

Maine Background Checks for Gun Sales Initiative, Question 3 (2016)

From
Ballotpedia

The **Maine Background Checks for Gun Sales Initiative**, also known as **Question 3**, is on the [November 8, 2016, ballot](#) in [Maine](#) as an [indirect initiated state statute](#).

A vote "**for**" the measure is a vote to require background checks before a gun sale or transfer between people who are not licensed firearm dealers.

A vote "**against**" the measure is a vote to prevent background checks from being required.

If approved, the measure would also require that in cases when neither party is licensed, they must meet at a licensed dealer, who would then complete a background check on the transferee. Background check exceptions would include emergency self-defense, while the parties are hunting or sport shooting, and transfers between family members. Currently, Maine does not have a state law regarding background checks for gun sales and follows federal laws that require background checks for all gun sales by licensed dealers.^[1]

[Secretary of State Matthew Dunlap](#) (D) confirmed supporters collected more than enough valid signatures to send the measure to the ballot. The [Maine State Legislature](#) did not vote to approve this measure, so it will go before voters in November per Maine laws regarding [indirect initiated state statutes](#).^{[2][3]}

Overview

Federal law

Federal law has required background checks for all gun sales by licensed dealers since the Brady Bill was signed into law in November of 1993. The law does not apply to private unlicensed dealers who may sell guns at gun shows, online, or in other private transactions. Because of these exceptions, background checks are required for an estimated 40 percent of gun sales.^[2]

Other state laws

As of July 2016, eight states ([California](#), [Colorado](#), [Connecticut](#), [Delaware](#), [New York](#), [Oregon](#), [Rhode Island](#), and [Washington](#)) and [Washington D.C.](#) required universal background checks on all gun sales, including private, unlicensed transactions. [Washington](#) became the first state to pass a background check law through a [ballot measure](#) in November 2014. [Maryland](#) and [Pennsylvania](#) also require background checks for private and unlicensed transactions, but only for handguns. [Hawaii](#), [Illinois](#), [Massachusetts](#), and [New Jersey](#) do not require a background check upon the purchase of a firearm, but they do require gun purchasers to obtain a permit that is only issued after a background check. Illinois also requires background checks for purchases at gun shows. [Iowa](#), [Michigan](#), [Nebraska](#), and

[North Carolina](#) have the same system as Hawaii, Illinois, Massachusetts, and New Jersey, but only for handguns.^[4]

Other 2016 measures

In addition to this measure, California and Nevada voters will see measures related to background checks for gun sales on their ballots in November. Californians will vote on the [California "Safety for All" Gun Control Initiative](#), which would require most individuals to pass a background check to purchase ammunition. Nevadans will vote on the [Nevada Background Checks for Gun Purchases Initiative](#), which would require gun transactions between unlicensed individuals to be conducted through a licensed dealer who would perform a background check.

Public opinion

A survey conducted by Yale researchers in January 2016 found that 77 percent of Americans favor universal background checks, but only 53 percent favor stricter gun laws. The research team found that this disconnect may be explained by the fact that 41 percent of Americans think that universal background checks are currently required by federal law for all gun purchases. Survey respondents who favored universal background checks and knew that they are not required by federal law were more likely to also favor stricter gun laws.^[5]

Summary

The measure summary is as follows:^[1]

- “ This initiated bill requires a background check before a firearm sale or transfer between individuals not licensed as firearm dealers. If neither party to a sale or transfer has a federal firearms license, the parties meet at a licensed firearm dealer, who conducts a background check on the transferee and completes the sale or transfer as though selling or transferring from the dealer's own inventory. Exceptions to the background check requirement are made for transfers between family members, while the parties are hunting or sport shooting, for emergency self-defense, in the presence of the transferor and in other circumstances.^[8]

Text of measure

Ballot question

The question will appear on the ballot as follows:^{[6][7]}

- “ Do you want to require background checks prior to the sale or transfer of firearms between individuals not licensed as firearms dealers, with failure to do so punishable by law, and with some exceptions for family members, hunting, self-defense, lawful competitions, and shooting range activity?^[8] ”

Full text

The full text of the measure is as follows:^[11]

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 25 MRSA §2014 is enacted to read:

