Anthony Portantino).<sup>6</sup> The Legislature also considered the

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<sup>5</sup> SB 1100 bill analyses are available at [http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=201720180SB1100](http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201720180SB1100).

<sup>6</sup> A video of Sen. Anthony Portantino’s statement is available at <https://sd25.senate.ca.gov/video/2018-04-17/senator-portantino-presents-sb-1100-senate-public-safety-committee>.

outsized role of long guns in youth suicides. *Assembly Floor Hearing of 08-28-2018*, 2017-2018 Sess. (Cal. 2018) (statement of Assemb. Rob Bonta) (“Data shows about 38% of all suicides by people under 21 are committed with a gun, and more often than not a long gun is used rather than a handgun.”).<sup>7</sup>

Faced with these stark statistics, and the grave responsibility to protect its citizens, the California Legislature determined that Section 27510’s distinction between long guns and handguns was unsupportable. Accordingly, the Legislature amended Section 27510 through two Senate bills that operate together to prohibit federally licensed firearms dealers (“FFLs”) from transferring long guns to Californians under the age of 21, absent certain enumerated exceptions.<sup>8</sup>

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<sup>7</sup> A video of Assemb. Rob Bonta’s statement is available at <https://www.assembly.ca.gov/media/assembly-floor-session-20180828/video> (starting at 6:40:20).

<sup>8</sup> Senate Bill 1100 (“SB 1100”), enacted in 2018 and effective as of January 1, 2019, prohibits FFLs in California from transferring long guns to individuals under 21 years of age. This restriction does not apply to those who “possess[] a valid, unexpired hunting license”; are employed as peace officers, federal officers or law enforcement agents; or are members of the military. Cal. Penal Code § 27510(b). Senate Bill

Nothing in the Second Amendment prohibits California's sensible, well-calibrated solution to this clearly dangerous problem. Recognizing this in denying Appellants' motion to enjoin enforcement of Section 27510, the district court correctly held that Appellants had not met their burden on any of the three elements of the preliminary injunction test. (E.R. 18, 19.) This Court should affirm that well-reasoned decision. Appellants do not (and cannot) dispute that California's interest in reducing gun violence is "important." (Appellants' Br. at 40.) And Appellants acknowledged to the district court that 18-to-20-year-olds commit homicide "at a higher rate comparatively." (S.E.R. 46.) Nevertheless, they contend that Section 27510 "will have no effect on homicides, suicides, or mass shootings."

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61 ("SB 61"), enacted in 2019 and effective as of January 1, 2020, narrowed these exceptions by prohibiting FFLs from transferring semi-automatic centerfire rifles (a subset of long guns that does not include, for example, shotguns) to any person under the age of 21. Law enforcement agents and active and reserve members of the Armed Forces are exempted from SB 61, but the exemption does not extend to those with a hunting license or retired members of the Armed Forces. SB 61, 2019-2020 Sess. (Cal. 2019). This means that under the new measure, hunting license-holders may still purchase shotguns from FFLs, but may not purchase semi-automatic centerfire rifles from them. Neither SB 1100 nor SB 61 prevents transfers of firearms to 18-to-20-year-olds by immediate family.

(S.E.R. 52; *see* Appellants’ Br. at 43-44.) That is simply wrong. The California Legislature could reasonably rely on multiple studies finding a robust connection between the enactment of age-based restrictions, such as Section 27510, and a decline in firearm-related adolescent deaths. This is unsurprising, given the outsized role of 18-to-20-year-olds in violent crimes and suicides.

*Amici* write to provide the Court with additional neuroscience and social science research and data that demonstrate the wisdom of the California Legislature’s solution and confirm that Section 27510 comports with the Second Amendment. Appellants failed to establish that they are likely to succeed on the merits of their claim, and the district court’s order should be affirmed.

## ARGUMENT

Courts in the Ninth Circuit apply a “two-step inquiry to analyze claims that a law violates the Second Amendment.” *United States v. Torres*, 911 F.3d 1253, 1258 (9th Cir. 2019). This test “(1) asks whether the challenged law burdens conduct protected by the Second Amendment and (2) if so, directs courts to apply an appropriate level of

scrutiny.” *Id.* (quotation omitted). Section 27510 easily passes this test.

A law may be upheld as constitutional at either step of the two-step inquiry. Here, the district court correctly upheld Section 27510 at both steps. (E.R. 11, 16.) *First*, as Appellees explained, history and tradition show that state and federal governments have regulated 18-to-20-year-olds’ access to firearms since the founding of this nation.<sup>9</sup> (Appellees’ Br. at 20-29.) Section 27510 is therefore

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<sup>9</sup> Furthermore, it is beyond debate that legislatures may draw minimum age limits for various activities, including constitutionally protected ones. *See, e.g.*, U.S. CONST. art. I, § 2, cl. 2 (minimum age of 25 years old to serve as Representative); *id.*, art. I, § 3, cl. 3 (minimum age of 30 years old to serve as Senator); *id.*, art. II, § 1, cl. 5 (minimum age of 35 years old to serve as President); *see also* Cal. Bus. & Prof. Code § 25662 (minimum age of 21 years old to possess alcohol in public); *South Dakota v. Dole*, 483 U.S. 203, 206 (1987) (upholding Congress’s authority “to encourage uniformity in the States’ drinking ages” as 21 years of age); *Gabree v. King*, 614 F.2d 1, 2 (1st Cir. 1980) (recognizing that “eighteen to twenty-one year olds have historically been denied full rights of adulthood while shouldering such burdens of citizenship as military service” and rejecting equal protection challenge to state law raising drinking age to 20); *United States v. Olson*, 473 F.2d 686, 687-88 (8th Cir. 1973) (upholding prior version of federal law setting 21 as the age for jury service after Congress amended law to lower minimum age for jury service to 18); Jacqueline Howard, *The US Officially Raises the Tobacco Buying Age to 21*, CNN (Dec. 27, 2019), <https://www.cnn.com/2019/12/27/health/us-tobacco-age-21-trnd/index.html>.

