Kelly Ayotte Can’t Have It Both Ways: She Voted Against Background Checks and Against New Hampshire Residents

**Bottom Line:** On April 17, Senator Kelly Ayotte voted against the Manchin-Toomey background check amendment, even though 89% of New Hampshire residents want background checks on all gun sales. Now facing heavy backlash, Senator Ayotte is claiming that her vote for the Grassley-Cruz amendment was a vote for background checks. This is patently false: While Manchin-Toomey would require background checks on all commercial sales and improve the existing background check system, Grassley-Cruz would actually *weaken* the system and put more guns in the hands of the severely mentally ill. When Ayotte joined a minority in the Senate to block Manchin-Toomey, she voted against background checks—and it is simply untrue to claim otherwise.

**Ayotte’s claims:** Senator Ayotte has defended her vote against background checks by pointing to her vote for Grassley-Cruz, claiming that she “voted to improve [the] background check system” and to “address mental health gaps in the criminal justice system.”

- **The truth:** Grassley-Cruz does not address the single most important problem with the background check system: the private sale loophole which allows 6.6 million guns to be sold each year without background checks. Criminals routinely exploit this private sale loophole: Nearly 80% of inmates who used a handgun in their crimes acquired the gun in a private transfer. Grassley-Cruz would have left this loophole wide open.

- **The truth:** By comparison, Manchin-Toomey would help keep guns out of the hands of criminals by requiring all gun buyers in commercial settings—including online and at gun shows—to face background checks.

- **The truth:** Grassley-Cruz would actually *weaken* the background check system by:
  - **Cutting funding for the background check system** by $105 million in 2013, and providing only one-fifth of the funding that Manchin-Toomey provides for fiscal years 2014-2017.
  - **Making it easier for the seriously mentally ill to buy guns by remove the bans on gun ownership for:**
    - People involuntarily committed to psychiatric hospitals as soon as their commitment order expires—meaning people recently hospitalized and still recovering from a mental health crisis could go directly from the hospital to a gun store and legally buy a firearm;
    - People who have been involuntarily committed to psychiatric hospitals, unless that decision was made by a court—disqualifying all mental health determinations that are made by doctors; and
    - People found to lack the mental capacity to manage their affairs.
  - **Invalidating mental health records already in the system**, by revoking these longstanding bans.

- **The Truth:** Manchin-Toomey would strengthen the existing background check system by ensuring that state mental health records are entered into the system, removing hurdles to state-level reporting of mental health records, and requiring federal courts to submit critical mental health records.

**Ayotte’s claim:** Ayotte argues reform should focus on enforcing existing law, claiming Grassley-Cruz “criminalizes gun trafficking and straw purchases.”

- **The truth:** Background checks are the best enforcement mechanism we have: Checks ensure that people prohibited from buying guns are actually stopped at the point of sale. The background check system blocks about 150,000 gun sales each year to prohibited people.

- **The truth:** Grassley-Cruz would strip critical law enforcement tools, removing ATF’s authority to require dealers to report multiple assault rifles sales.

- **The truth:** Manchin-Toomey is the centerpiece of a reform bill (S.649) that would create strong new federal crimes for straw purchasing and trafficking. Grassley-Cruz would remove the teeth from these new crimes, denying police the tools necessary to stop crime.

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<th><strong>Manchin-Toomey Amendment</strong>&lt;br&gt; Ayotte Voted “No”</th>
<th><strong>Grassley-Cruz Amendment</strong>&lt;br&gt; Ayotte Voted “Yes”</th>
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<td><strong>Requiring Background Checks on All Commercial Gun Sales</strong>&lt;br&gt; Requires background checks on all gun sales in commercial settings, including online, at gun shows, and in classified ads. This is the most important step we can take to keep guns out of dangerous hands.</td>
<td>Retains the loophole that allows felons, domestic abusers, and the severely mentally ill to avoid background checks simply by shopping online or at gun shows. Prohibited people take advantage of this loophole: Nearly 80% of those who commit crimes with handguns acquire the guns in private sales.</td>
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| **Lifting Bans on Gun Possession by the Severely Mentally Ill**<br> Maintains the current prohibitions on gun possession by the seriously mentally ill. | Revokes longstanding bans on gun possession by the severely mentally ill, enabling more mentally ill people to buy guns:
- People involuntarily committed to psychiatric hospitals could legally buy guns as soon as their commitment order expired, meaning people recently hospitalized and still recovering from a mental health crisis could go directly from the hospital to a gun store—and legally buy a firearm.²
- People involuntarily committed to psychiatric hospitals could legally buy guns, unless they were committed by a court or similar body.³
- People found to lack the mental capacity to enter into contracts or manage their affairs could legally buy guns.⁴ |
| **Strengthening the Current Background Check System**<br> Ensures that critical mental health records are submitted to the gun background check system by providing funding to help states get their records in, removing hurdles to state-level reporting of mental health records, and requiring federal courts to submit mental health records.⁵ | Weakens the gun background check system by:
- Cutting funding for the background check system by $105 million in 2013, and providing only one-fifth of the funding that Manchin-Toomey provides for fiscal years 2014-2017.⁶
- Revoking longstanding mental health prohibitions—reducing the number of mental health records submitted to the system and invalidating many records already in the system. |
| **Stripping Law Enforcement Tools**<br> Does not strip any law enforcement tools. | Weakens existing law, stripping ATF’s authority to require dealers to report multiple sales of assault rifles.⁷ This reporting program has been highly successful, leading to 120 criminal investigations in its first 8 months. See http://1.usa.gov/100syLJ. |
| **Creating New Law Enforcement Tools**<br> Manchin-Toomey is the centerpiece of a reform bill (S.649) that would create new federal crimes for straw purchasing and trafficking, better equipping law enforcement to break up trafficking rings.⁸ | Amends the omnibus reform bill (S.649) to strip the teeth from these new crimes, denying law enforcement the tools it needs to stop crime.⁹ |

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² Bill text, page 9, lines 11-13
³ Bill text, page 7, lines 8-14
⁴ Bill text, page 7, line 8 - page 9, line 5
⁵ Bill text, sections 101-103
⁶ Bill text, page 3, line 17 - page 4, line 1
⁷ Bill text, section 114
⁸ Bill text, section 202
⁹ Bill text, section 109