§2014. Background checks for firearms sales and transfers

- 1. Definitions.** As used in this section, the following terms have the following meanings. A. "Corrections officer" has the same meaning as in section 2801-A, subsection 2. B. "Family member" means husband, wife, domestic partner, parent by blood, parent by adoption, child by blood, child by adoption, sibling by blood, sibling by adoption, grandparent, grandchild, niece, nephew, aunt, uncle, first cousin, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister or intimate partner. C. "Firearm" has the same meaning as in Title 17-A, section 2, subsection 12-A. D. "Firearm dealer" means a person who holds any federal firearms license under 18 United States Code, Section 923(a) (2015). E. "Intimate partners" means individuals in a dating relationship who are currently living with each other. F. "Law enforcement agency" has the same meaning as in section 3701, subsection 1. G. "Law enforcement officer" has the same meaning as in section 3701, subsection 3. H. "Person" means an individual, corporation, partnership, firm, trust, organization or other legal entity. I. "Sell" has the same meaning as in Title 17-A, section 554-A, subsection 1, paragraph C. J. "Transfer" has the same meaning as in Title 17-A, section 554-A, subsection 1, paragraph A. K. "Transferee" means a person who receives or intends to receive a firearm in a sale or transfer. L. "Transferor" means a person who delivers or intends to deliver a firearm in a sale or transfer. M. "Unlicensed person" means any person who is not a firearm dealer under this section.

2. Background checks required for all sales and transfers. Except as provided in

subsection 8, each sale or transfer of a firearm occurring in whole or in part in this State between unlicensed persons must be preceded by a background check on the transferee, and an unlicensed person may not sell or transfer a firearm and an unlicensed person may not receive a firearm without complying with the process described in this section.

3. Background check conducted by firearm dealer. When both parties to a prospective sale or transfer of a firearm are unlicensed persons, the transferor and transferee shall meet jointly at a firearm dealer and request that the firearm dealer facilitate the sale or transfer. A firearm dealer who agrees to facilitate a sale or transfer under this section shall process the sale or transfer as though selling or transferring the firearm from its own inventory to the transferee, complying with all requirements of federal and state law that would apply if it were making such a sale or transfer, including all background check and record-keeping requirements.

4. No sale or transfer if failed background check. Neither a firearm dealer nor a transferor may deliver any firearm to a transferee if the results of the background check pursuant to subsection 3 indicate that the transferee is disqualified to possess firearms under state or federal law.

5. Leaving dealer with firearm. Notwithstanding any other provision of law:

A. This section does not prevent the transferor from removing the firearm from the premises of the firearm dealer while a background check is being conducted pursuant to subsection 3. Before the transferor sells or transfers the firearm to the transferee, the parties must return to the firearm dealer, who shall take possession of the firearm in order to complete the sale or transfer; and

B. This section does not prevent the transferor from removing the firearm from the premises of the firearm dealer if the results of the background check pursuant to subsection 3 indicate that the transferee is disqualified to possess firearms under state or federal law.

6. Reasonable fee. A firearm dealer who agrees to facilitate a sale or transfer pursuant to this section may charge a reasonable fee for services rendered.

7. Completion of forms. A transferor and a transferee must each complete, sign and submit all federal and state forms necessary to process the background check and otherwise complete the sale or transfer pursuant to this section.

8. Exceptions. The provisions of this section apply to the transfer or sale of a firearm between unlicensed persons except if:

A. The sale or transfer is between family members;

B. The firearm is a curio or relic, as defined in 27 Code of Federal Regulations, Section 478.11 (2015), and the sale or transfer is between collectors of firearms as curios or relics, as defined by 18 United States Code, Section 921(a)(13) (2015), who both have in their possession a valid collector of curios and relics license issued by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives;

C. The sale or transfer is of an antique firearm, as defined in 18 United States Code, Section 921(a)(16) (2015);

D. The transfer is temporary and is necessary to prevent imminent death or great bodily harm, and:

(1) The transfer lasts only as long as necessary to prevent such threat; and

(2) The transferor has no reason to believe that the transferee is disqualified to possess

firearms under state or federal law and has no reason to believe that the transferee intends to use the firearm in the commission of a crime;

E. Either the transferor or the transferee is a law enforcement agency or the Department of Corrections or is, to the extent the person is acting within the course of the person's employment or official duties, a peace officer, a law enforcement officer, a corrections officer, a member of the Armed Forces of the United States or the National Guard or the Reserves of the United States Armed Forces, a federal law enforcement officer or a person licensed as a security guard or employed by a contract security company or proprietary security organization under Title 32, chapter 93;

F. The transfer is temporary, the transferor has no reason to believe that the transferee intends to use the firearm in the commission of a crime and the transfer and the transferee's possession of the firearm take place exclusively:

(1) At an established shooting range authorized by the governing body of the jurisdiction in which such range is located or, if no such authorization is required, operated consistently with local law in such jurisdiction;

(2) At a lawfully organized competition involving the use of a firearm or for participation in or practice for a performance by an organized group that uses firearms as a part of the performance;

(3) While the transferee is hunting or trapping if such activity is legal in all places where the transferee possesses the firearm and the transferee holds any license or permit required for such activity; or

(4) In the actual presence of the transferor.

