

No. 21-12314

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

NATIONAL RIFLE ASSOCIATION OF AMERICA, INC., *et al.*,

Appellants,

vs.

COMMISSIONER, Florida Department of Law Enforcement,

Appellee.

On Appeal from the United States District Court for the Northern
District of Florida

**EN BANC BRIEF OF *AMICI CURIAE* GIFFORDS LAW
CENTER TO PREVENT GUN VIOLENCE, BRADY CENTER
TO PREVENT GUN VIOLENCE, TEAM ENOUGH, ORANGE
RIBBONS FOR GUN SAFETY, AND MARCH FOR OUR LIVES
ACTION FUND IN SUPPORT OF APPELLEE AND
AFFIRMANCE**

[Additional Counsel Listed
on Signature Page]

Madeline B. Jenks
SULLIVAN & CROMWELL LLP
1700 New York Ave. NW #700
Washington, DC 20006

(202) 956-7500

Counsel for Amici Curiae

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**CERTIFICATE OF INTERESTED PERSONS
AND CORPORATE DISCLOSURE STATEMENT**

Per Federal Rule of Appellate Procedure 26.1 and 11th Circuit Rule 26.1-1, *Amici* certify that the following trial judges, attorneys, persons, associations of persons, firms, partnerships, and corporations have an interest in the outcome of this case or appeal.

1. Albornoz, Beatriz L. (Of Counsel for *Amici Curiae* Giffords Law Center to Prevent Gun Violence, Brady Center to Prevent Gun Violence, Team ENOUGH, Orange Ribbons for Gun Safety, and March For Our Lives Action Fund)
2. Baum, Christopher J. (Counsel for Appellee)
3. Bell, Daniel (Counsel for Appellee)
4. Blair, Connor M. (Counsel for Appellants)
5. Bradley Arant Boult Cummings LLP (Law firm representing Appellants)
6. Brady Center to Prevent Gun Violence (*Amicus Curiae*)
7. Fant, Radford (Appellant)
8. Feldman, Shira (Counsel for *Amicus Curiae* Brady Center to Prevent Gun Violence)
9. Fitzpatrick, Martin A., Hon. (Magistrate Judge Below)
10. Florida Attorney General's Office
11. Florida Department of Law Enforcement
12. Giffords Law Center to Prevent Gun Violence (*Amicus Curiae*)

13. Giffords (Affiliate of *Amicus Curiae* Giffords Law Center to Prevent Gun Violence)
14. Giffords PAC (Affiliate of *Amicus Curiae* Giffords Law Center to Prevent Gun Violence)
15. Jenks, Madeline B. (Counsel for *Amici Curiae* Giffords Law Center to Prevent Gun Violence, Brady, Team ENOUGH, Orange Ribbons for Gun Safety, and March For Our Lives Action Fund)
16. Kivett, Sophie A. (Of Counsel for *Amici Curiae* Giffords Law Center to Prevent Gun Violence, Brady Center to Prevent Gun Violence, Team ENOUGH, Orange Ribbons for Gun Safety, and March For Our Lives Action Fund)
17. Lamar, William Chadwick (Counsel for Appellants)
18. Letter, Douglas (Counsel for *Amicus Curiae* Brady Center to Prevent Gun Violence)
19. March For Our Lives Action Fund (*Amicus Curiae*)
20. Nardone, Marc A. (Counsel for Appellants)
21. National Rifle Association of America, Inc. (Appellant)
22. Newhall, Timothy (Counsel for Appellee)
23. NRA Civil Rights Defense Fund (*Amicus Curiae*)
24. Orange Ribbons for Gun Safety (*Amicus Curiae*)
25. Percival, James H. (Counsel for Appellee)
26. Percival, Kelly M. (Of Counsel for *Amicus* Giffords Law Center to Prevent Gun Violence)
26. Porter, James W. (Counsel for Appellants)

27. Rose, Elizabeth A. (Of Counsel for *Amici Curiae* Giffords Law Center to Prevent Gun Violence, Brady Center to Prevent Gun Violence, Team ENOUGH, Orange Ribbons for Gun Safety, and March For Our Lives Action Fund)
28. Sacks, Robert A. (Of Counsel for *Amici Curiae* Giffords Law Center to Prevent Gun Violence, Brady Center to Prevent Gun Violence, Team ENOUGH, Orange Ribbons for Gun Safety, and March For Our Lives Action Fund)
29. Sanchez-Gomez, Esther (Of Counsel for *Amicus* Giffords Law Center to Prevent Gun Violence)
31. Strawbridge, Patrick N. (Counsel for *Amicus* NRA Civil Rights Defense Fund)
32. Sullivan & Cromwell LLP (Law firm representing *Amici Curiae* Giffords Law Center to Prevent Gun Violence, Brady Center to Prevent Gun Violence, Team ENOUGH, Orange Ribbons for Gun Safety, and March For Our Lives Action Fund)
34. Sweeney, John Parker (Counsel for Appellants)
35. Team ENOUGH (*Amicus Curiae*)
36. Teegen, Elizabeth (Counsel for Appellee)
37. Traps, Leonid (Of Counsel for *Amici Curiae* Giffords Law Center to Prevent Gun Violence, Brady Center to Prevent Gun Violence, Team ENOUGH, Orange Ribbons for Gun Safety, and March For Our Lives Action Fund)
38. Walker, Mark E., Hon. (Chief United States District Judge Below)
39. Whitaker, Henry (Counsel for Appellee)

Giffords Law Center to Prevent Gun Violence, Brady Center to Prevent Gun Violence, Team ENOUGH, Orange Ribbons for Gun Safety, and March For Our Lives Action Fund state that none of these organizations have parent corporations. None of these organizations have stock, and therefore no publicly held company owns 10% or more of any organization's stock.

