IN THE SUPREME COURT OF OHIO

STATE EX REL. SUWALSKI,	:	**CASE NO. 2020-0755**
RELATOR-APPELLEE,	:	**ON APPEAL FROM THE WARREN COUNTY COURT OF APPEALS,**
v.	:	**TWELFTH APPELLATE DISTRICT**
JUDGE ROBERT W. PEELER,	:	
RESPONDENT-APPELLANT.	:	**COURT OF APPEALS CASE NO. 2019-05-053**

APPELLEE'S MERIT BRIEF

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STATEMENT OF THE FACTS

On or about January 2017, Intervenor-Appellant Roy Ewing (hereinafter, "Intervenor-Appellant") caused significant physical harm to Victim-Appellee Jamie Suwalski (hereinafter, "Victim-Appellee"), Intervenor-Appellant's wife at the time, when he attacked her, grabbed her by the throat, strangled her, and pulled out chunks of her hair. The attack was so severe that Victim-Appellee was required to seek medical treatment. On or about January 15, 2017, Intervenor-Appellant was charged with a violation of Revised Code Section 2919.25(A), domestic violence, a misdemeanor of the first degree, as a result of crimes committed against Victim-Appellee. (Stipulated Statement of Facts, ¶ 1.) On or about January 18, 2017, Intervenor-Appellant was charged with a violation of Revised Code Section 2919.27, violation of a protection order, a misdemeanor of the first degree, as a result of crimes committed against Victim-Appellee. (*Id.* at ¶ 2.)

On or about April 7, 2017, Intervenor-Appellant was convicted of domestic violence and violation of a protection order by a jury in case numbers 2017CRB000035 and 2017CRB000039 in the Warren County Municipal Court. (*Id.* at ¶ 3.) As a result of his convictions, Intervenor-Appellant was sentenced to 20 days in jail, with 10 days suspended, 1 year of non-reporting probation, and a fine. (*Id.* at ¶ 4.)

On or about February 5, 2019, Intervenor-Appellant filed Applicant's Request for Relief from Firearms Disability. (*Id.* at ¶ 9.) At the hearing on Intervenor-Appellant's Request for Relief from Firearms Disability, counsel for Intervenor-Appellant and counsel for the State of Ohio stipulated as to the applicability of Revised Code Section 2923.14 to Intervenor-Appellant. (*Id.* at ¶ 10.) Victim-Appellee was notified of the hearing and was present to advocate for her position that Intervenor-Appellant's disability should not be removed, and she did not stipulate

that Revised Code Section 2923.14 applied to Intervenor-Appellant. (*Id.* at ¶ 11.) On or about April 29, 2019, Respondent Judge Peeler (hereinafter, "Respondent") granted Intervenor-Appellant's motion in a written decision following the hearing on the matter. (*Id.* at ¶ 13.)

As this decision was beyond the scope of Respondent's judicial power and violated Victim-Appellee's rights, Victim-Appellee sought review of the decision from the Twelfth District Court of Appeals (hereinafter, "the Twelfth District") pursuant to Ohio Constitution, Article I, Section 10a(B), which grants Victim-Appellee the right to "petition" the court of appeals for the applicable district for review of violations of her rights as a crime victim. The Twelfth District ruled in Victim-Appellee's favor, finding Respondent exceeded his jurisdiction and violated Victim-Appellee's rights, and issued a writ of prohibition. *State ex rel. Suwalski v. Peeler*, 12th Dist. Warren No. CA2019-05-053, 2020-Ohio-3233, ¶ 3 ("Suwalski's petition is hereby granted as Judge Peeler does not have the judicial power under Ohio law, specifically R.C. 2923.14, to relieve Ewing of the federal firearms disability imposed upon him under 18 U.S.C. 922(g)(9).").

Intervenor-Appellant filed the instant appeal in this Court. To date, Respondent has not appeared in the matter before this Court.

ARGUMENT

Intervenor-Appellant would like this Court to apply rules from appeals to original actions, even though Ohio victims have been denied the ability to file appeals of victims' rights violations in criminal cases. *State ex rel. Suwalski v. Peeler*, 12th Dist. Warren No. CA2019-05-053, 2020-Ohio-3233, ¶ 12, citing *State v. Hughes*, 8th Dist. Cuyahoga No. 107697, 2019-Ohio-1000, ¶ 16. Further, Intervenor-Appellant insists that this Court hold pro se victims, with no ability to access court-appointed counsel, to the same standards as criminal defendants who have

access to court-appointed counsel. The procedural rules that apply to appeals do not apply to original actions, and victims—who are denied the rights to appeal and to court-appointed counsel—cannot be held to the same standards as defendants who have access to procedures and protections that victims lack.

STANDARD OF REVIEW

Intervenor-Appellant cites *City of Cleveland v. State* to stand for the proposition that this Court should review each of his propositions of law de novo. (Intervenor-Appellant's Brief, *supra*), citing *City of Cleveland v. State*, 157 Ohio St.3d 330, 2019-Ohio-3820, 136 N.E.3d 466. However, that case only stands for the proposition that the constitutionality of statutes or ordinances should be reviewed de novo. *Id.* at ¶ 15. This case does not concern a challenge to the constitutionality of a statute or ordinance.

Intervenor-Appellant cites numerous cases requiring administrative exhaustion and adherence to claim-processing rules. While Victim-Appellee strongly contests this characterization, cases involving administrative exhaustion are reviewed under an abuse of discretion standard, not the de novo standard. *See State ex rel. CannAscend Ohio LLC v. Williams*, 10th Dist. Franklin No. 18AP-820, 2020-Ohio-359, ¶ 24.

RESPONSE TO PROPOSITION OF LAW I

Ohio Constitution, Article I, Section 10a(B) does not require a victim to seek specific relief in the trial court; rather, it only requires that, before a victim can request appellate review, a victim's right must have been violated.

Each year, approximately 300,000 Ohio citizens are victims of crime. Federal Bureau of Investigation, *Crime in the United States*, https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/tables/table-4 (accessed Sept. 29, 2020). Ohio Constitution, Article I, Section 10a was passed by Ohio's citizens with the intent that these victims be provided enforceable rights. The vast majority of victims will be unable to retain counsel to enforce these rights, so the

Constitution guarantees victims the ability to exercise their rights pro se. Ohio Constitution, Article I, Section 10a(B) ("The victim, the attorney for the government upon request of the victim, or the victim's other lawful representative, in any proceeding involving the criminal offense or delinquent act against the victim or in which the victim's rights are implicated, may assert the rights enumerated in this section and any other right afforded to the victim by law.").

Ohio Constitution, Article I, Section 10a(B) provides victims the right to "petition the court of appeals for the applicable district" for review if the relief a victim seeks is denied at the trial court level. The Constitution requires one thing of a victim: assertion of their rights. *See id.* The Constitution does not, as Intervenor-Appellant argues, mandate that a victim seek relief by raising each and every potential legal argument in their favor at the trial court level. Because this matter involves an original action, not an appeal, there is no requirement that Victim-Appellee preserve each and every legal issue for appeal, as Intervenor-Appellant asserts without citation to any relevant authority. Further, victims are not granted "party status" under Ohio Constitution, Article I, Section 10a and, therefore, are ineligible to preserve many issues for appeals in the manner afforded to criminal defendants and the State. *See State v. Hughes*, 8th Dist. Cuyahoga No. 107697, 2019-Ohio-1000, ¶ 14.

Ohio Constitution, Article I, Section 10a(B) does not, contrary to Intervenor-Appellant's claim, contain a mandatory claim processing rule and Intervenor-Appellant cites no authority to support his contention that it does. In fact, mandatory claim processing rules, like those in all of the inapposite cases cited by Intervenor-Appellant, are typically established by a textual limitation on time or process. *See State v. Ross*, 128 Ohio St.3d 283, 2010-Ohio-6282, 943 N.E.2d 992. Ohio Constitution, Article I, Section 10a(B) does not contain such a provision. Victim-Appellee did exactly what was required when she asserted her rights in the trial court.

Intervenor-Appellant's unsupported argument that victims should face the same procedural burdens in an original action as appealing criminal defendants—who are entitled to court-appointed counsel—produces an absurd result. Courts must interpret the constitution to avoid absurd results. *See State ex rel. Colvin v. Brunner*, 120 Ohio St.3d 110, 896 N.E.2d 979, 2008-Ohio-5041, ¶ 58, citing *State ex rel. Essig v. Blackwell*, 103 Ohio St.3d 481, 817 N.E.2d 5, 2004-Ohio-5586, ¶ 28. Ohio's appellate courts agree that a sworn statement or exhaustive legal briefings are not required in order for a victim to be deemed to have asserted constitutional rights at the trial court level. *See State ex rel. Seawright v. Russo*, 8th Dist. Cuyahoga No. CA 19 108484, 2019-Ohio-4983, ¶ 13; *State ex rel. Howery v. Powers*, 12th Dist. Butler No. CA2019-03-045, 2020-Ohio-2767, ¶ 4.

The Twelfth District embraced the Eighth District Court of Appeals' (hereafter "the Eighth District") holding in *State v. Hughes* that victims are not permitted to appeal violations of their rights under Ohio Constitution, Article I, Section 10a. *State ex rel. Suwalski v. Peeler*, 12th Dist. Warren No. CA2019-05-053, 2020-Ohio-3233, ¶ 12, citing *State v. Hughes*, 8th Dist. Cuyahoga No. 107697, 2019-Ohio-1000, ¶ 16. However, the Eighth District and Twelfth District Courts recently granted crime victims' requests for peremptory writs in mandamus following two trial courts' refusals to order restitution. *See Seawright* at ¶ 13; *Howery* at ¶ 4. In those cases, the victims did not raise every potentially available legal argument in the trial court prior to seeking review from the appellate courts. *See id*. Rather, the pro se victims attended court and presented unsworn oral and documentary evidence to support their restitution claims. *Id.* The appellate courts understood what Intervenor-Appellant pretends not to—that victims' assertions of rights at the trial court level almost always take the form of unsworn written or oral requests for

protection of those rights, not exhaustive legal briefings. *See id.* This is especially true where the victims are unrepresented by counsel, which is the majority of cases.

In this case, Intervenor-Appellant admits that Victim-Appellee appeared and asserted her rights in the underlying trial court proceeding by requesting that Respondent refuse to grant Intervenor-Appellant's application for relief. (Intervenor-Appellant Merit Brief, 1.)[1] This request was a sufficient assertion of rights under Ohio Constitution, Article I, Section 10a. Respondent denied Victim-Appellee's request and granted Intervenor-Appellant's application. Victim-Appellee then properly sought review pursuant to Ohio Constitution, Article I, Section 10a(B). Without the mandate of court appointed legal counsel for victims comparable to that provided to criminal defendants, Intervenor-Appellant's interpretation of Ohio Constitution, Article I, Section 10a(B) produces an untenable, absurd result that deprives Ohio's crime victims of justice and their rights as guaranteed by the Constitution.

RESPONSE TO PROPOSITION OF LAW II

A proceeding to relieve firearms disability both involves the criminal offense and implicates victims' rights.

Intervenor-Appellant argues that the underlying proceeding does not involve the criminal offense or implicate victims' rights, and, therefore, Victim-Appellee's request for a writ should have been denied by the Twelfth District. Intervenor-Appellant's argument is that jurisdictional issues do not implicate victims' rights or involve the criminal offense. Critically, the jurisdictional issues here are not the claimed victims' rights violations; rather, they led to the victims' rights violations.

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[1] Intervenor-Appellant also erroneously states that the Twelfth District did not address exhaustion in its decision. The court noted that the victim had a right to seek a writ of prohibition "even though Suwalski neither appealed from Judge Peeler's decision directly nor intervened in the action below." *State ex rel. Suwalski v. Peeler*, 12th Dist. Warren No. CA2019-05-053, 2020-Ohio-3233, ¶ 12.

a. The underlying trial court proceeding implicated victims' rights.

The Constitution provides at least two rights implicated by the underlying proceeding—the right to safety and the right to reasonable protection. Ohio Constitution, Article I, Section 10a(A)(1), (4) ("To secure for victims justice and due process throughout the criminal and juvenile justice systems, a victim shall have the following rights, which shall be protected in a manner no less vigorous than the rights afforded to the accused: (1) to be treated with fairness and respect for the victim's *safety*, dignity and privacy*** (4) to reasonable protection from the accused or any person acting on behalf of the accused***.") (Emphasis added.).

Intervenor-Appellant's argument that the underlying proceeding does not implicate Victim-Appellee's rights to safety and protection ignores the significant danger—for both victims and law enforcement officers—created when domestic violence and firearms converge.

> Recognizing that "existing felon in possession laws * * * were not keeping firearms out of the hands of domestic abusers, because many people who engage in serious spousal or child abuse are ultimately not charged with or convicted of felonies," Congress extended "the federal firearm prohibition to persons convicted of misdemeanor crimes of domestic violence" to "close this dangerous loophole."

Stimmel v. Sessions, 879 F.3d 198, 202 (6th Cir.2018), quoting *United States v. Hayes*, 555 U.S. 415, 426, 129 S.Ct. 1079, 172 L.Ed.2d 816 (2009) (internal quotation marks, citation, and bracket omitted). The Sixth Circuit has found: "Domestic violence remains a serious, pervasive problem; the Supreme Court observed in 2014 that the United States 'witnesses more than a million acts of domestic violence, and hundreds of deaths from domestic violence, each year.' " *Id.* at 208, citing *United States v. Castleman*, 572 U.S. 157, 159, 134 S.Ct. 1405, 188 L.Ed.2d 426 (2014).

In discussing the domestic violence recidivism rate estimated to be between 40-80%, the Sixth Circuit stated: " 'No matter how you slice these numbers, people convicted of domestic

violence remain dangerous to their spouses and partners.' " *Id*. at 209, quoting *United States v. Skoien*, 614 F.3d 638, 644 (7th Cir.2010). "Essential here is that the victim is more likely to be killed when a gun is present." *Id.* "Moreover, 'nearly 52,000 individuals were murdered by a domestic intimate between 1976 and 1996, and the perpetrator used a firearm in roughly 65% of the murders.' " *Id.*, quoting *United States v. Booker*, 644 F.3d 12, 25-26 (1st Cir.2011).

Domestic violence is not only dangerous for victims. The Sixth Circuit acknowledged that "responding to family violence calls is among a police officer's most risky duties." *Id.* at 210, citing Nick Breul & Mike Keith, *Deadly Calls and Fatal Encounters: Analysis of U.S. Law Enforcement Line of Duty Deaths When Officers Responded to Dispatched Calls for Service and Conducted Enforcement, 2010-2014*, 15 (2016). The FBI reported that, in 2016, "approximately 10% of non-accidental law enforcement officer fatalities in the line of duty that year occurred while officers were responding to domestic disturbance calls." *Id.*

In the reporting period 2017-2018, 100% of homicide—suicide intimate partner violence cases in Ohio involved a firearm; 71% of fatal intimate partner incidents involved firearms. Ohio Domestic Violence Network, *Ohio Domestic Violence Fatalities*, https://www.odvn.org/wp-content/uploads/2020/05/2017-2018_ODVN_FatalityReport.pdf (accessed Sept. 29, 2020). In the reporting period 2016-2017, 86% of fatal intimate partner violence incidents involved firearms and 100% of homicide—suicide cases involved firearms. Ohio Domestic Violence Network, *Ohio Domestic Violence Fatalities*, https://www.odvn.org/wp-content/uploads/2020/05/2016-2017_ODVN_FatalityReport.pdf (accessed Sept. 29, 2020). From 2015-2016, 74% of domestic violence fatal incidents involved firearms. Ohio Domestic Violence Network, *Ohio Domestic Violence Fatalities*, https://www.odvn.org/wp-content/uploads/2020/05/2015-2016_ODVN_FatalityReport.pdf (accessed Sept. 29, 2020). In three of four of those reporting

periods, law enforcement officers were killed with firearms at the scene of domestic violence fatalities. *See id.* Children were victims of these fatal incidents and were present at the scene of a fatal incident about 25% of the time. *See id.* Victims' rights to safety and protection are implicated when courts consider returning firearms to these violent offenders.

Victim-Appellee asserted her rights to safety and protection in the trial court by attending the hearing and making a statement opposing Intervenor-Appellant's request for relief from disability. Ohio Constitution, Article I, Section 10a(B) provides crime victims with explicit standing to assert their rights in trial courts and seek review of rights violations in appellate courts. In the instant matter, Victim-Appellee's argument has been, and continues to be, that Respondent lacked jurisdiction to relieve Intervenor-Appellant's federal firearms disability and Respondent's decision relieving Intervenor-Appellant's federal firearms disability violates Victim-Appellee's constitutional rights to safety and protection.

It is problematic for Intervenor-Appellant to contend, simultaneously, that Victim-Appellee had no rights in the underlying trial court proceeding *and* that Victim-Appellee failed to adequately assert her rights in the legally impermissible trial court proceeding. This is especially true when Victim-Appellee would unequivocally have rights (and standing to assert those rights) had Intervenor-Appellant sought relief from disability using a lawful mechanism. 18 U.S.C. 921(a)(33)(B)(ii) provides that Intervenor-Appellant may seek relief from his federal disability through a pardon from his conviction. However, Intervenor-Appellant has not sought a pardon in this matter.[2] (Stipulated Statement of Facts, ¶ 15.) If Intervenor-Appellant had sought relief from his federal disability in the proper manner, by seeking a pardon, Victim-Appellee

[2] Victim-Appellee discusses the lawful mechanisms to seek relief from federal firearms disability available to Intervenor-Appellant more fully in her Response to Proposition of Law IV.

would have standing, rights to notice, and a voice in that process. R.C. 2967.12; Ohio Constitution, Article I, Section 10a(B) ("The victim * * * in any proceeding involving the criminal offense * * * or in which the victim's rights are implicated, may assert the rights enumerated in this section *and any other right afforded to the victim by law.*") (Emphasis added.).

