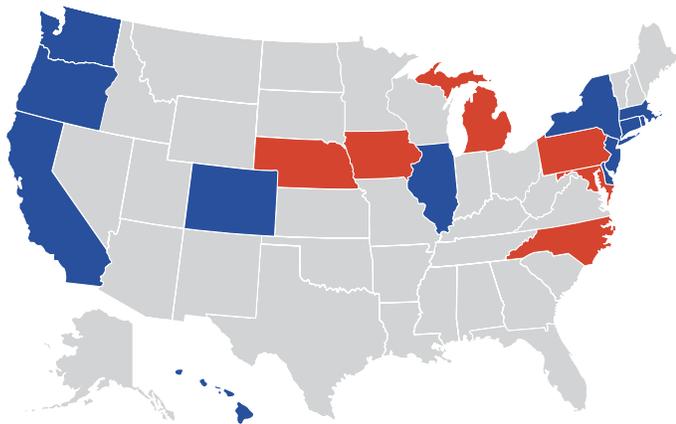


# CLOSING THE BACKGROUND CHECK LOOPHOLE

The United States is in the midst of a gun violence epidemic that puts families and communities at risk. One of the main reasons America has such a high rate of gun violence is that **we have weak laws that are riddled with loopholes, which let dangerous people obtain guns.** No gap is more glaring than the one in our federal background checks law, which allows felons, domestic abusers, and those prohibited for mental health reasons to purchase firearms at gun shows, through private sales, and online without undergoing a background check.

## STATES THAT REQUIRE BACKGROUND CHECKS ON PRIVATE SALES OF GUNS



● UNIVERSAL BACKGROUND CHECKS ● PARTIAL BACKGROUND CHECKS

Though 18 states have strengthened background checks beyond federal law, **an estimated 22% of gun transfers do not involve a background check.**<sup>1</sup>

This patchwork of state laws underscores why we need a clear background check standard nationwide.

GUN VIOLENCE  
THREATENS  
NATIONAL SECURITY  
AND INFLECTS A  
STAGGERING TOLL:

**125,000**  
PEOPLE  
SHOT EVERY YEAR

OVER  
**36,000**  
FATAL  
SHOOTINGS<sup>2</sup>

WHO SUPPORTS  
BACKGROUND  
CHECKS?

**97%**

of **gun owners** support requiring background checks for all gun sales.<sup>3</sup>

**97%**

of **Republicans** support requiring background checks for all gun sales.<sup>4</sup>

TOTAL FIREARM  
BACKGROUND CHECKS  
CONDUCTED—MOST  
WITHIN 90 SECONDS—  
SINCE THE NICS SYSTEM  
LAUNCHED IN 1998<sup>5</sup>

**300**  
MILLION

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## Existing Loopholes in the Background Check System

The Gun Control Act of 1968 made it illegal for prohibited purchasers, such as convicted felons and people who have been involuntarily committed, to possess firearms. In 1993, the Brady Act strengthened this law by requiring background checks on gun purchases by licensed firearms dealers. Unlicensed sellers, whether they do business online, at gun shows, or from the trunks of their cars, are not required to conduct background checks, leaving a dangerous loophole that allows prohibited purchasers to access deadly weapons.

The FBI uses the National Instant Criminal Background Check System (NICS) to determine whether a potential buyer is prohibited from purchasing firearms. **Most background checks are conducted in under two minutes. However, if a background check requires further investigation by the FBI and that investigation is not completed within three days, the purchase is allowed to proceed by default.** This flaw in our background check system allowed the gunman who murdered nine people at Emanuel AME Church in Charleston to obtain his handgun, even though he should have been prohibited because of a previous arrest.

Additionally, state and federal agencies have routinely failed to report disqualifying records to the NICS, even though they have a longstanding legal obligation to do so. The shooter who killed 26 people at First Baptist Church in Sutherland Springs was able to acquire a firearm because the record of his disqualifying domestic violence conviction was not input into the background check system. Closing loopholes and creating a standardized system for conducting and enforcing background checks will help prevent future tragedies.

## Illegal Purchases and Gun Trafficking

Data suggests that prohibited people intentionally buy guns from sellers that aren't required to run background checks. For example, a recent report showed that purchasers from Armslist.com, a major online firearm dealer, were nearly four times as likely to have a firearm-prohibiting criminal record than people attempting to buy guns from licensed dealers.<sup>7</sup>

Gun offenders overwhelmingly obtain their guns through private sales. **About 80% of all firearms acquired for criminal purposes—96% of those acquired by prohibited people—are obtained in private-party transfers.**<sup>8</sup> Many of these guns are trafficked from states with weak gun laws to states with strong gun laws, undermining existing background check laws. Unlicensed private sellers are also major contributors to illegal firearm trafficking within the United States and across the US-Mexico border, according to recent studies.<sup>9</sup>

### NICS REPORT

*For the Record: NICS & Public Safety* explores what NICS is, how it works, and why this system is so essential. Read the full report at [lawcenter.giffords.org/NICS](http://lawcenter.giffords.org/NICS)

PUBLISHED DECEMBER 2018

For more details and underlying research, visit [lawcenter.giffords.org/universal-background-checks](http://lawcenter.giffords.org/universal-background-checks)

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## 280+

lifesaving gun safety laws have been enacted in 45 states and DC since the tragedy at Sandy Hook.

## \$700

Gun violence costs each American taxpayer roughly \$700 every year.

## 25x

Americans are 25 times more likely to be killed by a gun than people in other developed nations.

## WE'RE ON A MISSION TO SAVE LIVES

For 25 years, the legal experts at Giffords Law Center to Prevent Gun Violence have been fighting for a safer America by researching, drafting, and defending the laws, policies, and programs proven to save lives from gun violence. Founded in the wake of a 1993 mass shooting in San Francisco, in 2016 the Law Center joined with former Congresswoman Gabrielle Giffords to form a courageous new force for gun safety that stretches coast to coast.

### CONTACT US

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## **CLOSING THE BACKGROUND CHECK LOOPHOLE FACTSHEET CITATIONS**

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