constitutional at the threshold inquiry. *Second*, as explained below, legislative history and scientific data demonstrate that Section 27510 easily survives intermediate scrutiny. California’s interests in public health and safety are significant, substantial, and important, and there is a more than reasonable fit between Section 27510’s restrictions and California’s public safety objectives.

**I. THE DISTRICT COURT CORRECTLY DETERMINED THAT, AT MOST, SECTION 27510 TRIGGERS INTERMEDIATE SCRUTINY.**

The second step of the Ninth Circuit’s Second Amendment inquiry “directs courts to apply an appropriate level of scrutiny.” *United States v. Chovan*, 735 F.3d 1127, 1136 (9th Cir. 2013). “[I]ntermediate scrutiny is appropriate if a challenged law does not implicate a core Second Amendment right, or does not place a substantial burden on the Second Amendment right.” *Torres*, 911 F.3d at 1262 (quotation omitted). There is “near unanimity in the post-*Heller* case law that, when considering regulations that fall within the scope of the Second Amendment, intermediate scrutiny is appropriate.” *Id.* (quotation omitted).

This case is no exception: Section 27510 is a common-sense measure that does not substantially burden Second Amendment rights. *First*, it applies only to a class of people—minors—who fall outside the core of the Second Amendment’s protections. *See Heller*, 554 U.S. at 635 (defining the core Second Amendment right as “the right of law-abiding, *responsible* citizens to use arms in defense of hearth and home” (emphasis added)). Section 27510 applies only to minors, a group recognized throughout history to require close supervision to access firearms responsibly, and who will soon age out of the restriction. *Cf. Torres*, 911 F.3d at 1263 (applying intermediate scrutiny to regulation barring undocumented immigrants from firearm possession because restriction is temporary and does not “extend[] beyond the time that an alien’s presence in the United States is unlawful”).

*Second*, Section 27510 is a commercial regulation on sales and transfers—not a ban on possession. (*See* E.R. 12-13.) Several avenues remain open for 18-to-20-year-olds to possess and use handguns and long guns, including transfers from immediate family members and loans for target shooting. (*See* Appellees’ Br. at 8-12.) Section 27510 also provides numerous exemptions, including permitting

individuals under the age of 21 to purchase long guns (other than semi-automatic centerfire rifles) if they have a valid hunting license. Cal. Penal Code § 27510(b)(1). The Legislature found this exception appropriate because California residents who wish to obtain a hunting license must complete safety and other instruction to help ensure they use firearms responsibly. In particular, license applicants must complete the California Hunter Education Certification requirements, including an online safety course, a four-hour lesson with a certified hunter education instructor, a student demonstration of safe firearm handling, and a test.<sup>10</sup> Although simply obtaining this license would provide Appellants with complete relief, they have chosen instead to litigate through the federal courts, complaining that the one-day course on safe and responsible firearm use is “a time-consuming, pointless endeavor.” (Appellants’ Br. at 6.) But courts have upheld much more burdensome firearm eligibility requirements under intermediate scrutiny, such as the requirement that one have a criminal record expunged. *Chovan*, 735 F.3d at 1138 (“[W]hile we recognize that [the

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<sup>10</sup> See SB 1100 Senate Floor Analysis (May 26, 2018), at 6-7.



challenged law] substantially burdens Second Amendment rights, the burden is lightened by these exceptions.”).<sup>11</sup>

## **II. APPELLANTS ARE UNLIKELY TO SUCCEED ON THE MERITS BECAUSE SECTION 27510 SATISFIES MEANS-END SCRUTINY.**

In evaluating Section 27510 under intermediate scrutiny, this Court considers whether “the government’s stated objective” is “significant, substantial, or important” and whether there is “a reasonable fit between the challenged regulation and the asserted objective.” *Id.* at 1139. In doing so, courts may not “substitute [their] own policy judgment for that of the legislature.” *Pena v. Lindley*, 898 F.3d 969, 979 (9th Cir. 2018). Rather, they “must accord substantial deference to the predictive judgments of” the legislature and allow it “a reasonable opportunity to experiment with solutions to [this] admittedly serious problem[.]” *Id.* at 980 (quotations omitted).

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<sup>11</sup> Even if this Court were to apply strict scrutiny (and it should not), Section 27510 should be upheld because, for the reasons discussed further below, the Legislature narrowly tailored the law to a compelling governmental interest in safety and crime reduction. *See Chovan*, 735 F.3d at 1150 (Bea, J., concurring) (“[T]he government’s interest in public safety and preventing gun violence is sufficiently compelling and narrowly tailored to satisfy th[e] prongs of strict scrutiny analysis.”).

To determine whether this standard is met, courts may look to legislative history as well as scientific or other studies to determine whether intermediate scrutiny is satisfied. *Id.* at 979 (citing *Fyock*, 779 F.3d at 1000 (considering legislative history “as well as studies in the record or cited in pertinent case law”)). Here, both the legislative history and studies on adolescents and gun violence demonstrate that Section 27510 is a constitutional and prudent measure to address gun violence. Appellants therefore have not shown a likelihood of success, and the district court’s denial of their motion for a preliminary injunction should be affirmed.

