



# GUN VIOLENCE AND ACCESS TO FIREARMS IN CHICAGO: FEDERAL, STATE, AND LOCAL LEGISLATION

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## INTRODUCTION

Deaths from guns and other violent assaults are the third leading cause of death among 15-34 year-olds in the United States, as well as a significant source of morbidity.<sup>1,2</sup> In 2017, the Centers for Disease Control (CDC) reported 39,773 deaths from firearms, the highest number in over 40 years.<sup>3</sup> Steadily increasing over the past decade, the number of firearms now exceeds people in this country (357 million guns versus 317 million people).<sup>4,5</sup>

In 2017, shootings with firearms caused 1,543 deaths in Illinois.<sup>3</sup> Chicago continues to experience a substantial toll of gun violence, landing it at the center of national gun policy discussions.<sup>6,7</sup> There were 603 homicides reported by the Chicago Police Department in 2017, following 2,782 shooting incidents.<sup>8</sup> In 2015, the Bureau of Alcohol, Tobacco, and Firearms reported nearly 150,000 registered firearms in Illinois, a rate of 11.4 per 100,000 people.<sup>9</sup>

This brief examines federal, state, and local gun laws, and their relevance to reducing the toll of gun violence in Chicago and improving the safety of all Chicagoans. This is particularly important in light of research demonstrating that firearm laws directly correlate with death rates.<sup>10</sup>

## FEDERAL GUN LAWS

Most U.S. gun control laws exist at the state or local levels.<sup>11</sup> Currently, no federal regulations govern the registration or safety of firearms, nor is there a national data tracking mechanism for deaths or injuries attributed to firearms. Relative to other industrialized countries, the U.S. remains an outlier in its regulation of firearms, despite the substantial public health toll due to firearm injuries.<sup>12</sup>

In 1993, Congress enacted the Brady Handgun Violence Prevention Act, signed into law by President Bill Clinton. Often referred to as the Brady Act or the Brady Bill, the law mandates federal background checks on firearm purchasers in the U.S. The Brady Act imposed a five-day waiting period on purchases. Upon implementation of the 1998 [National Instant Criminal Background Check System](#) (NICS), background checks are performed at the point of firearm sale.<sup>13</sup> The Brady Act does not include statutes requiring background checks for private firearm sales, online purchases, or purchases made at gun shows.<sup>13</sup> This leaves the secondary gun market (i.e., those transfers made outside of a licensed dealer) unregulated at the federal level.

In 1994, the Violent Crime Control and Law Enforcement Act, signed into law by President Clinton, included a ban on assault-style weapons, including the AR-15.<sup>14</sup> The law expired in 2004 and was not

## KEY POINTS

- ✓ In the U.S., deaths from guns and other violent assaults are the third leading cause of death among 15-34 year-olds, and a significant source of injury and disability.
- ✓ The high toll of gun violence in Chicago places it at the center of national gun policy discussions.
- ✓ Illinois laws regulate the purchase, possession, and transfer of firearms, and are stricter than federal laws.
- ✓ A substantial number of guns are trafficked into Illinois, particularly into Chicago, due to lax gun laws in neighboring states.

renewed by Congress. Finally, in 2005, legislation was passed that prevented gun manufactures from being held responsible for crimes or injuries committed using their products.

In 2008, the U.S. Supreme Court ruled in *District of Columbia v. Heller* that the Second Amendment of the U.S. Constitution protects the individual right to own firearms, but that gun control may continue to be legislated.<sup>15</sup> Further, in 2010, the U.S. Supreme Court ruled that the Second Amendment also applies to state and local governments in *McDonald v. City of Chicago*.<sup>16</sup>

## ILLINOIS GUN LAWS

Illinois laws regulating firearm purchasing, registration, and movement are substantially stronger than those at the federal level.

### PURCHASING REGULATIONS

To purchase a firearm in Illinois, an individual must apply for a Firearm Owner's Identification (FOID) card, obtained online or by mail through the Illinois State Police.<sup>17</sup> A FOID card will only be issued after the applicant clears a background check. FOID cards cost \$10 and are valid for 10 years.

