



Monday, June 13, 2022

Cornyn-Murphy “Framework” Proposes Gun Control

Cornyn-Murphy IS NOT a “Compromise,” It’s Just Gun Control.....	2
“Red Flag” Gun Confiscation Orders	3
Practical Concerns with Gun Confiscation Laws	3
Gun Confiscation Orders Stigmatize Mental Health and Disincentivize Treatment.....	3
Bribing States to Pass Gun Confiscation Empowers Anti-Gun Politicians Back Home!	4
Pro-Gun States are REJECTING New Federal Gun Control	4
Backdoor Universal Background Registration Checks	6
No Expanding FFL Definition or Background Checks Until Gun Registry ELIMINATED	6
ATF’s Illegal Gun Registry 101	6
ATF’s Firearm Record Database is a Registry that Violates Multiple Federal Statutes	6
Current Source of Registry Records, Alleged Purpose, and ATF’s Illegal Registry Expansion.....	7
Biden to Expand the Partial Billion-Record Gun Registry into a Complete Gun Registry	7
Other “Firearm Trafficking” Provisions	9
Concerning Ban on Straw Purchases.....	9
Straw Purchases are ALREADY Illegal.....	9
Gun Show “Loophole” Restrictions	9
18-20-Year-Old American’s Gun Rights.....	11
Stigmatization of Mental Healthcare for 18–20-Year-Old Citizens.....	11
RESTORE the Rights of 18-20-Year-Old Adults, Not Restrict Them.....	11
Lethal Means Safety and Mental Healthcare.....	13
Voluntary Lethal Means Safety is a Powerful Tool	13
Government-Mandated Lethal Means Safety as a Vehicle for Gun Control.....	13
Lifetime Misdemeanor Gun Ban Expansion	15
Fake “Boyfriend Loophole” Explained and Constitutional Concerns with Misdemeanor Gun Bans.....	15
Problems with Lifetime Gun Bans	15

Cornyn-Murphy IS NOT a “Compromise,” It’s Just Gun Control

We put the word “compromise” in quotes, because pro-gun Republicans are getting nothing in return to *advance* Second Amendment rights if they support this framework.

Pro-gun Senators could at least demand a reduction in barriers for willing teachers to use concealed firearms to defend students – a provision that’s supported by 81% of police.¹

Unlike “Red Flag” Gun Confiscation laws – which already FAILED to stop the Buffalo shooter – arming willing teachers would actually make a difference in enhancing the safety of our children.

Concealed Carry Reciprocity would have allowed New Yorkers in Buffalo or on the New York City subway to carry firearms in self-defense for both attacks which happened recently.

And if the anti-gunners want to expand background checks, then the ATF’s illegal billion-record registry must be destroyed.

AT A MINIMUM, if Congress expands background checks it should also eliminate the Schumer Amendment rider that defunds 18 U.S.C. 925 so that citizens can petition to have their rights restored federally in accordance with the law so long as they can prove they are not a danger to society.

Please don’t get us wrong. **There is absolutely NO compromise acceptable to GOA.** These are *our* rights, and we shouldn’t surrender an inch of them to anyone.

But why is it that these pro-gun sell-outs are ALWAYS the ones making the concessions? How come they never demand anything in return from the anti-gun wing of the Senate? Why doesn’t Chuck Schumer or Elizabeth Warren “reach across the aisle” to help gun owners?

Gun owners are FED UP with being sold out and exploited for our votes.

¹ *PoliceOne*. Gun Policy & Law Enforcement Survey. March 14, 2013, <https://www.gunowners.org/wp-content/uploads/2020/05/PoliceOnes-2013-Gun-Policy-Law-Enforcement-Survey-Results.pdf>

“Red Flag” Gun Confiscation Orders

Practical Concerns with Gun Confiscation Laws

“Red Flag” Gun Confiscation Orders (GCOs), also known as Extreme Risk Protection Orders, violate the Second, Fourth, Fifth, and Fourteenth Amendment rights of gun owners — particularly their due process rights.

There is no amount of fake “due process” that can be added to gun confiscation orders to reconcile them with the Second Amendment. All “red flag” laws require gun confiscation without sufficient due process.

