

H.R. 8, THE BIPARTISAN BACKGROUND CHECKS ACT OF 2021

BACKGROUND CHECKS MYTHS DEBUNKED

Currently, individuals prohibited from purchasing firearms can obtain them online, at gun shows, and through other private sales, no questions asked. H.R. 8, the Bipartisan Background Checks Act of 2021, will close these dangerous loopholes in our federal background checks law. The gun lobby wants you to believe that universal background checks are invasive, unnecessary, and unpopular, but this could not be further from the truth. Below are more than a dozen gun lobby myths about background checks and H.R. 8, debunked.

MYTH: “THIS BILL INFRINGES ON SECOND AMENDMENT RIGHTS.”

FACT: This bill does not infringe on the right of any Americans to own a gun. However, the Constitution does not require America’s leaders to stand by and do nothing while more people die from gun violence each year than from [military combat overseas](#). In fact, the opposite is true: courts have consistently upheld strong firearms regulations, and the Supreme Court endorsed lifesaving gun safety laws to reduce access to guns by people with previous felony or domestic violence convictions. The only case addressing a direct challenge to a background checks law was a challenge to the law Colorado enacted in 2013 that is almost identical to H.R. 8—and the federal court [upheld the law](#), finding it consistent with the Second Amendment.

MYTH: “CRIMINALS DON’T FOLLOW THE LAW, SO THIS BILL WON’T STOP CRIMINALS FROM GETTING GUNS.”

FACT: This kind of thinking is illogical. Should we repeal all of our laws because criminals violate them from time to time? Even if universal background checks won’t stop every last crime, they will make it harder for people prohibited from buying guns to get their hands on weapons that have the potential to inflict injury on themselves or others. Since 1994, background checks have stopped over [three million gun sales](#) or transfers to people with felony or domestic violence convictions, people with serious mental illness, and other ineligible individuals. This bill would focus on the firearms suppliers who do not currently conduct background checks, rather than focusing on buyers. In this way, it would reduce the easy availability of guns to criminals.

MYTH: “THIS BILL WOULD MAKE CRIMINALS OUT OF LAW-ABIDING CITIZENS.”

FACT: The bill includes several exceptions to cover most, if not all, situations in which a responsible gun owner could lawfully give or sell a gun without having to conduct a background check. These exceptions include loans and gifts from family members, loans for hunting and target shooting, and situations where a gun is provided to a person to protect them from an imminent threat of great bodily harm. A gun owner who provides his or her gun to someone else in those situations would not be violating the law.

MYTH: “THIS LAW WILL DEPRIVE LAW-ABIDING CITIZENS OF THEIR RIGHT TO OWN A GUN”

FACT: Federal and state laws disqualify certain people from possessing guns based on their criminal records, records of domestic violence or drug abuse, and history of mental illness. The background checks system is designed to identify and deny gun sales only to these individuals. Background checks are almost always accurate and rarely provide false-positive results. In fact, the Federal Bureau of Investigation’s (FBI) quality control evaluations suggest that background checks are accurate approximately 99.3% to 99.8% of the time, and similar findings were found in a survey conducted by the Office of the Inspector General. H.R. 8 would utilize this existing system by expanding its use to include sales by unlicensed suppliers of guns—meaning that guns would remain accessible for all individuals not legally prohibited from purchasing firearms.

MYTH: “BACKGROUND CHECKS ARE ALREADY REQUIRED.”

FACT: A dangerous gap in our federal gun laws lets people buy guns without a background check. Under current law, unlicensed sellers—like people who sell guns online, at gun shows, or anywhere else without a federal dealer’s license—can sell firearms without having to run any background check whatsoever. A [2017 study](#) estimated that 22% of US gun owners acquired their most recent firearm without a background check—which translates to millions of people obtaining millions of guns, no questions asked, each year.

MYTH: “THIS BILL WON’T REDUCE GUN VIOLENCE.”