**A. Legislative History Demonstrates that Section 27510 Is a Commonsense and Targeted Response to a Grave Public Safety Risk.**

The California Legislature amended Section 27510 to address a serious public safety concern.<sup>12</sup> California’s interest in protecting citizens is undoubtedly “substantial”; indeed, the Ninth Circuit found it “self-evident” that the government’s “interests in promoting public safety and reducing violent crime are substantial and

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<sup>12</sup> SB 1100 Assembly Floor Analysis (Aug. 23, 2018), at 3.

important government interests.” *Fyock*, 779 F.3d at 1000 (affirming denial of preliminary injunction motion).

Here, the Legislature “recognize[d] the fact that young adults ages 18 to 20 are statistically far more likely to commit homicide than older adults.”<sup>13</sup> The Legislature also considered these troubling facts: “In 2015, 23.4 percent of those arrested for murder and non-negligent manslaughter in the U.S. were under 21 and 26.5 percent of those arrested for ‘weapons carrying, possession, etc.’ were under age 21.”<sup>14</sup> Further, while “[i]ndividuals age 18 to 20 compr[ise] only 4% of the population,” they “commit 17% of gun homicides.”<sup>15</sup> Ultimately, the Legislature concluded that “[m]aturity, impulsive or reckless behavior, and responsibility vary greatly among 18-20 year olds,” which is why this age group is subject to numerous restrictions on otherwise lawful activity, including “buy[ing] alcohol, rent[ing] a car, or purchas[ing] a

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<sup>13</sup> *Assembly Floor Hearing of 08-28-2018*, 2017-2018 Sess. (Cal. 2018) (statement of Assemb. Rob Bonta).

<sup>14</sup> SB 1100 Senate Floor Analysis (Aug. 28, 2018), at 5.

<sup>15</sup> *Id.*

handgun,” and therefore that “the same age restriction should apply to long guns.”<sup>16</sup>

Prior California law set different age requirements for handguns and long guns (at 21 and 18, respectively), but the Legislature determined that statistical evidence undermined that distinction:

- “Over the years, long guns have changed . . . . Today’s semi-automatic guns are more powerful and more lethal. While handguns are used in the majority of gun deaths, long guns have been used to perpetrate many of the largest mass shootings in U.S. history, including the tragic event that took place in San Bernardino, California.”<sup>17</sup>
- “Of the 26,682 guns used in crimes that were entered into the California Department of Justice Automated Firearms Systems database, 11,500 were long guns.”<sup>18</sup>
- “[T]he two most deadly recent school tragedies have been perpetrated by people under 21 with long guns.”<sup>19</sup>

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<sup>16</sup> *Id.*; see also SB 1100 Assembly Committee on Public Safety Bill Analysis (June 18, 2018), at 2-3.

<sup>17</sup> *Assembly Floor Hearing of 08-28-2018*, 2017-2018 Sess. (Cal. 2018) (statement of Assemb. Rob Bonta).

<sup>18</sup> *Assembly Standing Committee on Public Safety Hearing of 06-19-2018*, 2017-2018 Sess. (Cal. 2018) (statement of Sen. Anthony Portantino); see also SB 1100 Senate Committee on Public Safety Bill Analysis (Apr. 16, 2018), at 6-7.

- “[A]bout 38% of all suicides by people under 21 are committed with a gun, and more often than not a long gun is used rather than a handgun.”<sup>20</sup>

The California Legislature responded to these specific and significant concerns by enacting SB 1100 and SB 61, which provide for restrictions on 18-to-20-year-olds’ access to long guns similar to those that already existed for handguns. As SB 61’s author stated, “[m]ore and more shootings are occurring with long guns so it is important that we treat the laws of both handguns and long guns the same.”<sup>21</sup>

**B. Scientific Research Confirms that the Legislature’s Concerns Were Well-Founded and Its Solution Was Data-Driven.**

Empirical research overwhelmingly supports the Legislature’s judgment: 18-to-20-year-olds are disproportionately likely to commit violent crimes, including mass shootings, and to attempt

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<sup>19</sup> *Senate Floor Hearing of 08-29-2018*, 2017-2018 Sess. (Cal. 2018) (statement of Sen. Anthony Portantino). A video of Sen. Anthony Portantino’s statement is available at <https://sd25.senate.ca.gov/video/2018-08-29/senator-portantino-senate-floor-behalf-sb-1100>.

<sup>20</sup> *Assembly Floor Hearing of 08-28-2018*, 2017-2018 Sess. (Cal. 2018) (statement of Assemb. Rob Bonta).

<sup>21</sup> SB 61 Assembly Committee on Public Safety Bill Analysis (June 24, 2019), at 3.

suicide. Firearms make violent crimes far deadlier and suicide attempts far more likely to succeed. Research also confirms that age-based firearm restrictions reduce firearm-related injuries and deaths.

