

116TH CONGRESS
2D SESSION

S. 4271

To reform Federal firearms laws, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 22, 2020

Mr. KAINE (for himself and Mr. WARNER) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To reform Federal firearms laws, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Virginia Plan to Reduce Gun Violence Act of 2020”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—FIREARM SALES

Sec. 101. Firearms transfers.

Sec. 102. Handgun sales.

TITLE II—EXTREME RISK PROTECTION ORDERS

Sec. 201. Definitions.

Sec. 202. Extreme risk protection grant program.

- Sec. 203. National extreme risk protection order law.
 Sec. 204. Federal firearms prohibition.
 Sec. 205. Full faith and credit.

TITLE III—FIREARM SAFETY REQUIREMENTS

- Sec. 301. Reporting lost or stolen firearms.
 Sec. 302. Access to firearms by minors.
 Sec. 303. Prohibiting persons convicted of misdemeanor crimes against dating partners and persons subject to protection orders.
 Sec. 304. Prohibiting stalkers and individuals subject to court order from possessing a firearm.

1 **TITLE I—FIREARM SALES**

2 **SEC. 101. FIREARMS TRANSFERS.**

3 (a) OFFENSE.—Section 922 of title 18, United States
 4 Code, is amended by adding at the end the following:

5 “(aa)(1)(A) It shall be unlawful for any person who
 6 is not a licensed importer, licensed manufacturer, or li-
 7 censed dealer to transfer a firearm to any other person
 8 who is not so licensed, unless a licensed importer, licensed
 9 manufacturer, or licensed dealer has first taken possession
 10 of the firearm for the purpose of complying with sub-
 11 section (t).

12 “(B) Upon taking possession of a firearm under sub-
 13 paragraph (A), a licensee shall comply with all require-
 14 ments of this chapter as if the licensee were transferring
 15 the firearm from the inventory of the licensee to the unli-
 16 censed transferee.

17 “(C) If a transfer of a firearm described in subpara-
 18 graph (A) will not be completed for any reason after a
 19 licensee takes possession of the firearm (including because
 20 the transfer of the firearm to, or receipt of the firearm

1 by, the transferee would violate this chapter), the return
2 of the firearm to the transferor by the licensee shall not
3 constitute the transfer of a firearm for purposes of this
4 chapter.

5 “(2) Paragraph (1) shall not apply to—

6 “(A) a law enforcement agency or any law en-
7 forcement officer, armed private security profes-
8 sional, or member of the armed forces, to the extent
9 the officer, professional, or member is acting within
10 the course and scope of employment and official du-
11 ties;

12 “(B) a transfer that is a loan or bona fide gift
13 between spouses, between domestic partners, be-
14 tween parents and their children, including step-par-
15 ents and their step-children, between siblings, be-
16 tween aunts or uncles and their nieces or nephews,
17 or between grandparents and their grandchildren;

18 “(C) a transfer to an executor, administrator,
19 trustee, or personal representative of an estate or a
20 trust that occurs by operation of law upon the death
21 of another person;

22 “(D) a temporary transfer that is necessary to
23 prevent imminent death or great bodily harm, if the
24 possession by the transferee lasts only as long as im-
25 mediately necessary to prevent the imminent death

1 or great bodily harm, including the harm of domestic
2 violence, dating partner violence, sexual assault,
3 stalking, and domestic abuse;

4 “(E) a transfer that is approved by the Attor-
5 ney General under section 5812 of the Internal Rev-
6 enue Code of 1986; or

7 “(F) a temporary transfer if the transferor has
8 no reason to believe that the transferee will use or
9 intends to use the firearm in a crime or is prohibited
10 from possessing firearms under State or Federal
11 law, and the transfer takes place and the trans-
12 feree’s possession of the firearm is exclusively—

13 “(i) at a shooting range or in a shooting
14 gallery or other area designated for the purpose
15 of target shooting;

16 “(ii) while reasonably necessary for the
17 purposes of hunting, trapping, or fishing, if the
18 transferor—

19 “(I) has no reason to believe that the
20 transferee intends to use the firearm in a
21 place where it is illegal; and

22 “(II) has reason to believe that the
23 transferee will comply with all licensing
24 and permit requirements for such hunting,
25 trapping, or fishing; or

1 “(iii) while in the presence of the trans-
2 feror.

