

**Domestic Violence Amendment to the Gun Control Act of 1968
(Lautenberg Amendment), AR 600-20, 4-23.**

Summary for in-processing soldiers

1. The Domestic Violence Amendment to the Gun Control Act of 1968 (Section 922, Title 18, United States Code (18 USC 922)), the Lautenberg Amendment,

a. Makes it unlawful for any person to transfer, issue, sell or otherwise dispose of firearms or ammunition to any person whom he or she knows or has reasonable cause to believe has been convicted of a crime of domestic violence.

Crime of domestic violence. An offense that involves the use or attempted use of physical force, or 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 who was similarly situated to a spouse, parent, or guardian of the victim. Persons who are similarly situated to a spouse include two persons who are residing at the same location in an intimate relationship with the intent to make that place their home.

b. Makes it unlawful for any person who has been convicted of a crime of domestic violence to receive any firearm or ammunition that has been shipped or transported in interstate or foreign commerce. This chapter applies to all Soldiers throughout the world, including those in hostile fire areas.

c. Makes it unlawful for soldiers with qualifying convictions to possess, ship, transport, or receive firearms and ammunition as prohibited in this regulation

(1) Qualifying conviction. A state or federal conviction for a crime of domestic violence and any general or special court-martial for an offense that otherwise meets the elements of a crime of domestic violence, even though not classified as a misdemeanor or felony.

(2) A qualifying conviction does not include: Summary court-martial conviction or Nonjudicial punishment under Article 15, UCMJ.

(3) A person will not be considered to have a qualifying conviction unless: (a) the convicted offender was represented by counsel or knowingly and intelligently waived the right to counsel; (b) if entitled to have the case tried by a jury, the case was actually tried by a jury, or the person knowingly and intelligently waived the right to have the case tried by a jury; and, (c) the conviction has not been expunged or set aside, or the convicted offender has not been pardoned for the offense, or had civil rights restored;

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unless the pardon, expungement, or restoration of civil rights provides that the person may not ship, transport, possess, or receive firearms.

2. Soldiers have an affirmative, continuing obligation to inform commanders or supervisors if they have, or later obtain, a qualifying conviction on DD Form 2760. Neither the information nor evidence gained by filling out the DD Form 2760 may be used against soldiers in any criminal prosecutions for a violation of 18 USC 922, including prosecutions under the UCMJ, based on a violation of 18 USC 922 for conduct that occurred prior to the completion of the DD Form 2760.

3. If a commander knows or has reasonable cause to believe that a Soldier has a qualifying conviction, the commander will investigate. A commander at any level may initiate the investigation by ordering the Soldier to complete DD Form 2760.

4. Soldiers with qualifying convictions will be reported to HQDA to ensure compliance with the law.

5. Soldiers who have or may have a qualifying conviction should see a legal assistance attorney, who will also be available to assist the Soldier in seeking expungement of a qualifying conviction or a pardon.

6. If a commander knows or has reasonable cause to believe that a Soldier has a qualifying conviction, then he or she will immediately retrieve all government-issued firearms and ammunition and advise the Soldier to consult with a legal assistance attorney for guidance on lawful disposal or sale of any privately owned firearms and ammunition. Individuals with qualifying convictions are exempt from weapons qualification in accordance with AR 350-1 and will not be assigned individual weapons or ammunition.

7. Accommodation: Domestic violence is incompatible with Army values and will not be tolerated or condoned. However, soldiers will be given a reasonable time to seek expungement of or to obtain a pardon for a qualifying conviction and may extend up to one year for that purpose.

8. Commanders must detail soldiers whom they have reason to believe have a qualifying conviction to meaningful duties that do not require bearing weapons or ammunition. Commanders may reassign soldiers to local table of distribution and allowances unit positions that deny them access to weapons and ammunition.

9. Flags. Soldiers with a qualifying conviction will be denied favorable personnel action in accordance with AR 600-8-2. The flag may be removed if the qualifying conviction is expunged or set aside by competent authority.