Any transfer allowed by this paragraph is permitted only if the transferor has no reason to believe that the transferee is disqualified to possess firearms under state or federal law or, if the transferee is under 18 years of age and is receiving the firearm under direct supervision and control of an adult, that such adult is disqualified to possess firearms under state or federal law; or

G. The transfer occurs by operation of law upon the death of a person for whom the transferee is an executor, administrator, trustee or personal representative of an estate or a trust created in a will.

9. Violations. Any person who knowingly delivers or receives a firearm without complying with this section commits:

A. For a first conviction involving the sale or transfer of one or more firearms, a Class D crime; and

B. For a 2nd or subsequent conviction involving the sale or transfer of one or more firearms, a Class C crime.

Supporters

Organizations

- Maine Gun Safety Coalition^[11]
- Maine Chiefs of Police Association^[12]
- Everytown for Gun Safety, a group founded by Michael Bloomberg^[13]
- The Brady Campaign to Prevent Gun Violence^[2]

Individuals

- Sean Geagan, Bucksport Police Chief^[9]
- Todd Bracket, Lincoln County Sheriff^[10]

- Michael Gahagan, Caribou Police Chief
- Laurie Fogelman, a citizen sponsor and domestic violence prevention advocate^[14]
- Christopher Dickens, a citizen sponsor and gun owner from Blue Hill, Maine
- Amy Fiorilli, a citizen sponsor from Otis, Maine
- Colin Goddard, Virginia Tech shooting survivor^[15]

Arguments in favor

Judi Richardson, a main proponent whose daughter was shot with a pistol purchased without a background check, said:^[9]

“ We can save lives by closing the deadly loophole in Maine law that makes it far too easy for criminals, domestic abusers and other dangerous people to get their hands on guns without any background check at all.^[8] ”

Sean Geagan, Bucksport Police Chief and a citizen sponsor of the measure, stated:^[9]

“ Supporting the Second Amendment goes hand in hand with the responsibility to keep guns out of the hands of dangerous people. While no law can prevent every tragedy, this ballot measure will help keep Mainers safe.^[8] ”

South Portland Police Chief **Ed Googins**, who worked on the measure, said:^[16]

“ Maine has developed reputation as a state where it’s very easy to purchase a gun without a background check. What we have seen of public opinion in this matter is an overwhelming belief that background checks should be done in the state.^[8] ”

Bucky Owen, former commissioner of the Maine Department of Inland Fisheries and Wildlife, said:^[2]

“ This ballot measure respects our Second Amendment rights while recognizing that...rights come with responsibilities, such as the responsibility to keep guns out of the hands of dangerous people.^[8] ”

Opposition

Opponents

- National Rifle Association^[17]
- Gun Owners of Maine^[13]
- Sportsman's Alliance of Maine^[18]

- V. Paul Reynolds, former information officer, Maine Dept. of Fish and Wildlife^[19]

Arguments against

Charles Rumsey, an organizer of the Bangor Gun Show, said he was concerned about the added burden and fees to require extra background checks. He stated:^[19]

“ You wind up just putting honest people through an unneeded process. I don’t want to have to go around and pay for someone to do that. I don’t see any use for that.^[8] ”

The **National Rifle Association** said.^[17]

“ Like all of [Bloomberg’s](#) proposals, this effort will do nothing to deter criminals or stop crimes. It will only serve to make it more difficult for law-abiding citizens to obtain guns for protection.^[8] ”

Campaign finance

Total campaign cash ^[20]	
<i>as of May 31, 2016</i>	
Support:	\$2,667,937
Opposition:	\$30,713

Support

According to the most recent quarterly and pre-primary reports, between January 1, 2016, and May 31, 2016, the Maine Moms Demand Action for Gun Sense Fund and the Mainers for Responsible Gun Ownership Fund raised \$2,667,937. The majority of the donations to both funds came from the group [Everytown for Gun Safety](#) Action Fund. Of the \$2,612,247 donated by [Everytown for Gun Safety](#), \$270,248 was in the form of in-kind contributions.^[21]

Committee	Amount raised	Amount spent
Maine Moms Demand Action for Gun Sense Fund	\$469,166	\$366,291

Mainers for Responsible Gun Ownership Fund \$2,198,771 \$1,533,759

Total	\$2,667,937	\$1,900,050
-------	-------------	-------------

Top donors

As of May 31, 2016, the following were the top three donors in support of this initiative. These figures include in-kind donations.^[22]

Note: The Maine Moms Demand Action for Gun Sense Fund has donated \$433,601 of its funds directly to the Mainers for Responsible Gun Ownership Fund. While this figure is reflected in the Top Donors list below, those funds are not included in the amount raised total for the Maine Moms Demand Action for Gun Sense Fund listed above, as Ballotpedia does not count money used in [PAC](#) to PAC donations twice.