3 “(3)(A) Notwithstanding any other provision of this
4 chapter, the Attorney General may implement this sub-
5 section with regulations.

6 “(B) Regulations promulgated under this paragraph
7 may not include any provision requiring licensees to facili-
8 tate transfers in accordance with paragraph (1).

9 “(C) Regulations promulgated under this paragraph
10 may not include any provision requiring persons not li-
11 censed under this chapter to keep records of background
12 checks or firearms transfers.

13 “(D) Regulations promulgated under this paragraph
14 may not include any provision placing a cap on the fee
15 licensees may charge to facilitate transfers in accordance
16 with paragraph (1).

17 “(4) It shall be unlawful for a licensed importer, li-
18 censed manufacturer, or licensed dealer to transfer posses-
19 sion of, or title to, a firearm to another person who is
20 not so licensed unless the importer, manufacturer, or deal-
21 er has provided such other person with a notice of the
22 prohibition under paragraph (1), and such other person
23 has certified that such other person has been provided
24 with this notice on a form prescribed by the Attorney Gen-
25 eral.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall take effect 180 days after the date
3 of enactment of this Act.

4 **SEC. 102. HANDGUN SALES.**

5 (a) LIMITATION ON MULTIPLE HANDGUN PUR-
6 CHASES.—Section 922 of title 18, United States Code, as
7 amended by section 101, is amended by adding at the end
8 the following:

9 “(bb)(1) Except as provided in paragraph (2), it shall
10 be unlawful for any person who is not a licensed importer,
11 licensed manufacturer, or licensed dealer to purchase more
12 than 1 handgun in a 30-day period.

13 “(2) Paragraph (1) shall not apply to—

14 “(A) an individual with a certificate issued by
15 a law enforcement agency of the State in which the
16 individual resides certifying the individual has
17 passed an enhanced background check;

18 “(B) a law enforcement agency or law enforce-
19 ment officer or member of the armed forces, to the
20 extent the officer, professional, or member is acting
21 within the course and scope of employment and offi-
22 cial duties;

23 “(C) a State or local correctional facility;

1 “(D) a private security company licensed by the
2 State or unit of local government in which the com-
3 pany operates; or

4 “(E) the purchase of a handgun that is—

5 “(i) an antique firearm; or

6 “(ii) listed as a curio or relic by the Attor-
7 ney General pursuant to section 921(a)(13) by
8 a licensed collector.”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 subsection (a) shall take effect 180 days after the date
11 of enactment of this Act.

12 **TITLE II—EXTREME RISK**
13 **PROTECTION ORDERS**

14 **SEC. 201. DEFINITIONS.**

15 In this title:

16 (1) ELIGIBLE ENTITY.—The term “eligible enti-
17 ty” means—

18 (A) a State or Indian Tribe—

19 (i) that enacts legislation described in
20 section 203;

21 (ii) with respect to which the Attorney
22 General determines that the legislation de-
23 scribed in clause (i) complies with the re-
24 quirements of section 203; and

1 (iii) that certifies to the Attorney
2 General that the State or Indian Tribe
3 shall—

4 (I) use the grant for the purposes
5 described in section 202(b); and

6 (II) allocate not less than 25 per-
7 cent of the amount received under a
8 grant under section 202 for training
9 for law enforcement officers; or

10 (B) a unit of local government or other
11 public or private entity that—

12 (i) is located in a State or in the terri-
13 tory under the jurisdiction of an Indian
14 Tribe that meets the requirements de-
15 scribed in clauses (i) and (ii) of subpara-
16 graph (A); and

17 (ii) certifies to the Attorney General
18 that the unit of local government or entity
19 shall—

20 (I) use the grant for the purposes
21 described in section 202(b); and

22 (II) allocate not less than 25 per-
23 cent of the amount received under a
24 grant under section 202 for training
25 for law enforcement officers.

1 (2) EXTREME RISK PROTECTION ORDER.—The
2 term “extreme risk protection order” means a writ-
3 ten order or warrant, issued by a State or Tribal
4 court or signed by a magistrate (or other com-
5 parable judicial officer), the primary purpose of
6 which is to reduce the risk of firearm-related death
7 or injury by doing one or more of the following:

8 (A) Prohibiting a named individual from
9 having under the custody or control of the indi-
10 vidual, owning, purchasing, possessing, or re-
11 ceiving a firearm.