David Kopel also testified that *at least* one-third of gun confiscation orders that are filed are false accusations:²

In Connecticut, confiscation orders may be issued *ex parte*. Later, the respondent will have an opportunity to tell his or her side of the story in court. In Connecticut, once a judge eventually hears the respondent’s side of the story, 32 percent of confiscation orders are overturned.³ A study in Marion, County, Indiana, reported similar results.⁴

That same 2015 study on Indiana found it took gun owners on average more than nine months to get a hearing to have their firearms returned, despite the law requiring a hearing within fourteen days!⁵

“Red flag” laws are gun confiscation without due process. They are dangerous, ineffective, and don’t even reduce crime.⁶

Gun Confiscation Orders Stigmatize Mental Health and Disincentivize Treatment

It is critical to consider that if a gun owner perceives that his or her autonomy or rights may be taken away, he or she may avoid treatment at great personal cost. As discussed, perceived and legitimate legal potential for the deprivation of fundamental rights decreases a gun owner’s motivation to seek mental health treatment.

Particularly, GCOs, which deprive individuals of their Second, Fourth, Fifth, and Fourteenth Amendment rights, are a strong motivator for a gun owner to not disclose psychological problems to a mental health professional, friends, or family. Gun owners in

² Kopel. “Red Flag Laws: Examining Guidelines for State Action”. Written Testimony. United States Senate Judiciary Committee. 2019.

³ Norko and Baranoski. “Gun Control Legislation in Connecticut: Effects on Persons with Mental Illness”. *Connecticut Law Review*. 2014.

⁴ Parker. “Circumstances and Outcomes of a Firearm Seizure Law: Marion County, Indiana, 2006-2013”. *National Library of Medicine*. 2015.

⁵ *Ibid.*

⁶ Lott, John R. and Moody, Carlisle E., *Do Red Flag Laws Save Lives or Reduce Crime?*. College of William and Mary and Crime Prevention Research Center: 2018.

need of compassion and support with mental health challenges, who live in states with GCOs, may rightly fear that seeking help will result in (1) the armed seizure of their firearms, (2) invasive searches of their homes and other property, disrupting the lives of family and neighbors, (3) disruption or loss of their employment, and (4) costly legal and attorney's fees to defend or restore deprived rights.

The federal lifetime "mental defective" gun ban is another tragic deterrent to seeking mental health treatment. Under a "Red Flag" Gun Confiscation Order, a gun owner may lose the legal right to possess or obtain firearms without committing any crime, without the constitutional due process necessary for the deprivation of a right, often without the gun owner's full knowledge until after their firearms have been seized.

Cornyn-Murphy's proposed gun control measures, such as Gun Confiscation Orders and new record reporting requirements for the NICS database, pose major barriers to care for gun owners and children who want to own firearms as adults who may need life-saving mental health treatment.

Bribing States to Pass Gun Confiscation Empowers Anti-Gun Politicians Back Home!

More than half of the counties in the United States have declared themselves Second Amendment Sanctuaries by law or by resolution. Some states have even codified these protections in their constitutions, which GOA rates at various standards.⁷

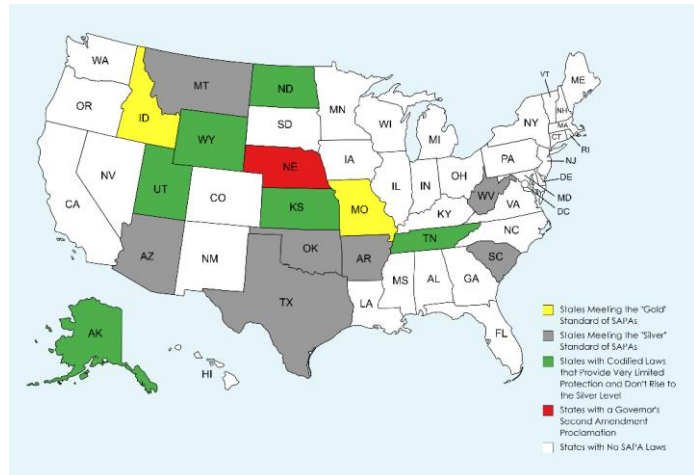
Should Congress pass funding for states to enact gun confiscation orders, Congress will be empowering anti-gun politicians and gun control lobbyists to run roughshod over the pro-Second Amendment politicians in the next legislative session.

Pro-Gun States are REJECTING New Federal Gun Control

Pro-gun states have been *rejecting* new federal gun control laws and the enforcement of these laws. In Gold Standard SAPA states, enforcement of these new laws carries civil or even criminal penalties for law enforcement. Congress should be supporting these states' Second Amendment protections, not creating new gun control laws which they have already rejected.