An applicant is prevented from obtaining a FOID card if they have a previous domestic violence or felony conviction, are under an order of protection, have been a patient in a mental health facility in the past five years, and/or are an undocumented immigrant.<sup>17,18</sup> The federal law preventing firearm purchases by anyone convicted of a domestic violence misdemeanor extends only to spouses, parents, or cohabitants.<sup>19</sup> Illinois law extends this to dating partners and provides police authority to confiscate weapons from the abuser.<sup>20</sup>

A valid FOID card is required for firearm sales in all settings. This includes purchases, transfers, or trade-ins from a licensed firearm dealer and transactions done at gun shows or through other non-licensed dealers, representing an expansion of the Federal Brady Act of 1993.<sup>21</sup> Current law requires all firearm dealers to confirm a potential buyer's FOID card is valid before initiating the firearm transfer by calling the Illinois State Police Department. A FOID card is also required for ammunition purchases.<sup>17</sup> In 2018, new legislation imposed a mandatory 72-hour waiting period for purchases of firearms and a 24-hour waiting period for purchases of stun-guns and tasers.<sup>22</sup>

On January 17, 2019, Illinois passed the Gun Dealer Licensing Act which required all firearm dealers to obtain a state license.<sup>23</sup> The fee for licensing is \$1,500 for retailers with physical stores and \$300 for those without a physical location.<sup>23</sup> As a part of this licensing process, firearm dealers must maintain an electronic inventory, install surveillance and anti-theft measures, and engage all staff in annual safety training.<sup>23</sup> Passage of the Gun Dealer Licensing Act closed a loophole in previous laws which specified there was no punishment for non-licensed gun dealers who failed to obtain a FOID card check before selling a firearm.<sup>24</sup> Mandating state licensure of all gun dealers, including independent ones, invalidates this non-punitive provision.

### CONCEALED CARRY LAWS

The Illinois State Police Department provides concealed carry permits to Illinois residents and residents of other states who have firearm control statutes that are deemed similar to those of Illinois. At present, those states are limited to Arkansas, Mississippi, Texas, and Virginia.<sup>25</sup> An individual must have a valid FOID card, be at least 21 years of age, complete a 16-hour training course consisting of both classroom and gun-range instruction, and pay an application fee (\$150 for IL residents, \$300 for non-IL residents).<sup>26</sup>

Any law enforcement agency in Illinois may submit an objection to issuance of a permit to any individual. Law enforcement agencies submit evidence for their objection to the Concealed Carry Licensing Review Board, which will review the evidence and issue a decision.<sup>26</sup> Concealed carry permits must be renewed every five years, each time with a \$150 fee.<sup>26</sup>

## POSSESSION RESTRICTIONS

Even with a concealed carry permit, guns are prohibited from all schools, colleges, child care facilities, government buildings, courts, jails, healthcare facilities, public transportation, establishments with greater than 50% of profits attributed to alcohol sales, public parks, amusement parks, playgrounds, zoos, and airports.

## FIREARM SEIZURE

On January 1, 2019, the Firearm Seizure Act went into effect in Illinois. This Act allows Illinois courts to issue an emergency warrant to seize firearms from an individual who has threatened to use them illegally.<sup>27</sup> A threat of illegal use may include violence, suicide, or other threatening behavior. The accused individual is required to appear before a court at which point the accusation is evaluated, and if deemed credible, all seized firearms are held for a period of up to one year.<sup>27</sup> The court must make the judgement that seizure of firearms is in the public interest and that the threat of illegal use by the accused individual poses a risk to public safety.<sup>27</sup> Under the FOID law, local law enforcement officers or school administrators must report firearm owners they believe to pose a danger to the public to the Illinois State Police Department (ISPD) within 24-hours. The FOID law also requires mental health professionals, physicians, social workers, and counselors to report firearm owners who pose a “clear and present danger” to their self or others to the ISPD via an online reporting system within 24-hours of interaction with that individual.<sup>28</sup>

## COOK COUNTY GUN LAWS

Cook County, which contains Chicago, has additional firearm regulations. In 2013, Cook County enacted a ban on assault-style weapons and large-capacity magazines.<sup>29</sup> Assault-style weapons include semi-automatic firearms such as the AR-15.<sup>29</sup> The law considers a magazine to be large capacity if it can hold more than 10 rounds of ammunition.<sup>29</sup>

Cook County also restricts an individual to purchasing only one firearm in a 30-day period. This includes purchases from licensed dealers or an unlicensed dealer, like a gun show or online store.<sup>29</sup>

## CHICAGO CITY GUN LAWS

Multiple firearm restrictions in the City of Chicago have been attempted in the last five years. In June of 2014, the city passed an ordinance that restricted the location in which a firearm store may operate, required that all sales of firearms be videotaped, and that these videotapes and store records be available to law enforcement.<sup>30</sup> This law was ruled as unconstitutional by a federal judge in 2017.<sup>30</sup>

Presently, anyone transferring a firearm within the city limits of Chicago must report that transfer to the Chicago Police Department within 48 hours.<sup>31</sup> This same timeframe reporting requirement exists for the theft or destruction of a firearm.<sup>31</sup> If a minor (under age of 18) lives in a home with a firearm, the firearm must be kept in a locked vessel and must have a trigger lock.<sup>31</sup>

## GUN TRAFFICKING

Compared to the strictness of firearm laws in Illinois, the neighboring states have much less regulation regarding the sale and transfer of firearms.

