



# EXPLAINER

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## Building on the Bipartisan Safer Communities Act

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### Introduction

Widespread access to firearms is a growing problem in the U.S., with the [majority of Americans](#) viewing gun violence as a “very big problem” in the country today. **More children die by gunfire in a year than [on-duty police officers and active military members](#)**. Trends in gun sales indicate gun purchases [spiked at the height of the pandemic](#), with one in five U.S. households buying a gun from March 2020 to March 2022 and one in 20 Americans purchasing a gun for the first time. Despite the rise in gun ownership and gun deaths, minimal efforts in Congress have been implemented to curb gun violence.

However, in June 2022, President Biden signed the [Bipartisan Safer Communities Act](#) (BSCA) into law (P.L. 117-159). While this law has not dramatically curbed gun violence, it does include provisions related to enhancing access to mental health services, expanding firearm purchasing requirements and background checks for young adults, strengthening certain licensing requirements and gun trafficking provisions, and allocating additional funds to support crisis response, school-based mental health, and suicide prevention. Some major provisions of the bill include:

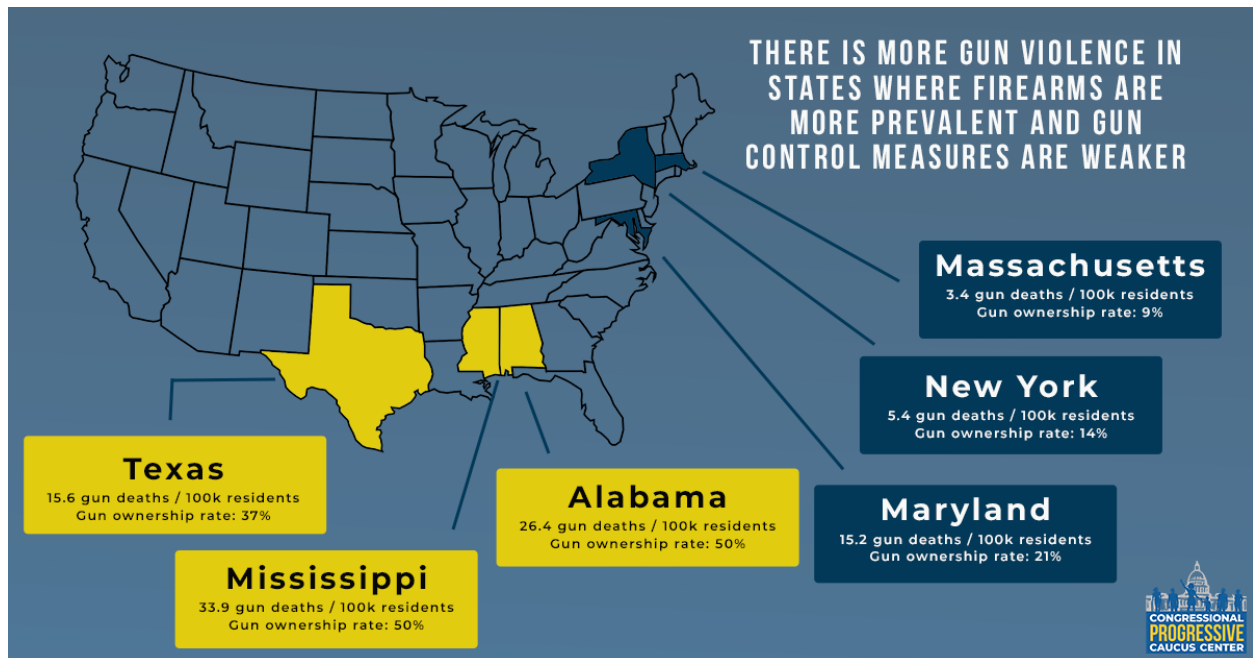
- Providing \$750 million to support states with crisis intervention. This includes extreme risk protection orders, and other purposes such as mental health courts, drug courts, and veterans courts.
- Enhancing background checks for minors and young adults by requiring an investigative period to review juvenile and mental health records for buyers under 21 years of age.
- Establishing new federal offenses for gun trafficking and straw purchases (whereby a person obtains a gun through a proxy).
- Adding those convicted of domestic abuse against current or recent dating partners to those prohibited from buying or possessing guns.