⁷ Gun Owners of America, "Support Second Amendment Sanctuaries", June 21, 2021, <https://gunownersaction.org/2asanctuaries/>

Gold - The “Gold” Standard of a Second Amendment Preservation Act (SAPA) offers **Essential Protection** for gun owners against gun control that is contrary to the U.S. Constitution or the Constitution of the State in question. Gold Standard SAPAs must include protections like the prohibition of funding for gun control and/or criminal or civil penalties for government agents and/or agencies that enforce unconstitutional gun control. States that have passed measures meeting the “Gold” standard are Idaho and Missouri.



Silver - The “Silver” standard is a positive starting point for a Second Amendment Preservation Act. While such an act demonstrates an on-the-record commitment to the right to keep and bear arms, these acts lack **Essential Protections** necessary to stop gun control such as funding prohibitions and/or criminal or civil penalties. States that have passed “Silver” standard SAPAs are Arizona, Arkansas, Montana, Oklahoma, South Carolina, Texas, and West Virginia. GOA applauds these states and urges them to build upon their existing SAPAs and adopt stronger, “Gold” standard measures.

Green – SAPAs must protect more than manufacturing and/or weapons manufactured in-state of in-state components. Alaska, Kansas, Utah, and Wyoming have these limited laws, and they do not qualify as SAPAs. All firearms must be protected. North Dakota and Tennessee have laws that are so weak that they provide no real protection of Second Amendment Rights.

**Nebraska: GOA commends Governor Pete Rickett’s proclamation of Nebraska as a Second Amendment Sanctuary. However, GOA urges the state legislature to follow Rickett’s lead by passing a strong, “Gold” Standard Second Amendment Preservation Act. SAPAs must be codified into state legislation to qualify at the Gold or Silver level. Resolutions and Proclamations do not qualify as SAPAs.*

Backdoor Universal Background Registration Checks

No Expanding FFL Definition or Background Checks Until Gun Registry ELIMINATED

While there is no legislative language yet on any of these provisions, we have a good idea of what they will entail based on similar proposals in the past.

For example, expanding the definition of FFLs (Federal Firearms Licenses) could require anyone who sells more than one gun to do so through an FFL, resulting in a backdoor mechanism for universal background registration checks.

The definition of a Federal Firearms License (FFL) is a critical boundary between the mandatory background checks performed during commercial gun sales and law-abiding private transfers and sales that take place every day in more than half of the United States. “[A]ny person engaged in the business of selling firearms at wholesale or retail” must have an FFL and run background checks on every firearm sale.⁸ A recent survey conducted by Gun Owners of America found that a WHOPPING 96% of the 25,000-gun owners surveyed would NEVER vote for a Senator who votes for universal background checks.⁹

The goal of the anti-gun movement may be to turn all private citizens who sell their guns into FFLs, restricting your ability to conduct private gun transfers without being recorded in the ATF’s illegal national federal registry. Remember, the ATF already has a database of nearly one billion gun and gun owner records in a database in West Virginia.

It is unconscionable that Congress would universalize or expand the background check system when the Bureau of Alcohol, Tobacco, Firearms, and Explosives has exploited and abused it for the creation of a near-billion record gun registry in violation of one federal statute and two appropriations act restrictions.¹⁰

ATF’s Illegal Gun Registry 101

ATF’s Firearm Record Database is a Registry that Violates Multiple Federal Statutes

1. Despite being prohibited by law from maintaining a registry of guns, gun owners, and firearm transactions,¹¹ ATF maintains nearly a billion such records and the Biden Administration is encouraging dealers to supply even more.¹²

⁸ 18 U.S.C. 921(a)(11).

⁹ Erich Pratt, “The 92 Percent Myth”, April 5 2013, <https://www.gunowners.org/04052013congress/>

¹⁰ Johnston. *ATF’s Illegal Gun Owner Registry*. 2022.

¹¹ 18 U.S.C. 926(a)(3).

¹² [Letter from Daniel L. Board Jr., Assistant Director of Government Affairs for ATF to Rep. Michael Cloud and 51 Other Members of Congress Concerning ATF’s Gun Registry](#). 2021.