1. *Eighteen-to-Twenty-Year-Olds Are Generally More Impulsive than Older Cohorts.*

The scientific literature shows that the human brain does not finish developing until the mid-to-late twenties.<sup>22</sup> The *last* part of the brain to mature is the prefrontal cortex, which is responsible for impulse control, judgment, and planning.<sup>23</sup> The prefrontal cortex matures well after the limbic system, which controls basic emotions like fear, anger, and pleasure. As a result, people in their late teens and early twenties tend to have lower self-control and to make more

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<sup>22</sup> Adam Winkler et al., *There's a Simple Way to Reduce Gun Violence: Raise the Gun Age*, WASH. POST (Jan. 6, 2016), [https://www.washingtonpost.com/posteverything/wp/2016/01/06/there-a-simple-way-to-fight-mass-shootings-raise-the-gun-age/?utm\\_term=.e8adc7e6c1da](https://www.washingtonpost.com/posteverything/wp/2016/01/06/there-a-simple-way-to-fight-mass-shootings-raise-the-gun-age/?utm_term=.e8adc7e6c1da) (“The scientific literature over the past two decades has demonstrated repeatedly that the brain does not fully mature until the mid-to-late 20s.”).

<sup>23</sup> *Id.*; see also Mariam Arain et al., *Maturation of the Adolescent Brain*, 9 NEUROPSYCHIATRIC DISEASE & TREATMENT 449, 453, 456 (2013) (“Behavioral control requires a great involvement of cognitive and executive functions. These functions are localized in the prefrontal cortex, which matures independent of puberty and continues to evolve up until 24 years of age.”).

impulsive decisions.<sup>24</sup> Eighteen-to-twenty-year-olds are prone to risk-taking, and they deprioritize long-term outcomes. *See Nat'l Rifle Ass'n*, 700 F.3d at 210 n.21 (“[M]odern scientific research supports the commonsense notion that 18-to-20-year-olds tend to be more impulsive than young adults aged 21 and over.”); *id.* (quoting submission from the American Medical Association: “The brain’s frontal lobes are still structurally immature well into late adolescence, and the prefrontal cortex is ‘one of the last brain regions to mature.’ This, in turn, means that ‘response inhibition, emotional regulation, planning and organization . . . continue to develop between adolescence and young adulthood.” (omission in original)); *Horsley v. Trame*, 808 F.3d 1126, 1133 (7th Cir. 2015) (“The evidence now is strong that the brain does not cease to mature until the early 20s in those relevant parts that govern impulsivity, judgment, planning for the future, foresight of

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<sup>24</sup> *Arain*, *supra* note 23, at 453 (“[S]tudies involv[ing] comparing a teen brain to an adult brain determined that adolescents’ prefrontal cortices are used less often during interpersonal interactions and decision making than their adult counterparts . . . provid[ing] a partial explanation for certain characteristics of adolescents and adolescent behaviors, such as quickness to anger, intense mood swings, and making decisions on the basis of ‘gut’ feelings.”).

consequences, and other characteristics that make people morally culpable.” (quotation omitted)).

In addition, minors are uniquely prone to negative emotional states.<sup>25</sup> Adolescents’ responses to “frequent” negative states “tend to be more intense, variable and subject to extremes relative to adults.”<sup>26</sup> Scientists have reasoned that “[f]eeling sad, depressed, or hopeless may be associated with the heightened rates of affective disorders, attempted and completed suicide, and addiction also observed during adolescence.”<sup>27</sup> Minors are also more likely to act on negative emotions like stress or rage, because their limbic systems have matured while

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<sup>25</sup> Leah H. Somerville et al., *A Time of Change: Behavioral and Neural Correlates of Adolescent Sensitivity to Appetitive and Aversive Environmental Cues*, 72 *BRAIN & COGNITION* 124, 125 (2010).

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*; see also Richard A. Friedman, *Why Are Young Americans Killing Themselves? Suicide Is Now Their Second-Leading Cause of Death*, *N.Y. TIMES* (Jan. 6, 2020), [https://www.nytimes.com/2020/01/06/opinion/suicide-young-people.html?action=click&module=Opinion&pg\\_type=Homepage](https://www.nytimes.com/2020/01/06/opinion/suicide-young-people.html?action=click&module=Opinion&pg_type=Homepage).



their cerebral cortexes (i.e., impulse control centers) are still developing.<sup>28</sup>

Some scientists use the concepts of “cold” versus “hot” cognition to describe adolescent development. “Cold cognition refers to mental processes . . . employed in situations calling for deliberation in the absence of high levels of emotion . . . . Hot cognition involves mental processes in affectively charged situations where deliberation is unlikely or difficult.”<sup>29</sup> Developmental science instructs in favor of lower “age boundaries for matters involving cold cognition . . . than those involving hot cognition, because effective hot cognition requires both cognitive capacity and psychosocial maturity (e.g., self-restraint).”<sup>30</sup> “Guns may be called on in the very situations in which

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<sup>28</sup> Arain, *supra* note 23, at 458 (“[T]he adolescent brain is structurally and functionally vulnerable to environmental stress . . .”).

<sup>29</sup> Grace Icenogle et al., *Adolescents’ Cognitive Capacity Reaches Adult Levels Prior to Their Psychosocial Maturity: Evidence for a “Maturity Gap” in a Multinational, Cross-Sectional Sample*, 43 L. & HUMAN BEHAVIOR 69, 71 (2019).