- Clarifying the definition of “federally licensed firearms dealer” to ensure more sellers are registering, conducting background checks, and keeping appropriate records of gun sales.
- Providing \$250 million in funding for community-based violence prevention initiatives.

While the BSCA made limited changes to federal gun statutes and provided incentives for states to reduce the threat of gun violence, the legislation has several shortcomings, which we explain below. Until comprehensive gun reform is implemented by Congress, gun laws throughout the country will continue to vary state-by-state, accompanied by disparate rates of gun violence.

### Gun Reform is Effective

Generally, there is more gun violence in states where firearms are more prevalent and gun control measures are weaker. Below is a glance at gun laws in six states<sup>1</sup> and the impacts of stricter vs. looser gun restrictions on rates of gun violence. The following data is provided by Everytown’s [Gun Law Navigator](#) and [2023 gun law rankings](#).



<sup>1</sup> States were chosen based on those which have strong or weak gun control laws.

## Closer Look: State-by-State

### Massachusetts



**Massachusetts has the lowest rates of gun deaths in the U.S. and some of the strongest gun laws in the country.** The state requires background checks for permits to purchase all firearms. The state requires anyone carrying a concealed firearm in public first to obtain a permit and receive training. Massachusetts has extreme risk laws (also known as red flag laws) that allow a family or a household member to petition for a court order to temporarily prevent someone in crisis from accessing a gun, and require secure storage of firearms. The state requires new handgun models sold in the state to have childproofing features and does not provide legal immunity to gun manufacturers. Assault rifles and high-capacity magazines are prohibited.

## New York



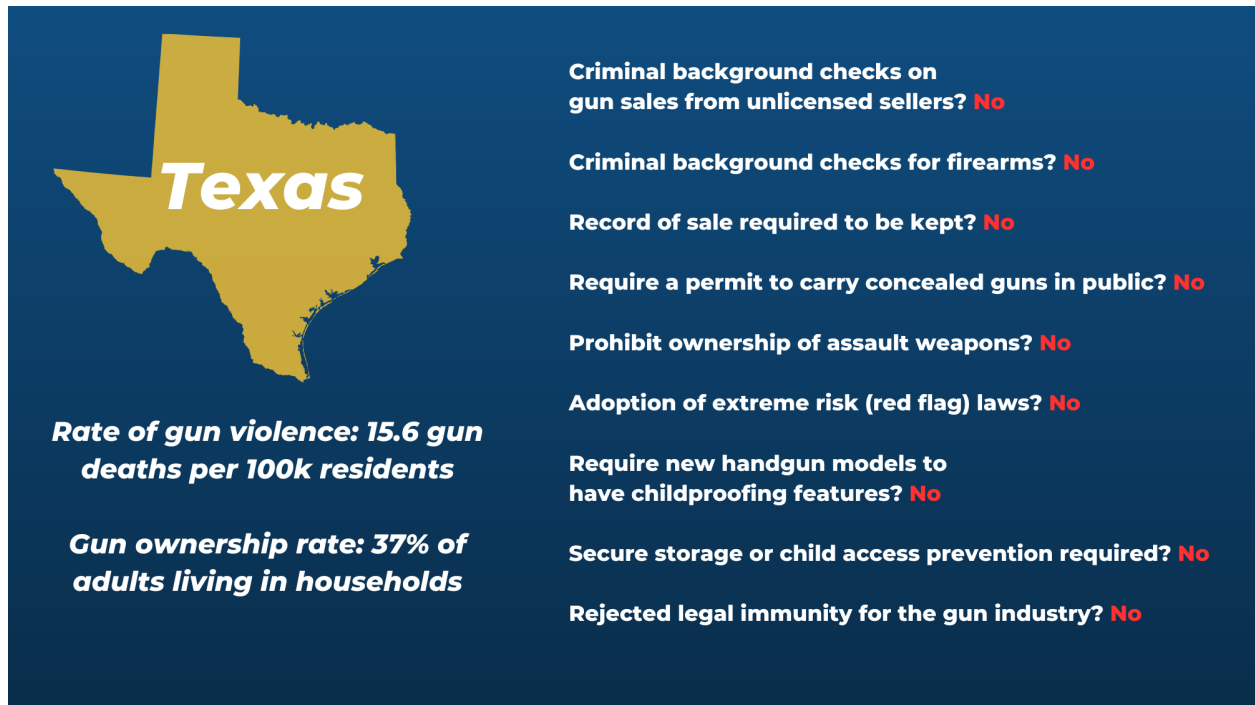
**New York has the fourth-lowest rate of gun deaths in the U.S. and the second-strongest gun laws in the nation.** New York requires background checks for all firearm purchases at the point of sale and for permits to purchase (for handguns and semi-automatic rifles). The state requires anyone carrying a concealed firearm in public to first obtain a permit and receive training. The state also has red flag laws requiring gun owners to secure firearms safely for children and others in a household who are prohibited from accessing a gun. The state requires new handgun models sold in the state to have childproofing features and does not provide legal immunity to gun manufacturers. In 2021, New York became the first state in the nation to pass a gun industry liability law, making it easier to bring civil lawsuits against gun manufacturers and distributors. The state also bans assault rifles and high-capacity magazines.

