

BIPARTISAN BACKGROUND CHECKS ACT OF 2021

SUMMARY

H.R. 8, the Bipartisan Background Checks Act of 2021, would require a background check on every gun sale or transfer, with carefully defined exceptions for gifts to family members, hunting, target shooting, and self-defense. Current law already requires licensed gun dealers to conduct background checks on gun purchasers and transferees. H.R. 8 would require unlicensed gun sellers to abide by this same system and require them to sell or transfer firearms only through licensed gun dealers.

HOW BACKGROUND CHECKS WORK

Current law prohibits certain people with a past history of felony convictions, domestic violence, or involuntary mental health commitments from obtaining or possessing firearms. This law is enforced primarily through the **National Instant Criminal Background Check System** (NICS), which licensed gun dealers are required to contact, either directly through the FBI or indirectly through state or local law enforcement, before selling or transferring a firearm.

DANGEROUS LOOPHOLES IN FEDERAL LAW

Over three million gun sales or transfers from licensed dealers have been denied since the Brady Act went into effect, but the law contains a gaping loophole: only sellers who must obtain a federal firearms license from ATF must conduct background checks. **As a result, unlicensed gun sellers frequently sell guns without background checks online, at gun shows, and through unregulated person-to-person sales.**

This loophole makes it far too easy for people prohibited from purchasing guns to circumvent the laws on the books and obtain guns. **Up to 80%** of firearms used for criminal purposes were obtained from unlicensed sources, meaning no background check was required. The background check loophole makes it easier to traffic firearms by enabling unlicensed transfers to people with felony or domestic violence convictions with no recordkeeping and no accountability. This compromises law enforcement's ability to trace crime guns, which depends on gun dealers' records of gun sales.

Twenty-two states and the District of Columbia have already either wholly or partially closed this loophole, expanding the background check requirement to at least some unlicensed sales and transfers. H.R. 8 mirrors the most comprehensive and up-to-date versions of **those state laws**. It would require all firearms—handguns and long guns—to be subject to a background check and would ensure that an individual could not avoid the background check requirement by claiming that he or she was simply borrowing the gun for an open-ended amount of time. **H.R. 8 does include reasonable and explicit exceptions to allow a person to responsibly loan a gun for hunting or target shooting, or to give a gun as a gift only to a close family member, as well as preserve the ability of a person to provide a gun when necessary in the moment for self-defense.**

OVERWHELMING PUBLIC SUPPORT

Universal background checks are a foundational step necessary for the effectiveness of all gun laws. Closing this dangerous loophole in our federal gun laws is supported by an overwhelming majority of Americans across the political spectrum: **93% of Americans**, including a majority of gun owners and Republicans, support requiring a background check for every gun sale. The time for action is now: **78% of voters** want Congress and the White House to take action on gun violence within the first 100 days of President Biden's first term.