<sup>30</sup> *Id.*

adolescents are most developmentally vulnerable”—fast-paced and emotionally charged scenarios involving hot cognition.<sup>31</sup>

Because their brains are still developing, 18-to-20-year-olds are at a higher risk of violence when they have unfettered access to firearms.<sup>32</sup> Indeed, educational institutions serving this age group—such as colleges and military academies, which arguably admit only the most responsible young adults—recognize this risk. *See, e.g.*, U.S. Military Academy Regulation 190-3 at § II.1-6(b)(1) (“No pistols or handguns may be registered or carried by anyone under the age of twenty-one (21) to include Cadets.”) (on file with counsel).<sup>33</sup>

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<sup>31</sup> Daniel W. Webster et al., Johns Hopkins Ctr. for Gun Policy & Research, *Firearms on College Campuses: Research Evidence and Policy Implications* 19 (2016).

<sup>32</sup> *See, e.g.*, Michael Dreyfuss et al., *Teens Impulsively React Rather than Retreat from Threat*, 36 DEVELOPMENTAL NEUROSCIENCE 220, 220 (2014) (“Adolescents commit more crimes per capita than children or adults in the USA and in nearly all industrialized cultures. Their proclivity toward . . . risk taking has been suggested to underlie the inflection in criminal activity observed during this time.”).

<sup>33</sup> *See also* Matthew Miller et al., *Guns and Gun Threats at College*, 51 J. AM. COLL. HEALTH 57, 64 (2002) (“[O]ur findings also suggest that students who report having guns at college disproportionately engage in behaviors that put themselves and others at risk for injury.”).

Neuroscience shows that Section 27510 was a targeted and reasonable solution to a pressing public safety problem.

2. *Eighteen-to-Twenty-Year-Olds Are Disproportionately Likely to Commit Violent Crimes, Including Homicide and Mass Shootings, by Firearm.*

Eighteen-to-twenty-year-olds account for a disproportionate share of violent crimes and homicides in California:

- In California, 18-to-20-year-olds make up 4% of the state population. From 2014 to 2018, there were 6,657 homicide offenders for whom the age of the offender was known.<sup>34</sup> **860** of these homicide offenders were between 18 and 20, amounting to approximately 13%. This means that, where the offender's age is known, **4% of California's population is responsible for 13% of homicides.**<sup>35</sup>
- Firearms are the most common method for committing homicide in the nation and in California. Eighteen-to-twenty-year-old homicide offenders in California are also more likely to use firearms than any other means. Roughly **70%** of California homicide offenders in this age range used firearms to kill.<sup>36</sup>

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<sup>34</sup> This count excludes negligent homicides.

<sup>35</sup> Federal Bureau of Investigation, *supra* note 4. This count includes all offenders, including co-offenders.

<sup>36</sup> *Id.*

These statistics from California are consistent with nationwide research demonstrating the specific and significant danger posed by 18-to-20-year-olds with firearms:

- Arrests for homicide, rape, and robbery are higher among 18-to-20-year-olds than older adults.<sup>37</sup>
- Though 18-to-20-year-olds make up less than 5% of the population, they account for more than 15% of homicide and manslaughter arrests.<sup>38</sup>
- This general pattern has persisted over time. The following chart, from 2009 and showing homicide offending rate by age, vividly illustrates the disproportionate share of homicides committed by minors that year<sup>39</sup>:

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<sup>37</sup> U.S. Department of Justice, *Crime in the United States*, Arrests, by Age, 2019, at Table 38, <https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/topic-pages/tables/table-38>.

<sup>38</sup> *Id.*; U.S. Census Bureau, *Annual Estimates of the Resident Population by Single Year of Age and Sex for the United States: April 1, 2010 to July 1, 2019*, National Population by Characteristics: 2010-2019, <https://www.census.gov/data/datasets/time-series/demo/popest/2010s-national-detail.html>.

<sup>39</sup> Daniel W. Webster et al., Johns Hopkins Ctr. for Gun Policy & Research, *The Case for Gun Policy Reforms in America* 5 (2012).



- FBI data also suggests that, nationally, as in California, young people disproportionately commit homicides. For example, 18-to-20-year-olds comprise under 5% of the U.S. population, but account for 17% of known homicide offenders.<sup>40</sup>
- “Firearm homicides and violent crimes disproportionately involve individuals under age 21, both as perpetrators and as victims.”<sup>41</sup>

<sup>40</sup> Calculated using data from the FBI’s Supplementary Homicide Reports and US Census Bureau. Uniform Crime Reporting Program: Supplementary Homicide Reports (SHR), Washington, DC: Department of Justice, Federal Bureau of Investigation; US Census Bureau Population Estimates.

<sup>41</sup> Andrew R. Morral et al., *The Science of Gun Policy: A Critical Synthesis of Research Evidence on the Effects of Gun Policies in the United States* 145 (2018), [https://www.rand.org/pubs/research\\_reports/RR2088.html](https://www.rand.org/pubs/research_reports/RR2088.html); *see also People v. Fields*, 24 N.E.3d 326, 344 (Ill. App. Ct. 2014) (“We also note that the 18-to-20-year-old age group is more likely to be directly interacting with and, thus, endangering juveniles under 18 years of age.”).

Especially troubling are mass shootings, which the Legislature paid particular attention to in enacting Section 27510. Some of the deadliest and most notorious mass shootings in recent history were committed by 18-to-20-year-olds in California: the Poway Synagogue shooting (19-year-old shooter),<sup>42</sup> the Gilroy Garlic Festival shooting (19-year-old shooter) that killed three and injured 12 others,<sup>43</sup> and the Orinda Halloween party shooting (two of four shooters were 20 years old) that killed five.<sup>44</sup> And several of the deadliest mass shootings in our nation's history were committed by someone in the age range targeted by Section 27510: the December 14, 2012 Newtown, Connecticut shooting at Sandy Hook Elementary School, in which a 20-year-old shooter killed 20 schoolchildren, six adult school staff and

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<sup>42</sup> Jill Cowan, *What to Know About the Poway Synagogue Shooting*, N.Y. TIMES (Apr. 29, 2019), <https://www.nytimes.com/2019/04/29/us/synagogue-shooting.html>.