Moreover, had Victim-Appellee raised objections to Respondent's jurisdictional authority to grant Intervenor-Appellant's application at the trial court level, Intervenor-Appellant surely would have argued then, as he does now, that "jurisdiction and statutory construction are not viable victim's rights." (Intervenor-Appellant's Brief, 4.) Again, the jurisdictional issues here are not the claimed victims' rights violations; they led to the victims' rights violations. Interestingly, while continuously contending that the underlying proceeding did not implicate Victim-Appellee's rights, Intervenor-Appellant also points out that, if her rights were implicated, Respondent provided her notice and an opportunity to be heard. These, however, are not the only rights of Ohio crime victims.

b. The underlying trial court proceeding involved Intervenor-Appellant's criminal offenses.

Intervenor-Appellant's characterization of the underlying proceeding as involving a collateral consequence of his criminal conviction and, therefore, being unrelated to the criminal offense is nonsensical because, but for the criminal conviction, there would be no collateral consequences. In addition, Ohio law acknowledges the role of victims' rights in hearings regarding collateral consequences of criminal convictions. For instance, Revised Code Section 4510.54 sets forth procedures for the modification or termination of a driver's license suspension and explicitly provides victims the rights to notice and the opportunity to be heard. The collateral

nature of a consequence of the criminal conviction does not mean that the proceedings regarding that consequence do not involve the criminal offense or implicate the victims' rights.

Further, Intervenor-Appellant's characterization of the underlying proceeding as civil and, therefore, entirely "unrelated to" Intervenor-Appellant's sentence and distinct from Intervenor-Appellant's criminal offenses is confounding. Under a plain language analysis of Ohio Constitution, Article I, Section 10a(B), the underlying proceeding "involv[es] the criminal offense" and "implicate[s]" rights afforded to Victim-Appellee by law—namely, the constitutional rights to safety and protection that Victim-Appellee asserted by appearing in the trial court proceeding and contesting Intervenor-Appellant's application for relief.

A proceeding regarding an application for relief from firearms disability involves the criminal offense. Revised Code Section 2923.14—the provision under which Respondent relieved Intervenor-Appellant of his federal firearms disability—is in the "Crimes – Procedure" title of the Revised Code. Relief under that section presupposes a criminal conviction. *Id.* In fact, the county prosecutor is notified of any application for relief and must investigate that application. *Id.*; *see also State v. Lerch*, 4th Dist. Washington No. 15CA39, 2016-Ohio-2791 (captioned *State v. Lerch*, indicating its relation to the underlying criminal case). The county prosecutor may object to relief under this section. *Id.* Respondent's own entry granting Intervenor relief from Intervenor's federal disability repeatedly references the State as the opposing party in the matter. (Decision and Entry Granting Applicant's Request for Relief from Firearms Disability.)

Even if this Court finds that Revised Code Section 2923.14 is civil in nature, the civil nature of a proceeding does not mean that the underlying proceeding does not involve the criminal offense or implicate victims' rights. *Cf. State v. Lee*, 226 Ariz. 234, 238, 245 P.3d 919

(2011) (holding that crime victims may refuse deposition and discovery requests in the civil context—in that case, a civil forfeiture proceeding). This Court should utilize the canons of constitutional interpretation to determine that the underlying proceeding both implicates victims' rights and involves the criminal offense.

" '[C]ourts must interpret the Constitution broadly in order to accomplish the manifest purpose of an amendment.' " *State v. Noling*, 136 Ohio St.3d 163, 2013-Ohio-1764, 992 N.E.2d 1095, ¶ 19, quoting *State ex rel. Swetland v. Kinney*, 69 Ohio St.2d 567, 570, 433 N.E.2d 217 (1982). " '[T]he object of the people in adopting it should be given effect.' " *State v. Smith*, 80 Ohio St.3d 89, 103, 684 N.E.2d 668 (1997), quoting *Castleberry v. Evatt*, 147 Ohio St. 30, 67 N.E.2d 861 (1946), syllabus. When a constitutional provision is clear and unambiguous, the plain meaning controls. *See Toledo City School Dist. Bd. of Edn. v. State Bd. of Edn.*, 146 Ohio St.3d 356, 2016-Ohio-2806, 56 N.E.3d 950, ¶ 16 (explaining that "in construing the Constitution, we apply the same rules of construction that we apply in construing statutes;" "[w]ords used in the Constitution that are not defined therein must be taken in their usual, normal, or customary meaning;" and " '[w]here the meaning of a provision is clear on its face, we will not look beyond the provision in an attempt to divine what the drafters intended it to mean' "), *reconsideration denied*, 146 Ohio St.3d 1473, 2016-Ohio-5108, 54 N.E.3d 1271.

To hold that the underlying proceeding does not involve the criminal offense or implicate victims' rights is contrary to the object and purpose of the constitutional amendment, flies in the face of the plain language of the amendment, and allows criminal defendants to impermissibly circumvent the federally delineated avenues to seek relief from disability, while stripping away the rights victims would unquestionably have in legally appropriate proceedings.

RESPONSE TO PROPOSITION OF LAW III

A victim need not intervene in a case in order to assert victims' rights and res judicata does not bar the victim from constitutionally guaranteed review of decisions violating victims' rights simply because the victim did not intervene in the impermissible proceeding.

"Under the doctrine of res judicata, '[a] valid, final judgment rendered upon the merits bars all subsequent actions based upon any claim arising out of the transaction or occurrence that was the subject of the previous action.' " *Brown v. State*, 6th Dist. Lucas No. L-18-1044, 2019-Ohio-4376, ¶ 20, quoting *Grava v. Parkman Twp.*, 73 Ohio St.3d 379, 653 N.E.2d 226 (1995), syllabus. While Intervenor-Appellant conflates and confuses claim preclusion and issue preclusion, neither bars this action.

There was no prior valid judgment on the merits of this case in the underlying action for two reasons. First, the trial court judgment is invalid due to Respondent's lack of subject matter jurisdiction. In Intervenor-Appellant's own brief, he cites *Brown v. State* to acknowledge that "when [a court] lacks power to hear and adjudicate the claim in the first place, subject matter jurisdiction is absent and the judgment is void." (Intervenor-Appellant's Merit Brief, 7), citing *Brown* at ¶ 26. That is precisely the case here, where Respondent lacked subject matter jurisdiction to relieve a federal firearms disability.

Further, because Respondent patently and unambiguously lacks jurisdiction in this matter, the fact that Victim-Appellee did not move to intervene in the underlying proceeding is immaterial, despite Intervenor-Appellant's insistence to the contrary. *State ex rel. Thomas v. McGinty*, 8th Dist. Cuyahoga No. 108633, 2019-Ohio-5129, ¶ 13, citing *State ex rel. Tilford v. Crush*, 39 Ohio St.3d 174, 529 N.E.2d 1245 (1988) ("[W]hen a court is patently and unambiguously without jurisdiction to act whatsoever, the availability or adequacy of a remedy is immaterial to the issuance of a writ of prohibition.").

Victim-Appellee takes issue with Intervenor-Appellant's continued reference to some uncodified portion of the Revised Code purporting to support Intervenor-Appellant's position that Respondent's subject matter jurisdiction is debatable. This "provision" is just that, uncodified, and is not settled law. As noted above, courts may not interpret unambiguous statutes, but must instead apply them. As applied, Revised Code Section 2923.14 simply does not provide an avenue of relief for Intervenor. This Court should not be swayed by a reference to an "uncodified" code section in the face of the mountain of controlling precedent presented by Victim-Appellee that clearly and unambiguously establishes that Respondent lacks subject matter jurisdiction to relieve federal firearms disabilities. The notion that this uncodified provision empowers state trial courts to relieve federal firearms disabilities when even federal trial courts are not so empowered, as discussed more fully below, defies reason.

Second, Respondent's order granting Intervenor-Appellant's application fails to address or even consider Victim-Appellee's constitutional rights to safety and protection or Respondent's subject matter jurisdiction. Moreover, even if a stipulation between the State and Intervenor-Appellant that Respondent "could remove a federal gun-right disability" could be considered "a judgment on the merits," the State and Intervenor-Appellant cannot stipulate away a defect in subject matter jurisdiction. Defects in subject matter jurisdiction are not waivable by inaction and can be raised at any time. Civ.R. 12(H)(3); *Grava* at ¶ 26 ("A judgment entered without subject-matter jurisdiction is void and can be challenged at any time."). Importantly, this Court has held that " '[w]hen a tribunal patently and unambiguously lacks jurisdiction to consider a matter, a writ of prohibition will issue to prevent assumption of jurisdiction regardless of whether the tribunal has ruled on the question of its jurisdiction.' " *State ex rel. Cuyahoga County v. State Personnel Bd. of Review*, 82 Ohio St.3d 496, 497, 696 N.E.2d 1054 (1998), quoting *State ex rel.*

Hunter v. Summit Cty. Human Resource Comm., 81 Ohio St.3d 450, 452, 692 N.E.2d 185 (1998). Therefore, even if this stipulation were considered a judgment on the merits, a characterization Victim-Appellee disputes, the judgment is certainly not valid for all the reasons set forth herein.

In addition, for res judicata to bar an action, the parties to the first action must be identical to or in privity with those in the former action. *Kirkhart v. Keiper*, 101 Ohio St.3d 377, 2004-Ohio-1496, 805 N.E.2d 1089, ¶ 8, citing *Johnson's Island, Inc. v. Danbury Twp. Bd. of Trustees*, 69 Ohio St.2d 241, 243, 431 N.E.2d 672 (1982). This Court uses a mutuality of interest analysis to determine if there is privity. *Id.* An identity of a desired result may create privity. *Id.* Privity is a relationship between the one who is a party on the record to another with similar interests. *Brown v. City of Dayton*, 89 Ohio St.3d 245, 248, 730 N.E.2d 958 (2000).

Just as there was no valid judgment on the merits, there is no privity between Victim-Appellee and either the State of Ohio or Respondent. As Intervenor-Appellant points out, Victim-Appellee was not a party to the underlying case. Victim-Appellee is also not in privity with either the State or Respondent because Victim-Appellee's interests in no way align with those of the State or Respondent. Indeed, the State did not object to Respondent's removal of Intervenor-Appellant's federal firearms disability. Victim-Appellee objected, and continues to object. Under Intervenor-Appellee's proposed definition of privity, everyone and anyone would be in privity with the State of Ohio or Respondent, since even those whose interests are diametrically opposed, like Victim-Appellee, are allegedly in privity.

Intervenor-Appellant argues that Victim-Appellee should have intervened in the underlying matter to assert her rights. In support of this argument, Intervenor-Appellant cites a wholly inapposite case—*Howell v. Richardson*—to stand for the proposition that, due to her

failure to intervene, Victim-Appellee is precluded from filing the underlying complaint for a writ. *See Howell v. Richardson*, 45 Ohio St.3d 365, 544 N.E.2d 878 (1989). The facts in *Howell* are in no way comparable to the facts of the case at bar. *See id. Howell* involved an insurance company, which was involved in the first action, but was not a party to that action, seeking to relitigate an issue already resolved in the first action—the culpable mental state of the defendant driver the company insured. *Id.* at 367. The insurance company and the defendant, as agent and principal, were in contractual privity, and the company sought to relitigate an identical issue. *Id.* Here, Victim-Appellee and the State clearly lack this type of contractual privity where the State is ethically obligated to represent the interests of the community at large, rather than those of one specific victim.

Victim-Appellee could not—and should not have to—foresee that Respondent would act where he patently and unambiguously lacked jurisdiction to do so. It is unrealistic to argue that the present action raises claims that could have, or should have, been litigated in the underlying proceeding. Crime victims should not be tasked with the foresight to predict that a trial court will act outside its jurisdiction and the responsibility to act accordingly to preserve their rights.

In addition, both this action and the underlying application do not arise out of the same transaction or occurrence. This action arose from the outcome of the underlying proceeding, in which Respondent exceeded his subject matter jurisdiction and violated Victim-Appellee's constitutional rights. None of the elements of res judicata are satisfied in this matter.

Confusingly, Intervenor-Appellant, on one hand, asserts that Victim-Appellee's failure to attempt to intervene in the underlying matter should trigger application of res judicata to prevent her from seeking review, and argues, on the other hand, that the underlying matter did not implicate Victim-Appellee's constitutional rights at all. If Victim-Appellee's rights were not

implicated, as Intervenor-Appellant asserts, Civil Rule 24 would have prevented Victim-Appellee from intervening. Intervenor-Appellant's argument is contradictory and illogical.

RESPONSE TO PROPOSITION OF LAW IV

Prohibition is the appropriate remedy where a state trial court patently and unambiguously lacks jurisdiction to relieve a federal firearms disability.

At the heart of this case is the distinction between a firearms disability created and governed by state law and a firearms disability created and governed by federal law. Revised Code Section 2923.13 prohibits several groups of individuals from acquiring, having, carrying, or using firearms. These groups include fugitives, those charged with or convicted of felony offenses of violence or certain drug crimes, those who are drug or alcohol dependent, and those who suffer from some form of mental incompetence or illness subject to court adjudications or control. *Id.* None of these provisions apply to Intervenor-Appellant regarding his conviction for misdemeanor domestic violence, and, therefore, Intervenor-Appellant's firearms disability does not result in a state disqualification. Thus, Ohio's relief from disability statute, Revised Code Section 2923.14, is inapplicable to Intervenor-Appellant.

Instead, Intervenor-Appellant is federally firearms disqualified, pursuant to 18 U.S.C. 922(g)(9), as he was convicted of a misdemeanor crime of domestic violence. (Stipulated Statement of Facts, ¶ 3.) Pursuant to 18 U.S.C. 921(a)(33)(A), Intervenor-Appellant's jury conviction meets the federal definition of "misdemeanor crime of domestic violence" because it is a misdemeanor under state law, has, as an element, the use of force, and was committed against Intervenor-Appellant's then-current, now-former, spouse. *See generally United States v. Castleman*, 572 U.S. 157, 134 S.Ct. 1405, 188 L.Ed.2d 426 (2014); *see also Eibler v. Dep't of Treasury*, 311 F. Supp.2d 618 (N.D. Ohio 2004). As such, Intervenor-Appellant was convicted of a qualifying misdemeanor offense. *See id.* Therefore, under 18 U.S.C. 922(g)(9), Intervenor-

Appellant is federally disqualified from possessing firearms and federal law creates and controls Intervenor-Appellant's firearms disability. Because Intervenor-Appellant's firearms disqualification emanates from federal law, and not state law, Intervenor-Appellant must seek relief from his firearms disability pursuant to federal law.

There are two distinct avenues available to seek relief from federal firearms disabilities. These avenues are set forth in 18 U.S.C. 921(a)(33)(B)(ii) and 18 U.S.C. 925(c).

a. *Intervenor-Appellant has not exhausted his remedies under 18 U.S.C. 921(a)(33)(B)(ii) and, therefore, federal law provides no role for the state court system in relieving Intervenor-Appellant's federal firearms disability.*

18 U.S.C. 921(a)(33)(B)(ii) states that "[a] person shall not be considered to have been convicted of such an offense for the purposes of this chapter if the conviction has been expunged or set aside, or is an offense for which the person has been pardoned or has had civil rights restored * * *." For the purposes of the aforementioned section, "such an offense" includes a misdemeanor crime of domestic violence. 18 U.S.C. 921(a)(33)(A). Intervenor-Appellant was convicted of a misdemeanor crime of domestic violence that meets the definition in this section.

Therefore, Intervenor-Appellant has three paths to relief from his disability under this statute. First, Intervenor-Appellant would be relieved of his disability if he had his conviction expunged or set aside. In Ohio, expungement is not an option for Intervenor-Appellant, due to the nature of his convictions. Revised Code Section 2953.36(A)(3) makes offenses of violence that are misdemeanors of the first degree and higher not expungable. Revised Code Section 2901.01(A)(9)(a) defines "offense of violence" and explicitly includes a conviction for domestic violence in violation of Revised Code Section 2919.25(A)—a crime for which Intervenor-Appellant was convicted by a jury.

Next, Intervenor-Appellant could seek relief of his federal disability if his civil rights were restored. This path is equally unavailing to Intervenor-Appellant because the State of Ohio does not strip those convicted of domestic violence of their civil rights, e.g. the right to vote and hold elected office. The United States Supreme Court has held that, in the context of 18 U.S.C. 921(a)(33)(B)(ii), the words "civil rights restored" do not apply to an offender such as Intervenor-Appellant who has lost no civil rights. *United States v. Bridges*, 696 F.3d 474, 475 (6th Cir.2012), citing *Logan v. U.S.*, 552 U.S. 23, 36-37, 128 S.Ct. 475, 169 L.Ed.2d 432 (2007). In *Bridges*, as here, one of the defendant's arguments for restoration of his rights was that "individuals in his position, who are not subjected to a loss of their civil rights as a result of their conviction, should be treated equivalently to individuals who lose their civil rights and subsequently have those rights restored." *Id.* However, the Sixth Circuit applied Supreme Court precedent in holding that "Bridges does not qualify for an exception to the firearm restriction in 922(g)(9) * * *." *Id.* Therefore, Intervenor-Appellant also does not qualify for relief under this provision because his civil rights were never taken away.