## Maryland



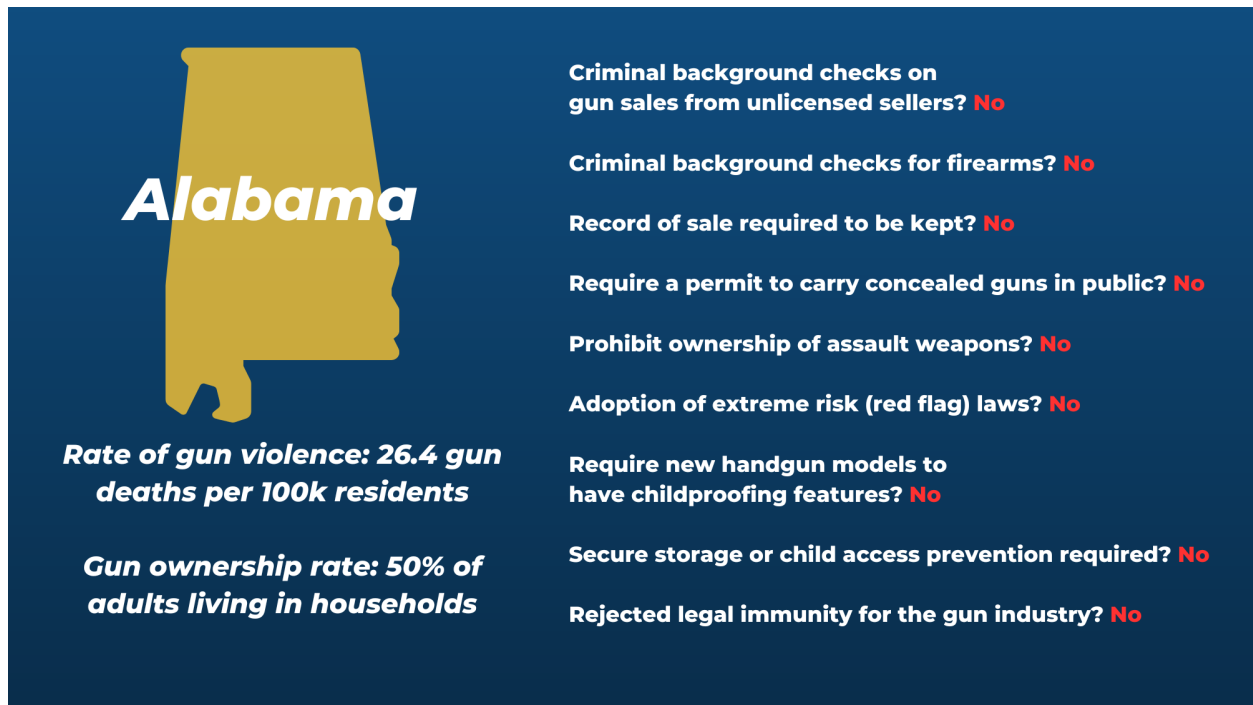
**Maryland has some of the strongest gun laws in the country but gun deaths near the national average.** Despite the strength of its laws, the state has the [highest rate of out-of-state crime gun imports \(iron pipeline\)](#) in the country. In Baltimore, which has the highest instances of gun violence in the state, nearly two-thirds of guns associated with crime come from out of state. Maryland requires background checks for all firearm purchases at the point of sale and permits to purchase handguns. The state requires anyone carrying a concealed firearm in public to first obtain a permit and receive training. Maryland has red flag laws, allowing law enforcement, family members, and health and mental health professionals to petition for a court order. The state requires gun owners to secure firearms safely and bans assault rifles and high capacity magazines.