<sup>43</sup> David Ingram et al., *Gilroy Garlic Festival Gunman Referred to "Might Is Right" Manifesto Before Shooting*, NBC NEWS (July 29, 2019), <https://www.nbcnews.com/news/us-news/gilroy-garlic-festival-gunman-referenced-might-right-manifesto-shortly-shooting-n1035781>.

<sup>44</sup> Associated Press, *5 Suspects Arrested in Halloween Airbnb Party Shooting*, USA TODAY (Nov. 15, 2019), <https://www.usatoday.com/story/news/nation/2019/11/15/orinda-shooting-5-men-arrested-halloween-airbnb-party-shooting/4200542002/>.

faculty, and his mother, before turning the gun on himself; the February 14, 2018 Parkland, Florida shooting at Marjory Stoneman Douglas High School, in which a 19-year-old shooter killed 17 victims; the April 20, 1999 Littleton, Colorado shooting at Columbine High School, in which an 18-year-old and a 17-year-old killed 12 students and one teacher, before dying by suicide; and the May 18, 2018 shooting at Santa Fe High School in Texas, in which a 17-year-old shooter killed eight students and two teachers.<sup>45</sup>

In the twenty years since the Columbine High School massacre, there have been 486 incidents involving firearms at schools and 68 incidents of an active shooter on school property during the school day.<sup>46</sup> And school shootings have become more frequent in recent years: “From 1999 to 2014, the average number of days between [active school] shootings was 124 days. From 2015 to 2018, the average was 77

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<sup>45</sup> *Mass Shootings in the US Fast Facts*, CNN, <https://www.cnn.com/2019/08/19/us/mass-shootings-fast-facts/index.html> (last updated May 3, 2020).

<sup>46</sup> Luis Melgar, *Are School Shootings Becoming More Frequent? We Ran the Numbers*, CTR. FOR HOMELAND DEFENSE & SECURITY (May 21, 2019), <https://www.chds.us/ssdb/are-school-shootings-becoming-more-frequent-we-ran-the-numbers/>.

days.”<sup>47</sup> Mass shooters tend to target people or institutions against which they have a grievance,<sup>48</sup> which explains why most school shooters—as high as 91% in one recent study—were current or former students of the school at which the attack occurred.<sup>49</sup> Moreover, although younger shooters often use guns found in their homes, college-aged shooters between the ages of 18 and 21 typically commit their crimes with firearms they purchased legally.<sup>50</sup>

Like the rest of the nation, California faces a school shooting epidemic. These tragic incidents often involve long guns:

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<sup>47</sup> *Id.*

<sup>48</sup> A comprehensive analysis of mass shootings shows that about 70% of mass shooters knew at least some of their victims, and school shooters “in particular were ‘insiders.’” Jillian K. Peterson et al., *Database of Mass Shootings in the United States*, THE VIOLENCE PROJECT 19 (Nov. 2019), <https://www.theviolenceproject.org/wp-content/uploads/2019/11/TVP-Mass-Shooter-Database-Report-Final-compressed.pdf>.

<sup>49</sup> Jillian Peterson et al., *School Shooters Usually Show These Signs of Distress Long Before They Open Fire, Our Database Shows*, THE CONVERSATION (Feb. 8, 2019), <https://theconversation.com/school-shooters-usually-show-these-signs-of-distress-long-before-they-open-fire-our-database-shows-111242>.

<sup>50</sup> Brad J. Bushman et al., *Youth Violence: What We Know and What We Need to Know*, 71 AM. PSYCHOL. 17, 19, 24, 28 (2016).



- In November 2019, an 18-year-old and a 17-year-old “opened fire” on and killed two young boys in a Union City, California elementary school parking lot. In connection with their investigation, police recovered two handguns, three assault weapons, and several high-capacity magazines.<sup>51</sup>
- Also in November 2019, a 13-year-old boy and his 19-year-old relative were arrested in Los Angeles after police found the younger teen had made a plan for a school shooting and possessed a rifle.<sup>52</sup>
- In May 2018, a 14-year-old former student brought a rifle to Highland High School in Palmdale, California, and fired about 10 rounds, leaving one student wounded.<sup>53</sup>
- In January 2013, a 16-year-old brought a shotgun to school in Fresno, California and fired two rounds, one of which struck another student in the chest. A teacher was hit in the forehead by a stray pellet.<sup>54</sup>

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<sup>51</sup> Anser Hassan et al., *2 Suspects Arrested in Deadly Shooting of 2 Union City Boys Near School*, ABC7 NEWS (Feb. 14, 2020), <https://abc7news.com/5930514/>.

<sup>52</sup> Mariel Padilla, *Police Say They Foiled 2 Potential School Shootings in California*, N.Y. TIMES (Nov. 23, 2019), <https://www.nytimes.com/2019/11/23/us/los-angeles-school-shooting-threat.html>.

<sup>53</sup> Brittney Mejia et al., *Suspected Shooter at a Palmdale High School Is a Former Student Who Recently Transferred*, L.A. TIMES (May 11, 2018), <https://www.latimes.com/local/lanow/la-me-ln-palmdale-high-school-shooting-20180511-story.html>.