2. Despite being prohibited from centralizing or consolidating records,¹³ ATF admits to consolidating records required to be kept by Federal Firearms Licensees (FFLs) into a “centrally managed” database.¹⁴
3. Despite being prohibited from electronically retrieving information from these records by name or other personal identifiers,¹⁵ ATF asks FFLs to turn in searchable records or convert paper records it receives into a searchable format.¹⁶ ATF is capable of searching through these records in nearly every way *except* by name,¹⁷ and this is only because the feature has been voluntarily switched off—not because ATF lacks the technological capability.¹⁸

Current Source of Registry Records, Alleged Purpose, and ATF’s Illegal Registry Expansion

At present, ATF’s near-billion record registry is only a partial national gun registry. By regulation it only necessarily contains records that were up to 20 years old, and only originate from when a Federal Firearms Licensee discontinued its business license.¹⁹ What was the purpose of this regulation? To conduct record searches in the investigation of a violent crime. However, ATF has been unable to even prove the efficacy of maintaining these records insofar as helping solve or prosecute any violent crimes.²⁰

Alarming, ATF has also “strongly recommended,” urged, and permitted non-out-of-business-FFLs to turn over *current* records even before they go out of business, in violation of appropriations restrictions.²¹ ATF deceived Rep. Michael Cloud and 52 Members of Congress about the ongoing violation and is engaged in a coverup to quietly comply with the statute.²²

Biden to Expand the Partial Billion-Record Gun Registry into a Complete Gun Registry

On top of the current abuses, the Biden Administration is seeking to turn this partial registry into a *complete and total* national gun registry of every firearm sold since August 26th, 2002.²³ This rule must not be allowed to go into effect, and its promulgation must be reversed by Congress.

It is the Duty of Congress to Destroy this Illegal, Centralized, Searchable Gun Registry.

Despite clear law prohibiting this activity, ATF has been compiling digital records of FFL transactions for years, and today they have nearly a billion records in searchable format.²⁴ This illegal registry, which infringes on the Second Amendment must be destroyed and the destruction of these records promptly certified to Congress. For good measure, the statute abused by ATF to justify compiling these records should be struck from the U.S. Code.

¹³ [Public Law 112-55](#).

¹⁴ Johnston. *ATF’s Illegal Gun Owner Registry*. 23-27.

¹⁵ [Public Law 112-55](#).

¹⁶ Johnston. *ATF’s Illegal Gun Owner Registry*. 18.

¹⁷ *Ibid.* 20.

¹⁸ *Ibid.* 17.

¹⁹ 27 C.F.R. 478.129.

²⁰ *Ibid.* 7.

²¹ Johnston. *ATF’s Illegal Gun Owner Registry*. 32.

²² *Ibid.* 732-34.

²³ *Ibid.* 34.-35.

²⁴ [Letter from Daniel L. Board Jr., Assistant Director of Government Affairs for ATF to Rep. Michael Cloud and 51 Other Members of Congress Concerning ATF’s Gun Registry](#). 2021.

Without action by Congress, this illegal ATF registry could be used for mass gun confiscation, by this government or potentially one day even by this nation's enemies.

Other “Firearm Trafficking” Provisions

Concerning Ban on Straw Purchases

GOA also has grave concerns regarding new federal offenses around the vague term “gun trafficking.”

In the past, we’ve seen punishments for anyone who sells or “transfers” a gun to a “prohibited” person.

What does “transfer” mean? In the past, we’ve seen “transfer” defined as handing your firearm to a neighbor or family member even for one second.

Well, let’s say you heard a noise in the middle of the night, so you hand your gun to a family member – who, unbeknownst to you, is considered a “prohibited” person because they have a medical marijuana card – you’ve now been identified by the federal government as a “gun trafficker.”

These provisions won’t stop bad guys from getting guns, but they will become a mechanism for the government to go after honest, non-violent gun owners like Jeremy Kettler, a disabled veteran defended by Gun Owners Foundation after he was turned into a felon by the Obama Administration for merely possessing an unregistered suppressor in accordance with state law.²⁵

Senators need to know that gun owners will not let them get away with calling this a “compromise.” This is gun control, plain and simple.

Straw Purchases are ALREADY Illegal

Straw purchasing a firearm is already illegal under two federal statutes,²⁶ thus any expansion of the ban can only result in a muddying of the existing definition—creating more traps and pitfalls for law-abiding gun owners to fall into at the gun store.

