No. 23-2248

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

KRISTIN WORTH, et al.,

Plaintiffs-Appellees,

v.

BOB JACOBSON, et al.,

Defendants-Appellants.

On Appeal from the United States District Court
for the District of Minnesota

No. 21-cv-01348
The Honorable Katherine M. Menendez

BRIEF OF AMICI CURIAE ILLINOIS, ARIZONA, CALIFORNIA, COLORADO, CONNECTICUT, DELAWARE, DISTRICT OF COLUMBIA, HAWAII, MARYLAND, MASSACHUSETTS, MICHIGAN, NEW JERSEY, NEW MEXICO, NEW YORK, NORTH CAROLINA, OREGON, PENNSYLVANIA, RHODE ISLAND, VERMONT, AND WASHINGTON IN SUPPORT OF DEFENDANTS-APPELLANTS AND REVERSAL

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IDENTITY AND INTEREST OF AMICI STATES

The amici States of Illinois, Arizona, California, Colorado, Connecticut, Delaware, the District of Columbia, Hawaii, Maryland, Massachusetts, Michigan, New Jersey, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, and Washington submit this brief in support of Defendants-Appellants pursuant to Federal Rule of Appellate Procedure 29(a)(2).

The amici States have a substantial interest in the public health, safety, and welfare of their communities, which includes protecting their residents from the harmful effects of gun violence and promoting the safe use of firearms. *See, e.g.*, *United States v. Bena*, 664 F.3d 1180, 1184 (8th Cir. 2011) (firearms restrictions "promote the government's interest in public safety") (internal quotations omitted). To serve that interest, a majority of States have historically implemented measures that regulate the sale and use of, and access to, firearms for individuals under the age of 21. Although the States have reached different conclusions on how best to regulate in this area, they share an interest in protecting their right to address the problem of gun violence in a way that is both consistent with the Nation's historical tradition and

tailored to the specific circumstances in their States. The district court's decision enjoining Minnesota's historically sound regulation of the public carriage of handguns by individuals under the age of 21 interferes with this interest. Accordingly, the amici States urge this Court to reverse the district court's judgment.

SUMMARY OF ARGUMENT

In 2003, the Minnesota legislature determined that most young people under the age of 21 should not be able to carry handguns in public. Minn. Stat. § 624.714, subd. 2(b)(2). This decision is consistent with the determinations made by many of Minnesota's sister States, as well as our Nation's history and tradition.

Plaintiffs challenge this statute on the ground that it unduly infringes upon the Second Amendment rights of young people. But as the amici States explain below, the Second Amendment allows States to enact sensible and varied firearms regulations designed to protect the public that are consistent with our Nation's historical tradition. Exercising that authority, virtually all States and the District of Columbia have imposed age-based regulations on the purchase, possession, or use of firearms within their borders, and many have

maintained those laws for more than 150 years. Although these regulations differ from jurisdiction to jurisdiction, more than 30 States and the District of Columbia have established a minimum age requirement of 21 for individuals to publicly carry certain categories of firearms in some manner, similar to the requirements in Minnesota's law.

The district court's decision enjoining Minnesota's statute is incorrect. As Minnesota explains, young people under the age of 21 were considered minors, not adults, from before the Founding through the latter half of the twentieth century, and thus were likely not historically considered part of "the People" protected by the Second Amendment. But even if people under the age of 21 come within the scope of the Second Amendment, the historical record demonstrates that States have a rich tradition of imposing age-based regulations on firearm use and access, making Minnesota's decision to do so here historically sound. The district court's decision to the contrary is based on several incorrect premises, including that state militia laws are probative of the scope of the Second Amendment and that the Reconstruction-era historical record is both irrelevant to the historical

inquiry and insufficient to support Minnesota's law. For these reasons and those explained by Minnesota, the district court's decision should be reversed.

ARGUMENT

I. The Second Amendment Allows States To Enact Varied Measures To Promote Gun Safety And Protect Against Gun Violence That Are Consistent With Historical Tradition.