Finally, 18 U.S.C. 921(a)(33)(B)(ii) provides that Intervenor-Appellant may seek relief from his federal disability through a pardon from his conviction. Intervenor-Appellant has not sought a pardon in this matter. (Stipulated Statement of Facts, ¶ 15.) Intervenor-Appellant has failed to exhaust his federally approved remedies under 18 U.S.C. 921(a)(33)(B)(ii).

Therefore, Respondent exceeded his judicial authority in granting Intervenor-Appellant relief. *See State ex rel. O'Malley v. Collier-Williams*, 153 Ohio St.3d 553, 2018-Ohio-3154, 108 N.E.3d 1082, ¶ 24 (holding the trial court patently and unambiguously lacked jurisdiction to act in a manner "not sanctioned by any current or former version of a statute.").

b. Even if Intervenor-Appellant had exhausted his remedies under applicable federal law, state courts lack judicial authority to relieve federal firearms disabilities outside the parameters set forth specifically in federal law.

18 U.S.C. 925(c) also provides an ostensible avenue for relief for Intervenor-Appellant. That section provides that

> [a] person who is prohibited from possessing, shipping, transporting, or receiving firearms or ammunition may make application to the Attorney General for relief from the disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, transportation, or possession of firearms, and the Attorney General may grant such relief if it is established to his satisfaction that the circumstances regarding the disability, and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest. Any person whose application for relief from disabilities is denied by the Attorney General may file a petition with the United States district court for the district in which he resides for a judicial review of such denial.

Subsequent to the passage of 18 U.S.C. 925(c), the United States Congress defunded the provision and instructed the Bureau of Alcohol, Tobacco, and Firearms to cease its investigations under the provision. In 2000, the Sixth Circuit explained Congress' intent in defunding this provision:

> [I]n a report to the Senate, the Appropriations Committee explained why it first withheld funds in the 1993 Appropriations Act for ATF action on applications for § 925(c) relief: 'After ATF agents spend many hours investigating a particular applicant[,] they must determine whether or not that applicant is still a danger to public safety. This is a very difficult and subjective task which could have devastating consequences for innocent citizens if the wrong decision is made. The Committee believes that the approximately 40 man-years spent annually to investigate and act upon these investigations and applications would be better utilized to crack down on violent crime. Therefore, the Committee has included language in the bill which prohibits the use of funds for ATF to investigate and act upon applications from relief from federal firearms disabilities.

Mullis v. United States, 230 F.3d 215, 220 (6th Cir.2000), quoting S. Rep. No. 353, 102nd Cong., 2d Sess. 77 (1992). The Sixth Circuit found that "[e]ven if there were any doubt concerning

Congress' intent, the practicalities of conducting the requisite investigation only serve to reinforce the conclusion that Congress intended to suspend § 925(c)'s operation." *Id.* at 219.

> Unlike the ATF, the court cannot canvas the circle of neighbors and acquaintances who may have negative information concerning such things as the applicant's tendency toward violence or use of drugs and alcohol. These institutional disadvantages make it highly unlikely that Congress intended district court [sic] to review an applicant's dangerousness to society in the first instance.

Id. at 220. Therefore, the defunding "rendered federal courts without subject matter jurisdiction to consider petitions for the restoration of firearms" under 18 U.S.C. 925(c). *Id*. at 218.

Two years later, the United States Supreme Court took up the question of whether federal district courts could grant relief from firearms disability pursuant to 18 U.S.C. 925(c) without an ATF investigation. *See United States et al. v. Bean*, 537 U.S. 71, 123 S.Ct. 584, 154 L.Ed.2d 483 (2002). The Court accepted review after the Fifth Circuit held that it had jurisdiction to review a petition for relief under 925(c) following ATF inaction. *Id.* at 73. The Supreme Court was clear that "an actual adverse action on the application by ATF is a prerequisite for judicial review." *Id.* at 76. "Whether an applicant is 'likely to act in a manner dangerous to public safety' presupposes an inquiry into that applicant's background—a function best performed by the Executive, which, unlike courts, is institutionally equipped for conducting a neutral, wide-ranging investigation." *Id*. at 77. "Accordingly, we hold that the absence of an actual denial of respondent's petition by ATF precludes judicial review under 925(c), and therefore reverse the judgment of the Court of Appeals." *Id*. at 78.

If the Sixth Circuit and the United States Supreme Court held that Congress did not intend the federal district courts—courts which are expressly mentioned in the statute—to "take up the mantle" of reviewing and resolving 925(c) applications, Congress could not have intended state courts to do so.

Importantly, this Court is not tasked with determining whether 18 U.S.C. 922(g)(9) is facially unconstitutional or unconstitutional as applied to Intervenor-Appellant. Rather, this Court is tasked with determining whether, in attempting to relieve Intervenor-Appellant of his federal firearms disability, Respondent acted outside his judicial authority and violated Victim-Appellee's rights. It is axiomatic that a court should not reach constitutional issues unless absolutely necessary. *State v. Chasteen*, 21 Ohio App.3d 87, 88, 486 N.E.2d 252 (12th Dist.1984), citing *Bd. of Edn. v. Brunswick Edn. Assoc.*, 61 Ohio St.2d 290, 297, 401 N.E.2d 440 (1980).

c. *It is procedurally inappropriate to argue that portions of Intervenor-Appellant's criminal sentence violate Intervenor-Appellant's constitutional rights in this matter. Instead, Intervenor-Appellant should have raised these arguments in his underlying criminal cases.*

Procedurally, this case provides the incorrect vehicle to adjudicate the question of whether application of 18 U.S.C. 922(g)(9) to Intervenor-Appellant violates his constitutional rights. Intervenor-Appellant should have raised these arguments as assignments of error in an appeal of his criminal convictions. In fact, Intervenor-Appellant did appeal his convictions, but he did not raise an assignment of error concerning his firearms disability. (Stipulated Statement of Facts, ¶ 6.) Intervenor-Appellant's sole assignment of error was that the trial court erred "in denying Appellant's 'Motion to Permit Inquiry on Cross-Examination re: Safecracking.' " *Id.*

d. *Application of 18 U.S.C. 922(g)(9) to Intervenor-Appellant does not violate Intervenor-Appellant's constitutional rights.*

Application of 18 U.S.C. 922(g)(9) to Intervenor-Appellant does not violate Intervenor-Appellant's Second Amendment right to bear arms because the statute, in preventing gun possession by those convicted of misdemeanor domestic violence, "is substantially related to the government's compelling interest of preventing gun violence." *Stimmel v. Sessions*, 879 F.3d

198, 201 (6th Cir.2018). Since the government can carry out this interest by prohibiting firearm possession by those convicted of misdemeanor domestic violence, a conviction which statistically increases the chance of future violence significantly, this statute is not an unconstitutional limitation upon the Second Amendment. *Id.* at 208-211.

In determining that 18 U.S.C. 922(g)(9) does not violate the constitutional right to bear arms, the Sixth Circuit reasoned that the intermediate scrutiny standard was satisfied because the government produced evidence sufficient to show a reasonable fit between the restriction of firearms for those convicted of misdemeanor domestic violence and the justification for the restriction (the interest in decreasing gun violence). *Stimmel* at 207-212. Because the government provided evidence showing significant recidivism rates for domestic violence offenders, including evidence showing death of victims is more likely when guns are present, the court determined that the prevention of gun possession by those convicted of misdemeanor domestic violence reasonably fits into the government's interest in decreasing gun violence. *Id.* at 208-212. "The Second Amendment's core right allows 'law-abiding, responsible citizens to use arms in defense of hearth and home.' " *Dist. of Columbia v. Heller*, 554 U.S. 570, 635, 128 S.Ct. 2783, 171 L.Ed.2d 637 (2008). Since the defendant in *Stimmel* broke the law by committing domestic violence, he was properly disqualified from Second Amendment protections, as he is not a protected class under *Heller*. *Stimmel* at 203.

Here, Intervenor-Appellant was convicted of the same crime as the defendant in *Stimmel*— misdemeanor domestic violence. Intervenor-Appellant's Second Amendment right to bear arms is not violated by the imposition of a federal disability pursuant to 18 U.S.C. 922(g)(9) because, as in *Stimmel*, Intervenor-Appellant is not the "law-abiding, responsible citizen" the Second Amendment is designed to protect.

Application of 18 U.S.C. 922(g)(9) to Intervenor-Appellant does not violate Intervenor-Appellant's Fourteenth Amendment right to Equal Protection because Intervenor-Appellant was not treated disparately as compared to individuals similarly situated. The Sixth Circuit requires that the person challenging the constitutionality of a law must "adequately plead that the government treated the plaintiff disparately as compared to similarly situated persons and that such disparate treatment either burdens a fundamental right, targets a suspect class, or has no rational basis." *Stimmel* at 212, quoting *Ctr. for Bio-Ethical Reform, Inc. v. Napolitano*, 648 F.3d 365, 379 (6th Cir.2011).

Other courts have expressly addressed the issue of whether the right to equal protection is violated by 18 U.S.C. 922(g)(9) because felons can be relieved of federal disability, but domestic violence misdemeanants cannot. *See United States v. Smith*, 171 F.3d 617, 626 (8th Cir.1999); *see also United States v. Chovan*, 735 F.3d 1127, 1132-1134 (9th Cir.2013). Applying rational basis review, the Eighth Circuit held that application of 18 U.S.C. 922(g)(9) to a domestic violence misdemeanant from Iowa—a state having a weapons under disability law substantially similar to Ohio's—did not violate the misdemeanant's right to equal protection of the law "because Smith can receive a pardon from the governor of Iowa, similar to a felon who can receive restoration of his civil rights * * *." *Smith* at 626. Similarly, the Ninth Circuit applied rational basis review and found that Congress " 'was aware of the discrepancies in state procedures for revoking and restoring civil rights * * *' " but provided several mechanisms, such as a pardon, for relief from disability for domestic violence misdemeanants. *Chovan* at 1133-1134, quoting *Smith* at 625. Therefore, the Ninth Circuit held that 18 U.S.C. 922(g)(9) did not violate the misdemeanant's right to equal protection. Courts have widely accepted evidence supporting the conclusion that individuals with a domestic violence record are significantly more

likely to pose future danger to the public, including the increased likelihood of violent use of deadly weapons. *Stimmel* at 208-210.

Application of 18 U.S.C. 922(g)(9) does not violate Intervenor-Appellant's right to due process under the Fourteenth Amendment because the commission of the illegal act of domestic violence itself is sufficient to put Intervenor-Appellant on notice that he may be subject to regulation of firearms due to the violent nature of domestic violence. *United States v. Beavers*, 206 F.3d 706, 710 (6th Cir.2000); *see also United States v. Hutzell*, 217 F.3d 966, 968 (8th Cir.2000). Courts have agreed that a "conviction on a domestic violence offense sufficiently placed [the defendant] on notice that the government might regulate his ability to own or possess a firearm." *Beavers* at 710; *see also* R.C. 2943.033. Therefore, Intervenor-Appellant's conviction alone was sufficient to put him on notice of the restrictions on his ability to own, use, or possess a firearm.

For the aforementioned reasons, application of 18 U.S.C. 922(g)(9) to Intervenor-Appellant does not violate Intervenor-Appellant's constitutional rights.

CONCLUSION

Therefore, Victim-Appellee respectfully requests that this Court affirm the decision of the Twelfth District Court of Appeals and prohibit Respondent from exceeding his judicial power by restoring Intervenor-Appellant's federal firearms rights.

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Respectfully submitted,

/s Elizabeth A. Well

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I hereby certify that a copy of the foregoing was served on the following via ordinary US mail and/or electronic mail, this 1st day of October 2020:

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APPENDIX

2901.01 General provisions definitions.
(A) As used in the Revised Code:

(1) "Force" means any violence, compulsion, or constraint physically exerted by any means upon or against a person or thing.

(2) "Deadly force" means any force that carries a substantial risk that it will proximately result in the death of any person.

(3) "Physical harm to persons" means any injury, illness, or other physiological impairment, regardless of its gravity or duration.

(4) "Physical harm to property" means any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. "Physical harm to property" does not include wear and tear occasioned by normal use.

(5) "Serious physical harm to persons" means any of the following:

(a) Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;

(b) Any physical harm that carries a substantial risk of death;

(c) Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity;

(d) Any physical harm that involves some permanent disfigurement or that involves some temporary, serious disfigurement;

(e) Any physical harm that involves acute pain of such duration as to result in substantial suffering or that involves any degree of prolonged or intractable pain.

(6) "Serious physical harm to property" means any physical harm to property that does either of the following:

(a) Results in substantial loss to the value of the property or requires a substantial amount of time, effort, or money to repair or replace;

(b) Temporarily prevents the use or enjoyment of the property or substantially interferes with its use or enjoyment for an extended period of time.

(7) "Risk" means a significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.

(8) "Substantial risk" means a strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist.

(9) "Offense of violence" means any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.211, 2903.22, 2905.01, 2905.02, 2905.11, 2905.32, 2907.02, 2907.03, 2907.05, 2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11, 2917.01, 2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04, 2921.34, or 2923.161, of division (A)(1) of section 2903.34, of division (A)(1), (2), or (3) of section 2911.12, or of division (B)(1), (2), (3), or (4) of section 2919.22 of the Revised Code or felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

(b) A violation of an existing or former municipal ordinance or law of this or any other state or the United States, substantially equivalent to any section, division, or offense listed in division (A)(9)(a) of this section;

(c) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of this or any other state or the United States, committed purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons;

(d) A conspiracy or attempt to commit, or complicity in committing, any offense under division (A)(9)(a), (b), or (c) of this section.

(10)

(a) "Property" means any property, real or personal, tangible or intangible, and any interest or license in that property. "Property" includes, but is not limited to, cable television service, other telecommunications service, telecommunications devices, information service, computers, data, computer software, financial instruments associated with computers, other documents associated with computers, or copies of the documents, whether in machine or human readable form, trade secrets, trademarks, copyrights, patents, and property protected by a trademark, copyright, or patent. "Financial instruments associated with computers" include, but are not limited to, checks, drafts, warrants, money orders, notes of indebtedness, certificates of deposit, letters of credit, bills of credit or debit cards, financial transaction authorization mechanisms, marketable securities, or any computer system representations of any of them.

(b) As used in division (A)(10) of this section, "trade secret" has the same meaning as in section 1333.61 of the Revised Code, and "telecommunications service" and "information service" have the same meanings as in section 2913.01 of the Revised Code.

(c) As used in divisions (A)(10) and (13) of this section, "cable television service," "computer," "computer software," "computer system," "computer network," "data," and "telecommunications device" have the same meanings as in section 2913.01 of the Revised Code.

(11) "Law enforcement officer" means any of the following:

(a) A sheriff, deputy sheriff, constable, police officer of a township or joint police district, marshal, deputy marshal, municipal police officer, member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code, or state highway patrol trooper;

(b) An officer, agent, or employee of the state or any of its agencies, instrumentalities, or political subdivisions, upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of that statutory duty and authority;

(c) A mayor, in the mayor's capacity as chief conservator of the peace within the mayor's municipal corporation;

(d) A member of an auxiliary police force organized by county, township, or municipal law enforcement authorities, within the scope of the member's appointment or commission;

(e) A person lawfully called pursuant to section 311.07 of the Revised Code to aid a sheriff in keeping the peace, for the purposes and during the time when the person is called;

(f) A person appointed by a mayor pursuant to section 737.01 of the Revised Code as a special patrolling officer during riot or emergency, for the purposes and during the time when the person is appointed;

(g) A member of the organized militia of this state or the armed forces of the United States, lawfully called to duty to aid civil authorities in keeping the peace or protect against domestic violence;

(h) A prosecuting attorney, assistant prosecuting attorney, secret service officer, or municipal prosecutor;

(i) A veterans' home police officer appointed under section 5907.02 of the Revised Code;

(j) A member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code;

(k) A special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code;

(l) The house of representatives sergeant at arms if the house of representatives sergeant at arms has arrest authority pursuant to division (E)(1) of section 101.311 of the Revised Code and an assistant house of representatives sergeant at arms;

(m) The senate sergeant at arms and an assistant senate sergeant at arms;

(n) A special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in section 119.3 of

Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States department of transportation as provided in Parts 1542. and 1544. of Title 49 of the Code of Federal Regulations, as amended.

(12) "Privilege" means an immunity, license, or right conferred by law, bestowed by express or implied grant, arising out of status, position, office, or relationship, or growing out of necessity.

(13) "Contraband" means any property that is illegal for a person to acquire or possess under a statute, ordinance, or rule, or that a trier of fact lawfully determines to be illegal to possess by reason of the property's involvement in an offense. "Contraband" includes, but is not limited to, all of the following:

(a) Any controlled substance, as defined in section 3719.01 of the Revised Code, or any device or paraphernalia;

(b) Any unlawful gambling device or paraphernalia;

(c) Any dangerous ordnance or obscene material.