12 (B) Having a firearm removed or requiring
13 the surrender of firearms from a named indi-
14 vidual.

15 (3) FIREARM.—The term “firearm” has the
16 meaning given the term in section 921 of title 18,
17 United States Code.

18 (4) INDIAN TRIBE.—The term “Indian Tribe”
19 has the meaning given the term “Indian tribe” in
20 section 1709 of the Public Safety and Community
21 Policing Act of 1994 (34 U.S.C. 10389).

22 (5) LAW ENFORCEMENT OFFICER.—The term
23 “law enforcement officer” means a public servant
24 authorized by State, local, or Tribal law or by a
25 State, local, or Tribal government agency to—

1 (A) engage in or supervise the prevention,
2 detection, investigation, or prosecution of an of-
3 fense; or

4 (B) supervise sentenced criminal offenders.

5 (6) PETITIONER.—The term “petitioner”
6 means an individual authorized under State or Trib-
7 al law to petition for an extreme risk protection
8 order.

9 (7) STATE.—The term “State” means—

10 (A) a State;

11 (B) the District of Columbia;

12 (C) the Commonwealth of Puerto Rico;

13 and

14 (D) any other territory or possession of the
15 United States.

16 (8) UNIT OF LOCAL GOVERNMENT.—The term
17 “unit of local government” has the meaning given
18 the term in section 901 of the Omnibus Crime Con-
19 trol and Safe Streets Act of 1968 (34 U.S.C.
20 10251).

21 **SEC. 202. EXTREME RISK PROTECTION GRANT PROGRAM.**

22 (a) IN GENERAL.—The Director of the Office of
23 Community Oriented Policing Services of the Department
24 of Justice shall establish a program under which, from
25 amounts made available to carry out this section, the Di-

1 rector may make grants to eligible entities to assist in car-
2 rying out the provisions of the legislation described in sec-
3 tion 203.

4 (b) USE OF FUNDS.—Funds awarded under this sec-
5 tion may be used by an applicant to—

6 (1) enhance the capacity of law enforcement
7 agencies and the courts of a State, unit of local gov-
8 ernment, or Indian Tribe by providing personnel,
9 training, technical assistance, data collection, and
10 other resources to carry out legislation described in
11 section 203;

12 (2) train judges, court personnel, and law en-
13 forcement officers to more accurately identify indi-
14 viduals whose access to firearms poses a danger of
15 causing harm to themselves or others by increasing
16 the risk of firearms suicide or interpersonal violence;

17 (3) develop and implement law enforcement and
18 court protocols, forms, and orders so that law en-
19 forcement agencies and the courts may carry out the
20 provisions of the legislation described in section 203
21 in a safe and effective manner, including through
22 the removal and storage of firearms pursuant to ex-
23 treme risk protection orders under the legislation;
24 and

1 ment officer, may submit an application to a State
2 or Tribal court, on a form designed by the court or
3 a State or Tribal agency, that—

4 (A) describes the facts and circumstances
5 justifying that an extreme risk protection order
6 be issued against the named individual; and

7 (B) is signed by the applicant, under oath.

8 (2) NOTICE.—The individual named in an ap-
9 plication for an extreme risk protection order as de-
10 scribed in paragraph (1) shall be given—

11 (A) written notice of the application;

12 (B) an opportunity to be heard on the
13 matter in accordance with this section; and

14 (C) an opportunity to voluntarily surrender
15 any firearm in the possession of the individual.

16 (3) ISSUANCE OF EXTREME RISK PROTECTION
17 ORDERS.—

18 (A) HEARING.—

19 (i) IN GENERAL.—Upon receipt of an
20 application described in paragraph (1), or
21 request of an individual named in such ap-
22 plication, the court shall order a hearing to
23 be held not later than 30 days after the
24 date of such application or request.

1 (ii) DETERMINATION.—After a hear-
2 ing described in clause (i), if the court
3 finds by a preponderance of the evidence
4 that the respondent poses a danger of
5 causing harm to himself or herself or to
6 another individual by having access to a
7 firearm, the court may issue an extreme
8 risk protection order.