States have long exercised their police powers to protect the health, safety, and welfare of their residents. In fact, "the States possess primary authority for defining and enforcing the criminal law," *United States v. Lopez*, 514 U.S. 549, 561 n.3 (1995) (internal quotations omitted), and have "great latitude under their police powers to legislate as to the protection of the lives, limbs, health, comfort, and quiet of all persons," *Medtronic, Inc. v. Lohr*, 518 U.S. 470, 475 (1996). These responsibilities include enacting measures to promote safety, prevent crime, and minimize gun violence within their borders. *See, e.g.*, *United States v. Morrison*, 529 U.S. 598, 618 (2000) ("Indeed, we can think of no better example of the police power, which the Founders denied the National Government and reposed in the States, than the suppression of violent crime and vindication of its victims.").

The Supreme Court has repeatedly affirmed the States' authority in this area, even as it has defined the scope and import of the rights conferred by the Second Amendment. Indeed, in each of its major Second Amendment opinions—*District of Columbia v. Heller*, 554 U.S. 570 (2008), *McDonald v. City of Chicago*, 561 U.S. 742 (2010), and *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 142 S. Ct. 2111 (2022), the Court expressly acknowledged the important role that States play in protecting their residents from the harms of gun violence—a role consistent with our Nation's historical tradition.

To begin, in *Heller*, the Supreme Court made clear that the Second Amendment right to keep and bear arms is "not unlimited." 554 U.S. at 626; *see also McDonald*, 561 U.S. at 802 (Scalia, J., concurring) ("No fundamental right—not even the First Amendment—is absolute."). Although government entities may not ban the possession of handguns by responsible, law-abiding individuals or impose similar burdens on the Second Amendment right, the States still possess "a variety of tools" to combat the problem of gun violence. *Heller*, 554 U.S. at 636. They may, for example, implement measures prohibiting certain groups of people from possessing firearms, such as "felons and the mentally ill,"

or "impos[e] conditions and qualifications on the commercial sale of arms." *Id.* at 626-27. And the Supreme Court made the same point shortly thereafter in *McDonald*, emphasizing that the Second Amendment "by no means eliminates" the States' "ability to devise solutions to social problems that suit local needs and values." 561 U.S. at 785.

The Supreme Court's recent decision in *Bruen* preserves the substantial authority that States retain in this area. At issue in *Bruen* was a New York statute that required all individuals, including law-abiding individuals, to show a "special need" to obtain a license to carry a handgun in public. 142 S. Ct. at 2122-24. The Court clarified that, in a Second Amendment challenge to a statute restricting the possession or use of firearms, a court must assess whether the challenged statute is "consistent with the Second Amendment's text and historical understanding." *Id.* at 2131. And it held that the New York statute at issue—unlike the licensing statutes employed by 43 other States, *id.* at 2138 n.9—failed that test, insofar as it imposed restrictions on conduct that fell within the Amendment's scope and were inconsistent with historical practice, *id.* at 2138. As the Court explained, history did not

support a "tradition limiting public carry only to those law-abiding citizens who demonstrate a special need for self-defense." *Id.*

But the Supreme Court emphasized even as it reached that conclusion its intent to preserve the States' substantial authority to regulate the possession and use of firearms. For one, the Court explained, the government need not assume the task of demonstrating that a firearms regulation is historically justified unless the party challenging that regulation shows that the conduct it burdens falls within the Second Amendment's text. *See id.* at 2129-30 (explaining that if the Second Amendment's "plain text covers an individual's conduct . . . the government *must then* justify its regulation" (emphasis added)); *id.* at 2141 n.11 (similar). For another, the Court stated, even once that threshold showing is met, States and localities can justify challenged regulations by pointing to a historical tradition of "relevantly similar" firearms regulations—a form of "reasoning by analogy." *Id.* at 2132. This approach was necessary, the Court added, because "[t]he regulatory challenges posed by firearms today are not always the same as those that preoccupied the Founders in 1791 or the Reconstruction generation in 1868." *Id.*

