

Talking Points: HF8/SF434
Criminal Background Check Bill



Passing the Criminal Background Check bill will help prevent prohibited purchasers and straw buyers from buying guns illegally.

The most dangerous gap in firearms laws today is the “private seller” loophole. Although federal law requires licensed firearms dealers to perform background checks in all gun sales, it does not require unlicensed private sellers to do so. This makes it easy for convicted criminals, gang members and domestic abusers to buy guns illegally.

Criminal background checks are effective because they don't depend on criminals to follow the law. Instead, they depend on licensed dealers and private sellers to follow the law and protect them from prosecution when they do. Most gun dealers and private sellers are law-abiding.

SUMMARY OF THE BILL

- Expands Minnesota's current Permit to Purchase law to private gun sellers.
- Applies only to sales of handguns and military-style assault weapons. Does not apply to long guns.
- Under this law, buyers will obtain a permit to purchase from the police -- which includes a criminal background check-- and bring it to *any seller* to prove they are eligible to purchase a firearm. Straw buyers and prohibited purchasers are much less likely to lie to law enforcement than to a gun dealer.
- Records of sales are kept by the seller—NOT the state. This law will protect private sellers from prosecution if a gun they sell is later used in a crime, as long as they can show proof that the buyer had a valid permit to purchase.
- Includes exemptions for transfers of handguns and assault rifles between family members, educational use, and temporary loans of handguns and assault rifles for hunting. Again, this bill does not apply to long guns.
- Passage of this bill will NOT hamper the ability of law-abiding Minnesotans to purchase firearms, raise the minimum age to purchase a gun in Minnesota, limit the number of firearms an individual may purchase at one time, or create a state registry of gun owners.

SUPPORT FOR THE BILL

An overwhelming 84% of Minnesota voters favor mandatory criminal background checks on all gun sales, including those sold privately and at gun shows. (*Star Tribune, October 2019*)

Support for comprehensive background checks nationally is almost universal--97% among gun owners and non-gun owners alike. (*Quinnipiac University, February 2018*)

EFFECTIVENESS OF BACKGROUND CHECKS

No single law will stop all gun violence, but criminal background checks have been proven to save lives, especially when part of a permit to purchase system. In a 2017 survey, a panel of 32 scholars of criminology, public health and law rated universal background checks as the most effective policy to prevent gun deaths, ranking it #1 of 29 possible gun-related policies. (*Quoctrung Bui & Margot Sanger-Katz, How to Prevent Gun Deaths? Where Experts and the Public Agree, New York Times (January 10, 2017)*)

Two recent studies provide evidence that background checks and permit to purchase laws make a huge difference.

- Researchers found that a 1995 Connecticut law requiring gun buyers to get permits including background checks was associated with a 40% decline in gun homicides and a 15% drop in suicides.
- When researchers studied Missouri's 2007 repeal of its permit to purchase law, they found an associated increase in gun homicides by 23%, and a 16% increase in suicides. (*NPR, January 9, 2016.*

Talking Points: HF9/SF436
Red Flag Bill
Extreme Risk Protection Orders



This bill will help prevent gun deaths and injuries *before* tragedies occur.

When a person is in crisis, loved ones and law enforcement are often the first to see warning signs, or “red flags.” The Red Flag law will empower law enforcement to petition a judge for an order that temporarily removes guns from a high-risk situation. Extreme Risk Protection Orders (ERPO) will be issued based on objective evidence that an individual presents an immediate risk of self-harm or harm to others with firearms. By providing due process in the form of a court hearing, this bill strikes a balance between commitment to public safety and respect for individual constitutional rights.

Nearly 80% of gun deaths in Minnesota are suicides and the rate of gun suicide has increased 65% in Minnesota since the year 2000.¹ In other states, red flag laws have proven effective in preventing gun suicides. The alternative—placing an at-risk individual on a 72-hour hold against their will—takes away **all** the person’s civil rights and does nothing to mitigate the risk after the period of confinement has ended.

SUMMARY OF THE BILL

- Empowers law enforcement to petition a civil (not criminal) court for an Extreme Risk Protection Order to temporarily remove firearms from a person who represents a serious threat to themselves or others.
- Enables family members to get help for loved ones undergoing a crisis who show “red flags” by their behavior, but they must go through law enforcement to petition the court. False petitions are subject to prosecution.
- Two types of Extreme Risk Protection Orders:
 - Emergency (*ex parte*) orders for up to two weeks only.
 - Orders **after a court hearing** last for 6-24 months.
- Same due process protections as Minnesota’s current Domestic Violence Protection Order law.

EXTREME RISK PROTECTION ORDERS AND SUICIDE PREVENTION

A study by Duke University showed how in one state, Connecticut, gun removals from high-risk people may have prevented up one suicide death for every 10-20 orders of protection. The study also showed that people in need of help were significantly more likely to accept it after their guns were temporarily removed.²

EXTREME RISK PROTECTION ORDERS AND MASS SHOOTINGS

A study published in the *Annals of Internal Medicine* in August, 2019 suggests that “urgent” and “individualized” intervention can play a role in efforts to prevent mass shootings. Extreme Risk Protection Orders could have enabled law enforcement to intervene and remove guns from the shooters prior to these tragic incidents:

- Midland-Odessa, TX, shooting spree, 2019.
- El Paso, TX, Walmart shooting, 2019.
- Marjorie Stoneman Douglas High School shooting in Parkland, FL, 2018.
- Fort Lauderdale airport, FL, shooting, 2017.

OTHER STATES THAT HAVE PASSED RED FLAG LAWS

17 states and the District of Columbia have passed Red Flag laws, including Connecticut (1999), Indiana (2005), California (2014), Washington (2016), Oregon (2017), Florida, Vermont, Maryland, Rhode Island, New Jersey, Delaware, Massachusetts, Illinois (2018), New York, Colorado, Nevada, Hawaii (2019). Many states passed these laws in the wake of a terrible mass shooting that may have been prevented by extreme risk protection orders. We urge our law makers not to wait until after such a tragedy to pass the Red Flag law in Minnesota.

NOTES:

1- *Targeting Gun Deaths in Minnesota*, Protect Minnesota, 2019.

2 - <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=4830&context=lcp>.