## Texas



**The state of Texas has weak gun laws and gun deaths above the national average.** The state does not require background checks or permits to purchase a firearm from a private dealer. In 2021, Texas implemented a “constitutional carry” law in which those who legally own a firearm can carry it without obtaining a permit or training. Despite a rise in shootings, the state has failed to adopt a process that allows for temporarily removing a firearm from someone believed to be dangerous. Texas does not have a law regarding the safe storage of firearms and ammunition, but it does hold parents & guardians liable should a minor gain access to an unsecured gun to kill or injure a person. The state allows for the purchase of assault rifles and high-capacity magazines and authorizes people with valid handgun licenses to carry concealed handguns on college and university campuses and in K-12 schools.

## Alabama



**The state of Alabama has weak gun laws and the fourth-highest rate of gun deaths in the nation.** The state also has one of the highest gun homicide rates. Alabama allows permitless carry, where an adult is allowed to conceal carry in public without a permit, training, or a background check. The state does not require safe storage of firearms and allows for the purchase of assault rifles and high-capacity magazines.

## Mississippi



**Mississippi has the country's weakest gun laws, the most gun deaths, and the highest rate of gun homicides in the nation.** No permit, background check, or firearms registration requirement exists when purchasing from a private dealer. Open carry is legal in Mississippi without a permit for any adult, and concealed carry is legal without a permit for anyone who can legally possess a firearm, with no minimum age requirement. The state allows for the purchase of assault rifles and high-capacity magazines, and authorizes people with valid handgun licenses to carry concealed handguns on college and university campuses and in K-12 schools.

### Breakdown of the Data

According to Everytown's above analysis of all 50 states, 14 states that have failed to implement basic gun control laws have **nearly triple the rate of gun deaths as top states with protections in place.** Opponents of gun control laws claim that such laws do not reduce gun violence; however, reports show that weaker gun laws are associated with more [homicides](#) and [mass shootings](#). Suicides, which account for [over half of all firearm deaths](#) (54%), are concentrated in states with [higher rates of](#)



[gun ownership](#). For example, Montana—which has the highest rate of household firearm ownership—**has the second-highest suicide rate in the country**.

Additional states have attempted to implement “first of their kind” gun restrictions beyond requirements at the federal level to hold gun manufacturers accountable. In New Jersey, lawmakers [passed a bill](#) to require gun owners to get liability insurance and would have required in-person interviews of character references for gun applicants. However, the law was [struck down](#) by a U.S. district judge, who cited the recent Supreme Court decision in [New York State Rifle & Pistol Association v. Bruen](#). In this case, the court overturned a century-old law requiring residents of NY to demonstrate “[proper cause](#)” to carry a concealed handgun in public, and lowered the standard for lower courts to evaluate Second Amendment challenges to gun restrictions. Because of this, states with similar “proper cause” laws on the books—California, Hawaii, Maryland, Massachusetts, New Jersey— have had to [revise their laws](#) to maintain public safety in light of this decision. The ruling could also spur a wave of litigations challenging various state gun law protections as violations of the Second Amendment.