The historical inquiry demanded by the Second Amendment, in other words—as the Supreme Court emphasized—is not a "regulatory straightjacket." *Id.* at 2133; *accord id.* ("[A]nalogical reasoning requires only that the government identify a well-established and representative historical *analogue*, not a historical *twin*.") (emphasis in original). And multiple Justices wrote separately in *Bruen* to emphasize that States retain substantial authority to regulate firearms to protect the health and safety of their residents. Justice Kavanaugh, joined by the Chief Justice, concurred to emphasize the "limits of the Court's decision" and to explain that, "[p]roperly interpreted, the Second Amendment allows a variety of gun regulations." *Id.* at 2162 (internal quotation marks omitted). And Justice Alito likewise concurred to note that *Bruen* "does not expand the categories of people who may lawfully possess a gun," observing specifically that "federal law generally forbids the possession of a handgun by a person who is under the age of 18 and bars the sale of a handgun to anyone under the age of 21." *Id.* at 2157-58 (cleaned up).

Taken together, then, *Heller*, *McDonald*, and *Bruen* emphasize that States retain a substantial measure of regulatory authority over

firearms, presuming they act consistent with text and historical tradition in regulating.

II. Minnesota's Age-Based Regulation Is Consistent With Measures Taken By Other States And Upheld On Historical Grounds By Courts Across The Country.

Minnesota's decision to restrict young people's carrying of handguns in public is well within the substantial authority to regulate firearms that States retain. As Minnesota explains, the conduct regulated by the challenged statute does not fall within the text of the Second Amendment, because it concerns only the use of firearms by young people under the age of 21, who were considered minors, and thus not part of "the People" within the meaning of the Second Amendment. Minn. Br. 8-29. But even if young people were considered part of "the People," the challenged statute is consistent with our Nation's historical tradition, in that the federal government and the States have for more than 150 years imposed firearms restrictions on individuals under the age of 21. *Id.* at 30-53.

Amici States agree with Minnesota that its restrictions on the public carriage of firearms by people under the age of 21 do not violate the Second Amendment. Although the States have reached different

conclusions on how best to regulate the sale of, use of, and access to firearms by young people, virtually every State and the District of Columbia has determined that imposing *some* age-based restrictions on the possession, purchase, carriage, or use of firearms is appropriate to promote public safety and curb gun violence within its borders.

Indeed, many States have imposed age-based restrictions that are similar to those enacted by Minnesota. A substantial majority of States have determined, as Minnesota has, that those under the age of 21 should be more restricted in their ability to carry firearms in public than those 21 and over. To start, 15 other jurisdictions—Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Maryland, Massachusetts, Minnesota, New Jersey, New York, Oklahoma, Rhode Island, South Carolina, and the District of Columbia—have made the same decision that Minnesota has on this issue, namely that people under the age of 21 should (in some States, subject to exceptions) not be able to carry certain firearms in public, whether openly or concealed.[1] At least 19

[1] Conn. Gen. Stat. §§ 29-28, 29-36f; Del. Code Ann. tit. 11, § 1448(a)(5); Fla. Stat. §§ 790.06, 790.053; Ga. Code §§ 16-11-125.1(2.1), 16-11-126(g)(1), 16-11-129(b)(2)(A); Haw. Rev. Stat. § 134-9(a); 430 Ill. Comp. Stat. 66/25; Md. Code Ann., Pub. Safety §§ 5-306(a)(1), 5-133(d)(1);

additional States—Alaska, Arizona, Arkansas, Colorado, Kentucky, Louisiana, Michigan, Nebraska, Nevada, New Mexico, North Carolina, Ohio, Oregon, Pennsylvania, Utah, Virginia, Washington, Wisconsin, and Wyoming—have enacted statutory regimes that generally bar people under the age of 21 from carrying certain firearms in public in a concealed manner (again, with some exceptions), but permit them to carry those firearms openly (or, in one State, the opposite).[2]