Gun Show “Loophole” Restrictions

Due to existing Federal regulations, if you are purchasing a gun from a gun dealer (including at a gun show), you must submit to a background check. However – at gun shows or anywhere else – a private individual can sell a privately-owned firearm without requiring the buyer to undergo a background check.

Gun confiscation radicals have often used the term “gun show loophole” to demonize gun shows and insinuate that gun sales at gun shows create a more dangerous society. They want to end your ability to freely buy and sell personal property in this manner, and they want to place extreme limitations and bureaucratic nightmare regulations on gun shows.

²⁵ “Gun Owners of America Funds Challenge to National Firearms Act in U.S. Supreme Court”, *GunOwners.org*, January 15, 2019, <https://www.gunowners.org/gun-owners-of-america-funds-challenge-to-national-firearms-act-in-u-s-supreme-court/>

²⁶ 18 U.S.C. 922(a)(6). 18 U.S.C. 924(a)(1)(A).

Americans should enjoy the ability to freely transfer their personal property – including firearms – at the location of their choice, including at a gun show. Background checks and regulatory burdens on gun shows do not keep weapons out of the hands of criminals; they only make it more difficult for the vulnerable to defend themselves.

18-20-Year-Old American's Gun Rights

Stigmatization of Mental Healthcare for 18–20-Year-Old Citizens

Gun Owners of America (GOA) agrees with the laudable objectives of the Congress to reduce suicide and other mental health issues which plague this nation. However, the federal lifetime gun ban for “mental defective[s]” is another tragic deterrent to seeking mental health treatment.

GOA exists to protect the constitutionally recognized right to keep and bear arms of all Americans. Because 18–20-year-old Americans can vote, serve in the military, get married, and raise families, we strongly believe that any efforts that seek to reduce suicide and treat mental illness must respect the Second Amendment rights of these adults. It should go without saying that Americans and gun owners should not be penalized for seeking mental health care. Congress must ensure that the methods employed to reduce suicide and other mental health issues do not further stigmatize mental health treatment and create additional barriers to care.

Perceived barriers include the perception that someone might be deprived of their constitutional right to own a firearm for seeking mental health treatment, regardless of the existence, or lack thereof, of gun control laws in a given jurisdiction. Legitimate legal barriers include the use of “Red Flag” Gun Confiscation Orders (GCOs) by medical professionals in certain states and the federal lifetime “mental defective” gun ban which prohibits those who have received certain mental health treatment from possessing, receiving, or transporting firearms.

Parents might not want their children to receive mental healthcare if it might result in the loss or delay of their child's constitutional rights when they become an adult. Families might try to just “get through” things on their own, rather than engage with mental healthcare providers to get critical care.

Those 17 and under who hunt, play shooting sports, or who wish to own firearms for self-defense as adults may choose to avoid essential mental healthcare in order to keep their ability to own and operate firearm from infringement. If someone under 18 wants to legally buy a hunting shotgun or a target rifle on their 18th birthday, they may use the consequences of the law as an excuse to not get the help they need.

RESTORE the Rights of 18-20-Year-Old Adults, Not Restrict Them

The current 18–20-year-old handgun ban is antiquated and keeps honest, young adults disarmed – sending the message that the Second Amendment is a second-class right. **Restoring the right of young adults to purchase handguns would be true ‘common-sense’ gun legislation.**

“The Second Amendment is a constitutional right and does not treat 18-year-olds as second-class adults. In keeping with the Supreme Court's Heller decision, the SAME Act would overturn our current restrictive anti-handgun statute and ensure equal treatment

under law for adults under 21. Ultimately, if we trust 18-year-olds enough to defend our country and to choose our elected officials, we should trust them enough to purchase a handgun.” - **Senator Lummis**²⁷

“Why should a 20-year-old single mom be denied the right to defend herself and her children? Eighteen, 19, and 20-year-olds are considered adults and can vote on important public policy issues. They can also form business contracts, get married, and serve in the military. As adults, these Americans should not be deprived of basic constitutional rights.” - **Representative Massie**²⁸

²⁷ Stein. [*Legislation to Lower the Age to Buy a Handgun Receives GOA's Endorsement*](#). 2021.