/s/ Madeline B. Jenks

Madeline B. Jenks

Counsel for Amici Curiae

*Giffords Law Center to Prevent
Gun Violence, Brady Center to
Prevent Gun Violence, Team
ENOUGH, Orange Ribbons for
Gun Safety, and March For
Our Lives Action Fund*

August 30, 2024

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STATEMENT OF THE ISSUES

Whether a Florida statute regulating the purchase of firearms by young persons aged 18 to 20 is constitutional under the Second and Fourteenth Amendments to the Constitution.

INTEREST OF AMICI *CURIAE*¹

Amicus curiae Giffords Law Center to Prevent Gun Violence (“Giffords Law Center”) is a non-profit policy organization serving lawmakers, advocates, legal professionals, gun violence survivors, and others who seek to reduce gun violence and improve the safety of their communities.² 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 2017 after joining forces with the gun-safety organization led by former Congresswoman Gabrielle Giffords. Today, through partnerships with gun violence researchers, public health experts, and community organizations, Giffords Law Center researches, drafts, and defends the laws, policies, and programs proven to effectively reduce gun violence. Together with its partner

¹ Appellants and Appellee have both consented to *amici* 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*, their members, or their counsel made such a monetary contribution. *See* Fed. R. App. P. 29(a)(4)(E).

² Giffords Law Center’s website, www.giffords.org/lawcenter, is the premier clearinghouse for comprehensive information about federal, state, and local firearms laws and Second Amendment litigation nationwide.

organization Giffords, Giffords Law Center also advocates for the interests of gun owners and law enforcement officials who understand that Second Amendment rights are consistent with gun-safety legislation and community violence prevention strategies. Giffords Law Center participated as an *amicus curiae* before the District Court in the proceedings below (ECF Nos. 79, 111), and also before the panel in the appeal. (ECF No. 37.)

Giffords Law Center has contributed technical expertise and informed analysis as an *amicus* in numerous cases involving firearm regulations and constitutional principles affecting gun policy. *See, e.g., District of Columbia v. Heller*, 554 U.S. 570 (2008); *McDonald v. City of Chicago*, 561 U.S. 742 (2010); *Lara v. Evanchick*, 2021 WL 1432802 (W.D. Pa. Apr. 16, 2021); and *Mitchell v. Atkins*, 483 F. Supp. 3d 985 (W.D. Wash. 2020). Multiple courts have cited research and information from Giffords Law Center's *amicus* briefs in Second Amendment rulings. *See, e.g., Ass'n of N.J. Rifle & Pistol Clubs v. Att'y Gen. N.J.*, 910 F.3d 106, 121-22 (3d Cir. 2018); *Hirschfeld v. Bureau of Alcohol, Tobacco, Firearms & Explosives*, 417 F. Supp. 3d 747, 754, 759 (W.D. Va. 2019); *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).³

Amicus curiae Brady Center to Prevent Gun Violence (“Brady”) is the nation’s most longstanding nonpartisan, nonprofit organization dedicated to reducing gun violence through education, research, and legal advocacy. Brady has a substantial interest in ensuring that the Constitution is construed to protect Americans’ fundamental right to live. Brady also has a substantial interest in protecting the authority of democratically elected officials to address the nation’s gun violence epidemic.

Brady has filed *amicus* briefs in many cases involving the regulation of firearms. *See, e.g., United States v. Rahimi*, 144 S. Ct. 1889 (2024). Multiple decisions have cited Brady’s research and expertise on these issues. *See, e.g., United States v. Hayes*, 555 U.S. 415 (2009); *Nat’l Ass’n for Gun Rts. v. Lamont*, 685 F. Supp. 3d 63, 110 & n.52 (D. Conn. Aug. 3, 2023); *Nat’l Ass’n for Gun Rts., Inc. v. City of San Jose*, 2023 WL

³ Giffords Law Center filed the last two briefs under its former name, the Law Center to Prevent Gun Violence.

4552284, at *5–6 (N.D. Cal. July 13, 2023); *Hanson v. Dist. of Columbia*, 671 F. Supp. 3d 1, 14, 20, 23 & n.8, 10 (D.D.C. 2023). Brady also participated as an *amicus curiae* before the District Court in the proceedings below (ECF Nos. 79, 111), and before the panel in the appeal. (ECF No. 37.)

Amicus curiae Team ENOUGH is a youth-led, Brady-sponsored initiative, committed to bringing a fresh perspective and a common-sense approach to America’s gun policy. Team ENOUGH has a particular interest in laws affecting Florida: it represents the interests of dozens of Florida students, including founding members who survived and lost friends and family in the Marjory Stoneman Douglas shooting. Team ENOUGH participated as an *amicus curiae* before the District Court in the proceedings below (ECF Nos. 79, 111), and before the panel in the appeal. (ECF No. 37.)

Amicus curiae Orange Ribbons for Gun Safety is a non-profit organization dedicated to pursuing gun safety. On February 14, 2018, Jaime Guttenberg and 16 others were murdered at Marjory Stoneman Douglas High School in Parkland, Florida. Thereafter, Fred Guttenberg, father of Jaime, started Orange Ribbons for Gun Safety. In addition to

strongly supporting laws like the Marjory Stoneman Douglas High School Public Safety Act, Orange Ribbons for Gun Safety’s mission includes working across the country to help protect laws that have been passed in the interest of public safety and to enact new laws that will bring down the gun violence death rate. Orange Ribbons for Gun Safety participated as an *amicus curiae* before the District Court in the proceedings below (ECF Nos. 79, 111), and before the panel in the appeal. (ECF No. 37.)