Some States have likewise adopted age-based regulations in other contexts relating to firearms. At least 18 States and the District of Columbia generally prohibit the sale of some or all firearms—handguns,

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Mass. Gen. Laws ch. 140, § 131; N.J. Stat. §§ 2C:58-3, 2C:58-4; N.Y. Penal Law § 400.00(1); Okla. Stat. tit. 21 § 1272(A); R.I. Gen. Laws §§ 11-47-11, 11-47-18; S.C. Code § 23-31-215(A); D.C. Code § 7-2509.02(a)(1). The provision of Delaware law prohibiting people under the age of 21 from possessing certain firearms (and thus from carrying them in public) does not take effect until July 1, 2025. Del. Code Ann. tit. 11, § 1448(a)(5)e.

[2] Alaska Stat. §§ 11.61.220(a)(6), 18.65.705; Ariz. Rev. Stat. §§ 13-3102(A)(2), 13-3112(E); Ark. Code § 5-73-309; Colo. Rev. Stat. § 18-12-203(1)(b); Ky. Rev. Stat. § 237.110; La. Rev. Stat. § 40:1379.3(C)(4); Mich. Comp. Laws § 28.425b(7)(a); Neb. Rev. Stat. § 69-2433; Nev. Rev. Stat. § 202.3657; N.M. Stat. § 29-19-4(A)(3); N.C. Gen. Stat. § 14-415.12(a)(2); Ohio Rev. Code Ann. § 2923.125(D)(1)(b); Or. Rev. Stat. § 166.291; 18 Pa. Cons. Stat. § 6109; Utah Code §§ 76-10-505, 76-10-523(5); Va. Code § 18.2-308.02; Wash. Rev. Code § 9.41.070; Wis. Stat. § 175.60(3)(a); Wyo. Stat. § 6-8-104(a)(iv), (b)(ii).

long guns, or both—to those under 21, subject in some cases to exceptions.[3] And at least 11 jurisdictions have set a minimum age of 21 to possess firearms, also subject in some cases to exceptions. Specifically, Connecticut, Delaware, the District of Columbia, Hawaii, Illinois, Iowa, Maryland, Massachusetts, New Jersey, New York, and Washington restrict possession of handguns by those under 21, and some of those jurisdictions likewise extend those limitations to the possession of long guns or (in some States) weapons those States view to be particularly dangerous, like assault weapons or semi-automatic rifles (subject again, in some cases, to exceptions).[4] Altogether, more than 35

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[3] Cal. Penal Code §§ 27505(a); 27510; Conn. Gen. Stat. § 29-34(b); D.C. Code Ann. § 22-4507; Del. Code Ann. tit. 24, § 903; Fla. Stat. § 790.065(13); Haw. Rev. Stat. Ann. § 134-2(a), (d), (h); 430 Ill. Comp. Stat. 65/3(a), 65/4(a)(2); Iowa Code § 724.22(2); Mass. Gen. Laws ch. 140, §§ 130, 131E(b); Md. Code Ann., Pub. Safety § 5-134(b); Mich. Comp. Laws § 28.422(3)(b), (12); Mo. Rev. Stat. § 571.080; Neb. Rev. Stat. §§ 69-2403, 69-2404; N.J. Stat. Ann. §§ 2C:58-3(c)(4), 3.3(c), 6.1(a); N.Y. Penal Law § 400.00(1)(a), (12); Ohio Rev. Code Ann. § 2923.21(A)(2); R.I. Gen. Laws §§ 11-47-35(a)(1), 11-47-37; Vt. Stat. Ann. tit. 13, § 4020; Wash. Rev. Code Ann. § 9.41.240.