<sup>54</sup> Associated Press, *Teen Shooter Who Opened Fire at Taft Union High School in California to Be Tried as an Adult*, N.Y. DAILY NEWS

In sum, completed and attempted mass shootings—both in and beyond the classroom—exact a devastating societal cost. Reasonable regulations, such as Section 27501, can prevent these tragedies.

3. *Eighteen-to-Twenty-Year-Olds Attempt Suicide at Disproportionately High Rates and Access to Firearms Increases the Likelihood and Lethality of Those Suicide Attempts.*

Eighteen-to-twenty-year-olds are also disproportionately at risk of attempting suicide, and firearm access exacerbates this risk. Many major psychiatric conditions first develop in adolescence,<sup>55</sup> and suicide risk “increase[s] steeply during the first few years after [an

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(Jan. 14, 2013), <https://www.nydailynews.com/news/national/teen-opened-fire-california-high-school-adult-article-1.1239975>.

<sup>55</sup> See Tomáš Paus et al., *Why Do Many Psychiatric Disorders Emerge During Adolescence?*, 9 NATURE REVIEWS NEUROSCIENCE 947, 952 (2008) (“Anxiety disorders, bipolar disorder, depression, eating disorder, psychosis (including schizophrenia) and substance abuse all most commonly emerge during adolescence.”); *Mental Health Disorder Statistics*, JOHNS HOPKINS MEDICINE, <https://www.hopkinsmedicine.org/health/wellness-and-prevention/mental-health-disorder-statistics> (last visited Jan. 25, 2021).

individual's] first contact with psychiatric services.”<sup>56</sup> Data from the Centers for Disease Control and Prevention show that suicide accounts for a higher percentage of deaths for 15-to-24-year-olds than for any other age group.<sup>57</sup> Indeed, suicide is the second-most common cause of death among 18-to-20-year-olds.<sup>58</sup>

“Access to firearms is a key risk factor for suicide.”<sup>59</sup>

Firearm suicide is the suicide method with the highest fatality rate.

Whereas 4% of suicide attempts not involving a firearm are fatal,<sup>60</sup> 85%

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<sup>56</sup> Merete Nordentoft et al., *Absolute Risk of Suicide After First Hospital Contact in Mental Disorder*, 68 ARCHIVES OF GENERAL PSYCHIATRY 1058, 1061 (2011).

<sup>57</sup> Centers for Disease Control and Prevention, Web-based Injury Statistics Query and Reporting System (WISQARS), Leading Cause of Death Reports, <https://webappa.cdc.gov/sasweb/ncipc/leadcause.html> (last updated Feb. 20, 2020).

<sup>58</sup> *Id.*

<sup>59</sup> American Public Health Association, *Reducing Suicides by Firearms* (Nov. 13, 2018), <https://www.apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2019/01/28/reducing-suicides-by-firearms>.

<sup>60</sup> Matthew Miller et al., *Suicide Mortality in the United States: The Importance of Attending to Method in Understanding Population-Level Disparities in the Burden of Suicide*, 33 ANN. REV. PUB. HEALTH 393, 397 (2012) (establishing that in 2001, there were 333,765 non-firearm suicide attempts and 13,753 fatalities).

of suicide attempts involving a firearm are fatal.<sup>61</sup> Contrary to widely held misperceptions, suicide attempts are rarely repeated—more than 90% of people who survive a suicide attempt do not later die by suicide.<sup>62</sup> Therefore a minor’s access to firearms during a suicide attempt often determines whether he dies or recovers.

As the Legislature recognized, *see supra* Section II.A, 18-to-20-year-olds are particularly at risk for suicides involving long guns. Of suicides where the firearm type is known, most adults are more than twice as likely to die by handgun than by long gun.<sup>63</sup> Among adolescents who attempt suicide, however, a recent study found that long gun use is relatively higher than it is among adults.<sup>64</sup> Eighteen-to-twenty-year-olds are much more likely to die by long gun suicides than other groups, likely at least in part because, prior to the effective date of Section 27510, they had far easier access to long guns than to

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<sup>61</sup> *Id.*

<sup>62</sup> *Id.* at 402-03.

<sup>63</sup> Thomas J. Hanlon et al., *Type of Firearm Used in Suicides: Findings from 13 States in the National Violent Death Reporting System, 2005–2015*, 65 J. ADOLESCENT HEALTH 366, 367 (2019).

<sup>64</sup> *Id.*

handguns. In fact, 18-to-20-year-olds are the *only groups more likely to die by long gun suicide than handgun suicide*.<sup>65</sup> Long guns pose a unique risk to the 18-to-20-year-old age group. Section 27510's long-gun age restriction addresses this risk head on.

4. *State-Level Gun Control Measures, Including Age Restrictions, Are Effective.*

Studies have repeatedly found a connection between age restrictions such as Section 27510 and a decline in firearm-related adolescent deaths, especially suicides and unintentional shootings, demonstrating that there is a more than “reasonable fit” between the government’s safety objectives and Section 27510. For instance, an August 2004 study found that state laws raising the minimum legal age to purchase a handgun to 21 were associated with a nine percent decline in firearm suicide rates among 18-to-20-year-olds. (E.R. 1942.)<sup>66</sup>

A survey of convicted gun offenders in 13 states also found that 17% of

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<sup>65</sup> Centers for Disease Control and Prevention, Wide-ranging Online Data for Epidemiologic Research (WONDER), <https://wonder.cdc.gov/ucd-icd10.html> (query of Underlying Cause of Death, 1999-2019, with results grouped by single-year ages, and ICD-10 codes of X72 and X73 used to identify handgun and long gun suicide deaths).

