

117TH CONGRESS
1ST SESSION

S. _____

To reform Federal firearms laws, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. KAINE introduced the following bill; which was read twice and referred
to the Committee on _____

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 2021”.

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

4 (I) use a grant under section 202
5 for the purposes described in section
6 202(b); and

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

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

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

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

21 (I) use a grant under section 202
22 for the purposes described in section
23 202(b); and

24 (II) allocate not less than 25 per-
25 cent of the amount received under the

1 grant for training for law enforcement
2 officers.

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

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

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

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

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

24 (5) LAW ENFORCEMENT OFFICER.—The term
25 “law enforcement officer” means a public servant

1 authorized by State, local, or Tribal law or by a
2 State, local, or Tribal government agency to—

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

6 (B) supervise sentenced criminal offenders.

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

11 (7) STATE.—The term “State” means—

12 (A) a State;

13 (B) the District of Columbia;

14 (C) the Commonwealth of Puerto Rico;

15 and

16 (D) any other territory or possession of the
17 United States.

18 (8) UNIT OF LOCAL GOVERNMENT.—The term
19 “unit of local government” has the meaning given
20 the term in section 901 of title I of the Omnibus
21 Crime Control and Safe Streets Act of 1968 (34
22 U.S.C. 10251).

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

24 (a) IN GENERAL.—The Director of the Office of
25 Community Oriented Policing Services of the Department

1 of Justice shall establish a program under which, from
2 amounts made available to carry out this section, the Di-
3 rector may make grants to eligible entities to assist in car-
4 rying out the provisions of the legislation described in sec-
5 tion 203.

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

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

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

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

1 treme risk protection orders under the legislation;
2 and

3 (4) raise public awareness and understanding of
4 the legislation described in section 203 so that ex-
5 treme risk protection orders may be issued in appro-
6 priate situations to reduce the risk of firearms-re-
7 lated death and injury.

8 (c) APPLICATION.—An eligible entity desiring a grant
9 under this section shall submit to the Attorney General
10 an application at such time, in such manner, and con-
11 taining or accompanied by such information as the Attor-
12 ney General may reasonably require.

13 (d) INCENTIVES.—For each of fiscal years 2021
14 through 2025, the Attorney General shall give affirmative
15 preference in awarding any discretionary grant awarded
16 by the Bureau of Justice Assistance to a State or Indian
17 Tribe that has enacted legislation described in section 203.

18 (e) AUTHORIZATION OF APPROPRIATIONS.—There
19 are authorized to be appropriated such sums as are nec-
20 essary to carry out this section.

21 **SEC. 203. NATIONAL EXTREME RISK PROTECTION ORDER**

22 **LAW.**

23 (a) REQUIREMENTS.—Legislation described in this
24 section is legislation that establishes requirements that are
25 substantially similar to the following:

1 (1) APPLICATION FOR EXTREME RISK PROTEC-
2 TION ORDER.—A petitioner, including a law enforce-
3 ment officer, may submit an application to a State
4 or Tribal court, on a form designed by the court or
5 a State or Tribal agency, that—

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

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

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

13 (A) written notice of the application;

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

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

18 (3) ISSUANCE OF EXTREME RISK PROTECTION
19 ORDERS.—

20 (A) HEARING.—

21 (i) IN GENERAL.—Upon receipt of an
22 application described in paragraph (1), or
23 request of an individual named in such ap-
24 plication, the court shall order a hearing to

1 be held not later than 30 days after the
2 date of such application or request.

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

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

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

17 (ii) the date, if any, specified in the
18 extreme risk protection order.

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

1 moved under paragraph (5) shall be returned to
2 the respondent.

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

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

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

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

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

1 (5) SURRENDER AND REMOVAL OF FIRE-
2 ARMS.—

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

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

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

23 (A) contract with a manufacturer, dealer,
24 or importer licensed under chapter 44 of title

1 18, United States Code, for the secure storage
2 of firearms; and

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

6 (7) NOTIFICATION.—

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

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

23 (8) CONFIDENTIALITY PROTECTIONS.—All per-
24 sonally identifiable information provided to the
25 court, the Department of Justice, and comparable

1 State or Tribal agencies shall be kept confidential,
2 as required by the laws of the jurisdiction, except as
3 necessary to carry out the legislation.