[4] Conn. Gen. Stat. § 29-36f; D.C. Code Ann. § 7-2502.03(a)(1); Del. Code Ann. tit. 11, § 1448(a)(5); Haw. Rev. Stat. Ann. §§ 134-2(a), (d), 134-4(b); 430 Ill. Comp. Stat. 65/2(a)(1), 65/4(a)(2)(i); Iowa Code § 724.22; Md. Code Ann., Pub. Safety §§ 5-101(r), 5-133(d); Mass. Gen. Laws ch. 140, § 131; N.J. Stat. Ann. § 2C:58-6.1(b); N.Y. Penal Law § 400.00(1)(a);

jurisdictions have imposed *some* restriction on the purchase, possession, or use of firearms by people under the age of 21.[5]

The regime plaintiffs challenge, in other words, is hardly an outlier; it is consistent with the way many other States have elected to handle this issue. And courts across the country have largely upheld state laws that regulate firearms with respect to people under the age of 21. Importantly, many of the pre-*Bruen* decisions upheld statutes like Minnesota's based on the historical record and concluded that age-based restrictions are consistent with our Nation's tradition of firearms regulation. Given the nature of the analysis conducted in those decisions, they remain sound under *Bruen*'s text-and-history framework. *See Bruen*, 142 S. Ct. at 2127 (characterizing pre-*Bruen* historical analyses as "broadly consistent with *Heller*").

For instance, the Fifth Circuit upheld a Texas statute that regulated the public carriage of handguns by young adults, relying in substantial part on the historical record to do so. *See Nat'l Rifle Ass'n of*

Wash. Rev. Code Ann. § 9.41.240. This aspect of Delaware's law takes effect on July 1, 2025. *Supra* n.1.

[5] *See supra* nn. 1-4.

Am., Inc. v. McCraw ("NRA II"), 719 F.3d 338, 347 (5th Cir. 2013); *see also Nat'l Rifle Ass'n of Am., Inc. v. ATF ("NRA I")*, 700 F.3d 185, 203-04 (5th Cir. 2012). In *NRA I*, which addressed the constitutionality of the federal government's prohibition on the sale of handguns and handgun ammunition by federally licensed retailers to individuals under the age of 21, the Fifth Circuit undertook a lengthy analysis of our Nation's historical traditions regarding gun ownership and possession by people under the age of 21. 700 F.3d at 199-204. It explained that, at the Founding, it was understood that jurisdictions could "disarm[] select groups for the sake of public safety," an approach, the court observed, that was consistent with the "classical republican notion that only those with adequate civic 'virtue' could claim the right to arms." *Id.* at 200-01. Given that the common-law age of majority was 21, the court explained, the Founders would likely have "supported restricting an 18-to-20-year-old's right to keep and bear arms." *Id.* at 202. And in the nineteenth century, a large range of States enacted restrictions on the use or purchase of firearms by those under the age of 21. *Id.* at 202-03. In short, the Fifth Circuit concluded, there is "considerable evidence" of a "longstanding, historical tradition" of restricting the purchase or use

of firearms by those under the age of 21. *Id.* at 203. The Fifth Circuit subsequently relied on that conclusion to sustain the constitutionality of the Texas statute regulating public carriage in *NRA II*. *See* 719 F.3d at 347.

Other courts have agreed with the Fifth Circuit's analysis. In *Powell v. Tompkins*, 926 F. Supp. 2d 367 (D. Mass. 2013), *aff'd on alternative grounds*, 783 F.3d 332 (1st Cir. 2015), for instance, the court conducted a lengthy historical analysis prior to upholding Massachusetts's statute, which "set[ ] the minimum age for obtaining a license to carry a firearm at twenty-one," against a Second Amendment challenge. *Id.* at 370, 385-89. Similar statutes in Florida, Illinois, and Pennsylvania have also been upheld on historical grounds, with courts concluding that States may permissibly regulate the possession and use of firearms by people under the age of 21 consistent with our Nation's historical tradition. *See, e.g.*, *National Rifle Ass'n v. Swearingen*, 545 F. Supp. 3d 1247 (N.D. Fla. 2021), *aff'd*, *Nat'l Rifle Ass'n v. Bondi*, 61 F.4th 1317 (11th Cir. 2023), *pet. for reh'g en banc granted and panel decision vacated*, No. 21-12314, 2023 WL 4542153 (11th Cir. July 14, 2023); *Lara v. Evanchick*, 534 F. Supp. 3d 478, 491-92 (W.D. Pa. 2021),