Donor	Amount
Everytown for Gun Safety	\$2,612,247
Maine Moms Demand Action for Gun Sense Fund	\$433,601
Americans for Responsible Solutions PAC	\$32,125

Signature collection

As of December 31, 2015, Maine Moms Demand Action reported spending the most money on signature collection out of all of the initiative campaigns in Maine this year. They reportedly paid the consulting firm, FieldWorks LLC, more than \$570,000 between September 1 and December 31, 2015, to collect the more than 85,000 signatures the campaign submitted to the secretary of state's office. During this time, [Everytown for Gun Safety](#) donated \$750,000 to Maine Moms Demand Action.^[23]

Opposition

As of May 31, 2016, the National Rifle Association Institute for Legislative Action had raised and spent \$30,713. All contributions except for \$345 were from the National Rifle Association of America.^[24]

Spending for similar measures

In 2014, campaigns related to the [Washington Universal Background Checks for Gun Purchases Initiative](#) raised a total of \$11,888,293. Of this total, \$11,285,313 was raised by the support campaign while \$602,980 was raised by the opposition, the bulk of which was donated by the [NRA](#). [Everytown for Gun Safety](#) contributed more than \$2.7 million in support of the measure. As of June 20, 2016, campaigns related to the [Nevada Background Checks for Gun Purchases Initiative](#) had raised a total of \$4,875,093.11. As of June 20, all funds had been raised by the support campaign, and more than \$3.7 million of the total was donated by [Everytown for Gun Safety](#).

Methodology

In calculating campaign finance for supporting and opposing committees, Ballotpedia does not count donations or expenditures from one [PAC](#) to another since that would amount to counting the same money twice. This method is used to give the most accurate information concerning how much funding was actually provided to and spent by the opposition and supporting campaigns. Ballotpedia reports all in-kind donations reported by the state government. This could lead to some cash donations being counted again as in-kind donations.

Polls

In March 2016, the Maine People's Resource Center performed the following poll regarding Question 3:

[hide]Maine Background Checks for Gun Sales Initiative, Question 3 (2016)					
Poll	Support	Oppose	Undecided	Margin of Error	Sample Size
Maine People's Resource Center 3/5/16 - 3/8/16	66.2%	25.5%	8.3%	+/-4.15	557
<i>Note: The polls above may not reflect all polls that have been conducted in this race. Those displayed are a sampling chosen by Ballotpedia staff. If you would like to nominate another poll for inclusion in the table, send an email to editor@ballotpedia.org.</i>					

A company called Pan Atlantic SMS Group conducted a poll of 403 Maine residents between March 11 and March 16, 2013. One of the questions in the poll asked if the respondent supported mandatory background checks on all potential gun buyers. This question did not reference this particular initiative proposal. Out of the total, 89.6 percent of respondents said they did favor mandatory background checks in Maine, 7.9 percent said they were opposed, and 2.4 percent said they did not know.^[25]

Path to the ballot

See also: [Laws governing the initiative process in Maine](#) and [Signature requirements for ballot measures in Maine](#)

- Judi Richardson submitted the petition, and the measure was issued on October 13, 2015.
- To qualify their initiative for the ballot, proponents needed to collect 61,123 signatures, which is 10 percent of the total votes cast for [governor](#) in November 2014, by February 1, 2016.
- Petitioners submitted 85,000 signatures to the secretary of state on January 20, 2016.^{[26][27]}
- Maine Moms Demand Action for Gun Sense paid [Fieldworks](#) more than \$570,000 between September 1, 2015, and December 31, 2015, to [gather signatures](#).^[28]
- The [Maine Secretary of State](#) has, by statute, 30 days to review the signatures for validity and announce a decision about whether an initiative has made the ballot after signatures have been submitted. The 30-day deadline for this measure was February 18, 2016.
- On February 18, 2016, the [Maine Secretary of State](#) confirmed that the petition gathered 65,821 valid signatures, certifying it for the ballot.^[29]
- On March 24, 2016, the legislature indefinitely postponed a vote on the measure, confirming that it will appear on the ballot in November.^{[30][31]}