²⁸ *Ibid.*

Lethal Means Safety and Mental Healthcare

Voluntary Lethal Means Safety is a Powerful Tool

Suicide prevention strategies should seek to identify those at risk for suicide, reduce barriers to care, and then deliver necessary services in the pre-crisis phase of suicidal ideation. Lethal Means Safety (LMS) recommendations must be reserved to voluntary measures during the crisis intervention phase of suicidal ideation, where it is most properly suited. This is an important distinction and one where the lines are often crossed by gun control advocates.

Congress should focus its recommendations to reduce suicide and increase access to mental healthcare on matters which do not violate the Constitutional rights of Americans. Instead of passing gun control, Congress should implement strategies seeking to identify those at risk for suicide, reduce structural and attitudinal barriers to care,²⁹ reduce stigma for seeking mental health treatment, and deliver necessary services in the pre-crisis phase of suicidal ideation.

Government-Mandated Lethal Means Safety as a Vehicle for Gun Control

Anti-gun policy goals often deceptively appear as involuntary or pre-crisis LMS lines of effort like “Red Flag” GCOs, mandatory waiting periods for firearm purchases, mandatory self-storage, mandatory training/information requirements, or even “smart gun” technology.

LMS recommendations are more properly suited to the crisis intervention phase. In fact, pre-crisis phase LMS policies can have the opposite effect by erecting barriers to care and further stigmatizing access to mental health care. Research published in the Northwestern University’s *Journal of Criminal Law and Criminology* found that:

“[r]ecent gun control legislation creates a barrier to participation in counseling and treatment and further stigmatizes those suffering from a mental illness.”³⁰

The “type of legislation” that asks mental health professionals to predict who may act on violent thoughts “adds to the negative stereotype that individuals with mental illness are more prone to violence.”³¹ Instead, research shows that mental health patients are more likely to be the victims of violence than perpetrators.³²

Gun control, masquerading as pre-crisis LMS which mandates the involuntary surrender of firearms during a crisis, serves only to escalate a delicate situation. Involuntary relinquishment erects major barriers which discourage a gun owner or a prospective gun owner from seeking life-saving mental health treatment in the first place. A gun owner

²⁹ Mojtabai, et. Al., *Barriers to Mental Health Treatment: Results from the National Comorbidity Survey Replication (NCS-R)*, (Psychol Med., 2011), 1751–1761.

³⁰ Carolyn Reinach Wolf and Jamie A. Rosen, *Missing The Mark: Gun Control Is Not The Cure For What Ails The U.S. Mental Health System*, (J. Crim. L. & Criminology, 2015), 863.

³¹ *Ibid.*

³² Wolf and Rosen, *Missing The Mark: Gun Control Is Not The Cure For What Ails The U.S. Mental Health System*, 867.

may further be deterred from seeking treatment as involuntary relinquishment of self-defense tools places the individual in a position of powerlessness and dependency; this escalation is of great hinderance as powerlessness and dependency are values rejected by self-defense culture and the Second Amendment community.

Lifetime Misdemeanor Gun Ban Expansion

Fake “Boyfriend Loophole” Explained and Constitutional Concerns with Misdemeanor Gun Bans

Gun Owners of America has long opposed the existing statutes 18 U.S.C. 922(d)(8) and (g)(8), which are known as the Lautenberg Misdemeanor Gun Ban.

Those convicted of felonies often lose their rights including the right to vote, serve on a jury, hold public office, and the right to keep and bear arms under 18 U.S.C. 922 (d)(1) and (g)(1). Depriving those convicted of misdemeanors or lesser crimes of their rights is a miscarriage of justice.

If a state legislature believes a particular domestic violence offense renders an individual too dangerous to possess a firearm, the offense should be punished as a felony. Those who are too dangerous to own a gun should not be allowed to roam society freely anyway, because the vast majority of criminals obtain their firearms illegally.

Problems with Lifetime Gun Bans

Since there should be no misdemeanor gun ban, it follows that we should not apply this unacceptable gun ban to any new group of individuals. The proposal that the ban does not apply retroactively does not diminish the danger this new prohibited person category poses to the rights of individuals.

Further, the individuals to be prohibited from possessing firearms under this section will be banned from firearm ownership for the rest of their lives, regardless of whether they pose a danger to society. 18 U.S.C. 925(c) provides a mechanism for a prohibited person to petition a court to restore their gun rights if they can prove they are not,

“likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest.”

However, an annual DOJ appropriations rider known as the Schumer Amendment prevents ATF from acting on any such petitions. New prohibited person categories should not even be considered until the right to petition for this relief is restored.