## ILLINOIS STATE DATA

Movement of firearms across state lines greatly contributes to gun violence in the U.S.,<sup>11</sup> and specifically in Illinois. According to the U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives, 14,037 guns were trafficked into Illinois from other states in 2017, up from 12,467 in 2016.<sup>32,33</sup> The largest proportion of recovered firearms came from Indiana, followed by Wisconsin, Missouri, and Kentucky, representing 1,623, 429, 412, and 345 recovered firearms in 2017, respectively.<sup>33</sup> The movement of guns between Illinois and its neighboring states is largely firearms moving into, but not out of, Illinois. In 2017, firearms recovered in neighboring states that originated in Illinois totaled 145 in Indiana, 81 in Wisconsin, 148 in Missouri, and 22 in Kentucky.<sup>34-37</sup>

One reason for this unbalanced transfer of guns into Illinois is the relative laxity of the gun laws in the neighboring states. For example, none of the neighboring states that are primary sources of guns recovered in Illinois (as seen in Table 1) have a background check extension to extend the federal law to firearm purchases from unlicensed dealers, such as gun shows or online shops. Firearm owners are not required to obtain a license (such as the Illinois FOID) to purchase a firearm in any of the states in Table 1, including Indiana, Kentucky, and Mississippi. Mandatory waiting periods for firearm purchases are not imposed in any of the neighboring states shown in Table 1. Finally, firearm dealers are not required to obtain a state license in Mississippi, Ohio, and Kentucky.

### CHICAGO CITY DATA

The City of Chicago estimates that 60% of the guns used to commit crimes in Chicago originated in a neighboring state.<sup>38</sup> Chicago was the predominant municipality of trafficked firearm recovery in the state, with 7,224 trafficked firearms recovered in 2017, followed by Rockford with 467.<sup>33</sup>

| Table 1. Gun Trafficking Across State Lines to Chicago (2013-2016) |                          |   |
|--|--------------------------|---|
| State of Origin  | Number of Guns Recovered | Gun Policies of State of Origin   |
| Indiana  | 3, 124                   | <ul style="list-style-type: none"> <li>• No background check extension beyond federal minimum</li> <li>• No license needed for gun purchase or possession</li> <li>• No waiting periods for firearm purchase</li> </ul>   |
| Mississippi  | 756                      | <ul style="list-style-type: none"> <li>• No background check extension beyond federal minimum</li> <li>• No license needed for gun purchase or possession</li> <li>• No waiting periods</li> <li>• Firearm dealers not licensed by State</li> <li>• No concealed carry permit requirement for public carry</li> </ul> |
| Wisconsin  | 599                      | <ul style="list-style-type: none"> <li>• No background check extensions beyond federal minimum</li> <li>• No license needed for gun purchase or possession</li> <li>• No state firearm registration</li> <li>• No waiting periods for firearm purchase</li> </ul>   |
| Ohio   | 429                      | <ul style="list-style-type: none"> <li>• No background check extension beyond federal minimum</li> <li>• No license needed for gun purchase or possession</li> <li>• No state firearm registration</li> <li>• No waiting periods</li> <li>• Firearm dealers not licensed by state</li> </ul>                          |
| Kentucky   | 368                      | <ul style="list-style-type: none"> <li>• No background check extension beyond federal minimum</li> <li>• No license needed for gun purchase or possession</li> <li>• No waiting periods</li> <li>• Firearm dealers not licensed</li> <li>• No concealed carry permit requirement for public carry</li> </ul>          |

Source: City of Chicago Police Department

### CLOSING REMARKS

The U.S. and the city of Chicago continue to face an epidemic of gun violence and death. The case of Illinois suggests that having individual states with relatively strong laws regulating firearms is not a comprehensive approach for reducing morbidity and mortality related to firearms. Expert researchers, community leaders, and policy makers have suggested the gun violence epidemic in the U.S. requires a multidisciplinary and multifaceted approach. Solutions must be both data- and community-driven. Specific to Chicago, a significant step towards reducing the number of gun deaths and injuries each year would be limiting the trafficking of guns into Illinois from neighboring

states. At a national level, potential next steps include the expansion of background checks to all firearm points of sale, enactment of restraining orders and restrictions for firearm purchases by individuals with mental health problems or previous charges of domestic violence, and creation of a system of firearm purchasing permits (like the Illinois FOID card).<sup>39</sup> Finally, there is an urgent need for research funding and support at the federal, state, and local level to build an evidence base of community-driven solutions to gun violence.<sup>39</sup>

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