Amicus curiae March For Our Lives Action Fund (“MFOL”) is a non-profit organization of young people from across the country who are fighting for sensible gun violence prevention policies that will save lives. After the mass shooting at Marjory Stoneman Douglas High School in Parkland, Florida, MFOL was formed and immediately began advocating for common-sense gun violence prevention legislation to ensure what happened in Parkland would never again occur. Since then, young people seeking to effect change have formed hundreds of MFOL chapters across the country. These young people have a vital interest in ensuring that the Constitution is interpreted to allow the enactment of gun violence prevention measures that will protect all Americans, in all

communities. MFOL participated as an *amicus curiae* before the District Court in the proceedings below (ECF Nos. 79, 111), and before the panel in the appeal. (ECF No. 37.)

INTRODUCTION AND SUMMARY OF ARGUMENT

On February 14, 2018, a 19-year-old used an AR-15 semi-automatic rifle to kill 14 students and three instructors at Marjory Stoneman Douglas High School in Parkland, Florida.⁴ He purchased the AR-15 legally. It was one of “at least *seven* rifles” he purchased after turning 18 in September 2016.⁵ The massacre in Parkland was “one of the deadliest mass shootings in modern US history,”⁶ which stole the futures of 17 innocent victims, forever changing the lives of their classmates and families and the millions who live in fear of a similar massacre touching their own communities.

The Parkland tragedy ignited an unprecedented movement of young people—led by the students at Marjory Stoneman Douglas and others across the nation—calling on legislatures to enact sensible gun-

⁴ Laurel Wamsley et al., *17 People Died in the Parkland Shooting. Here Are Their Names*, NPR (Feb. 15, 2018), <https://www.npr.org/sections/thetwo-way/2018/02/15/586095587/17-people-died-in-the-parkland-shooting-here-are-their-names>.

⁵ Florida Senate Bill Analysis of SB 7026, at 4 (emphasis added).

⁶ Joe Sterling, *After Deadly Shooting, Florida Governor Calls for Raising Minimum Age to Buy Guns*, CNN (Feb. 23, 2018), <https://www.cnn.com/2018/02/23/us/florida-governor-reforms/index.html>.

safety measures.⁷ The Florida Legislature responded by sending Governor Rick Scott a bipartisan bill to “address the crisis of gun violence” in the state, with a particular focus on preventing “gun violence on school campuses.”⁸ And on March 9, 2018, less than one month after the massacre, Governor Scott signed into law the Marjory Stoneman Douglas High School Public Safety Act. *See Fla. Stat. § 790.065 (2018)*. Among several public-safety provisions, the Act generally prohibits those under the age of 21 from purchasing a firearm. *Fla. Stat. § 790.065(13) (2018)* (“Section 13”). Like laws in all 50 states that establish 21 as the minimum legal age for drinking alcohol, Section 13 imposes a reasonable commercial limitation on young persons’ ability to access dangerous items.

Just a few hours after Governor Scott signed the Act into law, Appellants filed this lawsuit, contending that Section 13 prevented them from exercising rights conferred by the Second Amendment. (App. 19

⁷ Emily Witt, *How the Survivors of Parkland Began the Never Again Movement*, NEW YORKER (Feb. 19, 2018), <https://www.newyorker.com/news/news-desk/how-the-survivors-of-parkland-began-the-never-again-movement>.

⁸ Florida Senate Bill Analysis of SB 7026, at 4.

(ECF No. 1.) But as the District Court correctly held, Section 13 does not run afoul of the Second Amendment. (App. 228-29 (Order, ECF No. 137, at 41-42).)

While the Second Amendment protects the right of “law-abiding” adults to keep and bear arms, it coexists with the longstanding authority of federal and state governments to regulate firearm purchase, possession, and use, including by restricting certain categories of people from purchasing firearms. In *N.Y. State Rifle & Pistol Ass’n, Inc. v. Bruen*, the Supreme Court adopted an approach that looks first at whether challenged regulations implicate the plain text of the Second Amendment, and, if they do, compares the modern regulations to their historical counterparts, utilizing reasoning by analogy. 597 U.S. 1, 17 (2022). To uphold a “modern-day regulation” implicating conduct at the core of the Second Amendment, courts need not find that the regulation is “a dead ringer for historical precursors,” but rather must identify a “well-established and representative historical *analogue*, not a historical *twin*.” *Id.* at 30 (emphasis in original).

In its most recent Second Amendment decision, issued in late June of this year, the Supreme Court clarified the standard articulated

in *Bruen*, explaining that “the appropriate analysis involves considering whether the challenged regulation is consistent with the *principles* that underpin our regulatory tradition.” *United States v. Rahimi*, 144 S. Ct. 1889, 1898 (2024) (emphasis added). In conducting the analysis, courts “must ascertain whether the new law is ‘relevantly similar’ to laws that our tradition is understood to permit.” *Id.* “Why and how the regulation burdens the right are central to this inquiry.” *Id.*

In March 2023, before *Rahimi* was decided, a panel of this Court affirmed the district court and held that Section 13 is “consistent with our Nation’s historical tradition of firearm regulation.” (ECF No. 65 at 5). In doing so, the panel looked to Reconstruction Era historical sources, following *Bruen*’s instruction that the analysis focus on a historical analogue, not a historical “dead ringer,” and recognizing that “the understanding of the Second Amendment right that ought to control in this case—where a State law is at issue—is the one shared by the people who adopted the Fourteenth Amendment, not the Second.” (ECF No. 65 at 7–8). In July 2023, this Court granted Plaintiff-Appellants’ petition for rehearing en banc and vacated the panel opinion. (ECF No. 86).