(14) A person is "not guilty by reason of insanity" relative to a charge of an offense only if the person proves, in the manner specified in section 2901.05 of the Revised Code, that at the time of the commission of the offense, the person did not know, as a result of a severe mental disease or defect, the wrongfulness of the person's acts.

(B)

(1)

(a) Subject to division (B)(2) of this section, as used in any section contained in Title XXIX of the Revised Code that sets forth a criminal offense, "person" includes all of the following:

(i) An individual, corporation, business trust, estate, trust, partnership, and association;

(ii) An unborn human who is viable.

(b) As used in any section contained in Title XXIX of the Revised Code that does not set forth a criminal offense, "person" includes an individual, corporation, business trust, estate, trust, partnership, and association.

(c) As used in division (B)(1)(a) of this section:

(i) "Unborn human" means an individual organism of the species Homo sapiens from fertilization until live birth.

(ii) "Viable" means the stage of development of a human fetus at which there is a realistic possibility of maintaining and nourishing of a life outside the womb with or without temporary artificial life-sustaining support.

(2) Notwithstanding division (B)(1)(a) of this section, in no case shall the portion of the definition of the term "person" that is set forth in division (B)(1)(a)(ii) of this section be applied or construed in any section contained in Title XXIX of the Revised Code that sets forth a criminal offense in any of the following manners:

(a) Except as otherwise provided in division (B)(2)(a) of this section, in a manner so that the offense prohibits or is construed as prohibiting any pregnant woman or her physician from performing an abortion with the consent of the pregnant woman, with the consent of the pregnant woman implied by law in a medical emergency, or with the approval of one otherwise authorized by law to consent to medical treatment on behalf of the pregnant woman. An abortion that violates the conditions described in the immediately preceding sentence may be punished as a violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.05, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 2903.14, 2903.21, or 2903.22 of the Revised Code, as applicable. An abortion that does not violate the conditions described in the second immediately preceding sentence, but that does violate section 2919.12, division (B) of section 2919.13, or section 2919.15, 2919.151, 2919.17, or 2919.18 of the Revised Code, may be punished as a violation of section 2919.12, division (B) of section 2919.13, or section 2919.15, 2919.151, 2919.17, or 2919.18 of the Revised Code, as applicable. Consent is sufficient under this division if it is of the type otherwise adequate to permit medical treatment to the pregnant woman, even if it does not comply with section 2919.12 of the Revised Code.

(b) In a manner so that the offense is applied or is construed as applying to a woman based on an act or omission of the woman that occurs while she is or was pregnant and that results in any of the following:

(i) Her delivery of a stillborn baby;

(ii) Her causing, in any other manner, the death in utero of a viable, unborn human that she is carrying;

(iii) Her causing the death of her child who is born alive but who dies from one or more injuries that are sustained while the child is a viable, unborn human;

(iv) Her causing her child who is born alive to sustain one or more injuries while the child is a viable, unborn human;

(v) Her causing, threatening to cause, or attempting to cause, in any other manner, an injury, illness, or other physiological impairment, regardless of its duration or gravity, or a mental illness or condition, regardless of its duration or gravity, to a viable, unborn human that she is carrying.

(C) As used in Title XXIX of the Revised Code:

(1) "School safety zone" consists of a school, school building, school premises, school activity, and school bus.

(2) "School," "school building," and "school premises" have the same meanings as in section 2925.01 of the Revised Code.

(3) "School activity" means any activity held under the auspices of a board of education of a city, local, exempted village, joint vocational, or cooperative education school district; a governing authority of a community school established under Chapter 3314. of the Revised Code; a governing board of an educational service center, or the governing body of a school for which the state board of education prescribes minimum standards under section 3301.07 of the Revised Code.

(4) "School bus" has the same meaning as in section 4511.01 of the Revised Code.

Amended by 132nd General Assembly File No. TBD, SB 145, §1, eff. 3/22/2019.

Amended by 131st General Assembly File No. TBD, SB 227, §1, eff. 4/6/2017.

Amended by 129th General AssemblyFile No.127, HB 487, §101.01, eff. 9/10/2012.

Amended by 129th General AssemblyFile No.28, HB 153, §101.01, eff. 9/29/2011.

Amended by 128th General AssemblyFile No.58, SB 235, §1, eff. 3/24/2011.

Effective Date: 04-08-2003; 07-01-2007

2919.25 Domestic violence.
(A) No person shall knowingly cause or attempt to cause physical harm to a family or household member.

(B) No person shall recklessly cause serious physical harm to a family or household member.

(C) No person, by threat of force, shall knowingly cause a family or household member to believe that the offender will cause imminent physical harm to the family or household member.

(D)

(1) Whoever violates this section is guilty of domestic violence, and the court shall sentence the offender as provided in divisions (D)(2) to (6) of this section.

(2) Except as otherwise provided in divisions (D)(3) to (5) of this section, a violation of division (C) of this section is a misdemeanor of the fourth degree, and a violation of division (A) or (B) of this section is a misdemeanor of the first degree.

(3) Except as otherwise provided in division (D)(4) of this section, if the offender previously has pleaded guilty to or been convicted of domestic violence, a violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially similar to domestic violence, a violation of section 2903.14, 2909.06, 2909.07, 2911.12, 2911.211, or 2919.22 of the Revised Code if the victim of the violation was a family or household member at the time of the violation, a violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially similar to any of those sections if the victim of the violation was a family or household member at the time of the commission of the violation, or any offense of violence if the victim of the offense was a family or household member at the time of the commission of the offense, a violation of division (A) or (B) of this section is a felony of the fourth degree, and, if the offender knew that the victim of the violation was pregnant at the time of the violation, the court shall impose a mandatory prison term on the offender pursuant to division (D)(6) of this section, and a violation of division (C) of this section is a misdemeanor of the second degree.

(4) If the offender previously has pleaded guilty to or been convicted of two or more offenses of domestic violence or two or more violations or offenses of the type described in division (D)(3) of this section involving a person who was a family or household member at the time of the violations or offenses, a violation of division (A) or (B) of this section is a felony of the third degree, and, if the offender knew that the victim of the violation was pregnant at the time of the violation, the court shall impose a mandatory prison term on the offender pursuant to division (D)(6) of this section, and a violation of division (C) of this section is a misdemeanor of the first degree.

(5) Except as otherwise provided in division (D)(3) or (4) of this section, if the offender knew that the victim of the violation was pregnant at the time of the violation, a violation of division (A) or (B) of this section is a felony of the fifth degree, and the court shall impose a mandatory

prison term on the offender pursuant to division (D)(6) of this section, and a violation of division (C) of this section is a misdemeanor of the third degree.

(6) If division (D)(3), (4), or (5) of this section requires the court that sentences an offender for a violation of division (A) or (B) of this section to impose a mandatory prison term on the offender pursuant to this division, the court shall impose the mandatory prison term as follows:

(a) If the violation of division (A) or (B) of this section is a felony of the fourth or fifth degree, except as otherwise provided in division (D)(6)(b) or (c) of this section, the court shall impose a mandatory prison term on the offender of at least six months.

(b) If the violation of division (A) or (B) of this section is a felony of the fifth degree and the offender, in committing the violation, caused serious physical harm to the pregnant woman's unborn or caused the termination of the pregnant woman's pregnancy, the court shall impose a mandatory prison term on the offender of twelve months.

(c) If the violation of division (A) or (B) of this section is a felony of the fourth degree and the offender, in committing the violation, caused serious physical harm to the pregnant woman's unborn or caused the termination of the pregnant woman's pregnancy, the court shall impose a mandatory prison term on the offender of at least twelve months.

(d) If the violation of division (A) or (B) of this section is a felony of the third degree, except as otherwise provided in division (D)(6)(e) of this section and notwithstanding the range of definite prison terms prescribed in division (A)(3) of section 2929.14 of the Revised Code for a felony of the third degree, the court shall impose a mandatory prison term on the offender of either a definite term of six months or one of the prison terms prescribed in division (A)(3)(b) of section 2929.14 of the Revised Code for felonies of the third degree.

(e) If the violation of division (A) or (B) of this section is a felony of the third degree and the offender, in committing the violation, caused serious physical harm to the pregnant woman's unborn or caused the termination of the pregnant woman's pregnancy, notwithstanding the range of definite prison terms prescribed in division (A)(3) of section 2929.14 of the Revised Code for a felony of the third degree, the court shall impose a mandatory prison term on the offender of either a definite term of one year or one of the prison terms prescribed in division (A)(3)(b) of section 2929.14 of the Revised Code for felonies of the third degree.

(E) Notwithstanding any provision of law to the contrary, no court or unit of state or local government shall charge any fee, cost, deposit, or money in connection with the filing of charges against a person alleging that the person violated this section or a municipal ordinance substantially similar to this section or in connection with the prosecution of any charges so filed.

(F) As used in this section and sections 2919.251 and 2919.26 of the Revised Code:

(1) "Family or household member" means any of the following:

(a) Any of the following who is residing or has resided with the offender:

(i) A spouse, a person living as a spouse, or a former spouse of the offender;

(ii) A parent, a foster parent, or a child of the offender, or another person related by consanguinity or affinity to the offender;

(iii) A parent or a child of a spouse, person living as a spouse, or former spouse of the offender, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the offender.

(b) The natural parent of any child of whom the offender is the other natural parent or is the putative other natural parent.

(2) "Person living as a spouse" means a person who is living or has lived with the offender in a common law marital relationship, who otherwise is cohabiting with the offender, or who otherwise has cohabited with the offender within five years prior to the date of the alleged commission of the act in question.

(3) "Pregnant woman's unborn" has the same meaning as "such other person's unborn," as set forth in section 2903.09 of the Revised Code, as it relates to the pregnant woman. Division (C) of that section applies regarding the use of the term in this section, except that the second and third sentences of division (C)(1) of that section shall be construed for purposes of this section as if they included a reference to this section in the listing of Revised Code sections they contain.

(4) "Termination of the pregnant woman's pregnancy" has the same meaning as "unlawful termination of another's pregnancy," as set forth in section 2903.09 of the Revised Code, as it relates to the pregnant woman. Division (C) of that section applies regarding the use of the term in this section, except that the second and third sentences of division (C)(1) of that section shall be construed for purposes of this section as if they included a reference to this section in the listing of Revised Code sections they contain.

Amended by 132nd General Assembly File No. TBD, SB 201, §1, eff. 3/22/2019.

Amended by 128th General AssemblyFile No.50, SB 58, §1, eff. 9/17/2010.

Amended by 128th General AssemblyFile No.21, HB 10, §1, eff. 6/17/2010.

Effective Date: 11-09-2003; 2008 HB280 04-07-2009

Related Legislative Provision: See 128th General AssemblyFile No.21, HB 10, §3 .

2919.27 Violating protection order.
(A) No person shall recklessly violate the terms of any of the following:

(1) A protection order issued or consent agreement approved pursuant to section 2919.26 or 3113.31 of the Revised Code;

(2) A protection order issued pursuant to section 2151.34, 2903.213, or 2903.214 of the Revised Code;

(3) A protection order issued by a court of another state.

(B)

(1) Whoever violates this section is guilty of violating a protection order.

(2) Except as otherwise provided in division (B)(3) or (4) of this section, violating a protection order is a misdemeanor of the first degree.

(3) Violating a protection order is a felony of the fifth degree if the offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for any of the following:

(a) A violation of a protection order issued or consent agreement approved pursuant to section 2151.34, 2903.213, 2903.214, 2919.26, or 3113.31 of the Revised Code;

(b) Two or more violations of section 2903.21, 2903.211, 2903.22, or 2911.211 of the Revised Code , or any combination of those offenses, that involved the same person who is the subject of the protection order or consent agreement;

(c) One or more violations of this section .

(4) If the offender violates a protection order or consent agreement while committing a felony offense, violating a protection order is a felony of the third degree.

(5) If the protection order violated by the offender was an order issued pursuant to section 2151.34 or 2903.214 of the Revised Code that required electronic monitoring of the offender pursuant to that section, the court may require in addition to any other sentence imposed upon the offender that the offender be electronically monitored for a period not exceeding five years by a law enforcement agency designated by the court. If the court requires under this division that the offender be electronically monitored, unless the court determines that the offender is indigent, the court shall order that the offender pay the costs of the installation of the electronic monitoring device and the cost of monitoring the electronic monitoring device. If the court determines that the offender is indigent and subject to the maximum amount allowable and the rules promulgated by the attorney general under section 2903.214 of the Revised Code, the costs of the installation of the electronic monitoring device and the cost of monitoring the electronic monitoring device may be paid out of funds from the reparations fund created pursuant to section 2743.191 of the Revised Code. The total amount paid from the reparations fund created pursuant

to section 2743.191 of the Revised Code for electronic monitoring under this section and sections 2151.34 and 2903.214 of the Revised Code shall not exceed three hundred thousand dollars per year.

(C) It is an affirmative defense to a charge under division (A)(3) of this section that the protection order issued by a court of another state does not comply with the requirements specified in 18 U.S.C. 2265 (b) for a protection order that must be accorded full faith and credit by a court of this state or that it is not entitled to full faith and credit under 18 U.S.C. 2265 (c).

(D) In a prosecution for a violation of this section, it is not necessary for the prosecution to prove that the protection order or consent agreement was served on the defendant if the prosecution proves that the defendant was shown the protection order or consent agreement or a copy of either or a judge, magistrate, or law enforcement officer informed the defendant that a protection order or consent agreement had been issued, and proves that the defendant recklessly violated the terms of the order or agreement.

(E) As used in this section, "protection order issued by a court of another state" means an injunction or another order issued by a criminal court of another state for the purpose of preventing violent or threatening acts or harassment against, contact or communication with, or physical proximity to another person, including a temporary order, and means an injunction or order of that nature issued by a civil court of another state, including a temporary order and a final order issued in an independent action or as a pendente lite order in a proceeding for other relief, if the court issued it in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection. "Protection order issued by a court of another state" does not include an order for support or for custody of a child issued pursuant to the divorce and child custody laws of another state, except to the extent that the order for support or for custody of a child is entitled to full faith and credit under the laws of the United States.

Amended by 132nd General Assembly File No. TBD, SB 7, §1, eff. 9/27/2017.

Amended by 128th General AssemblyFile No.21, HB 10, §1, eff. 6/17/2010.

Effective Date: 11-09-2003; 2008 HB471 04-07-2009

Related Legislative Provision: See 128th General AssemblyFile No.21, HB 10, §3 .

2923.13 Having weapons while under disability.
(A) Unless relieved from disability under operation of law or legal process, no person shall knowingly acquire, have, carry, or use any firearm or dangerous ordnance, if any of the following apply:

(1) The person is a fugitive from justice.

(2) The person is under indictment for or has been convicted of any felony offense of violence or has been adjudicated a delinquent child for the commission of an offense that, if committed by an adult, would have been a felony offense of violence.

(3) The person is under indictment for or has been convicted of any felony offense involving the illegal possession, use, sale, administration, distribution, or trafficking in any drug of abuse or has been adjudicated a delinquent child for the commission of an offense that, if committed by an adult, would have been a felony offense involving the illegal possession, use, sale, administration, distribution, or trafficking in any drug of abuse.

(4) The person is drug dependent, in danger of drug dependence, or a chronic alcoholic.

(5) The person is under adjudication of mental incompetence, has been adjudicated as a mental defective, has been committed to a mental institution, has been found by a court to be a mentally ill person subject to court order, or is an involuntary patient other than one who is a patient only for purposes of observation. As used in this division, "mentally ill person subject to court order" and "patient" have the same meanings as in section 5122.01 of the Revised Code.

(B) Whoever violates this section is guilty of having weapons while under disability, a felony of the third degree.

(C) For the purposes of this section, "under operation of law or legal process" shall not itself include mere completion, termination, or expiration of a sentence imposed as a result of a criminal conviction.

Amended by 130th General Assembly File No. TBD, HB 234, §1, eff. 3/23/2015.

Amended by 130th General Assembly File No. TBD, SB 43, §1, eff. 9/17/2014.

Amended by 129th General AssemblyFile No.30, HB 54, §1, eff. 9/30/2011.

Effective Date: 04-08-2004 .

2923.14 Relief from weapons disability.
(A)

(1) Except as otherwise provided in division (A)(2) of this section, any person who is prohibited from acquiring, having, carrying, or using firearms may apply to the court of common pleas in the county in which the person resides for relief from such prohibition.

(2) Division (A)(1) of this section does not apply to a person who has been convicted of or pleaded guilty to a violation of section 2923.132 of the Revised Code or to a person who, two or more times, has been convicted of or pleaded guilty to a felony and a specification of the type described in section 2941.141, 2941.144, 2941.145, 2941.146, 2941.1412, or 2941.1424 of the Revised Code.

(B) The application shall recite the following:

(1) All indictments, convictions, or adjudications upon which the applicant's disability is based, the sentence imposed and served, and any release granted under a community control sanction, post-release control sanction, or parole, any partial or conditional pardon granted, or other disposition of each case, or, if the disability is based upon a factor other than an indictment, a conviction, or an adjudication, the factor upon which the disability is based and all details related to that factor;

(2) Facts showing the applicant to be a fit subject for relief under this section.

(C) A copy of the application shall be served on the county prosecutor. The county prosecutor shall cause the matter to be investigated and shall raise before the court any objections to granting relief that the investigation reveals.

