



Trends in State Firearms Legislation

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What is NCSL?





Policy Research

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NCSL links legislators and staff with each other and with experts



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Presentation Overview



Trends in Firearms Legislation

1. Supreme Court
2. Concealed Carry
3. Constitutional Carry
4. Open Carry
5. Extreme Risk Protection Orders
6. Firearms Freedom Act
7. Domestic Violence
8. Child Access & Safe Storage
9. More Trends



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Supreme Court - History



District of Columbia v. Heller (2008)

- The Second Amendment protects an individual right to possess a firearm unconnected with service in a militia, and to use that arm for traditionally lawful purposes, such as self-defense within the home.
- Like most rights, the Second Amendment right is not unlimited. It is not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose.
- The District of Columbia's total ban on handgun possession and trigger lock [or disassembly] requirement in the home amounts to a prohibition on an entire class of 'arms' that Americans overwhelmingly choose for the lawful purpose of self-defense.

McDonald v. City of Chicago, IL (2010)

- "The Fourteenth Amendment incorporates the Second Amendment right, recognized in Heller, to keep and bear arms for the purpose of self-defense."



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2022 Bruen Decision



- To justify a firearm regulation the government must demonstrate that the regulation is consistent with the Nation's historical tradition of firearm regulation
 - Whether modern and historical regulations impose a comparable burden on the right of armed self-defense
 - Whether that regulatory burden is comparably justified
- The constitutional right to bear arms in public is like other rights
 - For example, the exercise of other constitutional rights does not require individuals to demonstrate to government officers some special need.
- New York's proper-cause requirement violates the Fourteenth Amendment by preventing law-abiding citizens with ordinary self-defense needs from exercising their Second Amendment right to keep and bear arms in public for self-defense.



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The Immediate Response to Bruen



New York

- In an emergency legislative session, New York has already passed a law in response to Bruen.
- The law removed the proper clause requirement but has new requirements for those seeking concealed carry licensing including interviews, character references, social media history, proficiency and recertification requirement.
- "Sensitive Places"
- Blanket ban on concealed carry in privately-owned locations UNLESS the property owner posts a sign permitting guns to be carried or other explicit consent.

California

- California Senate Bill 918
- Removes the "good moral character" requirement in place of a "qualified person" requirement;
- Removes the "good cause" requirement and adds a 21 years of age or more requirement;
- Added additional course topics to required concealed carry courses, including safe storage, legal transport, and mental health;
- Added "sensitive Places"

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Concealed Carry



“May” Issue

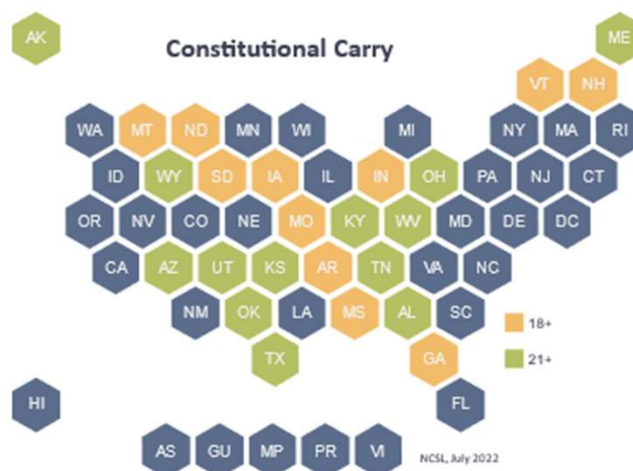
- Permits to carry concealed weapons are restricted in some way, either:
 - (1) the applicant must demonstrate a need (a documented personal threat, e.g.), or
 - (2) the law allows the issuer to decide who receives a permit.
- CA, CT, DE, HI, MD, MA, NJ, NY, RI

“Shall” Issue

- The permit system:
 - (1) the applicant is not required to demonstrate a need, or
 - (2) the law requires the issuer to issue a permit if an applicant meets the established criteria.
- AL, AK, AZ, AR, CO, DC, FL, GA, IA, ID, IL, IN, KS, KY, LA, ME, MI, MN, MS, MO, MT, NE, NV, NH, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY

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Constitutional Carry



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Open Carry

Source: United States Concealed Carry Association

In order to carry a handgun, an individual must be:

- Able to lawfully possess a handgun per Federal law (e.g. not a felon or an individual with a conviction of domestic abuse) and any state requirements
- Be in a place where the person has a legal right to be

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Extreme Risk Protection Orders (ERPO)

Although commonly referred to as “Red Flag Laws” in the media, the phrase used in legislation is “Extreme Risk Protection Orders”

CT, FL, IN, NM, RI, VT, VA CA, CO, DE, HI, IL, MD, MA, NJ, NY, NV, OR, WA

Law Enforcement Petitioners **Non-Law Enforcement Petitioners**


2022 Bipartisan Safer Communities Act

Federal Law

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- Article I, Section 8, Clause 3 of the Constitution of the United States grants Congress the power to “regulate commerce with foreign nations, and among the several states, and with Indian tribes.”
- In 2009 Montana enacted the “Montana Firearms Freedom Act” (MFFA).
- ATF does not recognize MFFA and holds that federal law supersedes MFFA.
- Firearms Freedom Acts generally:
 - seek to make federal laws regarding firearms inapplicable to firearms and ammunition produced, sold, and used exclusively within the state’s borders on the premise that Congress’s power to regulate commerce among the states doesn’t reach purely in-state activities.



Firearms Freedom Acts:

States with Firearm Freedom Acts include:

AL, AK, AZ, AR, ID, KS, MO, MT, NE, NH, ND, OK, SC, SD, TN, TX, UT, WV, WY

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Domestic Violence and Firearms



Federal Law

- The Domestic Violence Offender Gun Ban, often called "the Lautenberg Amendment" prohibits certain domestic abusers from having guns:
 - Abusers convicted of domestic violence crimes including misdemeanor crimes
 - Abusers subject to active restraining orders, issued after notice and a hearing.
- 2022 Bipartisan Safer Communities Act
 - Updated the definition to include individuals who have or have had a current or recent continuing serious relationship of a romantic or intimate nature.

State Law

- Broadened definitions and acts of violence included in prohibitions.
- Authorize or require courts to order people convicted of domestic violence misdemeanors to relinquish their guns and/or ammunition.
- Domestic Violence Restraining Order Firearm Prohibitions

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Child Access & Safe Storage

- Child Access laws allow for criminal charges to be brought against adults who intentionally, recklessly or negligently allow children to have unsupervised access to firearms.
- Safe storage laws require the secure storage of firearms in circumstances where children are likely to access them.



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More Trends in Firearm Legislation

Stand Your Ground Laws

- 2022 South Dakota Senate Bill 195
- Clarifies South Dakota's current Stand your Ground law by establishing that the burden of proof, by clear and convincing evidence, lies on the party seeking to overcome the immunity provided under this law.

Limiting Magazine Capacity

- 2022 Rhode Island House Bill 6614
- Makes it a felony for an individual to possess any semi-automatic firearm magazine which is capable of holding more than 10 rounds of ammunition. Violation is punishable by up to 5 years imprisonment or a fine of up to \$5,000.

Unfinished Frames or Receivers

- Maryland (governor vetoed, but legislature overrode)
- Senate Bill 387 bans purchasing, receiving, selling ghost guns. Requires "unfinished frame or receiver" to be imprinted with a serial number or personal identification number.

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NCSL tracks more firearm legislation



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Questions?

Comments?

Reach Out!



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