This Court should affirm because, as the panel correctly concluded, Section 13 is consistent with the Nation’s historical tradition of regulating firearm access by “categories of persons thought by a legislature to present a special danger of misuse.” *Rahimi*, 144 S. Ct. at 1901. *Amici* submit this brief to provide additional support for how Section 13 is consistent with the principles underpinning the Nation’s historical firearm regulations (including regulations of individuals in the 18-to-20-year-old age group) and to highlight an established body of empirical research that likewise confirms that Section 13 is analogous to historical regulations.

Modern social science research demonstrates that 18-to-20-year-olds are at a heightened risk of suicide and are all-too-frequently involved in mass shootings. In fact, a young adult’s access to firearms when contemplating a suicide attempt can often determine whether that person lives or dies.⁹ In addition, in 2024 alone, there have been 22 school shootings that resulted in injury or death,¹⁰ and firearm violence is now

⁹ *See infra* p. 21.

¹⁰ *School Shootings This Year: How Many and Where*, EDUCATIONWEEK (Aug. 20, 2024),

the leading cause of death among children and adolescents.¹¹ This grim reality underscores why modest regulation of this age group’s ability to purchase firearms is consistent with the principles underlying historical firearms regulations and thus comports with the Second Amendment.

ARGUMENT

I. SECTION 13 IS CONSISTENT WITH THE HISTORICAL PRINCIPLE OF REGULATING GROUPS THAT POSE A HEIGHTENED RISK OF FIREARM VIOLENCE.

In *Rahimi*, the Supreme Court issued a critical clarification of how to analyze Second Amendment challenges to statutes. The Court rejected the overly narrow historical tests that some lower courts had mistakenly applied in the wake of *Bruen*. As the Court explained, “the Second Amendment permits more than just those regulations identical to ones that could be found in 1791.” *Rahimi*, 144 S. Ct. at 1897–98; *see id.* at 1897 (*Heller* and *Bruen* “were not meant to suggest a law trapped

<https://www.edweek.org/leadership/school-shootings-this-year-how-many-and-where/2024/01>.

¹¹ U.S. Dep’t of Health and Human Servs., *U.S. Surgeon General Issues Advisory on the Public Health Crisis of Firearm Violence in the United States* (June 25, 2024), <https://www.hhs.gov/about/news/2024/06/25/us-surgeon-general-issues-advisory-public-health-crisis-firearm-violence-united-states.html>.

in amber”). “[T]he appropriate analysis involves considering whether the challenged regulation is consistent with *the principles* that underpin our regulatory tradition.” *Id.* at 1898 (emphasis added). As the Court explained, “[w]hy and how the regulation burdens the right are central to this inquiry. . . . [I]f laws at the founding regulated firearm use to address particular problems, that will be a strong indicator that contemporary laws imposing similar restrictions for similar reasons fall within a permissible category of regulations.” *Id.*

Section 13 is consistent with a long historical tradition of regulating persons (including individuals aged 18-to-20) who are deemed to pose a heightened risk of harm when armed. As the Fourth Circuit has recently explained, “history demonstrates the principle that certain dangerous individuals may be prohibited from possessing firearms.” *Md. Shall Issue, Inc. v. Moore*, 2024 WL 3908548, at *16 (4th Cir. Aug. 23, 2024) (Rushing, J., concurring); *see Rahimi*, 144 S. Ct. at 1898 (noting “ample evidence that the Second Amendment permits the disarmament of individuals who pose a credible threat to the physical safety of others”).

Indeed, laws “targeting minors under 21 are an outgrowth of an American tradition of regulating certain groups’ access to arms for the

sake of public safety.” *NRA v. BAFTE*, 700 F.3d 185, 205 (5th Cir. 2012). Numerous “revolutionary and founding-era gun regulations . . . targeted particular groups for public safety reasons,” including “minors” and “infants,” terms which were understood at the time to “appl[y] to persons under the age of 21, not only to persons under the age of 18.” *Id.* at 200–01.

As explained further in Section II *infra*, minors under the age of 21 are more impulsive and disproportionately more likely to engage in gun violence than other age groups. Thus, as some commentators have explained, historical and modern laws like Section 13 “have the same ‘why’: concerns about public safety resulting from minors’ impulsivity and their improper usage of firearms.” Megan Walsh & Saul Cornell, *Age Restrictions and the Right to Keep and Bear Arms, 1791-1868*, 108 MINN. L. REV. 3049, 3108 (2024). Because Section 13 imposes “similar restrictions for similar reasons” as historical regulations—namely, preventing impulsive acts of gun violence by 18-to-20-year-olds—it passes constitutional muster. *Rahimi*, 144 S. Ct. at 1898.

II. MODERN SOCIAL SCIENCE AND NEUROSCIENCE CONFIRM WHAT LEGISLATORS HAVE LONG RECOGNIZED: THAT 18-TO-20-YEAR-OLDS POSE A HEIGHTENED RISK OF FIREARM VIOLENCE.

The tragedy at Marjory Stoneman Douglas High School in Parkland, Florida is just one example of hundreds of mass shootings involving individuals in the age group affected by Section 13.¹² Empirical evidence also shows that 18-to-20-year-olds are at a heightened risk of death by suicide when they have access to firearms, and that increasing the minimum age required to purchase a firearm can help to reduce firearm suicides among young people. Section 13's temporally limited restriction on purchases of firearms by individuals in this age group is thus consistent with the historical principle of protecting the public from persons who pose a heightened risk of violence when armed.