Hence, a number of states have been sidelined from implementing gun control measures. This has resulted in a landscape of discrepant gun laws created in part, due to federal inaction. In the case of states like Maryland—which is plagued with gun violence despite having stronger gun restrictions—it is evident that loose gun protections in neighboring states can negatively impede efforts to curb gun violence in other states. Thus, federal lawmakers must recognize that public safety is a national priority and address the rising rates of gun violence with comprehensive legislation. A [May 2023 CNN-SSRS poll](#) found that 64% of Americans favor stricter gun laws.

### **The Bipartisan Safer Communities Act— Wins and Losses**

The Bipartisan Safer Communities Act was a step in the right direction, being the first major piece of gun legislation to pass in Congress in nearly 30 years. Since its implementation, [progress has been made](#) to strengthen legal firearm purchases (as of May 2023) by:

- Establishing federal straw purchasing and trafficking criminal offenses. As a result, the DOJ has prosecuted more than 60 defendants for violations against these provisions and seized hundreds of firearms. Trafficked guns [undermine strong laws](#) states have enacted and are a major driver of crime and the illegal flow of guns.
- Increasing prosecutions for unlicensed dealing. DOJ prosecutions increased 52% from FY 2021 to FY 2022 and is on track to expand prosecutions in FY 2023

due to the BSCA's revised definition of who is “engaged in the business” of dealing in firearms.

- Conducting more than 89,000 enhanced background checks for buyers under 21. More than 160 firearm transactions have been denied due to this new provision in the BSCA.

Nevertheless, the legislation did contain a number of shortcomings. The bill ultimately signed into law left out several [previously included provisions](#) in the House package, including: raising the purchase age for semi-automatic weapons to 21; regulations on “ghost guns” (firearms that are privately assembled and untraceable); nationwide implementation of red flag laws and safe storage requirements; and prohibitions against bump stocks and high-capacity magazines for civilian use. The legislation also expands restrictions on abusive partners purchasing or owning a gun, including non-spouses and those not in the household (boyfriend loophole), **but does not completely close it**. Since the legislation allows first-time offenders to purchase a gun after five years if they are not convicted of another misdemeanor, this still presents a dangerous gap in the law for domestic abuse survivors. The bill also does not apply to abusers subject [to final protective orders](#). [The Strengthening Protections for Domestic Abuse and Stalking Survivors Act](#) (S. 321) would close the boyfriend loophole by ensuring that abusive dating partners are subject to protection orders and convicted stalkers cannot legally access a firearm. Federal legislation to protect domestic violence survivors remains crucial, **particularly as the Supreme Court has agreed to consider [U.S. v Rahimi](#)**— an appeal to a 5th Circuit ruling that would allow people under protective orders for domestic violence to keep their guns.

Additionally, policymakers could strengthen federal gun reform legislation by addressing another loophole in the system— [the Charleston loophole](#)— which allows gun sales to proceed after three business days, even if a background check has not been completed.

## **Policy & Legislative Next Steps**

Policies restricting access to the most lethal firearms and reducing the overall number of guns in circulation [could have the biggest impact](#) on curbing gun violence. This includes policies such as gun licensing. **Only thirteen states and the District of Columbia have some form of a [state licensing requirement](#) for gun purchase or possession**. Firearm licensing typically requires individuals to qualify for and obtain a license before purchasing or owning a firearm. The process often requires an in-person application at a law enforcement agency, a background check, and completed safety training courses on how to safely load, fire, and store a gun. Because this process encompasses additional safety assurances before purchasing a

firearm, it reduces the number of guns sold because they are more difficult to obtain. [The Federal Firearm Licensing Act](#) (H.R. 1478) would require residents to complete a written firearm safety test and hands-on testing to receive a license to acquire a firearm. The legislation would also require those seeking to purchase a gun to submit a criminal background check, fingerprints, and proof of identity.