9 (B) LENGTH OF EXTREME RISK PROTEC-
10 TION ORDER.—An extreme risk protection order
11 shall be in effect until—

12 (i) an order is entered terminating or
13 superseding the extreme risk protection
14 order; or

15 (ii) the date, if any, specified in the
16 extreme risk protection order.

17 (C) RETURN OF FIREARMS.—After a hear-
18 ing conducted under this paragraph, if the
19 Court finds that the respondent does not pose
20 a substantial risk of personal injury to himself
21 or herself or to another individual by having ac-
22 cess to a firearm, the court shall order that
23 each firearm surrendered, transferred, or re-
24 moved under paragraph (5) shall be returned to
25 the respondent.

1 (4) EX PARTE EXTREME RISK PROTECTION OR-
2 DERS.—

3 (A) IN GENERAL.—Upon receipt of an ap-
4 plication described in paragraph (1), the court
5 may issue an ex parte extreme risk protection
6 order before conducting the hearing required
7 under paragraph (3), if—

8 (i) the application for an extreme risk
9 protection order alleges that the respond-
10 ent poses a danger of causing harm to
11 himself, herself, or others in the near fu-
12 ture by having access to a firearm; and

13 (ii) the court finds there is reasonable
14 cause to believe that the respondent poses
15 a danger of causing harm to himself, her-
16 self, or others in the near future by having
17 access to a firearm.

18 (B) LENGTH OF EX PARTE EXTREME RISK
19 PROTECTION ORDER.—An ex parte extreme risk
20 protection order shall be in effect for a period
21 not to exceed 30 days, unless continued for
22 good cause.

23 (5) SURRENDER AND REMOVAL OF FIRE-
24 ARMS.—

1 (A) IN GENERAL.—Upon receipt of notice
2 under paragraph (1), the individual who is the
3 subject of an extreme risk protection order ap-
4 plication shall surrender to a law enforcement
5 agency, or transfer to a third party, all firearms
6 in the possession of the individual.

7 (B) REMOVAL.—If an individual described
8 in subparagraph (A) does not surrender or
9 transfer all firearms in the possession of the in-
10 dividual, the firearms shall be removed by a law
11 enforcement officer with appropriate jurisdic-
12 tion.

13 (6) STORAGE OF REMOVED FIREARMS.—All
14 firearms removed by, or surrendered to, a law en-
15 forcement officer under paragraph (5) shall be re-
16 tained by the law enforcement officer or appropriate
17 law enforcement agency until the named individual
18 regains his or her eligibility to possess firearms, ex-
19 cept that the legislation may authorize a law en-
20 forcement agency to—

21 (A) contract with a manufacturer, dealer,
22 or importer licensed under chapter 44 of title
23 18, United States Code, for the secure storage
24 of firearms; and

1 (B) transfer the firearm upon proof that
2 the named individual will no longer have access
3 to the firearm.

4 (7) NOTIFICATION.—

5 (A) IN GENERAL.—A State or tribal court
6 that issues an extreme risk protection order
7 shall notify the Department of Justice or the
8 comparable State or Tribal agency, as applica-
9 ble, of the order as soon as practicable. Such
10 notice shall be submitted in an electronic for-
11 mat, in a manner prescribed by the Department
12 of Justice or the comparable State or Tribal
13 agency.

14 (B) UPDATE OF DATABASES.—As soon as
15 practicable after receiving a notification under
16 subparagraph (A), the Department of Justice
17 or the comparable State or Tribal agency shall
18 ensure the extreme risk protection order is re-
19 flected in the National Instant Criminal Back-
20 ground Check System.

21 (8) CONFIDENTIALITY PROTECTIONS.—All per-
22 sonally identifiable information provided to the
23 court, the Department of Justice, and comparable
24 State or Tribal agencies shall be kept confidential,

1 as required by the laws of the jurisdiction, except as
2 necessary to carry out the legislation.

3 (b) **ADDITIONAL AUTHORITIES.**—Legislation de-
4 scribed in this section may—

5 (1) provide procedures for the termination of an
6 extreme risk protection order;

7 (2) provide procedures for the renewal of an ex-
8 treme risk protection order;

9 (3) establish burdens of proof for issuance of
10 orders described in paragraphs (3) and (4) of sub-
11 section (a) that are higher than the burdens of proof
12 required under those paragraphs;

13 (4) limit the individuals who may submit an ap-
14 plication described in subsection (a)(1), provided
15 that, at a minimum, law enforcement officers are
16 authorized to do so; and

17 (5) include other authorizations or requirements
18 that the State or Indian Tribe determines appro-
19 priate.