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

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

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

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

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

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

21 **SEC. 204. FEDERAL FIREARMS PROHIBITION.**

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

24 (1) in subsection (d)—

1 (A) in paragraph (8)(B)(ii), by striking
2 “or” at the end;

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

5 (C) by inserting after paragraph (9) the
6 following:

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

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

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

19 (2) in subsection (g)—

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

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

24 (C) by inserting after paragraph (9) the
25 following:

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

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

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

12 (b) CONFORMING AMENDMENT.—Section 3(1) of the
13 NICS Improvement Amendments Act of 2007 (34 U.S.C.
14 40903(1)) is amended by striking “section 922(g)(8)” and
15 inserting “paragraph (8) or (10) of section 922(g)”.

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

17 Any extreme risk protection order issued under a
18 State or Tribal law enacted in accordance with this title
19 shall be accorded the same full faith and credit by the
20 court of another State or Indian Tribe (the enforcing
21 State or Indian Tribe) and enforced by the court and law
22 enforcement personnel of the other State or Tribal govern-
23 ment as if it were the order of the enforcing State or
24 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—

22

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 “(II) in a location which a rea-
2 sonable person would believe to be se-
3 cure; or

4 “(ii) carries the firearm on his or her
5 person or within such close proximity
6 thereto that the person can readily retrieve
7 and use the firearm as if the person car-
8 ried the firearm on his or her person.”.

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

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

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

14 “(r) A person who violates section 922(z)(4) shall be
15 imprisoned for not more than 1 year, fined not more than
16 \$2,500, or both.”.

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

20 **SEC. 303. PROHIBITING PERSONS CONVICTED OF MIS-**
21 **DEMEANOR CRIMES AGAINST DATING PART-**
22 **NERS AND PERSONS SUBJECT TO PROTEC-**
23 **TION ORDERS.**

24 Section 921(a) of title 18, United States Code, is
25 amended—

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

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

9 “(B) includes—

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

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

17 (2) in paragraph (33)(A)—

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

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

23 (3) by redesignating paragraphs (34) and (35)
24 as paragraphs (35) and (36) respectively; and

1 described in item (aa), (bb), (cc), or
2 (dd) of subclause (I).

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

6 “(i) the person was represented by
7 counsel in the case, or knowingly and intel-
8 ligently waived the right to counsel in the
9 case; and

10 “(ii) in the case of a prosecution for
11 an offense described in this paragraph for
12 which a person was entitled to a jury trial
13 in the jurisdiction in which the case was
14 tried, either—

15 “(I) the case was tried by a jury;

16 or

17 “(II) the person knowingly and
18 intelligently waived the right to have
19 the case tried by a jury, by guilty plea
20 or otherwise.

21 “(C) A person shall not be considered to
22 have been convicted of such an offense for pur-
23 poses of this chapter if the conviction has been
24 expunged or set aside, or is an offense for
25 which the person has been pardoned or has had

1 civil rights restored (if the law of the applicable
2 jurisdiction provides for the loss of civil rights
3 under such an offense) unless the pardon,
4 expungement, or restoration of civil rights ex-
5 pressly provides that the person may not ship,
6 transport, possess, or receive firearms.”.

7 **SEC. 304. PROHIBITING STALKERS AND INDIVIDUALS SUB-**
8 **JECT TO COURT ORDER FROM POSSESSING A**
9 **FIREARM.**

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

12 (1) in subsection (d)—

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

16 (B) in paragraph (9), by striking “or” at
17 the end;

18 (C) in paragraph (10), by striking the pe-
19 riod at the end and inserting “; or”; and

20 (D) by inserting after paragraph (10) the
21 following:

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

24 (2) in subsection (g)—

1 (A) by amending paragraph (8) to read as
2 follows:

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

4 “(A) that was issued—

5 “(i) after a hearing of which such per-
6 son received actual notice, and at which
7 such person had an opportunity to partici-
8 pate; or

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

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

14 “(II) in any event within a rea-
15 sonable time after the order is issued,
16 sufficient to protect the due process
17 rights of the person;

18 “(B) that restrains such person from—

19 “(i) harassing, stalking, or threat-
20 ening an intimate partner of such person
21 or child of such intimate partner or person,
22 or engaging in other conduct that would
23 place an intimate partner in reasonable
24 fear of bodily injury to the partner or
25 child; or

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

3 “(C) that—

4 “(i) includes a finding that such per-
5 son represents a credible threat to the
6 physical safety of such individual described
7 in subparagraph (B); or

8 “(ii) by its terms explicitly prohibits
9 the use, attempted use, or threatened use
10 of physical force against such individual
11 described in subparagraph (B) that would
12 reasonably be expected to cause bodily in-
13 jury;”;

14 (B) in paragraph (9), by striking “or” at
15 the end;

16 (C) in paragraph (10), by striking the
17 comma at the end and inserting “; or”; and

18 (D) by inserting after paragraph (10) the
19 following:

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