



## 2011 State Legislation Overview

December 2011

In 2011, LCAV identified over 700 bills addressing firearms that were introduced in state legislatures nationwide. The number of introduced bills that would have weakened firearms laws was very close to the number that would have strengthened them; however, approximately twice as many of the former were ultimately enacted. The vast majority of enacted laws expand the carrying of guns in public places.

### Victories

In 2011, gun violence prevention advocates were able to prevent the enactment of a number of bills that would have significantly weakened gun laws across the country. Bills to expand possession of guns on college and university campuses were defeated in fifteen states and succeeded in only two (MS and WI). Bills that would have allowed concealed guns to be carried without a permit were defeated in twelve states and enacted in only one (WY). Efforts to enact a law to allow carrying concealed weapons with a permit were again defeated in IL. Measures in three states which would have required law enforcement to rely solely on the National Instant Criminal Background Check System (“NICS”) database instead of using more thorough state databases when conducting background checks were defeated. (NICS consists of federal databases containing criminal, mental health and other records that would disqualify an individual from purchasing a firearm. The use of state databases is preferable because many relevant records have not been sent to NICS).

Three important victories were won in California in 2011. The state enacted a law that will help law enforcement solve and prevent gun crimes by requiring the California Department of Justice to retain copies of sales records for rifles and shotguns, as it already does for handguns. A second law will prohibit the open carrying of unloaded handguns in public places statewide. A third law will enable the Department of Justice to use firearm sales fees to fund programs to disarm convicted criminals and the mentally ill.

In other states, proactive victories were limited and mostly in the area of domestic violence and mental health record reporting bills (the latter being both a victory and a defeat in most cases since these bills generally contain restoration of rights provisions).

### Defeats

As mentioned above, one state (WY) enacted a law allowing concealed weapons to be carried without a permit, and two (MS and WI) enacted guns on campus laws. In addition, Ohio now allows guns in bars. Perhaps the biggest defeat was in Wisconsin, where a law was enacted allowing concealed carry with a permit, which activists have vehemently opposed for many years. The law is particularly irresponsible in that it does not grant the issuing authority any discretion in reviewing permit applications and it allows guns in bars and other areas. Other defeats include the adoption of a measure prohibiting health care practitioners from inquiring

about gun ownership in Florida as well as new laws further restricting the authority of local governments to regulate firearms in Florida, Texas, Indiana and Nevada.

### **Legislation Expected in 2012**

Based on legislative activity in 2011, we expect to see the following in 2012:

1. Continued efforts to weaken laws regulating guns in public: In 2011, these types of bills were introduced widely and it seems likely they will reappear. For example, in 2011, bills were introduced in 16 states to allow concealed carry without a permit (CO, GA, IA, ID, KY, ME, MT, NH, NV, OH, RI, UT, VA, WI, WV, WY); 10 states to allow or expand the carrying of guns in bars (AR, GA, ME, MI, MT, NC, NM, OH, OK, WI); 17 states to allow guns on campus (AZ, AR, FL, ID, IL, LA, MS, NE, NV, NM, NC, OK, TN, TX, VA, WI, WV); and 16 states to limit the rights of property owners to restrict guns in parking areas (AR, ME, MO, MS, MT, NC, ND, NH, PA, SC, SD, TN, TX, VA, WV, WY).
2. Attempts to limit background checks to the NICS database only: This type of bill was introduced in three states in 2011 (OR, PA, WA) and, given the budget crises most states are facing, it is likely to reappear.
3. Bills that would impose fee-shifting, punitive damages and other coercive measures: These types of bills are intended to discourage individuals or entities from acting in a certain way by creating the fear of large financial sanctions. For example, two states enacted laws in 2011 that allow individuals to sue employers or potential employers for asking certain questions about firearms (IN, ND). A bill introduced in Florida originally provided that if a local government were found to have exceeded its legislative authority to regulate firearms, the individual responsible could be charged with a felony and personally fined up to five million dollars. The enacted version included lower penalties, and a similar bill was also enacted in Indiana. Another example of this type of measure is Florida's new law restricting healthcare practitioner autonomy. The original version of the bill also imposed a felony and five million dollar fine for those found to violate the restrictions.
4. Attempt to restrict healthcare practitioner autonomy: In 2011, three states introduced bills similar to Florida's law that restricts healthcare practitioners from asking about gun ownership (AL, MN, NC). The North Carolina bill has been carried over to the 2012 session. Depending on how litigation challenging this law is resolved, this type of legislation may reappear in 2012.

Please see [http://www.lcav.org/content/recent\\_developments\\_2011.asp](http://www.lcav.org/content/recent_developments_2011.asp) for descriptions of the firearms-related state laws enacted in 2011, with links to statutory language, organized by state, and [http://www.lcav.org/content/recent\\_developments\\_by\\_policy\\_2011.asp](http://www.lcav.org/content/recent_developments_by_policy_2011.asp) for the laws organized by policy area.