appeal docketed, No. 21-1832 (3d Cir.); *People v. Mosley*, 2015 IL 115872, ¶¶ 35-37.[6]

In short, Minnesota's decision to implement age-based restrictions on the public carriage of firearms is both consistent with other States' approaches and within the historical tradition of state regulation.

III. The District Court Erred In Finding The Challenged Statute Unconstitutional.

The district court reached a conclusion contrary to those reached by the courts described above. But the grounds it offered do not withstand scrutiny, as Minnesota explains. Amici States write separately to emphasize the following points.

First, the district court erred in relying on the historical state militia laws to conclude that the conduct regulated by the challenged statute falls within the Second Amendment's plain text. R. Doc. 84 at 15-18. At the threshold, this reasoning—which was also proffered by plaintiffs below, R. Doc. 42 at 10-12—conflates *rights* protected by the

[6] The two court of appeals opinions to reach contrary conclusions were subsequently vacated. *See Jones v. Bonta*, 34 F.4th 704, *vacated on reh'g*, 47 F.4th 1124 (9th Cir. 2022) (vacated and remanded for further proceedings); *Hirschfeld v. ATF*, 5 F.4th 407, *vacated*, 14 F.4th 322 (4th Cir. 2021) (vacated as moot when plaintiffs aged out of the challenged restrictions).

Second Amendment with *duties* imposed by law. The law is replete with duties that do not give rise to rights: To take just one example, federal law requires most adult men to register for the armed forces draft, but there is no right to enlist in the armed forces. And to the extent that the district court viewed the text of the Second Amendment as compelling the conclusion that the Amendment's scope is linked to militia service, R. Doc. 84 at 16, *Heller* itself repeatedly rejects that view, explaining that the Second Amendment protects "an individual right unconnected with militia service," 554 U.S. at 605; *accord, e.g.*, *id.* at 599 (explaining that "most" Americans linked the right to bear arms with "self-defense and hunting" at the Founding). Indeed, the Fifth Circuit made that point in *NRA I* when it noted that "the right to arms is not co-extensive with the duty to serve in the militia." 700 F.3d at 204 n.17.

In any event, the district court was wrong to posit that "militia laws lend support to the understanding that 'the people' referred to in the Second Amendment includes 18-to-20-year-olds." R. Doc. 84 at 15. To the contrary, States set a range of minimum ages for militia service in the eighteenth and nineteenth centuries, spanning from 16 to 21.

See Kopel & Greenlee, *The Second Amendment Rights of Young Adults*, 43 S. Ill. U. L.J. 496, 533-89 (2019). Even then, States reserved the right to change the minimum age for militia service, and frequently did so: Virginia, as one example, set the minimum age at 16 in 1705, but raised it to 21 in 1723, lowered it to 18 in 1757, and then lowered it again to 16 in 1775. *Id.* at 577-80. There was therefore "no uniform age for militia service," *Swearingen*, 545 F. Supp. 3d at 1258; rather, "[i]n times of war, the age for service in militia crept down towards sixteen" and "in times of peace, it crept up towards twenty-one," *id.* This tradition, in other words, shows not that young people under the age of 21 were entitled to bear arms as full-fledged members of their political communities, but rather that they were called into service and asked to bear arms *by* those communities in times of significant need.