(D) Upon hearing, the court may grant the applicant relief pursuant to this section, if all of the following apply:

(1) One of the following applies:

(a) If the disability is based upon an indictment, a conviction, or an adjudication, the applicant has been fully discharged from imprisonment, community control, post-release control, and parole, or, if the applicant is under indictment, has been released on bail or recognizance.

(b) If the disability is based upon a factor other than an indictment, a conviction, or an adjudication, that factor no longer is applicable to the applicant.

(2) The applicant has led a law-abiding life since discharge or release, and appears likely to continue to do so.

(3) The applicant is not otherwise prohibited by law from acquiring, having, or using firearms.

(E) Costs of the proceeding shall be charged as in other civil cases, and taxed to the applicant.

(F) Relief from disability granted pursuant to this section restores the applicant to all civil firearm rights to the full extent enjoyed by any citizen, and is subject to the following conditions:

(1) Applies only with respect to indictments, convictions, or adjudications, or to the other factor, recited in the application as the basis for the applicant's disability;

(2) Applies only with respect to firearms lawfully acquired, possessed, carried, or used by the applicant;

(3) May be revoked by the court at any time for good cause shown and upon notice to the applicant;

(4) Is automatically void upon commission by the applicant of any offense set forth in division (A)(2) or (3) of section 2923.13 of the Revised Code, or upon the applicant's becoming one of the class of persons named in division (A)(1), (4), or (5) of that section.

(G) As used in this section:

(1) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

(2) "Post-release control" and "post-release control sanction" have the same meanings as in section 2967.01 of the Revised Code.

Amended by 131st General Assembly File No. TBD, SB 97, §1, eff. 9/14/2016.

Amended by 129th General AssemblyFile No.30, HB 54, §1, eff. 9/30/2011.

Effective Date: 01-01-2004 .

Related Legislative Provision: See 129th General AssemblyFile No.30, HB 54, §3 .

2943.033 Court to advise defendant of possible firearm restrictions.
(A) As used in this section, "person living as a spouse" means a person who is living or has lived with the defendant in a common law marital relationship, who otherwise is cohabiting with the defendant, or who otherwise has cohabited with the defendant within five years prior to the date of the alleged commission of the act in question.

(B) The notice required under division (C) of this section shall be provided to a defendant when the alleged victim is any of the following:

(1) A spouse, person living as a spouse, or former spouse of the defendant;

(2) A parent or child of the defendant;

(3) A parent or child of a spouse, person living as a spouse, or former spouse of the defendant;

(4) The natural parent of any child of whom the defendant is the other natural or putative natural parent.

(C) Prior to accepting a guilty plea or plea of no contest to an indictment, information, or complaint that charges a person with a misdemeanor offense of violence, the court shall inform the defendant either personally or in writing that under 18 U.S.C. 922(g)(9) it may be unlawful for the person to ship, transport, purchase, or possess a firearm or ammunition as a result of any conviction for a misdemeanor offense of violence. The plea may not be vacated based on a failure to inform the person so charged regarding the restrictions under 18 U.S.C. 922(g)(9).

Effective Date: 2008 HB562 06-24-2008.

2953.36 Sealing of record of conviction exceptions.
(A) Except as otherwise provided in division (B) of this section, sections 2953.31 to 2953.35 of the Revised Code do not apply to any of the following:

(1) Convictions when the offender is subject to a mandatory prison term;

(2) Convictions under section 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.321, 2907.322, or 2907.323, former section 2907.12, or Chapter 4507., 4510., 4511., or 4549. of the Revised Code, or a conviction for a violation of a municipal ordinance that is substantially similar to any section contained in any of those chapters, except as otherwise provided in section 2953.61 of the Revised Code;

(3) Convictions of an offense of violence when the offense is a misdemeanor of the first degree or a felony and when the offense is not a violation of section 2917.03 of the Revised Code and is not a violation of section 2903.13, 2917.01, or 2917.31 of the Revised Code that is a misdemeanor of the first degree;

(4) Convictions on or after October 10, 2007, under section 2907.07 of the Revised Code or a conviction on or after October 10, 2007, for a violation of a municipal ordinance that is substantially similar to that section;

(5) Convictions on or after October 10, 2007, under section 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.31, 2907.311, 2907.32, or 2907.33 of the Revised Code when the victim of the offense was under eighteen years of age;

(6) Convictions of an offense in circumstances in which the victim of the offense was less than sixteen years of age when the offense is a misdemeanor of the first degree or a felony, except for convictions under section 2919.21 of the Revised Code;

(7) Convictions of a felony of the first or second degree;

(8) Bail forfeitures in a traffic case as defined in Traffic Rule 2.

(B) Sections 2953.31 to 2953.35 of the Revised Code apply to a conviction listed in this section if, on the date of the conviction, those sections did not apply to the conviction, but after the date of the conviction, the penalty for or classification of the offense was changed so that those sections apply to the conviction.

Amended by 131st General Assembly File No. TBD, HB 164, §1, eff. 9/14/2016.

Amended by 131st General Assembly File No. TBD, HB 56, §1, eff. 3/23/2016.

Amended by 131st General Assembly File No. TBD, HB 53, §101.01, eff. 7/1/2015.

Amended by 130th General Assembly File No. TBD, SB 143, §1, eff. 9/19/2014.

Amended by 129th General AssemblyFile No.131, SB 337, §1, eff. 9/28/2012.

Effective Date: 01-01-2004; 2007 SB18 10-10-2007

2967.12 Notice of pendency of pardon, commutation, or parole sent to prosecutor and court.

(A) Except as provided in division (G) of this section, at least sixty days before the adult parole authority recommends any pardon or commutation of sentence, or grants any parole, the authority shall provide a notice of the pendency of the pardon, commutation, or parole, setting forth the name of the person on whose behalf it is made, the offense of which the person was convicted or to which the person pleaded guilty, the time of conviction or the guilty plea, and the term of the person's sentence, to the prosecuting attorney and the judge of the court of common pleas of the county in which the indictment against the person was found. If there is more than one judge of that court of common pleas, the authority shall provide the notice to the presiding judge. Upon the request of the prosecuting attorney or of any law enforcement agency, the authority shall provide to the requesting prosecuting attorney and law enforcement agencies an institutional summary report that covers the subject person's participation while confined in a state correctional institution in training, work, and other rehabilitative activities and any disciplinary action taken against the person while so confined. The department of rehabilitation and correction may utilize electronic means to provide this notice. The department of rehabilitation and correction, at the same time that it provides the notice to the prosecuting attorney and judge under this division, also shall post on the database it maintains pursuant to section 5120.66 of the Revised Code the offender's name and all of the information specified in division (A)(1)(c)(iii) of that section.

(B) If a request for notification has been made pursuant to section 2930.16 of the Revised Code or if division (H) of this section applies, the office of victim services or the adult parole authority also shall provide notice to the victim or the victim's representative at least sixty days prior to recommending any pardon or commutation of sentence for, or granting any parole to, the person. The notice shall include the information required by division (A) of this section and may be provided by telephone or through electronic means. The notice also shall inform the victim or the victim's representative that the victim or representative may send a written statement relative to the victimization and the pending action to the adult parole authority and that, if the authority receives any written statement prior to recommending a pardon or commutation or granting a parole for a person, the authority will consider the statement before it recommends a pardon or commutation or grants a parole. If the person is being considered for parole, the notice shall inform the victim or the victim's representative that a full board hearing of the parole board may be held and that the victim or victim's representative may contact the office of victims' services for further information. If the person being considered for parole was convicted of or pleaded guilty to a violation of section 2903.01 or 2903.02 of the Revised Code, an offense of violence that is a felony of the first, second, or third degree, or an offense punished by a sentence of life imprisonment, the notice shall inform the victim of that offense, the victim's representative, or a member of the victim's immediate family that the victim, the victim's representative, and the victim's immediate family have the right to give testimony at a full board hearing of the parole board and that the victim or victim's representative may contact the office of victims' services for further information.

(C) When notice of the pendency of any pardon, commutation of sentence, or parole has been provided to a judge or prosecutor or posted on the database as required in division (A) of this section and a hearing on the pardon, commutation, or parole is continued to a date certain, the

authority shall provide notice of the further consideration of the pardon, commutation, or parole at least sixty days before the further consideration. The notice of the further consideration shall be provided to the proper judge and prosecuting attorney at least sixty days before the further consideration, and may be provided using electronic means, and, if the initial notice was posted on the database as provided in division (A) of this section, the notice of the further consideration shall be posted on the database at least sixty days before the further consideration. If the prosecuting attorney or a law enforcement agency was provided a copy of the institutional summary report relative to the subject person under division (A) of this section, the authority shall include with the notice of the further consideration sent to the prosecuting attorney any new information with respect to the person that relates to activities and actions of the person that are of a type covered by the report and shall send to the law enforcement agency a report that provides notice of the further consideration and includes any such new information with respect to the person. When notice of the pendency of any pardon, commutation, or parole has been given as provided in division (B) of this section and the hearing on it is continued to a date certain, the authority shall give notice of the further consideration to the victim or the victim's representative in accordance with section 2930.03 of the Revised Code.

(D) In case of an application for the pardon or commutation of sentence of a person sentenced to capital punishment, the governor may modify the requirements of notification and publication if there is not sufficient time for compliance with the requirements before the date fixed for the execution of sentence.

(E) If an offender is serving a prison term imposed under division (A)(3), (B)(1)(a), (b), or (c), (B)(2)(a), (b), or (c), or (B)(3)(a), (b), (c), or (d) of section 2971.03 of the Revised Code and if the parole board terminates its control over the offender's service of that term pursuant to section 2971.04 of the Revised Code, the parole board immediately shall provide written notice of its termination of control or the transfer of control to the entities and persons specified in section 2971.04 of the Revised Code.

(F) The failure of the adult parole authority to comply with the notice or posting provisions of division (A), (B), or (C) of this section or the failure of the parole board to comply with the notice provisions of division (E) of this section do not give any rights or any grounds for appeal or post-conviction relief to the person serving the sentence.

(G) Divisions (A), (B), and (C) of this section do not apply to any release of a person that is of the type described in division (B)(2)(b) of section 5120.031 of the Revised Code.

(H) If a defendant is incarcerated for the commission of aggravated murder, murder, or an offense of violence that is a felony of the first, second, or third degree or is under a sentence of life imprisonment, except as otherwise provided in this division, the notice described in division (B) of this section shall be given to the victim or victim's representative regardless of whether the victim or victim's representative has made a request for notification. The notice described in division (B) of this section shall not be given under this division to a victim or victim's representative if the victim or victim's representative has requested pursuant to division (B)(2) of section 2930.03 of the Revised Code that the victim or the victim's representative not be provided the notice. The notice described in division (B) of this section does not have to be given

under this division to a victim or victim's representative if notice was given to the victim or victim's representative with respect to at least two prior considerations of pardon, commutation, or parole of a person and the victim or victim's representative did not provide any written statement relative to the victimization and the pending action, did not attend any hearing conducted relative to the pending action, and did not otherwise respond to the office with respect to the pending action. Regardless of whether the victim or victim's representative has requested that the notice described in division (B) of this section be provided or not be provided, the office of victim services or adult parole authority shall give similar notice to the law enforcement agency that arrested the defendant if any officer of that agency was a victim of the offense and to any member of the victim's immediate family who requests notification. If notice is to be given under this division, the office or authority may give the notice by any reasonable means, including regular mail, telephone, and electronic mail, in accordance with division (D)(1) of section 2930.16 of the Revised Code. If the notice is based on an offense committed prior to the effective date of this amendment, the notice to the victim or victim's representative also shall include the opt-out information described in division (D)(1) of section 2930.16 of the Revised Code. The office or authority, in accordance with division (D)(2) of section 2930.16 of the Revised Code, shall keep a record of all attempts to provide the notice, and of all notices provided, under this division.

Division (H) of this section, and the notice-related provisions of divisions (E)(2) and (K) of section 2929.20, division (D)(1) of section 2930.16, division (E)(1)(b) of section 2967.19, division (A)(3)(b) of section 2967.26, division (D)(1) of section 2967.28, and division (A)(2) of section 5149.101 of the Revised Code enacted in the act in which division (H) of this section was enacted, shall be known as "Roberta's Law."

(I) In addition to and independent of the right of a victim to make a statement as described in division (A) of this section or pursuant to section 2930.17 of the Revised Code or to otherwise make a statement, the authority for a judge or prosecuting attorney to furnish statements and information, make recommendations, and give testimony as described in division (A) of this section, the right of a prosecuting attorney, judge, or victim to give testimony or submit a statement at a full parole board hearing pursuant to section 5149.101 of the Revised Code, and any other right or duty of a person to present information or make a statement, any person may send to the adult parole authority at any time prior to the authority's recommending a pardon or commutation or granting a parole for the offender a written statement relative to the offense and the pending action.

(J) As used in this section, "victim's immediate family" means the mother, father, spouse, sibling, or child of the victim, provided that in no case does "victim's immediate family" include the offender with respect to whom the notice in question applies.

Amended by 129th General AssemblyFile No.178, SB 160, §1, eff. 3/22/2013.

Effective Date: 01-01-1997; 04-29-2005; 11-23-2005; 01-02-2007; 2007 SB10 01-01-2008; 2008 HB130 04-07-2009

4510.54 Motion for modification or termination of suspension.
(A) Except as provided in division (F) of this section, a person whose driver's or commercial driver's license has been suspended for life under a class one suspension or as otherwise provided by law or has been suspended for a period in excess of fifteen years under a class two suspension may file a motion with the sentencing court for modification or termination of the suspension. The person filing the motion shall demonstrate all of the following:

(1)

(a) If the person's license was suspended as a result of the person pleading guilty to or being convicted of a felony, at least fifteen years have elapsed since the suspension began or, if the person's license was suspended under division (B)(2)(d) of section 2903.06 of the Revised Code, at least fifteen years have elapsed since the person was released from prison, and, for the past fifteen years, the person has not been found guilty of any of the following:

(i) A felony;

(ii) An offense involving a moving violation under federal law, the law of this state, or the law of any of its political subdivisions;

(iii) A violation of a suspension under this chapter or a substantially equivalent municipal ordinance.

(b) If the person's license was suspended as a result of the person pleading guilty to or being convicted of a misdemeanor, at least five years have elapsed since the suspension began, and, for the past five years, the person has not been found guilty of any of the following:

(i) An offense involving a moving violation under the law of this state, the law of any of its political subdivisions, or federal law;

(ii) A violation of section 2903.06 or 2903.08 of the Revised Code;

(iii) A violation of a suspension under this chapter or a substantially equivalent municipal ordinance.

(2) The person has proof of financial responsibility, a policy of liability insurance in effect that meets the minimum standard set forth in section 4509.51 of the Revised Code, or proof, to the satisfaction of the registrar of motor vehicles, that the person is able to respond in damages in an amount at least equal to the minimum amounts specified in that section.

(3) If the suspension was imposed because the person was under the influence of alcohol, a drug of abuse, or combination of them at the time of the offense or because at the time of the offense the person's whole blood, blood serum or plasma, breath, or urine contained at least the concentration of alcohol specified in division (A)(1)(b), (c), (d), or (e) of section 4511.19 of the Revised Code or at least the concentration of a listed controlled substance or a listed metabolite

of a controlled substance specified in division (A)(1)(j) of section 4511.19 of the Revised Code, all of the following apply to the person:

(a) The person successfully completed an alcohol, drug, or alcohol and drug treatment program.

(b) The person has not abused alcohol or other drugs for a period satisfactory to the court.

(c) For the past fifteen years, the person has not been found guilty of any alcohol-related or drug-related offense.

(B) Upon receipt of a motion for modification or termination of the suspension under this section, the court may schedule a hearing on the motion. The court may deny the motion without a hearing but shall not grant the motion without a hearing. If the court denies a motion without a hearing, the court may consider a subsequent motion filed under this section by that person. If a court denies the motion after a hearing, the court shall not consider a subsequent motion for that person. The court shall hear only one motion filed by a person under this section. If scheduled, the hearing shall be conducted in open court within ninety days after the date on which the motion is filed.

(C) The court shall notify the person whose license was suspended and the prosecuting attorney of the date, time, and location of the hearing. Upon receipt of the notice from the court, the prosecuting attorney shall notify the victim or the victim's representative of the date, time, and location of the hearing.

(D) At any hearing under this section, the person who seeks modification or termination of the suspension has the burden to demonstrate, under oath, that the person meets the requirements of division (A) of this section. At the hearing, the court shall afford the offender or the offender's counsel an opportunity to present oral or written information relevant to the motion. The court shall afford a similar opportunity to provide relevant information to the prosecuting attorney and the victim or victim's representative.

Before ruling on the motion, the court shall take into account the person's driving record, the nature of the offense that led to the suspension, and the impact of the offense on any victim. In addition, if the offender is eligible for modification or termination of the suspension under division (A)(1)(a) of this section, the court shall consider whether the person committed any other offense while under suspension and determine whether the offense is relevant to a determination under this section. The court may modify or terminate the suspension subject to any considerations it considers proper if it finds that allowing the person to drive is not likely to present a danger to the public. After the court makes a ruling on a motion filed under this section, the prosecuting attorney shall notify the victim or the victim's representative of the court's ruling.

