

Gun legislation is stalled in Congress. Here's why that won't change anytime soon.



Analysis by [Paul LeBlanc](#), CNN

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'What are we doing?!': Senator furious on floor over elementary school shooting

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WashingtonCNN —

Tuesday's shooting at a Texas elementary school, [which has left at least 19 children and two adults dead](#), marked another instance of a uniquely American tragedy.

The shooting is the latest entry in the [long history](#) of gun violence in the United States. Before Tuesday, there had been at least 39 shootings in K-12 schools, colleges and universities in 2022, resulting in at least 10 deaths and 51 injuries.

While proposals to overhaul gun laws – such a ban on assault-style weapons or high-capacity magazines – face steep odds at the federal level, there are some areas of bipartisan agreement. Whether that's enough to break congressional gridlock is yet to be seen.

Here's what to know about what is being considered in Congress and where it stands.

Closing loopholes

A House-passed bill, [HR 1446](#), backed by Democratic Rep. Jim Clyburn of South Carolina, would close what's known as the "Charleston loophole," which allows some licensed gun sales to go through before a required background check is done.

Specifically, the legislation would increase the amount of time, from three business days to a minimum of 10 business days, that a federal firearms licensee must wait to receive a completed background check prior to transferring a firearm to an unlicensed person.

Using that loophole, a White gunman was able to legally purchase a firearm to kill nine people at a historically Black church in Charleston, South Carolina, in 2015.

Senate Democrats took steps Tuesday night to place the bill, called [the Enhanced Background Checks Act of 2021](#), onto the legislative calendar so it can be voted on.

It's unclear when the Senate will vote on the measure, but it needs 60 votes in the chamber to overcome a filibuster, and it's clear the legislation does not have that support (at least not right now) – nor does it have full Democratic backing to gut the Senate rule altogether.

It's unclear when Senate Majority Leader Chuck Schumer will try to force a procedural vote to break a filibuster. Unless there's an agreement from all 100 senators, the earliest he could set up the procedural vote would be Saturday, according to a Democratic aide.

But senators were expected to leave for next week's Memorial Day recess on Thursday afternoon. So they may wait until after the recess to take that procedural vote, even though leaving town amid the Texas tragedy would be bad optics.

The aide said Schumer has not indicated when he may try to force the vote yet.

Still, Democratic Sen. Richard Blumenthal of Connecticut, who has pushed for gun safety legislation since the Sandy Hook shooting in his state nearly 10 years ago, told reporters Tuesday there should be a vote even if it is doomed to fail.

"I think we need to hold every member of Congress accountable and vote so that the public knows where every one of us stand," he said. Asked about the potential for bipartisan agreement, he added, "I think there may well be areas of agreement. I have come close to agreement with a number of my colleagues on a red flag statute."

'Red flag' legislation

House Majority Leader Steny Hoyer said Wednesday he'll put a gun safety bill known as the Federal Extreme Risk Protection Order Act to a vote in the House during the first week of June.

"Congress must do more to #EndGunViolence. During the first week of the June work period, I will bring @RepLucyMcBath's bill to the Floor to establish a national 'Red Flag' law to prevent those who pose a threat to themselves or others from being able to legally possess a firearm," he [tweeted](#).

The legislation, which is sponsored by Democratic Rep. Lucy McBath of Georgia, who lost her son to a shooting a decade ago, would "allow family members and law enforcement to obtain an extreme risk protection order to temporarily remove access to firearms for those who are deemed a danger to themselves or to others by a federal court."

Red flag laws [tend to be supported by those favoring more gun safety measures](#), arguing that the policies can prohibit mass shootings from happening in the first place.

But critics say they infringe on due process by letting a judge make an initial decision – even if temporary – without hearing from the accused, and by allowing the judge to curtail someone's Second Amendment right to bear arms without the respondent ever having been convicted of a crime or been adjudged mentally ill.

While the legislation will likely find support in the House, it would face steep odds in the Senate.

Even bills with bipartisan support can't pass the Senate

Another bill, [HR 8](#), the Bipartisan Background Checks Act of 2021, would expand background checks for all firearm sales or transfers in the country. Currently, background checks are not required for gun sales and transfers by unlicensed and private sellers.

The legislation has bipartisan support, passing the House last year in a 227-203 vote. Eight Republicans supported the bill and one Democrat voted against it.

Asked Tuesday about this broader [House-passed background checks measure](#), Democratic Sen. Joe Manchin of West Virginia referenced his own, narrower effort in the Senate, saying, "If you can't pass Manchin-Toomey, how are you going to get enough votes for anything?"

In 2013, Manchin and Republican Sen. Pat Toomey of Pennsylvania pushed a compromise bill that would have required background checks on all commercial sales of guns (including private sales at gun shows and all internet sales), but would have allowed for individuals to sell their firearms to family, friends and other acquaintances without background checks.

This failed under Senate filibuster rules, even though it had majority support. The vote was 54-46, with [four Republicans joining most Democrats](#) in support. Then-Senate Majority Leader Harry Reid cast a "no" vote to secure the ability to bring the measure up again. Four other Democrats voted against the bill.

Manchin has continued to [push versions of that legislation](#) in more recent years.

Republicans will argue that background checks chip away at gun rights and, ultimately, will take away guns. "You see Democrats and a lot of folks in the media whose immediate solution is to try to restrict the constitutional rights of law-abiding citizens," Sen. Ted Cruz, a Texas Republican, [told reporters Tuesday](#).

The GOP will also argue that the bills would not stop every shooting. This is true. The specifics of each shooting are different. We still don't know if any of this legislation would have stopped Tuesday's shooter, identified by Texas officials as Salvador Ramos.

For now, [every state has variations on the rules](#). Most action on gun regulation is happening at the state level be Gun legislation is stalled in Congress. Here's why that won't change anytime soon.

Tuesday's shooting at a Texas elementary school, which has left at least 19 children and two adults dead, marked another instance of a uniquely American tragedy.

The shooting is the latest entry in the long history of gun violence in the United States. Before Tuesday, there had been at least 39 shootings in K-12 schools, colleges and universities in 2022, resulting in at least 10 deaths and 51 injuries.

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