¹² Glenn Thrush & Matth Richtel, *A Disturbing New Pattern in Mass Shootings: Young Assailants*, NEW YORK TIMES (June 2, 2022), <https://www.nytimes.com/2022/06/02/us/politics/mass-shootings-young-men-guns.html>.

A. 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 disproportionately at risk of attempting suicide, and unrestricted access to firearms exacerbates this risk. Many major psychiatric conditions first develop in adolescence,¹³ and “suicide risk increase[s] steeply during the first few years after [an individual’s] first contact with psychiatric services.”¹⁴ Eighteen-to-twenty-year-olds’ impulsivity and propensity toward negative emotional states puts them at particular risk of suicide, which “is commonly an impulsive act by a vulnerable individual.”¹⁵ One study found that, of 153 survivors of nearly lethal suicide attempts aged 13-to-34, close to 25%

¹³ Jay N. Giedd et al., *Why Do Many Psychiatric Disorders Emerge During Adolescence?*, 9 NATURE REV. NEUROSCIENCE 947, 952 (2008).

¹⁴ Merete Nordentoft et al., *Absolute Risk of Suicide After First Hospital Contact in Mental Disorder*, 68 ARCHIVES GEN. PSYCHIATRY 1058, 1061 (2011).

¹⁵ E. Michael Lewiecki & Sara A. Miller, *Suicide, Guns, and Public Policy*, 103 AM. J. PUB. HEALTH 27, 27 (2013).

reported that *less than five minutes* passed between their decision to attempt suicide and their suicide attempt.¹⁶

In another study, 47.6% of people who were referred to a psychiatric hospital following a suicide attempt stated that fewer than ten minutes had passed between when they first began contemplating the act and their attempt.¹⁷ It is unsurprising, then, that suicide accounts for a higher percentage of deaths for 15-to-24-year-olds than for older age groups.¹⁸

From 2018 to 2022, suicide was the second most common cause of death among 18-to-20-year-olds.¹⁹ And the upward trend in gun suicides among young people was especially acute among youth of color:

¹⁶ Thomas R. Simon et al., *Characteristics of Impulsive Suicide Attempts and Attempters*, 32 (SUPP.) SUICIDE & LIFE-THREATENING BEHAV. 49, 50–52 (2001).

¹⁷ Eberhard A. Deisenhammer et al., *The Duration of the Suicidal Process: How Much Time Is Left for Intervention Between Consideration and Accomplishment of a Suicide Attempt?*, 70 J. CLINICAL PSYCHIATRY 19, 20 (2009).

¹⁸ Centers for Disease Control and Prevention, Web-based Injury Statistics Query and Reporting System (WISQARS), *Leading Causes of Death Reports, 2018 to 2022* (last visited Aug. 30, 2024), <https://wisqars.cdc.gov/lcd>.

¹⁹ *Id.*

from 2012 to 2020, the firearm suicide rate rose 35% among white teens.²⁰ During the same period, it rose 88% among Native American teens and *more than doubled* among Black, Latino, and Asian teens.²¹

Given the rapidity with which suicidal ideation gives way to action, “[a]ccess to firearms is a key risk factor for suicide.”²² In fact, “at least a dozen U.S. case-control studies in the peer-reviewed literature . . . have found that a gun in the home is associated with an increased risk of suicide. The increase in risk is large, typically two to ten times that in homes without guns.”²³ Those prone to “act impulsively . . . are more likely to be affected by availability of the means at hand,” which explains

²⁰ Jennifer Mascia & Olga Pierce, *Youth Gun Suicide Is Rising, Particularly Among Children of Color*, THE TRACE (Feb. 24, 2022), <https://www.thetrace.org/2022/02/firearm-suicide-rate-cdc-data-teen-mental-health-research/>.

²¹ *Id.*

²² Am. Pub. Health Assoc., *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>.

²³ Matthew Miller & David Hemenway, *Guns and Suicide in the United States*, 359 NEW ENGL. J. MED. 989, 990 (2008).

why “the preponderance of current evidence indicates that gun availability is a risk factor for suicide, especially among youth.”²⁴

The inherent lethality of firearms compounds the increased risk of suicide posed by firearm access. Firearm suicide is the suicide method with the highest fatality rate—the odds of dying by suicide are 140 times greater when a gun is used than for any other common method.²⁵ In other words, while 4% of non-firearm suicide attempts are fatal, 85% of suicide attempts with a gun are fatal.²⁶ In 2020, more than half of the 3,305 suicide deaths among 16-to-21-year-olds involved firearms.²⁷

Restricting 18-to-20-year-olds’ ability to purchase firearms can save lives. Research shows that fewer than 3% of people who survive

²⁴ Matthew Miller et al., *Firearm Prevalence and the Risk of Suicide*, 2 HARV. HEALTH POL’Y REV. 2, 34 (Fall 2001).

²⁵ J. Michael Bostwick et al., *Suicide Attempt as a Risk Factor for Completed Suicide: Even More Lethal Than We Knew*, 173 AM. J. PSYCHIATRY 1094, 1098 (2016).

²⁶ Matthew Miller et al., *Suicide Mortality in the United States*, 33 ANN. REV. PUB. HEALTH 393, 397 (2012).