(E) If a court modifies a person's license suspension under this section and the person subsequently is found guilty of any moving violation or of any substantially equivalent municipal ordinance that carries as a possible penalty the suspension of a person's driver's or commercial driver's license, the court may reimpose the class one or other lifetime suspension, or the class two suspension, whichever is applicable.

(F) This section does not apply to any person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended for life under a class one suspension imposed under division (B)(3) of section 2903.06 or section 2903.08 of the Revised Code or a class two suspension imposed under division (C) of section 2903.06 or section 2903.11, 2923.02, or 2929.02 of the Revised Code.

(G) As used in this section, "released from prison" means a person's physical release from a jail or prison as defined in section 2929.01 of the Revised Code.

Amended by 131st General Assembly File No. TBD, HB 300, §1, eff. 3/14/2017.

Amended by 129th General AssemblyFile No.131, SB 337, §1, eff. 9/28/2012.

Effective Date: 01-01-2004; 06-01-2004; 09-23-2004; 08-17-2006; 04-04-2007.

18 U.S.C. 921

(a) As used in this chapter—
(1) The term "person" and the term "whoever" include any individual, corporation, company, association, firm, partnership, society, or joint stock company.
(2) The term "interstate or foreign commerce" includes commerce between any place in a State and any place outside of that State, or within any possession of the United States (not including the Canal Zone) or the District of Columbia, but such term does not include commerce between places within the same State but through any place outside of that State. The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (not including the Canal Zone).
(3) The term "firearm" means (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm.
(4) The term "destructive device" means—
(A) any explosive, incendiary, or poison gas—
(i) bomb,
(ii) grenade,
(iii) rocket having a propellant charge of more than four ounces,
(iv) missile having an explosive or incendiary charge of more than one-quarter ounce,
(v) mine, or
(vi) device similar to any of the devices described in the preceding clauses;
(B) any type of weapon (other than a shotgun or a shotgun shell which the Attorney General finds is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and
(C) any combination of parts either designed or intended for use in converting any device into any destructive device described in subparagraph (A) or (B) and from which a destructive device may be readily assembled.
The term "destructive device" shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 7684(2), 7685, or 7686 of title 10; or any other device which the Attorney General finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting, recreational or cultural purposes.
(5) The term "shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an explosive to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.
(6) The term "short-barreled shotgun" means a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun (whether by alteration, modification or otherwise) if such a weapon as modified has an overall length of less than twenty-six inches.

(7) The term “rifle” means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an explosive to fire only a single projectile through a rifled bore for each single pull of the trigger.
(8) The term “short-barreled rifle” means a rifle having one or more barrels less than sixteen inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon, as modified, has an overall length of less than twenty-six inches.
(9) The term “importer” means any person engaged in the business of importing or bringing firearms or ammunition into the United States for purposes of sale or distribution; and the term “licensed importer” means any such person licensed under the provisions of this chapter.
(10) The term “manufacturer” means any person engaged in the business of manufacturing firearms or ammunition for purposes of sale or distribution; and the term “licensed manufacturer” means any such person licensed under the provisions of this chapter.
(11) The term “dealer” means (A) any person engaged in the business of selling firearms at wholesale or retail, (B) any person engaged in the business of repairing firearms or of making or fitting special barrels, stocks, or trigger mechanisms to firearms, or (C) any person who is a pawnbroker. The term “licensed dealer” means any dealer who is licensed under the provisions of this chapter.
(12) The term “pawnbroker” means any person whose business or occupation includes the taking or receiving, by way of pledge or pawn, of any firearm as security for the payment or repayment of money.
(13) The term “collector” means any person who acquires, holds, or disposes of firearms as curios or relics, as the Attorney General shall by regulation define, and the term “licensed collector” means any such person licensed under the provisions of this chapter.
(14) The term “indictment” includes an indictment or information in any court under which a crime punishable by imprisonment for a term exceeding one year may be prosecuted.
(15) The term “fugitive from justice” means any person who has fled from any State to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding.
(16) The term “antique firearm” means—
(A) any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; or
(B) any replica of any firearm described in subparagraph (A) if such replica—
(i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or
(ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; or
(C) any muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol, which is designed to use black powder, or a black powder substitute, and which cannot use fixed ammunition. For purposes of this subparagraph, the term “antique firearm” shall not include any weapon which incorporates a firearm frame or receiver, any firearm which is converted into a muzzle loading weapon, or any muzzle loading weapon which can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.
(17)
(A) The term “ammunition” means ammunition or cartridge cases, primers, bullets, or propellent powder designed for use in any firearm.
(B) The term “armor piercing ammunition” means—

(i) a projectile or projectile core which may be used in a handgun and which is constructed entirely (excluding the presence of traces of other substances) from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium; or
(ii) a full jacketed projectile larger than .22 caliber designed and intended for use in a handgun and whose jacket has a weight of more than 25 percent of the total weight of the projectile.
(C) The term "armor piercing ammunition" does not include shotgun shot required by Federal or State environmental or game regulations for hunting purposes, a frangible projectile designed for target shooting, a projectile which the Attorney General finds is primarily intended to be used for sporting purposes, or any other projectile or projectile core which the Attorney General finds is intended to be used for industrial purposes, including a charge used in an oil and gas well perforating device.
(18) The term "Attorney General" means the Attorney General of the United States [1]
(19) The term "published ordinance" means a published law of any political subdivision of a State which the Attorney General determines to be relevant to the enforcement of this chapter and which is contained on a list compiled by the Attorney General, which list shall be published in the Federal Register, revised annually, and furnished to each licensee under this chapter.
(20) The term "crime punishable by imprisonment for a term exceeding one year" does not include—
(A) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices, or
(B) any State offense classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.
What constitutes a conviction of such a crime shall be determined in accordance with the law of the jurisdiction in which the proceedings were held. Any conviction which has been expunged, or set aside or for which a person has been pardoned or has had civil rights restored shall not be considered a conviction for purposes of this chapter, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.
(21) The term "engaged in the business" means—
(A) as applied to a manufacturer of firearms, a person who devotes time, attention, and labor to manufacturing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms manufactured;
(B) as applied to a manufacturer of ammunition, a person who devotes time, attention, and labor to manufacturing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition manufactured;
(C) as applied to a dealer in firearms, as defined in section 921(a)(11)(A), a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms, but such term shall not include a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms;
(D) as applied to a dealer in firearms, as defined in section 921(a)(11)(B), a person who devotes time, attention, and labor to engaging in such activity as a regular course of trade or business with the principal objective of livelihood and profit, but such term shall not include a person who makes occasional repairs of firearms, or who occasionally fits special barrels, stocks, or trigger mechanisms to firearms;

(E) as applied to an importer of firearms, a person who devotes time, attention, and labor to importing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms imported; and
(F) as applied to an importer of ammunition, a person who devotes time, attention, and labor to importing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition imported.
(22) The term "with the principal objective of livelihood and profit" means that the intent underlying the sale or disposition of firearms is predominantly one of obtaining livelihood and pecuniary gain, as opposed to other intents, such as improving or liquidating a personal firearms collection: Provided, That proof of profit shall not be required as to a person who engages in the regular and repetitive purchase and disposition of firearms for criminal purposes or terrorism. For purposes of this paragraph, the term "terrorism" means activity, directed against United States persons, which—
(A) is committed by an individual who is not a national or permanent resident alien of the United States;
(B) involves violent acts or acts dangerous to human life which would be a criminal violation if committed within the jurisdiction of the United States; and
(C) is intended—
(i) to intimidate or coerce a civilian population;
(ii) to influence the policy of a government by intimidation or coercion; or
(iii) to affect the conduct of a government by assassination or kidnapping.
(23) The term "machinegun" has the meaning given such term in section 5845(b) of the National Firearms Act (26 U.S.C. 5845(b)).
(24) The terms "firearm silencer" and "firearm muffler" mean any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication.
(25) The term "school zone" means—
(A) in, or on the grounds of, a public, parochial or private school; or
(B) within a distance of 1,000 feet from the grounds of a public, parochial or private school.
(26) The term "school" means a school which provides elementary or secondary education, as determined under State law.
(27) The term "motor vehicle" has the meaning given such term in section 13102 of title 49, United States Code.
(28) The term "semiautomatic rifle" means any repeating rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.
(29) The term "handgun" means—
(A) a firearm which has a short stock and is designed to be held and fired by the use of a single hand; and
(B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.
[(30) , (31) Repealed. Pub. L. 103–322, title XI, § 110105(2), Sept. 13, 1994, 108 Stat. 2000.]
(32) The term "intimate partner" means, with respect to a person, the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person, and an individual who cohabitates or has cohabited with the person.

(33)
(A) Except as provided in subparagraph (C),[2] the term “misdemeanor crime of domestic violence” means an offense that—
(i) is a misdemeanor under Federal, State, or Tribal [3] law; and
(ii) has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.
(B)
(i) A person shall not be considered to have been convicted of such an offense for purposes of this chapter, unless—
(I) the person was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case; and
(II) in the case of a prosecution for an offense described in this paragraph for which a person was entitled to a jury trial in the jurisdiction in which the case was tried, either
(aa) the case was tried by a jury, or
(bb) the person knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea or otherwise.
(ii) A person shall not be considered to have been convicted of such an offense for purposes of this chapter if the conviction has been expunged or set aside, or is an offense for which the person has been pardoned or has had civil rights restored (if the law of the applicable jurisdiction provides for the loss of civil rights under such an offense) unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.
(34) The term “secure gun storage or safety device” means—
(A) a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device;
(B) a device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or
(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.
(35) The term “body armor” means any product sold or offered for sale, in interstate or foreign commerce, as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment.
(b) For the purposes of this chapter, a member of the Armed Forces on active duty is a resident of the State in which his permanent duty station is located.
(Added Pub. L. 90–351, title IV, § 902, June 19, 1968, 82 Stat. 226; amended Pub. L. 90–618, title I, § 102, Oct. 22, 1968, 82 Stat. 1214; Pub. L. 93–639, § 102, Jan. 4, 1975, 88 Stat. 2217; Pub. L. 99–308, § 101, May 19, 1986, 100 Stat. 449; Pub. L. 99–360, § 1(b), July 8, 1986, 100 Stat. 766; Pub. L. 99–408, § 1, Aug. 28, 1986, 100 Stat. 920; Pub. L. 101–647, title XVII, § 1702(b)(2), title XXII, § 2204(a), Nov. 29, 1990, 104 Stat. 4845, 4857; Pub. L. 103–159, title I, § 102(a)(2), Nov. 30, 1993, 107 Stat. 1539; Pub. L. 103–322, title XI, §§ 110102(b), 110103(b), 110105(2), 110401(a), 110519, title XXXIII, § 330021(1), Sept. 13, 1994, 108 Stat. 1997, 1999,

2000, 2014, 2020, 2150; Pub. L. 104–88, title III, § 303(1), Dec. 29, 1995, 109 Stat. 943; Pub. L. 104–208, div. A, title I, § 101(f) [title VI, § 658(a)], Sept. 30, 1996, 110 Stat. 3009–314, 3009–371; Pub. L. 105–277, div. A, § 101(b) [title I, § 119(a)], (h) [title I, § 115], Oct. 21, 1998, 112 Stat. 2681–50, 2681–69, 2681–480, 2681–490; Pub. L. 107–273, div. C, title I, § 11009(e)(1), Nov. 2, 2002, 116 Stat. 1821; Pub. L. 107–296, title XI, § 1112(f)(1)–(3), (6), Nov. 25, 2002, 116 Stat. 2276; Pub. L. 109–162, title IX, § 908(a), Jan. 5, 2006, 119 Stat. 3083; Pub. L. 115–232, div. A, title VIII, § 809(e)(2), Aug. 13, 2018, 132 Stat. 1842.)

18 U.S.C. 922

(a) It shall be unlawful—
(1) for any person—
(A) except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing, manufacturing, or dealing in firearms, or in the course of such business to ship, transport, or receive any firearm in interstate or foreign commerce; or
(B) except a licensed importer or licensed manufacturer, to engage in the business of importing or manufacturing ammunition, or in the course of such business, to ship, transport, or receive any ammunition in interstate or foreign commerce;
(2) for any importer, manufacturer, dealer, or collector licensed under the provisions of this chapter to ship or transport in interstate or foreign commerce any firearm to any person other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, except that—
(A) this paragraph and subsection (b)(3) shall not be held to preclude a licensed importer, licensed manufacturer, licensed dealer, or licensed collector from returning a firearm or replacement firearm of the same kind and type to a person from whom it was received; and this paragraph shall not be held to preclude an individual from mailing a firearm owned in compliance with Federal, State, and local law to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector;
(B) this paragraph shall not be held to preclude a licensed importer, licensed manufacturer, or licensed dealer from depositing a firearm for conveyance in the mails to any officer, employee, agent, or watchman who, pursuant to the provisions of section 1715 of this title, is eligible to receive through the mails pistols, revolvers, and other firearms capable of being concealed on the person, for use in connection with his official duty; and
(C) nothing in this paragraph shall be construed as applying in any manner in the District of Columbia, the Commonwealth of Puerto Rico, or any possession of the United States differently than it would apply if the District of Columbia, the Commonwealth of Puerto Rico, or the possession were in fact a State of the United States;
(3) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector to transport into or receive in the State where he resides (or if the person is a corporation or other business entity, the State where it maintains a place of business) any firearm purchased or otherwise obtained by such person outside that State, except that this paragraph (A) shall not preclude any person who lawfully acquires a firearm by bequest or intestate succession in a State other than his State of residence from transporting the firearm into or receiving it in that State, if it is lawful for such person to purchase or possess such firearm in that State, (B) shall not apply to the transportation or receipt of a firearm obtained in conformity with subsection (b)(3) of this section, and (C) shall not apply to the transportation of any firearm acquired in any State prior to the effective date of this chapter;
(4) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, to transport in interstate or foreign commerce any destructive device, machinegun (as defined in section 5845 of the Internal Revenue Code of 1986), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Attorney General consistent with public safety and necessity;
(5) for any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) to transfer, sell, trade, give, transport, or deliver any firearm to any person

(other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) who the transferor knows or has reasonable cause to believe does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the transferor resides; except that this paragraph shall not apply to (A) the transfer, transportation, or delivery of a firearm made to carry out a bequest of a firearm to, or an acquisition by intestate succession of a firearm by, a person who is permitted to acquire or possess a firearm under the laws of the State of his residence, and (B) the loan or rental of a firearm to any person for temporary use for lawful sporting purposes;
(6) for any person in connection with the acquisition or attempted acquisition of any firearm or ammunition from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, knowingly to make any false or fictitious oral or written statement or to furnish or exhibit any false, fictitious, or misrepresented identification, intended or likely to deceive such importer, manufacturer, dealer, or collector with respect to any fact material to the lawfulness of the sale or other disposition of such firearm or ammunition under the provisions of this chapter;
(7) for any person to manufacture or import armor piercing ammunition, unless—
(A) the manufacture of such ammunition is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;
(B) the manufacture of such ammunition is for the purpose of exportation; or
(C) the manufacture or importation of such ammunition is for the purpose of testing or experimentation and has been authorized by the Attorney General;
(8) for any manufacturer or importer to sell or deliver armor piercing ammunition, unless such sale or delivery—
(A) is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;
(B) is for the purpose of exportation; or
(C) is for the purpose of testing or experimentation and has been authorized by the Attorney General; [1]
(9) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, who does not reside in any State to receive any firearms unless such receipt is for lawful sporting purposes.
(b) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector to sell or deliver—
(1) any firearm or ammunition to any individual who the licensee knows or has reasonable cause to believe is less than eighteen years of age, and, if the firearm, or ammunition is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any individual who the licensee knows or has reasonable cause to believe is less than twenty-one years of age;
(2) any firearm to any person in any State where the purchase or possession by such person of such firearm would be in violation of any State law or any published ordinance applicable at the place of sale, delivery or other disposition, unless the licensee knows or has reasonable cause to believe that the purchase or possession would not be in violation of such State law or such published ordinance;
(3) any firearm to any person who the licensee knows or has reasonable cause to believe does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the licensee's place of business is located, except that this paragraph (A) shall not apply to the sale or delivery of any rifle or shotgun to a resident of a

State other than a State in which the licensee's place of business is located if the transferee meets in person with the transferor to accomplish the transfer, and the sale, delivery, and receipt fully comply with the legal conditions of sale in both such States (and any licensed manufacturer, importer or dealer shall be presumed, for purposes of this subparagraph, in the absence of evidence to the contrary, to have had actual knowledge of the State laws and published ordinances of both States), and (B) shall not apply to the loan or rental of a firearm to any person for temporary use for lawful sporting purposes;

(4) to any person any destructive device, machinegun (as defined in section 5845 of the Internal Revenue Code of 1986), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Attorney General consistent with public safety and necessity; and

(5) any firearm or armor-piercing ammunition to any person unless the licensee notes in his records, required to be kept pursuant to section 923 of this chapter, the name, age, and place of residence of such person if the person is an individual, or the identity and principal and local places of business of such person if the person is a corporation or other business entity.

Paragraphs (1), (2), (3), and (4) of this subsection shall not apply to transactions between licensed importers, licensed manufacturers, licensed dealers, and licensed collectors. Paragraph (4) of this subsection shall not apply to a sale or delivery to any research organization designated by the Attorney General.