<sup>66</sup> Daniel W. Webster et al., *Association Between Youth-Focused Firearm Laws and Youth Suicides*, 292 JAMA 594, 598 (2004).

the offenders would have been prohibited from obtaining firearms at the time of the crime if the minimum legal age in that state had been 21 years, a finding that, according to the authors, “underscore[d] the importance of minimum-age restrictions.”<sup>67</sup>

State gun safety measures more generally have also proven effective in reducing gun violence among young people, including in the 18-to-20-year-old range. An August 2019 study examined the 21,241 firearm-related deaths among U.S. children under the age of 21 from 2011 to 2015.<sup>68</sup> Eighteen-to-twenty-one-year-olds made up more than half of these deaths (68.7%).<sup>69</sup> But state laws make a difference: the study found that every 10-point increase in a score measuring the strictness of a state’s gun control laws “decreases the firearm-related mortality rate in children by 4%” in its fully adjusted model.<sup>70</sup> Another

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<sup>67</sup> Katherine A. Vittes et al., *Legal Status and Source of Offenders’ Firearms in States with the Least Stringent Criteria for Gun Ownership*, 19 INJURY PREVENTION 26, 29-30 (2013).

<sup>68</sup> Monika K. Goyal et al., *State Gun Laws and Pediatric Firearm-Related Mortality*, 144 PEDIATRICS No. 2, at 2 (2019).

<sup>69</sup> *Id.* at 3 & tbl. 1.

<sup>70</sup> *Id.* at 3.

study, using the same gun-law scores and published in August 2019, found that the quartile of states with the strictest laws “have an annual pediatric firearm mortality rate of 2.563 per 100,000 [children aged 0-to-19-years-old] compared with states in the lowest quartile [with the least strict laws], where the mortality rate is almost twice as high at 5.005 per 100,000.”<sup>71</sup>

Finally, research on the characteristics of mass shooters contradicts Appellants’ casual assumption that state law cannot influence criminals’ behavior. Appellants suggest that criminal shooters will simply disregard the law and continue to get guns, such as by obtaining weapons illegally or from out-of-state. (*See* Appellants’ Br. at 45-46.) In fact, most mass shooters obtain their weapons lawfully. In a report examining active shootings from 2000 to 2013, the FBI concluded that “only very small percentages [of shooters] obtain[ed] a firearm illegally,”<sup>72</sup> indicating that these perpetrators are not

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<sup>71</sup> Sriraman Madhavan et al., *Firearm Legislation Stringency and Firearm-Related Fatalities Among Children in the US*, 229 J. AM. COLLEGE SURGEONS 150, 152 (2019).

<sup>72</sup> James Silver et al., *A Study of the Pre-Attack Behaviors of Active Shooters in the United States Between 2000 and 2013*, U.S. DEP’T OF

necessarily sophisticated participants in the firearms black market. Lawmakers therefore can, and should, assume that restricting access to long guns will deter criminal use of long guns—precisely the type of reasonable assumption that underlies virtually all laws aimed at regulating dangerous products. *Cf., e.g., Nat’l Paint & Coatings Ass’n v. City of Chicago*, 45 F.3d 1124, 1128-29 (7th Cir. 1995) (“Legislatures often enact laws that reduce but cannot eliminate the effects of movements across municipal and state borders.”). Indeed, research suggests that California’s relatively strong gun laws are responsible for its relatively low rate of mass shootings.<sup>73</sup> Even so, as discussed above, California suffers mass shootings all too often, with some of the deadliest and most notorious committed by individuals between the ages of 18 and 20.

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JUSTICE, FEDERAL BUREAU OF INVESTIGATION 7 (June 2018), <https://www.fbi.gov/file-repository/pre-attack-behaviors-of-active-shooters-in-us-2000-2013.pdf/view>.

<sup>73</sup> Megan Molteni, *The Looser a State’s Gun Laws, the More Mass Shootings It Has*, WIRED (Aug. 6, 2019), <https://www.wired.com/story/the-looser-a-states-gun-laws-the-more-mass-shootings-it-has/>.



## CONCLUSION

To succeed on their Second Amendment claim, Appellants are required to show that Section 27510 fails at both steps of the constitutional analysis. But the district court correctly determined that it is Appellants' case, not Section 27510, that fails at each step. Section 27510 does not implicate the Second Amendment, and even if it did, it easily survives the appropriate level of scrutiny. Neuroscience and social science confirm that Section 27510 effectively addresses a substantial problem—the unsafe use of firearms by minors under the age of 21. Section 27510 represents the Legislature's careful and considered solution to this grave public safety concern. Appellants have therefore not demonstrated a likelihood of success, and the district court's order denying their motion for a preliminary injunction should be affirmed.

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Respectfully submitted,

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## CERTIFICATE OF SERVICE

I certify that on January 26, 2021, the foregoing document was served on all parties or their counsel of record through the CM/ECF system.

*/s/ Hannah Shearer*

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January 26, 2021

## CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 29(a)(5) because this brief contains 6,970 words, excluding the parts of the brief exempted by Rule 32(f). This brief complies with the typeface requirements of Rule 32(a)(5) and the type-style requirements of Rule 32(a)(6) because this brief has been prepared in proportionally spaced typeface using Microsoft Word in 14 - point Century Schoolbook font.

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January 26, 2021