20 **SEC. 204. FEDERAL FIREARMS PROHIBITION.**

21 (a) **IN GENERAL.**—Section 922 of title 18, United
22 States Code, is amended—

23 (1) in subsection (d)—

24 (A) in paragraph (8)(B)(ii), by striking

25 “or” at the end;

1 (B) in paragraph (9), by striking the pe-
2 riod at the end and inserting “; or”; and

3 (C) by inserting after paragraph (9) the
4 following:

5 “(10) is subject to a court order that prohibits
6 such person from having under his or her custody or
7 control, owning, purchasing, possessing, or receiving
8 any firearms, or requires the surrender or removal
9 of firearms from the person, provided that the
10 order—

11 “(A) is issued in a manner consistent with
12 the due process rights of the person; and

13 “(B) is based on a finding that the person
14 poses a danger of causing harm to himself, her-
15 self, or others by having access to a firearm.”;
16 and

17 (2) in subsection (g)—

18 (A) in paragraph (8)(C)(ii), by striking
19 “or” at the end;

20 (B) in paragraph (9), by striking the
21 comma at the end and inserting “; or”; and

22 (C) by inserting after paragraph (9) the
23 following:

24 “(10) is subject to a court order that prohibits
25 such person from having under his or her custody or

1 control, owning, purchasing, possessing, or receiving
2 any firearms, or requires the surrender or removal
3 of firearms from the person, provided that the
4 order—

5 “(A) is issued in a manner consistent with
6 the due process rights of the person; and

7 “(B) is based on a finding that the person
8 poses a danger of causing harm to himself, her-
9 self, or others by having access to a firearm,”.

10 (b) CONFORMING AMENDMENT.—Section 3(1) of the
11 NICS Improvement Amendments Act of 2007 (34 U.S.C.
12 40903(1)) is amended by striking “section 922(g)(8)” and
13 inserting “paragraph (8) or (10) of section 922(g)”.

14 **SEC. 205. FULL FAITH AND CREDIT.**

15 Any extreme risk protection order issued under a
16 State or Tribal law enacted in accordance with this title
17 shall be accorded the same full faith and credit by the
18 court of another State or Indian Tribe (the enforcing
19 State or Indian Tribe) and enforced by the court and law
20 enforcement personnel of the other State or Tribal govern-
21 ment as if it were the order of the enforcing State or
22 Tribe.

1 **TITLE III—FIREARM SAFETY**
2 **REQUIREMENTS**

3 **SEC. 301. REPORTING LOST OR STOLEN FIREARMS.**

4 (a) OFFENSE.—

5 (1) IN GENERAL.—Section 922 of title 18,
6 United States Code, as amended by section 102, is
7 amended by adding at the end the following:

8 “(cc)(1) It shall be unlawful for a person to fail to
9 provide notice to an appropriate State or local law enforce-
10 ment agency of a firearm of the individual, other than an
11 antique firearm, that was lost or stolen within 48 hours
12 after the person discovers the loss or theft or is informed
13 by another person with knowledge of the loss or theft.

14 “(2) Except as provided in paragraph (3), a person
15 who, in good faith, reports the loss or theft of a firearm
16 under this subsection shall not be liable for any acts or
17 omissions that result from the theft or loss of the firearm.

18 “(3) Paragraph (2) shall not apply to any person
19 who—

20 “(A) knowingly reports false loss or theft under
21 this subsection; or

22 “(B) stored the firearm in a reckless or neg-
23 ligent manner under this subsection.”.

24 (2) PENALTY.—Section 924 of title 18, United
25 States Code, is amended—

1 (A) in subsection (a)(1), by striking “or
2 (p)” and inserting “(p), or (q)”; and

3 (B) by adding at the end the following:

4 “(q) A person who violates section 922(cc) shall be
5 subject to a civil penalty of not more than \$250.”.

6 (b) EFFECTIVE DATE.—The amendments made by
7 subsection (a) shall take effect 180 days after the date
8 of enactment of this Act.