(c) In any case not otherwise prohibited by this chapter, a licensed importer, licensed manufacturer, or licensed dealer may sell a firearm to a person who does not appear in person at the licensee's business premises (other than another licensed importer, manufacturer, or dealer) only if—

(1) the transferee submits to the transferor a sworn statement in the following form:

"Subject to penalties provided by law, I swear that, in the case of any firearm other than a shotgun or a rifle, I am twenty-one years or more of age, or that, in the case of a shotgun or a rifle, I am eighteen years or more of age; that I am not prohibited by the provisions of chapter 44 of title 18, United States Code, from receiving a firearm in interstate or foreign commerce; and that my receipt of this firearm will not be in violation of any statute of the State and published ordinance applicable to the locality in which I reside. Further, the true title, name, and address of the principal law enforcement officer of the locality to which the firearm will be delivered are

_____

_____

Signature _____ Date ____."

and containing blank spaces for the attachment of a true copy of any permit or other information required pursuant to such statute or published ordinance;

(2) the transferor has, prior to the shipment or delivery of the firearm, forwarded by registered or certified mail (return receipt requested) a copy of the sworn statement, together with a description of the firearm, in a form prescribed by the Attorney General, to the chief law enforcement officer of the transferee's place of residence, and has received a return receipt evidencing delivery of the statement or has had the statement returned due to the refusal of the named addressee to accept such letter in accordance with United States Post Office Department regulations; and

(3) the transferor has delayed shipment or delivery for a period of at least seven days following receipt of the notification of the acceptance or refusal of delivery of the statement.

A copy of the sworn statement and a copy of the notification to the local law enforcement officer, together with evidence of receipt or rejection of that notification shall be retained by the licensee as a part of the records required to be kept under section 923(g).
(d) It shall be unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person—
(1) is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;
(2) is a fugitive from justice;
(3) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));
(4) has been adjudicated as a mental defective or has been committed to any mental institution;
(5) who, being an alien—
(A) is illegally or unlawfully in the United States; or
(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));
(6) who [2] has been discharged from the Armed Forces under dishonorable conditions;
(7) who, having been a citizen of the United States, has renounced his citizenship;
(8) is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child, except that this paragraph shall only apply to a court order that—
(A) was issued after a hearing of which such person received actual notice, and at which such person had the opportunity to participate; and
(B)
(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or
(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or
(9) has been convicted in any court of a misdemeanor crime of domestic violence.
This subsection shall not apply with respect to the sale or disposition of a firearm or ammunition to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector who pursuant to subsection (b) of section 925 of this chapter is not precluded from dealing in firearms or ammunition, or to a person who has been granted relief from disabilities pursuant to subsection (c) of section 925 of this chapter.
(e) It shall be unlawful for any person knowingly to deliver or cause to be delivered to any common or contract carrier for transportation or shipment in interstate or foreign commerce, to persons other than licensed importers, licensed manufacturers, licensed dealers, or licensed collectors, any package or other container in which there is any firearm or ammunition without written notice to the carrier that such firearm or ammunition is being transported or shipped; except that any passenger who owns or legally possesses a firearm or ammunition being transported aboard any common or contract carrier for movement with the passenger in interstate or foreign commerce may deliver said firearm or ammunition into the custody of the pilot, captain, conductor or operator of such common or contract carrier for the duration of the trip without violating any of the provisions of this chapter. No common or contract carrier shall

require or cause any label, tag, or other written notice to be placed on the outside of any package, luggage, or other container that such package, luggage, or other container contains a firearm.
(f)
(1) It shall be unlawful for any common or contract carrier to transport or deliver in interstate or foreign commerce any firearm or ammunition with knowledge or reasonable cause to believe that the shipment, transportation, or receipt thereof would be in violation of the provisions of this chapter.
(2) It shall be unlawful for any common or contract carrier to deliver in interstate or foreign commerce any firearm without obtaining written acknowledgement of receipt from the recipient of the package or other container in which there is a firearm.
(g) It shall be unlawful for any person—
(1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;
(2) who is a fugitive from justice;
(3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));
(4) who has been adjudicated as a mental defective or who has been committed to a mental institution;
(5) who, being an alien—
(A) is illegally or unlawfully in the United States; or
(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));
(6) who has been discharged from the Armed Forces under dishonorable conditions;
(7) who, having been a citizen of the United States, has renounced his citizenship;
(8) who is subject to a court order that—
(A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;
(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and
(C)
(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or
(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or
(9) who has been convicted in any court of a misdemeanor crime of domestic violence,
to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.
(h) It shall be unlawful for any individual, who to that individual's knowledge and while being employed for any person described in any paragraph of subsection (g) of this section, in the course of such employment—
(1) to receive, possess, or transport any firearm or ammunition in or affecting interstate or foreign commerce; or

(2) to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.
(i) It shall be unlawful for any person to transport or ship in interstate or foreign commerce, any stolen firearm or stolen ammunition, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.
(j) It shall be unlawful for any person to receive, possess, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, which constitutes, or which has been shipped or transported in, interstate or foreign commerce, either before or after it was stolen, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.
(k) It shall be unlawful for any person knowingly to transport, ship, or receive, in interstate or foreign commerce, any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered or to possess or receive any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered and has, at any time, been shipped or transported in interstate or foreign commerce.
(l) Except as provided in section 925(d) of this chapter, it shall be unlawful for any person knowingly to import or bring into the United States or any possession thereof any firearm or ammunition; and it shall be unlawful for any person knowingly to receive any firearm or ammunition which has been imported or brought into the United States or any possession thereof in violation of the provisions of this chapter.
(m) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector knowingly to make any false entry in, to fail to make appropriate entry in, or to fail to properly maintain, any record which he is required to keep pursuant to section 923 of this chapter or regulations promulgated thereunder.
(n) It shall be unlawful for any person who is under indictment for a crime punishable by imprisonment for a term exceeding one year to ship or transport in interstate or foreign commerce any firearm or ammunition or receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.
(o)
(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer or possess a machinegun.
(2) This subsection does not apply with respect to—
(A) a transfer to or by, or possession by or under the authority of, the United States or any department or agency thereof or a State, or a department, agency, or political subdivision thereof; or
(B) any lawful transfer or lawful possession of a machinegun that was lawfully possessed before the date this subsection takes effect.
(p)
(1) It shall be unlawful for any person to manufacture, import, sell, ship, deliver, possess, transfer, or receive any firearm—
(A) that, after removal of grips, stocks, and magazines, is not as detectable as the Security Exemplar, by walk-through metal detectors calibrated and operated to detect the Security Exemplar; or
(B) any major component of which, when subjected to inspection by the types of x-ray machines commonly used at airports, does not generate an image that accurately depicts the shape of the component. Barium sulfate or other compounds may be used in the fabrication of the component.

(2) For purposes of this subsection—
(A) the term “firearm” does not include the frame or receiver of any such weapon;
(B) the term “major component” means, with respect to a firearm, the barrel, the slide or cylinder, or the frame or receiver of the firearm; and
(C) the term “Security Exemplar” means an object, to be fabricated at the direction of the Attorney General, that is—
(i) constructed of, during the 12-month period beginning on the date of the enactment of this subsection, 3.7 ounces of material type 17–4 PH stainless steel in a shape resembling a handgun; and
(ii) suitable for testing and calibrating metal detectors:
Provided, however, That at the close of such 12-month period, and at appropriate times thereafter the Attorney General shall promulgate regulations to permit the manufacture, importation, sale, shipment, delivery, possession, transfer, or receipt of firearms previously prohibited under this subparagraph that are as detectable as a “Security Exemplar” which contains 3.7 ounces of material type 17–4 PH stainless steel, in a shape resembling a handgun, or such lesser amount as is detectable in view of advances in state-of-the-art developments in weapons detection technology.
(3) Under such rules and regulations as the Attorney General shall prescribe, this subsection shall not apply to the manufacture, possession, transfer, receipt, shipment, or delivery of a firearm by a licensed manufacturer or any person acting pursuant to a contract with a licensed manufacturer, for the purpose of examining and testing such firearm to determine whether paragraph (1) applies to such firearm. The Attorney General shall ensure that rules and regulations adopted pursuant to this paragraph do not impair the manufacture of prototype firearms or the development of new technology.
(4) The Attorney General shall permit the conditional importation of a firearm by a licensed importer or licensed manufacturer, for examination and testing to determine whether or not the unconditional importation of such firearm would violate this subsection.
(5) This subsection shall not apply to any firearm which—
(A) has been certified by the Secretary of Defense or the Director of Central Intelligence, after consultation with the Attorney General and the Administrator of the Federal Aviation Administration, as necessary for military or intelligence applications; and
(B) is manufactured for and sold exclusively to military or intelligence agencies of the United States.
(6) This subsection shall not apply with respect to any firearm manufactured in, imported into, or possessed in the United States before the date of the enactment of the Undetectable Firearms Act of 1988.
(q)
(1) The Congress finds and declares that—
(A) crime, particularly crime involving drugs and guns, is a pervasive, nationwide problem;
(B) crime at the local level is exacerbated by the interstate movement of drugs, guns, and criminal gangs;
(C) firearms and ammunition move easily in interstate commerce and have been found in increasing numbers in and around schools, as documented in numerous hearings in both the Committee on the Judiciary [3] the House of Representatives and the Committee on the Judiciary of the Senate;

(D) in fact, even before the sale of a firearm, the gun, its component parts, ammunition, and the raw materials from which they are made have considerably moved in interstate commerce;
(E) while criminals freely move from State to State, ordinary citizens and foreign visitors may fear to travel to or through certain parts of the country due to concern about violent crime and gun violence, and parents may decline to send their children to school for the same reason;
(F) the occurrence of violent crime in school zones has resulted in a decline in the quality of education in our country;
(G) this decline in the quality of education has an adverse impact on interstate commerce and the foreign commerce of the United States;
(H) States, localities, and school systems find it almost impossible to handle gun-related crime by themselves—even States, localities, and school systems that have made strong efforts to prevent, detect, and punish gun-related crime find their efforts unavailing due in part to the failure or inability of other States or localities to take strong measures; and
(I) the Congress has the power, under the interstate commerce clause and other provisions of the Constitution, to enact measures to ensure the integrity and safety of the Nation's schools by enactment of this subsection.
(2)
(A) It shall be unlawful for any individual knowingly to possess a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the individual knows, or has reasonable cause to believe, is a school zone.
(B) Subparagraph (A) does not apply to the possession of a firearm—
(i) on private property not part of school grounds;
(ii) if the individual possessing the firearm is licensed to do so by the State in which the school zone is located or a political subdivision of the State, and the law of the State or political subdivision requires that, before an individual obtains such a license, the law enforcement authorities of the State or political subdivision verify that the individual is qualified under law to receive the license;
(iii) that is—
(I) not loaded; and
(II) in a locked container, or a locked firearms rack that is on a motor vehicle;
(iv) by an individual for use in a program approved by a school in the school zone;
(v) by an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;
(vi) by a law enforcement officer acting in his or her official capacity; or
(vii) that is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities.
(3)
(A) Except as provided in subparagraph (B), it shall be unlawful for any person, knowingly or with reckless disregard for the safety of another, to discharge or attempt to discharge a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the person knows is a school zone.
(B) Subparagraph (A) does not apply to the discharge of a firearm—
(i) on private property not part of school grounds;
(ii) as part of a program approved by a school in the school zone, by an individual who is participating in the program;

(iii) by an individual in accordance with a contract entered into between a school in a school zone and the individual or an employer of the individual; or
(iv) by a law enforcement officer acting in his or her official capacity.
(4) Nothing in this subsection shall be construed as preempting or preventing a State or local government from enacting a statute establishing gun free school zones as provided in this subsection.
(r) It shall be unlawful for any person to assemble from imported parts any semiautomatic rifle or any shotgun which is identical to any rifle or shotgun prohibited from importation under section 925(d)(3) of this chapter as not being particularly suitable for or readily adaptable to sporting purposes except that this subsection shall not apply to—
(1) the assembly of any such rifle or shotgun for sale or distribution by a licensed manufacturer to the United States or any department or agency thereof or to any State or any department, agency, or political subdivision thereof; or
(2) the assembly of any such rifle or shotgun for the purposes of testing or experimentation authorized by the Attorney General.
(s)
(1) Beginning on the date that is 90 days after the date of enactment of this subsection and ending on the day before the date that is 60 months after such date of enactment, it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun (other than the return of a handgun to the person from whom it was received) to an individual who is not licensed under section 923, unless—
(A) after the most recent proposal of such transfer by the transferee—
(i) the transferor has—
(I) received from the transferee a statement of the transferee containing the information described in paragraph (3);
(II) verified the identity of the transferee by examining the identification document presented;
(III) within 1 day after the transferee furnishes the statement, provided notice of the contents of the statement to the chief law enforcement officer of the place of residence of the transferee; and
(IV) within 1 day after the transferee furnishes the statement, transmitted a copy of the statement to the chief law enforcement officer of the place of residence of the transferee; and
(ii)
(I) 5 business days (meaning days on which State offices are open) have elapsed from the date the transferor furnished notice of the contents of the statement to the chief law enforcement officer, during which period the transferor has not received information from the chief law enforcement officer that receipt or possession of the handgun by the transferee would be in violation of Federal, State, or local law; or
(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;
(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10-day period ending on the date of the most recent proposal of such transfer by the transferee, stating that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;
(C)
(i) the transferee has presented to the transferor a permit that—

(I) allows the transferee to possess or acquire a handgun; and
(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and
(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of the law;
(D) the law of the State requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verify that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;
(E) the Attorney General has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or
(F) on application of the transferor, the Attorney General has certified that compliance with subparagraph (A)(i)(III) is impracticable because—
(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;
(ii) the business premises of the transferor at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer; and
(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.
(2) A chief law enforcement officer to whom a transferor has provided notice pursuant to paragraph (1)(A)(i)(III) shall make a reasonable effort to ascertain within 5 business days whether receipt or possession would be in violation of the law, including research in whatever State and local recordkeeping systems are available and in a national system designated by the Attorney General.
(3) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—
(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1) [4]) of the transferee containing a photograph of the transferee and a description of the identification used;
(B) a statement that the transferee—
(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year, and has not been convicted in any court of a misdemeanor crime of domestic violence;
(ii) is not a fugitive from justice;
(iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);
(iv) has not been adjudicated as a mental defective or been committed to a mental institution;
(v) is not an alien who—
(I) is illegally or unlawfully in the United States; or
(II) subject to subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));
(vi) has not been discharged from the Armed Forces under dishonorable conditions; and
(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

(C) the date the statement is made; and
(D) notice that the transferee intends to obtain a handgun from the transferor.
(4) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall, within 1 business day after receipt of such request, communicate any information related to the transfer that the transferor has about the transfer and the transferee to—
(A) the chief law enforcement officer of the place of business of the transferor; and
(B) the chief law enforcement officer of the place of residence of the transferee.
(5) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.
(6)
(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction, and shall retain evidence that the transferor has complied with subclauses (III) and (IV) of paragraph (1)(A)(i) with respect to the statement.
(B) Unless the chief law enforcement officer to whom a statement is transmitted under paragraph (1)(A)(i)(IV) determines that a transaction would violate Federal, State, or local law—
(i) the officer shall, within 20 business days after the date the transferee made the statement on the basis of which the notice was provided, destroy the statement, any record containing information derived from the statement, and any record created as a result of the notice required by paragraph (1)(A)(i)(III);
(ii) the information contained in the statement shall not be conveyed to any person except a person who has a need to know in order to carry out this subsection; and
(iii) the information contained in the statement shall not be used for any purpose other than to carry out this subsection.
(C) If a chief law enforcement officer determines that an individual is ineligible to receive a handgun and the individual requests the officer to provide the reason for such determination, the officer shall provide such reasons to the individual in writing within 20 business days after receipt of the request.
(7) A chief law enforcement officer or other person responsible for providing criminal history background information pursuant to this subsection shall not be liable in an action at law for damages—
(A) for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section; or
(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a handgun.
(8) For purposes of this subsection, the term “chief law enforcement officer” means the chief of police, the sheriff, or an equivalent officer or the designee of any such individual.
(9) The Attorney General shall take necessary actions to ensure that the provisions of this subsection are published and disseminated to licensed dealers, law enforcement officials, and the public.
(t)
(1) Beginning on the date that is 30 days after the Attorney General notifies licensees under section 103(d) of the Brady Handgun Violence Prevention Act that the national instant criminal

background check system is established, a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a firearm to any other person who is not licensed under this chapter, unless—
(A) before the completion of the transfer, the licensee contacts the national instant criminal background check system established under section 103 of that Act;
(B)
(i) the system provides the licensee with a unique identification number; or
(ii) 3 business days (meaning a day on which State offices are open) have elapsed since the licensee contacted the system, and the system has not notified the licensee that the receipt of a firearm by such other person would violate subsection (g) or (n) of this section; and
(C) the transferor has verified the identity of the transferee by examining a valid identification document (as defined in section 1028(d) of this title) of the transferee containing a photograph of the transferee.
(2) If receipt of a firearm would not violate subsection (g) or (n) or State law, the system shall—
(A) assign a unique identification number to the transfer;
(B) provide the licensee with the number; and
(C) destroy all records of the system with respect to the call (other than the identifying number and the date the number was assigned) and all records of the system relating to the person or the transfer.
(3) Paragraph (1) shall not apply to a firearm transfer between a licensee and another person if—
(A)
(i) such other person has presented to the licensee a permit that—
(I) allows such other person to possess or acquire a firearm; and
(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and
(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a firearm by such other person would be in violation of law;
(B) the Attorney General has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or
(C) on application of the transferor, the Attorney General has certified that compliance with paragraph (1)(A) is impracticable because—
(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;
(ii) the business premises of the licensee at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer (as defined in subsection (s)(8)); and
(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.
(4) If the national instant criminal background check system notifies the licensee that the information available to the system does not demonstrate that the receipt of a firearm by such other person would violate subsection (g) or (n) or State law, and the licensee transfers a firearm to such other person, the licensee shall include in the record of the transfer the unique identification number provided by the system with respect to the transfer.
(5) If the licensee knowingly transfers a firearm to such other person and knowingly fails to comply with paragraph (1) of this subsection with respect to the transfer and, at the time such other person most recently proposed the transfer, the national instant criminal background check