²⁷ RAND Corp., *The Effects of Minimum Age Requirements* (last updated July 16, 2024), <https://www.rand.org/research/gun-policy/analysis/minimum-age.html>.

one suicide attempt later die by suicide.²⁸ Although “[s]uicide attempters often have second thoughts, . . . when a method like a gun works so effectively, there’s no opportunity to reconsider.”²⁹ A young person’s access to firearms when contemplating a suicide attempt therefore often determines whether that person will live or die.

B. Eighteen-to-Twenty-Year-Olds Are Increasingly the Perpetrators of Mass Shootings.

Moreover, nothing in the Second Amendment overrides the principle that, in order to protect public safety, firearms must be purchased and handled in a responsible, lawful way. Gun ownership alone need not lead to violence. But when young people are given unrestricted power to purchase any kind of firearm, the consequences are too often deadly. Indeed, our nation has faced a disturbing and continuous wave of mass shootings over the past few years, many involving perpetrators in the age range at issue in Section 13.

²⁸ Bostwick, *supra* note 25, at 1098.

²⁹ Jane E. Brody, *After a Suicide Attempt, the Risk of Another Try*, N.Y. TIMES (Nov. 7, 2016), <https://www.nytimes.com/2016/11/08/well/live/after-a-suicide-attempt-the-risk-of-another-try.html>.

For example, just this year, an 18-year-old was arrested for his involvement in a mass shooting at a bus stop in Philadelphia that left eight teenagers injured.³⁰ And last year, in April 2023, a 19-year-old and two 20-year-olds were charged in a mass shooting at a Sweet 16 birthday party in Dadeville, Alabama that killed four people and injured 32 others, many of them high school students;³¹ on May 16, 2023, an 18-year-old gunman killed three people and wounded six others in Farmington, New Mexico, with a firearm purchased shortly after his 18th birthday;³² and on June 6, 2023, a 19-year-old killed two and injured 12 others with a handgun outside a high-school graduation in Richmond, Virginia.³³

³⁰ Sharifa Jackson & Corey Davis, *2 arrested, 2 more wanted in connection with mass shooting at SEPTA bus stop that injured 8 teens*, 6 ABC News (Mar. 11, 2024), <https://6abc.com/northeast-high-school-septa-bus-stop-shooting-philadelphia/14514093/>.

³¹ Isabel Rosales et al., *6 People Face Murder Charges for the Sweet 16 Party Massacre that Left 4 Dead and 32 Injured*, CNN (Apr. 21, 2023), <https://www.cnn.com/2023/04/19/us/dadeville-alabama-birthday-party-shooting-wednesday/index.html>.

³² Elise Hammond et al., *The Latest on Mass Shooting in Farmington, New Mexico*, CNN (May 16, 2023), <https://www.cnn.com/us/live-news/farmington-new-mexico-shooting-05-16-23>.

³³ Sarah Rankin & Denise Lavoie, *Victims Identified in Deadly Shooting After High School Graduation Ceremony in Virginia*, KGW8 (June 7, 2023), <https://www.kgw.com/article/news/nation-world/2-dead->

Similarly, 2022 was riddled with many of its own tragic firearms incidents involving young perpetrators, including: On May 14, 2022, an 18-year-old gunman at a supermarket in Buffalo, New York, killed ten people and wounded three others;³⁴ ten days later, on May 24, an 18-year-old killed 19 children and two teachers at an elementary school in Uvalde, Texas;³⁵ and on October 24, 2022, a 19-year-old killed two people and wounded seven others at his former high school in St. Louis, Missouri.³⁶

Further, some of the deadliest school shootings in our nation's history have been committed by young adults in (or near) the age range affected by Section 13: the May 18, 2018 Santa Fe, Texas high school shooting in which a 17-year-old killed eight students and two teachers,

after-high-school-graduation-shooting/507-c72162c9-bf0e-4f68-bb7e-d999647b31f9.

³⁴ *A Partial List of Mass Shootings in the United States in 2022*, N.Y. TIMES (Jan. 24, 2023), <https://www.nytimes.com/article/mass-shootings-2022.html>.

³⁵ *Id.*

³⁶ Jenna Fisher et al., *Teen and Woman Killed in Shooting at St. Louis High School*, N.Y. TIMES (Oct. 24, 2022), <https://www.nytimes.com/2022/10/24/us/st-louis-high-school-shooting.html>.

and injured 13 others; the February 14, 2018 Parkland, Florida shooting (mentioned at the outset) perpetrated by a 19-year-old; the December 14, 2012 Newtown, Connecticut elementary school shooting, in which a 20-year-old killed 20 schoolchildren and six staff members; and the April 20, 1999 Littleton, Colorado shooting at Columbine High School, in which an 18-year-old and a 17-year-old killed 12 fellow students and a teacher.³⁷

Today, gun violence by young people under 21 in schools is—tragically—even more commonplace than the list of high-profile mass shootings suggests. According to recent analyses, there have been more than 70 school shootings annually since the 2018–19 school year.³⁸ These shootings have only become more frequent: the 2020–21 school year set

³⁷ Mark Abadi et al., *The 30 Deadliest Mass Shootings in Modern US History Include Monterey Park and Uvalde*, BUSINESS INSIDER (last updated Jan. 23, 2022), <https://www.businessinsider.com/deadliest-mass-shootings-in-us-history-2017-10/>.