FACT: We know that gun safety laws work. [States with stronger gun laws have lower rates of gun deaths, and states with weaker gun laws have higher rates of gun deaths.](#) H.R. 8 would close the most gaping loophole in our nation’s gun laws, which allows people prohibited from buying guns to easily obtain guns. Gun violence is a complex and multifaceted problem which must be addressed with a number of solutions. Strongly enforced and universal background checks are a necessary foundation to ensure that all of our gun laws work most effectively.

MYTH: “CONGRESS COULD PREVENT MASS SHOOTINGS IF THEY FOCUSED ON MENTAL HEALTH SERVICES INSTEAD.”

FACT: Mental health services are helpful and important, but the vast majority of people with a mental health diagnosis are not dangerous to others. [Only 4% of interpersonal violence is attributable to mental illness alone.](#) Although the US has similar rates of mental illness as other countries, this country has much higher rates of gun violence. Congress should focus on making it harder for individuals prohibited from possessing guns to obtain firearms and cause harm to themselves or others by closing the loopholes in our background checks law, enacting extreme risk legislation to empower law enforcement and family members to temporarily remove firearms from a person in crisis, and passing safe storage laws to ensure that firearms are only accessible to their rightful owners.

MYTH: “WE JUST NEED TO ENFORCE THE LAWS ON THE BOOKS.”

FACT: The best way to enforce the laws on the books is to ensure that individuals already prohibited from possessing firearms are unable to purchase guns by requiring a background check on every gun sale. Weak

laws and loopholes supported by the gun lobby have made it too easy for everyone—including individuals legally barred from possessing firearms—to obtain a gun. Many of the guns used in crimes are obtained from unlicensed sources that are not required to conduct a background check. Existing law already prohibits people with felony or domestic violence convictions from legally obtaining guns. By updating the law to require background checks on all gun sales, H.R. 8 will ensure that previous measures remain enforceable.

MYTH: “THIS BILL IMPOSES A BURDEN ON LAW-ABIDING CITIZENS.”

FACT: Background checks are quick and easy for law-abiding gun purchasers and sellers. In at least 90% of cases, firearm background checks processed through the National Instant Criminal Background Check System (NICS) are completed within minutes. Since the Brady Act went into effect in 1994, more than [three million gun sales](#) involving individuals ineligible to possess guns have been prevented. Background checks are inexpensive even in states that charge a fee to cover their costs, and most fees range from \$2 to \$10, a small fraction of what it costs to buy a gun. This bill would simply require every gun seller to use this system, which rarely results in an additional burden or delay for either party.

MYTH: “FEDERAL LAW ENFORCEMENT IS ALREADY OVERWHELMED. THIS BILL WOULD CREATE A BACKLOG FOR ATF.”

FACT: There is no question that the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) needs more resources to do its job. However, the NICS background check system is administered by the FBI, not ATF. The FBI has set up the system to avoid backlogs and these efforts have been largely successful: in [at least 90% of cases](#), the FBI processes firearm background checks immediately—in most instances, within 90 seconds. Still, the unprecedented demand for firearms in 2020 shows that an increase in background checks must correlate with an increase in resources—funding and personnel—for the FBI to conduct these checks. No one should be able to buy a gun without passing a background check, which is why we need federal legislation like H.R. 8 to close dangerous loopholes in our laws.

MYTH: “THIS BILL IS THE FIRST STEP DOWN A SLIPPERY SLOPE.”

FACT: Every day brings news coverage of yet another shooting. We cannot let this heartbreaking and unacceptable threat to public safety become the new normal. This bill simply ensures that those already prohibited by federal law from possessing a firearm are unable to purchase one. Over 90% of Americans agree with the fundamental premise that no one should be able to buy a gun without passing a background check.

MYTH: “THE DANGER OF UNLICENSED GUN SALES IS EXAGGERATED.”