system was operating and information was available to the system demonstrating that receipt of a firearm by such other person would violate subsection (g) or (n) of this section or State law, the Attorney General may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under section 923, and may impose on the licensee a civil fine of not more than $5,000.
(6) Neither a local government nor an employee of the Federal Government or of any State or local government, responsible for providing information to the national instant criminal background check system shall be liable in an action at law for damages—
(A) for failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful under this section; or
(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a firearm.
(u) It shall be unlawful for a person to steal or unlawfully take or carry away from the person or the premises of a person who is licensed to engage in the business of importing, manufacturing, or dealing in firearms, any firearm in the licensee's business inventory that has been shipped or transported in interstate or foreign commerce.
[(v) , (w) Repealed. Pub. L. 103–322, title XI, § 110105(2), Sept. 13, 1994, 108 Stat. 2000.]
(x)
(1) It shall be unlawful for a person to sell, deliver, or otherwise transfer to a person who the transferor knows or has reasonable cause to believe is a juvenile—
(A) a handgun; or
(B) ammunition that is suitable for use only in a handgun.
(2) It shall be unlawful for any person who is a juvenile to knowingly possess—
(A) a handgun; or
(B) ammunition that is suitable for use only in a handgun.
(3) This subsection does not apply to—
(A) a temporary transfer of a handgun or ammunition to a juvenile or to the possession or use of a handgun or ammunition by a juvenile if the handgun and ammunition are possessed and used by the juvenile—
(i) in the course of employment, in the course of ranching or farming related to activities at the residence of the juvenile (or on property used for ranching or farming at which the juvenile, with the permission of the property owner or lessee, is performing activities related to the operation of the farm or ranch), target practice, hunting, or a course of instruction in the safe and lawful use of a handgun;
(ii) with the prior written consent of the juvenile's parent or guardian who is not prohibited by Federal, State, or local law from possessing a firearm, except—
(I) during transportation by the juvenile of an unloaded handgun in a locked container directly from the place of transfer to a place at which an activity described in clause (i) is to take place and transportation by the juvenile of that handgun, unloaded and in a locked container, directly from the place at which such an activity took place to the transferor; or
(II) with respect to ranching or farming activities as described in clause (i), a juvenile may possess and use a handgun or ammunition with the prior written approval of the juvenile's parent or legal guardian and at the direction of an adult who is not prohibited by Federal, State or local law from possessing a firearm;
(iii) the juvenile has the prior written consent in the juvenile's possession at all times when a handgun is in the possession of the juvenile; and

(iv) in accordance with State and local law;
(B) a juvenile who is a member of the Armed Forces of the United States or the National Guard who possesses or is armed with a handgun in the line of duty;
(C) a transfer by inheritance of title (but not possession) of a handgun or ammunition to a juvenile; or
(D) the possession of a handgun or ammunition by a juvenile taken in defense of the juvenile or other persons against an intruder into the residence of the juvenile or a residence in which the juvenile is an invited guest.
(4) A handgun or ammunition, the possession of which is transferred to a juvenile in circumstances in which the transferor is not in violation of this subsection shall not be subject to permanent confiscation by the Government if its possession by the juvenile subsequently becomes unlawful because of the conduct of the juvenile, but shall be returned to the lawful owner when such handgun or ammunition is no longer required by the Government for the purposes of investigation or prosecution.
(5) For purposes of this subsection, the term "juvenile" means a person who is less than 18 years of age.
(6)
(A) In a prosecution of a violation of this subsection, the court shall require the presence of a juvenile defendant's parent or legal guardian at all proceedings.
(B) The court may use the contempt power to enforce subparagraph (A).
(C) The court may excuse attendance of a parent or legal guardian of a juvenile defendant at a proceeding in a prosecution of a violation of this subsection for good cause shown.
(y) Provisions Relating to Aliens Admitted Under Nonimmigrant Visas.—
(1) Definitions.—In this subsection—
(A) the term "alien" has the same meaning as in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)); and
(B) the term "nonimmigrant visa" has the same meaning as in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)).
(2) Exceptions.—Subsections (d)(5)(B), (g)(5)(B), and (s)(3)(B)(v)(II) do not apply to any alien who has been lawfully admitted to the United States under a nonimmigrant visa, if that alien is—
(A) admitted to the United States for lawful hunting or sporting purposes or is in possession of a hunting license or permit lawfully issued in the United States;
(B) an official representative of a foreign government who is—
(i) accredited to the United States Government or the Government's mission to an international organization having its headquarters in the United States; or
(ii) en route to or from another country to which that alien is accredited;
(C) an official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State; or
(D) a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business.
(3) Waiver.—
(A) Conditions for waiver.—Any individual who has been admitted to the United States under a nonimmigrant visa may receive a waiver from the requirements of subsection (g)(5), if—
(i) the individual submits to the Attorney General a petition that meets the requirements of subparagraph (C); and
(ii) the Attorney General approves the petition.

(B) Petition.—Each petition under subparagraph (B) shall—
(i) demonstrate that the petitioner has resided in the United States for a continuous period of not less than 180 days before the date on which the petition is submitted under this paragraph; and
(ii) include a written statement from the embassy or consulate of the petitioner, authorizing the petitioner to acquire a firearm or ammunition and certifying that the alien would not, absent the application of subsection (g)(5)(B), otherwise be prohibited from such acquisition under subsection (g).
(C) Approval of petition.—The Attorney General shall approve a petition submitted in accordance with this paragraph, if the Attorney General determines that waiving the requirements of subsection (g)(5)(B) with respect to the petitioner—
(i) would be in the interests of justice; and
(ii) would not jeopardize the public safety.
(z) Secure Gun Storage or Safety Device.—
(1) In general.—
Except as provided under paragraph (2), it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than any person licensed under this chapter, unless the transferee is provided with a secure gun storage or safety device (as defined in section 921(a)(34)) for that handgun.
(2) Exceptions.—Paragraph (1) shall not apply to—
(A)
(i) the manufacture for, transfer to, or possession by, the United States, a department or agency of the United States, a State, or a department, agency, or political subdivision of a State, of a handgun; or
(ii) the transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a handgun for law enforcement purposes (whether on or off duty); or
(B) the transfer to, or possession by, a rail police officer directly employed by or contracted by a rail carrier and certified or commissioned as a police officer under the laws of a State of a handgun for purposes of law enforcement (whether on or off duty);
(C) the transfer to any person of a handgun listed as a curio or relic by the Secretary pursuant to section 921(a)(13); or
(D) the transfer to any person of a handgun for which a secure gun storage or safety device is temporarily unavailable for the reasons described in the exceptions stated in section 923(e), if the licensed manufacturer, licensed importer, or licensed dealer delivers to the transferee within 10 calendar days from the date of the delivery of the handgun to the transferee a secure gun storage or safety device for the handgun.
(3) Liability for use.—
(A) In general.—
Notwithstanding any other provision of law, a person who has lawful possession and control of a handgun, and who uses a secure gun storage or safety device with the handgun, shall be entitled to immunity from a qualified civil liability action.
(B) Prospective actions.—
A qualified civil liability action may not be brought in any Federal or State court.
(C) Defined term.—As used in this paragraph, the term “qualified civil liability action”—
(i) means a civil action brought by any person against a person described in subparagraph (A) for damages resulting from the criminal or unlawful misuse of the handgun by a third party, if—

(I) the handgun was accessed by another person who did not have the permission or authorization of the person having lawful possession and control of the handgun to have access to it; and
(II) at the time access was gained by the person not so authorized, the handgun had been made inoperable by use of a secure gun storage or safety device; and
(ii) shall not include an action brought against the person having lawful possession and control of the handgun for negligent entrustment or negligence per se.
[APPENDIX A Repealed. Pub. L. 103–322, title XI, § 110105(2), Sept. 13, 1994, 108 Stat. 2000]
(Added Pub. L. 90–351, title IV, § 902, June 19, 1968, 82 Stat. 228; amended Pub. L. 90–618, title I, § 102, Oct. 22, 1968, 82 Stat. 1216; Pub. L. 97–377, title I, § 165(a), Dec. 21, 1982, 96 Stat. 1923; Pub. L. 99–308, § 102, May 19, 1986, 100 Stat. 451; Pub. L. 99–408, § 2, Aug. 28, 1986, 100 Stat. 920; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100–649, § 2(a), (f)(2)(A), Nov. 10, 1988, 102 Stat. 3816, 3818; Pub. L. 100–690, title VII, § 7060(c), Nov. 18, 1988, 102 Stat. 4404; Pub. L. 101–647, title XVII, § 1702(b)(1), title XXII, §§ 2201, 2202, 2204(b), title XXXV, § 3524, Nov. 29, 1990, 104 Stat. 4844, 4856, 4857, 4924; Pub. L. 103–159, title I, § 102(a)(1), (b), title III, § 302(a)–(c), Nov. 30, 1993, 107 Stat. 1536, 1539, 1545; Pub. L. 103–322, title XI, §§ 110102(a), 110103(a), 110105(2), 110106, 110201(a), 110401(b), (c), 110511, 110514, title XXXII, §§ 320904, 320927, title XXXIII, § 330011(i), Sept. 13, 1994, 108 Stat. 1996, 1998, 2000, 2010, 2014, 2019, 2125, 2131, 2145; Pub. L. 104–208, div. A, title I, § 101(f) [title VI, §§ 657, 658(b)], Sept. 30, 1996, 110 Stat. 3009–314, 3009–369, 3009–372; Pub. L. 104–294, title VI, § 603(b), (c)(1), (d)–(f)(1), (g), Oct. 11, 1996, 110 Stat. 3503, 3504; Pub. L. 105–277, div. A, § 101(b) [title I, § 121], Oct. 21, 1998, 112 Stat. 2681–50, 2681–71; Pub. L. 107–273, div. B, title IV, § 4003(a)(1), Nov. 2, 2002, 116 Stat. 1811; Pub. L. 107–296, title XI, § 1112(f)(4), (6), Nov. 25, 2002, 116 Stat. 2276; Pub. L. 109–92, §§ 5(c)(1), 6(a), Oct. 26, 2005, 119 Stat. 2099, 2101; Pub. L. 114–94, div. A, title XI, § 11412(c)(2), Dec. 4, 2015, 129 Stat. 1688.)

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(a)
(1) The provisions of this chapter, except for sections 922(d)(9) and 922(g)(9) and provisions relating to firearms subject to the prohibitions of section 922(p), shall not apply with respect to the transportation, shipment, receipt, possession, or importation of any firearm or ammunition imported for, sold or shipped to, or issued for the use of, the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof.
(2) The provisions of this chapter, except for provisions relating to firearms subject to the prohibitions of section 922(p), shall not apply with respect to (A) the shipment or receipt of firearms or ammunition when sold or issued by the Secretary of the Army pursuant to section 4308 of title 10 before the repeal of such section by section 1624(a) of the Corporation for the Promotion of Rifle Practice and Firearms Safety Act, and (B) the transportation of any such firearm or ammunition carried out to enable a person, who lawfully received such firearm or ammunition from the Secretary of the Army, to engage in military training or in competitions.
(3) Unless otherwise prohibited by this chapter, except for provisions relating to firearms subject to the prohibitions of section 922(p), or any other Federal law, a licensed importer, licensed manufacturer, or licensed dealer may ship to a member of the United States Armed Forces on active duty outside the United States or to clubs, recognized by the Department of Defense, whose entire membership is composed of such members, and such members or clubs may receive a firearm or ammunition determined by the Attorney General to be generally recognized as particularly suitable for sporting purposes and intended for the personal use of such member or club.
(4) When established to the satisfaction of the Attorney General to be consistent with the provisions of this chapter, except for provisions relating to firearms subject to the prohibitions of section 922(p), and other applicable Federal and State laws and published ordinances, the Attorney General may authorize the transportation, shipment, receipt, or importation into the United States to the place of residence of any member of the United States Armed Forces who is on active duty outside the United States (or who has been on active duty outside the United States within the sixty day period immediately preceding the transportation, shipment, receipt, or importation), of any firearm or ammunition which is (A) determined by the Attorney General to be generally recognized as particularly suitable for sporting purposes, or determined by the Department of Defense to be a type of firearm normally classified as a war souvenir, and (B) intended for the personal use of such member.
(5) For the purpose of paragraph (3) of this subsection, the term “United States” means each of the several States and the District of Columbia.
(b) A licensed importer, licensed manufacturer, licensed dealer, or licensed collector who is indicted for a crime punishable by imprisonment for a term exceeding one year, may, notwithstanding any other provision of this chapter, continue operation pursuant to his existing license (if prior to the expiration of the term of the existing license timely application is made for a new license) during the term of such indictment and until any conviction pursuant to the indictment becomes final.
(c) A person who is prohibited from possessing, shipping, transporting, or receiving firearms or ammunition may make application to the Attorney General for relief from the disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, transportation, or possession of firearms, and the Attorney General may grant such relief if it is

established to his satisfaction that the circumstances regarding the disability, and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest. Any person whose application for relief from disabilities is denied by the Attorney General may file a petition with the United States district court for the district in which he resides for a judicial review of such denial. The court may in its discretion admit additional evidence where failure to do so would result in a miscarriage of justice. A licensed importer, licensed manufacturer, licensed dealer, or licensed collector conducting operations under this chapter, who makes application for relief from the disabilities incurred under this chapter, shall not be barred by such disability from further operations under his license pending final action on an application for relief filed pursuant to this section. Whenever the Attorney General grants relief to any person pursuant to this section he shall promptly publish in the Federal Register notice of such action, together with the reasons therefor.

(d) The Attorney General shall authorize a firearm or ammunition to be imported or brought into the United States or any possession thereof if the firearm or ammunition—

(1) is being imported or brought in for scientific or research purposes, or is for use in connection with competition or training pursuant to chapter 751 of title 10;

(2) is an unserviceable firearm, other than a machinegun as defined in section 5845(b) of the Internal Revenue Code of 1986 (not readily restorable to firing condition), imported or brought in as a curio or museum piece;

(3) is of a type that does not fall within the definition of a firearm as defined in section 5845(a) of the Internal Revenue Code of 1986 and is generally recognized as particularly suitable for or readily adaptable to sporting purposes, excluding surplus military firearms, except in any case where the Attorney General has not authorized the importation of the firearm pursuant to this paragraph, it shall be unlawful to import any frame, receiver, or barrel of such firearm which would be prohibited if assembled; or

(4) was previously taken out of the United States or a possession by the person who is bringing in the firearm or ammunition.

The Attorney General shall permit the conditional importation or bringing in of a firearm or ammunition for examination and testing in connection with the making of a determination as to whether the importation or bringing in of such firearm or ammunition will be allowed under this subsection.

(e) Notwithstanding any other provision of this title, the Attorney General shall authorize the importation of, by any licensed importer, the following:

(1) All rifles and shotguns listed as curios or relics by the Attorney General pursuant to section 921(a)(13), and

(2) All handguns, listed as curios or relics by the Attorney General pursuant to section 921(a)(13), provided that such handguns are generally recognized as particularly suitable for or readily adaptable to sporting purposes.

(f) The Attorney General shall not authorize, under subsection (d), the importation of any firearm the importation of which is prohibited by section 922(p).

(Added Pub. L. 90–351, title IV, § 902, June 19, 1968, 82 Stat. 233; amended Pub. L. 90–618, title I, § 102, Oct. 22, 1968, 82 Stat. 1224; Pub. L. 98–573, title II, § 233, Oct. 30, 1984, 98 Stat. 2991; Pub. L. 99–308, § 105, May 19, 1986, 100 Stat. 459; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100–649, § 2(c), (f)(2)(C), (E), Nov. 10, 1988, 102 Stat. 3817, 3818; Pub. L. 101–647, title XXII, § 2203(b), (c), Nov. 29, 1990, 104 Stat. 4857; Pub. L. 104–106, div. A,

title XVI, § 1624(b)(3), Feb. 10, 1996, 110 Stat. 522; Pub. L. 104–208, div. A, title I, § 101(f) [title VI, § 658(d)], Sept. 30, 1996, 110 Stat. 3009–314, 3009–372; Pub. L. 104–294, title VI, § 607(c), Oct. 11, 1996, 110 Stat. 3511; Pub. L. 107–296, title XI, § 1112(f)(6), Nov. 25, 2002, 116 Stat. 2276; Pub. L. 108–174, § 1(3), Dec. 9, 2003, 117 Stat. 2481; Pub. L. 115–232, div. A, title VIII, § 809(e)(3), Aug. 13, 2018, 132 Stat. 1842.)