9 (c) REPORTING.—

10 (1) IN GENERAL.—Each State and local law en-
11 forcement agency shall report to the National Crime
12 Information Center any lost or stolen firearm that is
13 reported to the agency under section 922(cc) of title
14 18, United States Code, as amended by subsection
15 (a).

16 (2) USE OF FUNDS REQUIREMENTS.—Section
17 502(a) of title I of the Omnibus Crime Control and
18 Safe Streets Act of 1968 (34 U.S.C. 10153(a)) is
19 amended by adding at the end the following:

20 “(7) An assurance that, for each fiscal year
21 covered by an application, the applicant will use not
22 less than 5 percent of the total amount of the grant
23 award for the fiscal year to study and implement ef-
24 fective management and collection of data relating to
25 lost or stolen firearms reported to the a law enforce-

1 ment agency of the applicant under section 922(cc)
2 of title 18, United States Code, unless the applicant
3 has ensured, and the Attorney General has certified,
4 that the applicant and each local law enforcement
5 agency of the applicant is in substantial compliance
6 with the reporting requirement in section 301(c)(1)
7 of the Virginia Plan to Reduce Gun Violence Act of
8 2020.”.

9 **SEC. 302. ACCESS TO FIREARMS BY MINORS.**

10 (a) OFFENSE.—Section 922(z) of title 18, United
11 States Code, is amended by adding at the end the fol-
12 lowing:

13 “(4)(A) It shall be unlawful for a person to
14 recklessly leave a loaded and unsecured firearm,
15 which has moved in, or that has otherwise affected,
16 interstate or foreign commerce, in such a manner as
17 to endanger the life or limb of any other person who
18 is under the age of 14.

19 “(B) Subparagraph (A) shall not apply to a
20 person if the person—

21 “(i) keeps the firearm—

22 “(I) secure using a secure gun storage
23 or safety device; or

24 “(II) in a location which a reasonable
25 person would believe to be secure; or

1 “(ii) carries the firearm on his or her per-
 2 son or within such close proximity thereto that
 3 the person can readily retrieve and use the fire-
 4 arm as if the person carried the firearm on his
 5 or her person.”.

6 (b) PENALTY.—Section 924 of title 18, United States
 7 Code, as amended by section 301, is amended—

8 (1) in subsection (a)(1), by striking “or (q)”
 9 and inserting “(q), or (r)”; and

10 (2) by adding at the end the following:

11 “(r) A person who violates section 922(z)(4) shall be
 12 imprisoned for not more than 1 year, fined not more than
 13 \$2,500, or both.”.

14 (c) EFFECTIVE DATE.—The amendment made by
 15 subsection (a) shall take effect 180 days after the date
 16 of enactment of this Act.

17 **SEC. 303. PROHIBITING PERSONS CONVICTED OF MIS-**
 18 **DEMEANOR CRIMES AGAINST DATING PART-**
 19 **NERS AND PERSONS SUBJECT TO PROTEC-**
 20 **TION ORDERS.**

21 Section 921(a) of title 18, United States Code, is
 22 amended—

23 (1) in paragraph (32), by striking all that fol-
 24 lows after “The term ‘intimate partner’” and insert-
 25 ing the following: “—

1 “(A) means, with respect to a person, the
2 spouse of the person, a former spouse of the
3 person, an individual who is a parent of a child
4 of the person, and an individual who cohabi-
5 tates or has cohabited with the person; and

6 “(B) includes—

7 “(i) a dating partner or former dating
8 partner (as defined in section 2266); and

9 “(ii) any other person similarly situ-
10 ated to a spouse who is protected by the
11 domestic or family violence laws of the
12 State or tribal jurisdiction in which the in-
13 jury occurred or where the victim resides.”;

14 (2) in paragraph (33)(A)—

15 (A) in clause (i), by inserting after “Fed-
16 eral, State,” the following: “municipal,”; and

17 (B) in clause (ii), by inserting “dating
18 partner (as defined in section 2266),” after
19 “spouse,” each place it appears;

20 (3) by redesignating paragraphs (34) and (35)
21 as paragraphs (35) and (36) respectively; and

22 (4) by inserting after paragraph (33) the fol-
23 lowing:

24 “(34)(A) The term ‘misdemeanor crime of
25 stalking’ means an offense that—

1 “(i) is a misdemeanor crime of stalk-
2 ing under Federal, State, Tribal, or munic-
3 ipal law; and

4 “(ii) is a course of harassment, intimi-
5 dation, or surveillance of another person
6 that—

7 “(I) places that person in reason-
8 able fear of material harm to the
9 health or safety of—

10 “(aa) that person;

11 “(bb) an immediate family
12 member (as defined in section
13 115) of that person;

14 “(cc) a household member of
15 that person; or

16 “(dd) a spouse or intimate
17 partner of that person; or

18 “(II) causes, attempts to cause,
19 or would reasonably be expected to
20 cause emotional distress to a person
21 described in item (aa), (bb), (cc), or
22 (dd) of subclause (I).

23 “(B) A person shall not be considered to
24 have been convicted of such an offense for pur-
25 poses of this chapter, unless—

1 “(i) the person was represented by
2 counsel in the case, or knowingly and intel-
3 ligently waived the right to counsel in the
4 case; and

5 “(ii) in the case of a prosecution for
6 an offense described in this paragraph for
7 which a person was entitled to a jury trial
8 in the jurisdiction in which the case was
9 tried, either—

10 “(I) the case was tried by a jury;

11 or

12 “(II) the person knowingly and
13 intelligently waived the right to have
14 the case tried by a jury, by guilty plea
15 or otherwise.

16 “(C) A person shall not be considered to
17 have been convicted of such an offense for pur-
18 poses of this chapter if the conviction has been
19 expunged or set aside, or is an offense for
20 which the person has been pardoned or has had
21 civil rights restored (if the law of the applicable
22 jurisdiction provides for the loss of civil rights
23 under such an offense) unless the pardon,
24 expungement, or restoration of civil rights ex-

1 pressly provides that the person may not ship,
2 transport, possess, or receive firearms.”.

3 **SEC. 304. PROHIBITING STALKERS AND INDIVIDUALS SUB-**
4 **JECT TO COURT ORDER FROM POSSESSING A**
5 **FIREARM.**

6 Section 922 of title 18, United States Code, as
7 amended by section 204 of this Act, is amended—

8 (1) in subsection (d)—

9 (A) in paragraph (8), by striking “that re-
10 strains such person” and all that follows, and
11 inserting “described in subsection (g)(8);”;

12 (B) in paragraph (10), by striking the pe-
13 riod at the end and inserting “; or”; and

14 (C) by inserting after paragraph (10) the
15 following:

16 “(11) who has been convicted in any court of
17 a misdemeanor crime of stalking.”; and

18 (2) in subsection (g)—

19 (A) by amending paragraph (8) to read as
20 follows:

21 “(8) who is subject to a court order—

22 “(A) that was issued—

23 “(i) after a hearing of which such per-
24 son received actual notice, and at which

1 such person had an opportunity to partici-
2 pate; or

3 “(ii) in the case of an ex parte order,
4 relative to which notice and opportunity to
5 be heard are provided—

6 “(I) within the time required by
7 State, tribal, or territorial law; and

8 “(II) in any event within a rea-
9 sonable time after the order is issued,
10 sufficient to protect the due process
11 rights of the person;

12 “(B) that restrains such person from—

13 “(i) harassing, stalking, or threat-
14 ening an intimate partner of such person
15 or child of such intimate partner or person,
16 or engaging in other conduct that would
17 place an intimate partner in reasonable
18 fear of bodily injury to the partner or
19 child; or

20 “(ii) intimidating or dissuading a wit-
21 ness from testifying in court; and

22 “(C) that—

23 “(i) includes a finding that such per-
24 son represents a credible threat to the

1 physical safety of such individual described
2 in subparagraph (B); or

3 “(ii) by its terms explicitly prohibits
4 the use, attempted use, or threatened use
5 of physical force against such individual
6 described in subparagraph (B) that would
7 reasonably be expected to cause bodily in-
8 jury;”;

9 (B) in paragraph (10), by striking the
10 comma at the end and inserting “; or”; and

11 (C) by inserting after paragraph (10) the
12 following:

13 “(11) who has been convicted in any court of
14 a misdemeanor crime of stalking,”.

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