Second, the district court erred in discounting the relevance of historical sources from the nineteenth century. R. Doc. 84 at 22-28, 36-38. As Minnesota explains, the historical record shows that, in the years immediately preceding and following the Civil War, at least 19 States and the District of Columbia enacted statutes broadly similar to the statute challenged here—*i.e.*, generally prohibiting people under the

age of 21 from purchasing firearms or carrying them in some manner in public. Minn. Br. 42-43. The district court rejected the salience of these historical sources on several grounds, R. Doc. 84 at 22-28, but none is persuasive.

To start, the district court erred in downplaying the relevance of Reconstruction Era sources as "postenactment history" that is entitled to lesser weight. R. Doc. 84 at 26-27. The Supreme Court considered nineteenth-century historical evidence in both *Heller* and *Bruen*, describing Reconstruction Era perspectives on the scope of the Second Amendment as "instructive" in *Heller*, 554 U.S. at 615, and examining at length both antebellum and postbellum sources in *Bruen*, 142 S. Ct. at 2145-53. Although the *Bruen* Court observed the existence of "an ongoing scholarly debate on whether courts should primarily rely on" historical accounts from 1791, when the Second Amendment was ratified, or 1868, when the Fourteenth Amendment was ratified, *id.* at 2138; *accord id.* at 2162-63 (Barrett, J., concurring), it did not, as the district court suggested, R. Doc. 84 at 26, tacitly resolve that question in favor of Founding Era sources. To the contrary, the Court expressly stated it was "not address[ing]" (and thus not resolving) that dispute,

because New York's good-cause regime was not supported by historical accounts from either period. *Bruen*, 142 S. Ct. at 2138. The district court here thus misread *Bruen*.

Further, the district court's conclusion that the sources presented by Minnesota were insufficient even *assuming* that Reconstruction Era history was relevant, *see* R. Doc. 84 at 37, was also error. The historical evidence introduced by Minnesota establishes that, in the late 1800s, almost half of the States in the Union imposed significant restrictions on young people under the age of 21, prohibiting them from purchasing certain firearms, carrying those firearms in public in some manner, or both. Minn. Br. 42-43. The district court disregarded this history on the ground that the cited statutes were not "relevantly similar" to the challenged Minnesota statute, noting, for example that some "prohibited sales of firearms to minors, but did not place restrictions on minors receiving them from parents or even employers," while another "limited firearm possession by those under the age of 16, but not the 18-to-20-year-old cohort at issue in Minnesota's law." R. Doc. 84 at 37. This court should reject such a divide-and-conquer approach. Minnesota has shown that almost *half* of the States in the Union

enacted statutes broadly similar to the challenged restriction, and for similar reasons—as a response to the disproportionate harm caused by the use of firearms by young adults. *See* Minn. Br. 42-48. That fact makes it easy for the court to find that the challenged statute is "relevantly similar" to the historical analogues set forth by Minnesota, *Bruen*, 142 S. Ct. at 2132, and thus does not violate the Second Amendment.

CONCLUSION

For these reasons, the Court should reverse the judgment below.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 29(b)(4) because it contains 4,258 words, excluding the parts of the brief exempted by Rule 32(a)(7)(B)(iii). This brief complies with the typeface requirement of Rule 32(a)(5) because it has been prepared in a proportionally spaced typeface (14-point Century Schoolbook) using Microsoft Word.

/s/ Sarah A. Hunger
SARAH A. HUNGER

July 18, 2023

CERTIFICATE OF COMPLIANCE
WITH EIGHTH CIRCUIT RULE 28A(h)

Pursuant to this Court's Rule 28A(h), I hereby certify that the electronic version of this Brief of Amici Curiae Illinois et al. has been scanned for viruses and is virus free.

/s/ Sarah A. Hunger
SARAH A. HUNGER

July 18, 2023

CERTIFICATE OF SERVICE

I hereby certify that on July 18, 2023, I electronically filed the foregoing Brief of Amici Curiae Illinois et al. with the Clerk of the Court for the United States Court of Appeals for the Eighth Circuit using the CM/ECF system. I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ Sarah A. Hunger
SARAH A. HUNGER