



Legislation Text

File #: 22-730, Version: 1

TITLE:

ADOPT A RESOLUTION 22-XX AND APPROVE A LETTER OF SUPPORT FOR HOUSE RESOLUTION 8

DEPARTMENT: CITY MANAGER'S OFFICE

PRESENTED BY: LORI ANN FARRELL HARRISON, CITY MANAGER

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RECOMMENDATION:

The Legislative Review Team recommends that the City Council consider the adoption of Resolution 2022-xx (Attachment 1) approving a letter in support of the United States House of Representatives' Resolution 8 (H.R. 8), the Bipartisan Background Checks Act of 2021 (Attachment 2).

BACKGROUND:

According to Education Week, there have been 27 school shootings in 2022, with 119 taking place since 2018. According to the Gun Violence Archive, 212 mass shootings have taken place this year, 693 mass shootings in 2021, 611 in 2020, and 417 in 2019.

Notable mass shootings in the past 30 days are noted below:

May 24, 2022: Uvalde, Texas

On May 24, 2022, a mass shooting occurred in Uvalde, Texas. An 18-year old male shooter opened fire at Robb Elementary School, just before noon. A total of 19 children and two adults were killed, with another 17 people wounded.

According to the Bureau of Alcohol, Tobacco, Firearms and Explosives, the shooter had legally purchased two AR-15 platform rifles from a federally licensed gun store, as well as 375 rounds of 5.56-caliber ammunition upon reaching his 18th birthday.

May 14, 2022: Buffalo, New York

On May 14, 2022, a mass shooting occurred in Buffalo, New York. The 18-year old male shooter targeted a supermarket, Tops Friendly Markets, in a predominantly Black neighborhood. A total of 10 Black people were killed and three other people were injured. The shooter livestreamed the attack on Twitch.

Police officials have stated that the shooter had an AR-15-type rifle, a shotgun, and a bolt-action rifle in his possession during the mass shooting.

May 15, 2022: Laguna Woods, California

On May 15, 2022, a mass shooting occurred in Laguna Woods, California. The 68-year old male shooter opened fire at the Geneva Presbyterian Church, targeting Irvine Taiwanese Presbyterian Church members. One person was killed and five others were injured.

According to the Bureau of Alcohol, Tobacco, Firearms and Explosives, the shooter had bags containing magazines of ammunition, four Molotov cocktail-like incendiary devices, and two 9 mm semiautomatic pistols purchased lawfully in Las Vegas.

Background Checks System

The “gun-show loophole” in federal gun background check laws would be closed under H.R. 8. The bill would require any firearm transfer between unrelated, unlicensed individuals-such as participants at a gun show-to be conducted through a licensed dealer, who is required to perform the background check on the recipient.

Current law requires gun dealers-those who are in the business of selling guns-to obtain a license from the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). They are also required to use the National Instant Criminal Background Check System (NICS) to determine whether a potential buyer is eligible to purchase a firearm.

Federal prohibitions on owning a gun are based on age, criminal history, mental health, and drug use, among other restrictions. Federal agencies are required to provide any records they have demonstrating an individual falls into a prohibited category. State participation is voluntary and the federal government provides grants to encourage and improve reporting. Dealers who do not comply with the background check requirement can be fined and imprisoned for as long as one year.

Gun Show Purchases

The background check requirement in current law does not apply to transfers by unlicensed sellers, who are allowed to sell firearms at several thousand gun shows typically held around the country each year without performing background checks. Similarly, other sales by unlicensed individuals over the internet or in person are not subject to background checks.

Beginning 180 days after the enactment of the bill, most transfers between unlicensed individuals, including gifts and trades, would have to be performed through a licensed dealer. The dealer would have to take possession of the firearm and then perform a background check on the recipient before completing the transfer.

The requirement would not apply to:

- Transfers involving law enforcement agencies and officers, security professionals, or members of the armed forces if it is connected with their official duties.
- Loans or gifts between spouses, domestic partners, parents, children and stepchildren, and other family members, as long as the person making the transfer has no reason to believe the firearm will be used in a crime or the recipient is prohibited from possessing it.
- Transfers related to administration of an estate or that happen automatically when a person dies.
- Temporary transfers needed to prevent imminent threats of harm to oneself or others,

- including domestic violence.
- Transfers approved by the United States Justice Department.
- Loans for use at shooting ranges or while hunting if the owner is present and does not have reason to believe it will be used illegally.

If a transfer is not completed after the dealer has taken possession of the firearm, the dealer could return the firearm to the original owner without performing a background check. Licensed dealers would have to notify participants in a transfer covered by the bill that a background check is required, and the recipient would have to affirm they received the notice on a Justice Department form. The measure includes language to stipulate that it would not authorize creation of a national firearms registry or preempt state laws that are consistent with the bill.

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ANALYSIS:

Congressional Action

H.R. 8 passed the House of Representatives on March 11, 2021 and has been referred to the Senate. The bill passed on a party-line vote (227-203) with 219 Democrats and 8 Republicans voting in favor of the bill, and one Democrat and 202 Republicans opposed. Orange County's Congressional delegation also voted along a party-line vote.

In the House, there are 210 co-sponsors of the bill, three of which are Republicans. Noteworthy Orange County Congressional co-sponsors include:

- Representative Mike Levin
- Representative Alan Lowenthal
- Representative Katie Porter
- Representative Linda Sanchez
- Representative Lou Correa

Senate Majority Leader Chuck Schumer moved this week to put it on the Senate's calendar for possible consideration by the Senate. However, the bill would require 60 votes in the Senate to avoid a potential filibuster by lawmakers who oppose the bill.

Support

The organizations supporting H.R. 8 include a major cross section of multiple sectors in the United States including the fields of education, law enforcement, medicine, and grass roots community groups whose relatives were victims of gun violence, including, to name a few:

- The United States Conference of Mayors
- The Major Cities Chiefs Association
- The American Medical Association
- American College of Physicians
- American Federation of Teachers
- National Parent Teachers Association
- League of Women Voters
- Association of Prosecuting Attorneys
- National Education Association
- Hispanic American Police Commanders Association
- American Public Health Association
- American Nurses Association
- NAACP
- Catholic Health Association of the United States
- The Giffords
- Everytown for Gun Safety
- Brady Center to Prevent Gun Violence
- VoteVets
- Third Way
- Moms Rising

Opposition and Concerns

The bill is opposed by the National Rifle Association.

ALTERNATIVES:

The City Council may direct changes be made to the proposed resolution and/or letter.

FISCAL REVIEW:

There is no fiscal impact related to the approval of a Resolution in support of H.R. 8.

LEGAL REVIEW:

The City Attorney's Office has reviewed the report and approves it as to form and prepared the Resolution.

CITY COUNCIL GOALS AND PRIORITIES:

This item supports the following City Council Goal:

- Strengthen the Public's Safety and Improve the Quality of Life.

CONCLUSION:

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