

## **MSTP > 149 US 2<sup>nd</sup> AMENDMEN**

### **2<sup>nd</sup> AMENDMEN**

**The Second Amendment, often referred to as the right to bear arms, is one of 10 amendments that form the Bill of Rights, ratified in 1791 by the U.S. Congress. Differing interpretations of the amendment have fueled a long - running debate over gun control legislation and the rights of individual citizens to buy, own and carry firearms.**

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## Right to Bear Arms

The text of the Second Amendment reads in full: “A well - regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall **not** be infringed.” The framers of the [Bill of Rights](#) adapted the wording of the amendment from nearly identical clauses in some of the original 13 state constitutions.

During the [Revolutionary War](#) era, “militia” referred to groups of men who banded together to protect their communities, towns, [colonies](#) and eventually states, once the United States declared its independence from Great Britain in 1776.

Many people in America at the time believed governments used soldiers to oppress the people and thought the federal government should only be allowed to raise armies (**with full - time, paid soldiers**) when facing foreign adversaries. For all other purposes, they believed, it should turn to part - time militias, or ordinary civilians using their own weapons.

## American Revolution History

### State Militias

But as militias had proved insufficient against the British, the [Constitutional Convention](#) gave the new federal government the power to establish a standing army, even in peacetime.

However, opponents of a strong central government (**known as Anti - Federalists**) argued that this federal army deprived states of their ability to defend themselves against oppression. They feared that Congress might abuse its constitutional power of “organizing, arming and disciplining the Militia” by failing to keep militiamen equipped with adequate arms.

So, shortly after the [U.S. Constitution](#) was officially ratified, [James Madison](#) proposed the Second Amendment as a way to empower these state militias. While the Second Amendment did **not** answer the broader Anti - Federalist concern that the federal government had too much power, it did establish the principle (**held by both [Federalists](#) and their opponents**) that the government did **not** have the authority to disarm citizens.

### Well - Regulated Militia

Practically since its ratification, Americans have debated the meaning of the Second Amendment, with vehement arguments being made on both sides.

The crux of the debate is whether the amendment protects the right of private individuals to keep and bear arms, or whether it instead protects a collective right that should be exercised only through formal militia units.

Those who argue it is a collective right point to the “well - regulated Militia” clause in the Second Amendment. They argue that the right to bear arms should be given only to organized groups, like the National Guard, a reserve military force that replaced the state militias after the [Civil War](#).

On the other side are those who argue that the Second Amendment gives all citizens, **not** just militias, the right to own guns in order to protect themselves. The [National Rifle Association \(NRA\)](#), founded in 1871, and its supporters have been the most visible proponents of this argument, and have pursued a vigorous campaign against gun control measures at the local, state and federal levels.

Those who support stricter gun control legislation have argued that limits are necessary on gun ownership, including who can own them, where they can be carried and what type of guns should be available for purchase.

Congress passed one of the most high - profile federal gun control efforts, the so – called [Brady Bill](#), in the 1990s, largely thanks to the efforts of former [White House](#) Press Secretary James S. Brady, who had been shot in the head during an assassination attempt on President [Ronald Reagan](#) in 1981.

## The Second Amendment

### District of Columbia v. Heller

Since the passage of the Brady Handgun Violence Prevention Act, which mandated background checks for gun purchases from licensed dealers, the debate on gun control has changed dramatically.

This is partially due to the actions of the [Supreme Court](#), which departed from its past stance on the Second Amendment with its verdicts in two major cases, *District of Columbia v. Heller* (2008) and *McDonald v. Chicago* (2010).

For a long time, the federal judiciary held the opinion that the Second Amendment remained among the few provisions of the Bill of Rights that did **not** fall under the due process clause of the [14th Amendment](#), which would thereby apply its limitations to state governments. For **example**, in the 1886 case *Presser v. Illinois*, the Court held that the Second Amendment applied only to the federal government, and did **not** prohibit state governments from regulating an individual's ownership or use of guns.

But in its 5 - 4 decision in *District of Columbia v. Heller*, which invalidated a federal law barring nearly all civilians from possessing guns in the District of Columbia, the Supreme Court extended Second Amendment protection to individuals in federal (**non - state**) enclaves.

Writing the majority decision in that case, [Justice Antonin Scalia](#) lent the Court's weight to the idea that the Second Amendment protects the right of individual private gun ownership for self - defense purposes.

### **McDonald v. Chicago**

Two years later, in *McDonald v. Chicago*, the Supreme Court struck down (**also in a 5 - 4 decision**) a similar citywide handgun ban, ruling that the Second Amendment applies to the states as well as to the federal government.

In the majority ruling in that case, Justice Samuel Alito wrote: "Self - defense is a basic right, recognized by many legal systems from ancient times to the present day, and in *Heller*, we held that individual self - defense is 'the central component' of the Second Amendment right."

### **Gun Control Debate**

The Supreme Court's narrow rulings in the *Heller* and *McDonald* cases left open many key issues in the gun control debate.

In the *Heller* decision, the Court suggested a list of "presumptively lawful" regulations, including bans on possession of firearms by felons and the mentally ill; bans on carrying arms in schools and government buildings; restrictions on gun sales; bans on the concealed carrying of weapons; and generally bans on weapons "**not** typically possessed by law - abiding citizens for lawful purposes."

## Mass Shootings

Since that verdict, as lower courts battle back and forth on cases involving such restrictions, the public debate over Second Amendment rights and gun control remains very much open, even as mass shootings became an [increasingly frequent](#) occurrence in American life.

To take just three **examples**, the [Columbine Shooting](#), where two teens killed 13 people at Columbine High School, prompted a national gun control debate. The [Sandy Hook shooting](#) of 20 children and six staff members at the Sandy Hook Elementary School in Newtown, [Connecticut](#) in 2012 led President [Barack Obama](#) and many others to call for tighter background checks and a renewed ban on assault weapons.

And in 2017, the mass shooting at country music concert in [Las Vegas](#) in which 60 people died ([to date the largest mass shooting in U.S. history, overtaking the 2016 attack on the Pulse nightclub in Orlando, Florida](#)) inspired calls to restrict sales of “bump stocks,” attachments that enable semiautomatic weapons to fire faster.

On the other side of the ongoing debate of gun control measures are the NRA and other gun rights supporters, powerful and vocal groups that views such restrictions as an unacceptable violation of their Second Amendment rights.

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