³⁸ Zach Schonfeld, *School Shootings at Highest Number in 20 Years: Research*, THE HILL (June 22, 2022), <https://thehill.com/policy/national-security/3539820-school-shootings-at-highest-number-in-20-years-research/>; Lexi Lonas, *US school shootings reach new high, doubled in past year*, THE HILL (Sept. 14, 2023), <https://thehill.com/homenews/education/4204651-us-school-shootings-reach-new-high-doubled-in-past-year>.

a record with 93 shootings that caused injury or death, and the 2021–22 school year nearly doubled that record with 188.³⁹

Gun violence has become so pervasive that in June 2024, the United States Surgeon General declared firearm violence a national public health crisis.⁴⁰ The Surgeon General’s report notes that firearm violence is now the leading cause of death among children and adolescents, and that more than half of U.S. adults or their family members have experienced a firearm-related incident in their lives.⁴¹

In addition to the victims killed or injured in school shootings, there are lasting effects on youth who experience these traumatic incidents: one study found that in the two years following a fatal school shooting, antidepressant use by youth aged 20 and younger in the area

³⁹ Lonas, *supra* note 38.

⁴⁰ U.S. Dep’t of Health and Human Servs., *U.S. Surgeon General Issues Advisory on the Public Health Crisis of Firearm Violence in the United States* (June 25, 2024), <https://www.hhs.gov/about/news/2024/06/25/us-surgeon-general-issues-advisory-public-health-crisis-firearm-violence-united-states.html>.

⁴¹ *Id.*

increased by 21.3%,⁴² a statistic that is all the more troubling given the risk of suicide discussed in Section II.A *supra*.

C. Eighteen-to-Twenty-Year-Olds Are Generally More Impulsive Than Older Cohorts.

The startling numbers described above are, to some extent, unsurprising given the empirical research demonstrating that 18-to-20-year-olds' brains are still developing, making them more likely to engage in risky behaviors. Scientific research establishes that the human brain does not finish developing until the mid-to-late twenties.⁴³ As the Supreme Court has recognized, “developments in psychology and brain science continue to show fundamental differences between juvenile and adult minds.” *Graham v. Florida*, 560 U.S. 48, 68 (2010). The *last* part of the brain to mature is the prefrontal cortex, which is responsible for impulse control, judgment, and long-range planning. *Id.* (citing Brief for

⁴² Maya Rossin-Slater et al., *Local Exposure to School Shootings and Youth Antidepressant Use*, 117 PNAS 23484, 23486 (2020).

⁴³ Adam Winkler & Cara Natterson, *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 (“The scientific literature over the past two decades has demonstrated repeatedly that the brain does not fully mature until the mid-to-late 20s.”).

American Medical Association et al. at 16–24; Brief for American Psychological Association et al. at 22–27.).⁴⁴ The prefrontal cortex matures well after the limbic system, which controls basic emotions like fear, anger, and pleasure, resulting in a period of reduced self-control in the late teens and early twenties.⁴⁵

As a result, 18-to-20-year-olds are prone to taking risks and deprioritizing long-term outcomes. *See NRA v. BATFE*, 700 F.3d 185, 210 n.21 (5th Cir. 2012) (“[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.”); *Miller v. Alabama*, 567 U.S. 460, 471–72 (2012) (“[Juveniles] have a lack of maturity and an underdeveloped sense of responsibility, leading to recklessness, impulsivity, and heedless risk-taking.”).

⁴⁴ *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.”).

⁴⁵ *Id.* at 453.

Adolescents are also uniquely prone to negative emotional states.⁴⁶ Adolescents' responses to "frequent" negative states "tend to be more intense, variable and subject to extremes relative to adults."⁴⁷ And adolescents are also more likely to *act* on negative emotions like stress or rage because their limbic systems have matured while their cerebral cortices (*i.e.*, impulse control centers) are still developing.⁴⁸

Because the behavior-regulating functions of their brains are still developing, 18-to-20-year-olds are at a higher risk of perpetrating and suffering from gun violence when they have unrestricted access to purchasing firearms.⁴⁹

⁴⁶ 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).

⁴⁷ *Id.*

⁴⁸ Arain, *supra* note 44, at 458 ("[T]he adolescent brain is structurally and functionally vulnerable to environmental stress.").

⁴⁹ 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.").

D. Minimum-Age Laws Have Proven Effective at Reducing Gun Violence Among Minors.

Age-based regulations are also “permissible” under the *Rahimi* framework because their effectiveness underscores the “why” of Section 13. Studies have found a connection between age-based regulations like Section 13 and a decline in firearm-related adolescent deaths, especially suicides and unintentional shootings. For instance, a 2004 study found that state laws raising the minimum legal age to purchase a handgun to 21 were associated with a 9% decline in firearm suicide rates among 18-to-20-year-olds.⁵⁰ Another comprehensive report issued just last month on the science of gun policy found “supportive evidence that increasing the minimum age required to purchase a firearm above the threshold set by federal law can reduce firearm suicides among young people.”⁵¹

Age-based regulations have also proven effective in reducing gun violence among young people, including in the 18-to-20-year-old

⁵⁰ Daniel W. Webster et al., *Association Between Youth-Focused Firearm Laws and Youth Suicides*, 292 JAMA 594, 598 (2004).

⁵¹ RAND Corp., *The Science of Gun Policy* (July 16, 2024), at xiii, https://www.rand.org/pubs/research_reports/RRA243-9.html.

range. A 2019 study found that 18-to-21-year-olds made up more than half (68.7%) of the 21,241 firearm-related deaths among U.S. children and adolescents from 2011 to 2015, but every 10-point increase in a score measuring the strength of a state's gun laws "decreases the firearm-related mortality rate in children by 4%."⁵² Another study using the same gun-law scores found that the pediatric firearm mortality rate among children under 20 was almost twice as high in the quartile of states with the weakest laws than in the quartile of states with the strongest laws.⁵³

Research demonstrates that 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,"⁵⁴ indicating that the perpetrators seek

⁵² Monika K. Goyal et al., *State Gun Laws and Pediatric Firearm-Related Mortality*, 144 PEDIATRICS 2, at 3 & tbl. 1 (2019).