FACT: Gun deaths in the United States have reached their highest level in nearly 40 years, with almost 38,000 Americans dying from gun violence each year—an average of 100 people every day. Americans are [25 times](#) more likely to be killed by a gun than people in other developed nations. In fact, no other developed country comes close. Sales and transfers of guns without background checks are a major contributor to this problem. People who commit crimes with firearms overwhelmingly obtain these firearms from unlicensed sources who are not required to run a background check. A [2013 study](#) found that approximately 80% of all firearms acquired for criminal purposes were obtained from unlicensed sources,

and 96% of inmates who were prohibited from possessing a firearm at the time they committed their crime obtained their gun this way.

MYTH: “ONLY RADICAL LEFTISTS SUPPORT THIS BILL.”

FACT: Americans of all political persuasions support background checks on all gun sales. A recent [poll](#) found that 93% of Americans—including the majority of Democrats, Republicans, and gun owners—support requiring background checks on all gun sales. Strong support for background checks laws has also been [measured](#) among NRA members.

MYTH: “THIS BILL WOULD CRIMINALIZE PRIVATE GUN SALES.”

FACT: Under this bill, an individual would still be able to legally sell a gun to another individual, so long as the buyer undergoes a background check. The term “private gun sales” is in fact a misnomer—the NRA uses this term to distinguish gun sales conducted by unlicensed sellers where no background check is required from those conducted by licensed dealers who are required to conduct background checks. In reality, these sales are not necessarily “private.” They occur online, at gun shows, and on the street—any place where the seller is not a licensed dealer. These unregulated transfers of guns often have very tragic consequences for public safety by enabling people with felony or domestic violence convictions, and people with serious mental illness to obtain guns.

MYTH: “THIS BILL WOULD BAN HANDGUNS FOR ANYONE UNDER 21.”

FACT: This bill would not alter the existing provisions of law that govern the age of gun purchasers. Young people with handguns commit a disproportionate number of gun crimes. One survey of convicted gun offenders found that nearly a quarter of them were ages 18 to 20 at the time of the crime. For this reason, current federal law already prohibits licensed gun dealers from selling handguns to people under age 21. Unfortunately, the law allows a person who is 18 to purchase a handgun from an unlicensed seller, thus avoiding both the age requirement and the background check. This inconsistency undermines enforcement and fuels violence among youth. By requiring all gun transfers to be processed by a licensed dealer, this bill would set a consistent standard and improve public safety, while still enabling 18-year-olds to obtain rifles and shotguns and allowing those 18-year-olds who have already obtained handguns to keep them.

MYTH: “WE’VE ALREADY IMPROVED THE BACKGROUND CHECK SYSTEM BY PASSING ‘FIX NICS.’”

FACT: [Fix NICS](#)—bipartisan legislation enacted in 2018—enforces current law and helps ensure that states and federal agencies are reporting the appropriate records to the background check system. But even if every disqualifying record is submitted to NICS, current law still allows gun purchasers to evade a background check by buying a gun from an unlicensed dealer.

MYTH: “GUN DEALERS AREN’T LOCATED IN RURAL AREAS.”

FACT: There are currently [nearly 60,000](#) firearms dealers licensed by ATF, all of whom would be authorized to conduct background checks on behalf of unlicensed sellers under this bill. These dealers are not hard to come by—there are twice as many gun dealers as post offices in the United States—and even the most rural states still have substantial numbers of these businesses. In thinly populated Wyoming, for

example, there are 565 dealers who could conduct background checks. In Nebraska, there are 702 such dealers. This network of gun dealers stretches across the country and is easily accessible to any person who wishes to conduct a background check on a potential gun buyer.

ABOUT GIFFORDS

Giffords is a nonprofit organization dedicated to saving lives from gun violence. Led by former Congresswoman Gabrielle Giffords, Giffords shifts culture, changes policies, and challenges injustice, inspiring Americans across the country to fight gun violence.