

105TH CONGRESS  
1ST SESSION

# S. 262

To amend title 18, United States Code, to provide for the prospective application of certain prohibitions relating to firearms.

---

IN THE SENATE OF THE UNITED STATES

FEBRUARY 4, 1997

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

---

## A BILL

To amend title 18, United States Code, to provide for the prospective application of certain prohibitions relating to firearms.

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

3 **SECTION 1. PROSPECTIVE APPLICATION OF THE DOMES-**  
4 **TIC VIOLENCE MISDEMEANOR CONVICTION**  
5 **FIREARMS PROHIBITION.**

6 (a) FINDINGS.—Congress makes the following find-  
7 ings:

8 (1) Spouses, ex-spouses, and current and  
9 former boyfriends commit over 1,000,000 violent

1 crimes against women each year, including assault,  
2 rape, and murder.

3 (2) Approximately 28 percent of all women  
4 murdered in the United States each year are killed  
5 by current or former husbands or boyfriends.

6 (3) Weapons are used in 30 percent of domestic  
7 violence incidents.

8 (4) Domestic violence calls are one of the larg-  
9 est categories of calls to police each year, and, in  
10 some locations, up to one-third of all police time is  
11 spent responding to domestic calls.

12 (5) Studies show that police are more likely to  
13 respond to a reported incident within 5 minutes if  
14 the offender is a stranger to the victim and that, po-  
15 lice are more likely to take a formal report with re-  
16 spect to an incident in which the offender is a  
17 stranger to the victim.

18 (6) Studies show that only approximately 10  
19 percent of spouses who are abused ever call the po-  
20 lice, in spite of the fact that conjugal assaults ac-  
21 count for 12 percent of all assaults that result in se-  
22 rious injury, 16 percent of all assaults requiring  
23 medical care, and 18 percent of assaults that result  
24 in the loss of at least a full day of work.

1           (7) Data compilation suggests that injuries in  
2 all domestic assaults are at least as severe as those  
3 suffered in 90 percent of violent felonies, although  
4 the overwhelming number of domestic violence inju-  
5 ries are considered to be only misdemeanors in most  
6 States.

7           (8) In the 104th Congress, Congress amended  
8 the Federal law that regulates the lawful transfer  
9 and possession of firearms and ammunition to pro-  
10 vide that an individual's conviction of a mis-  
11 demeanor crime of domestic violence will prohibit the  
12 individual from possessing any firearm or ammuni-  
13 tion and will prohibit others from licensing or trans-  
14 ferring a firearm or ammunition to that person.

15           (9) The term "misdemeanor crime of domestic  
16 violence" is defined in Federal law as a Federal or  
17 State misdemeanor crime that "has, as an element,  
18 the use or attempted use of physical force, or the  
19 threatened use of a deadly weapon, committed by a  
20 current or former spouse, parent, or guardian of the  
21 victim, by a person with whom the victim shares a  
22 child in common, by a person who is cohabiting with  
23 or has cohabited with the victim as a spouse, parent,  
24 or guardian, or by a person similarly situated to a  
25 spouse, parent, or guardian of the victim".

1           (10) For purposes of Federal law, to be consid-  
2           ered to be convicted of a misdemeanor crime of do-  
3           mestic violence, a person must—

4                   (A) have been represented by counsel or  
5                   knowingly waived representation; and

6                   (B) have been tried by a jury or knowingly  
7                   waived trial by a guilty plea or otherwise if enti-  
8                   tled to a jury trial for the offense at issue.

9           (11) There are exceptions to the new Federal  
10           law that may apply to an individual determined to  
11           have been convicted of a misdemeanor crime of do-  
12           mestic violence, if “the conviction has been expunged  
13           or set aside, or is an offense for which the person  
14           has been pardoned or has had civil rights restored  
15           (if the law of the applicable provision provides for  
16           the loss of civil rights under such an offense) unless  
17           the pardon, expungement, or restoration of civil  
18           rights expressly provides that the person may not  
19           ship, transport, possess, or receive firearms”.

20           (12) Congress clearly intended for this Federal  
21           law to apply to peace officers. The general exception  
22           to the law for firearms and ammunition that are is-  
23           sued for the use of “the United States or any de-  
24           partment or agency thereof or any State or any de-  
25           partment, agency, or political subdivision thereof,”

1 does not apply to individuals convicted of a mis-  
2 demeanor crime of domestic violence.

3 (b) UNLAWFUL ACTS.—Subsections (d)(9), (g)(9),  
4 and (s)(3)(B)(i) of section 922 of title 18, United States  
5 Code, are each amended by inserting “, on or after Sep-  
6 tember 30, 1996,” before “of a misdemeanor”.

7 (c) EFFECTIVE DATE.—The amendments made by  
8 this section shall take effect as if included in the amend-  
9 ments made by the first section designated as section 658  
10 of Public Law 104–208.

○