⁵³ Sriraman Madhavan et al., *Firearm Legislation Stringency and Firearm-Related Fatalities Among Children in the US*, 229 J. AM. COLL. SURGEONS 150, 152 (2019).

⁵⁴ U.S. Dep't of Justice, Fed. Bureau of Investigation, *A Study of Pre-Attack Behaviors of Active Shooters in the United States Between 2000 and 2013*, at 7 (June 2018), <https://www.fbi.gov/file-repository/pre-attack-behaviors-of-active-shooters-in-us-2000-2013.pdf/view>.

easy access to weapons and are not necessarily sophisticated participants in the black market for firearms.

Indeed, a survey of convicted gun offenders in 13 states found that 17% of the offenders would have been prohibited from obtaining firearms at the time of the crime if the minimum legal age for purchasing a firearm in that state had been 21 years, a finding that “underscore[d] the importance of minimum-age restrictions.”⁵⁵

The same concerns regarding minors’ heightened impulsiveness motivated passage of laws in all 50 states establishing 21 as the minimum legal age for alcoholic beverage consumption. Studies confirm that these laws led to significant reductions in death from car crashes involving minor drivers.⁵⁶

Lawmakers therefore can, and should, conclude that commercial restrictions on purchasing firearms will deter suicidal and

⁵⁵ Katherine A. Vittes et al., *Legal Status and Source of Offenders’ Firearms in States with the Least Stringent Criteria for Gun Ownership*, 19 INJ. PREVENTION 26, 29–30 (2013).

⁵⁶ William DeJong & Jason Blanchette, *Case Closed: Research Evidence on the Positive Public Health Impact of the Age 21 Minimum Legal Drinking Age in the United States*, (SUPP.) 17 J. STUD. ON ALCOHOL & DRUGS 108, 113 (2014).

criminal use of firearms—precisely the type of reasonable conclusion that underlies virtually all laws aimed at regulating dangerous products, and consistent with our Nation’s history and tradition of firearms regulations. *Cf., e.g., Nat’l Paint & Coatings Ass’n v. City of Chicago*, 45 F.3d 1124, 1128–29 (7th Cir. 1995) (discussing the reasonableness of legislatures’ restricting access to hazardous products including guns, fireworks, and liquor, despite the fact that other means of procurement exist).

CONCLUSION

For the foregoing reasons and those set forth by the Government, Section 13 survives Plaintiff-Appellants’ challenge to its constitutionality under *Rahimi*’s historical principles test. A temporal restriction on 18-to-20-year-olds’ ability to purchase firearms (the “how”) in order to protect the public from individuals who pose a heightened risk of causing harm when armed (the “why”) is entirely consistent with a long history of analogous public safety regulations. This “why” is further confirmed by modern neuroscience and social science research on the risk of death when individuals under the age of 21 have easy access to

firearms. Thus both the “how” and “why” of Section 13 are consistent with the principles underlying historical firearms regulations.

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Respectfully submitted,

*Of Counsel for Amicus Curiae
Giffords Law Center to Prevent
Gun Violence:*

Esther Sanchez-Gomez
Kelly Percival
GIFFORDS LAW CENTER TO
PREVENT GUN VIOLENCE
268 Bush St. #555
San Francisco, CA 94104
(415) 433-2062

Robert A. Sacks
Leonid Traps
Sophie A. Kivett
SULLIVAN & CROMWELL LLP
125 Broad Street
New York, NY 10004
(212) 558-4000

Elizabeth A. Rose
Beatriz L. Albornoz
SULLIVAN & CROMWELL LLP
1700 New York Ave. NW #700
Washington, DC 20006
(202) 956-7500

/s/ Madeline B. Jenks

Madeline B. Jenks
DC Bar No. 1671314
SULLIVAN & CROMWELL LLP
1700 New York Ave. NW #700
Washington, DC 20006
(202) 956-7500
jenksm@sullcrom.com

*Counsel for Amici Curiae Giffords
Law Center to Prevent Gun
Violence, Brady Center to Prevent
Gun Violence, Team ENOUGH,
Orange Ribbons for Gun Safety,
and March For Our Lives Action
Fund*

*Of Counsel for Amici Curiae
Brady and Team ENOUGH:*

Shira Feldman
Douglas Letter
BRADY CENTER TO PREVENT GUN
VIOLENCE
840 First Street NE, Suite 400
Washington, D.C. 20002
(202) 370-8131

CERTIFICATE OF SERVICE

I certify that on August 30, 2024, the foregoing document was served on all parties or their counsel of record through the CM/ECF system.

/s/ Madeline B. Jenks

Madeline B. Jenks

*Counsel for Amici Curiae
Giffords Law Center to Prevent
Gun Violence, Brady Center to
Prevent Gun Violence, Team
ENOUGH, Orange Ribbons for
Gun Safety, and March For
Our Lives Action Fund*

August 30, 2024

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This brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 29(a)(5) because this brief contains 5,665 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.

/s/ Madeline B. Jenks

Madeline B. Jenks

*Counsel for Amici Curiae
Giffords Law Center to Prevent
Gun Violence, Brady Center to
Prevent Gun Violence, Team
ENOUGH, Orange Ribbons for
Gun Safety, and March For
Our Lives Action Fund*

August 30, 2024