Enacting an assault weapons ban could also dramatically reduce the deaths attributed to gun violence and mass shootings. Research indicates that **if an assault weapons ban were still in place, we would see 70% fewer mass shooting deaths**. Assault rifles, such as the AR-15, cause [considerably more bodily harm](#) upon impact than a typical handgun. [The Assault Weapons Ban Act](#) (H.R. 698) prohibits importing, selling, manufacturing, transferring, or possessing a semi-automatic assault weapon or large-capacity magazine. The measure permits continued use of such weapons for individuals who possess them but incentivizes state and local governments to facilitate a buy-back program through a Department of Justice grant program.

Congress could also ensure that more safety measures are enforced for gun owners and manufacturers. **Firearms are the only consumer products manufactured in the U.S. that are [not subject to federal health and safety regulations](#)**. Because of this exception, firearm manufacturers lack the incentive to innovate their products to improve safety standards. [The Firearm Safety Act](#) (H.R. 3096) would close this exception for firearms in the Consumer Product Safety Act and bring guns and ammunition under the jurisdiction of the Consumer Product Safety Commission for the first time.

Additionally, a person is federally prohibited from bringing a lawsuit against gun dealers should a firearm result in misuse or injury due to the [Protection of Lawful Commerce in Arms Act](#) (PLCAA). Not only does this law prevent the families of victims of gun violence from bringing lawsuits to seek justice, it further undermines consumer safety by shielding gun industry members from accountability. [The Equal Access to Justice for Victims of Gun Violence Act](#) (H.R. 2814) would repeal PLCAA and remove current limitations on disclosing gun trace data in civil court.

Additionally, Congress [could repeal](#) current restrictions on gun tracing data. The [Tiahrt riders](#) that are attached to DOJ appropriations bills require gun purchase records to be destroyed within 24 hours of sale, and prevent the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and the Federal Bureau of Investigation (FBI) from releasing information related to [guns traced to crime scenes](#) or making gun vendors submit inventories to law enforcement. When guns from crime scenes are found, law enforcement can trace them to where they were last sold through a federal arms dealer. **[This tracing data is crucial in law enforcement solving](#)**

**gun-related crimes and determining whether dealers have engaged in repeated sales to straw purchases and traffickers.** Yet, the federal agencies responsible for regulating firearms and criminal investigations are barred from collecting and maintaining this important data. Broadly, there is currently [no national system](#) to maintain comprehensive records of firearm ownership, despite evidence indicating such laws are effective at preventing prohibited purchasers from obtaining guns and reliably identifying the owners of firearms used in crimes.

### **Executive Action**

In March, President Biden signed an [executive order](#) directing agencies to report their progress on implementing BSCA. The directive also encourages effective state implementation of red flag laws, urges the public release of inspection reports of Federal Firearms Licensees who violate laws, and directs the Federal Trade Commission to issue a public report on marketing tactics by gun manufacturers. As agencies comply with this directive, it is important that discussions around gun reform continue, and further restrictions are considered in order to effectively curb gun violence at the national level.

### **Conclusion**

Gun control laws save lives. Generally, states that enact strong gun reform measures see lower instances of gun violence than states with loose gun restrictions. Notwithstanding state-level efforts to curb gun violence, federal legislation has [lagged behind](#). This has resulted in a patchwork of different state policies that undermines gun control initiatives and makes us less safe as a nation. Despite Administrative and Congressional action to reduce gun violence and invest in community violence and intervention strategies, it is understood that major loopholes contributing to gun violence still exist. Even with broad support for the BSCA according to a [2022 Pew Research poll](#), only 7% of Americans believe the bill will do a lot to reduce gun violence, and 63% say they would like Congress to pass additional gun reform legislation. Hence, a majority of Americans feel there is more that can be done to protect the right for all people to live in safe communities without fear of persistent gun violence. Our legislators have a moral obligation to meet the demands of the people and establish gun violence prevention laws and regulations to protect individuals and communities.