

DISARM THE DANGEROUS: HOW APPLYING RAHIMI FRAMEWORK WILL ALLOW CONGRESS TO EXPAND 18 U.S.C. § 922(g)9

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ABSTRACT

Domestic violence is real and threatening. If Congress does not enact new laws that protect domestic violence victims, more innocent lives will be in danger. Accordingly, Congress should pass new legislation that expands the types of misdemeanors which allow the government to disarm these dangerous individuals. Specifically, Congress should amend 18 U.S.C. § 922(g)(9) to broaden the misdemeanors that prevent dangerous individuals from purchasing firearms. When Congress enacted § 922(g)(9) in 1996, known as the Lautenberg Amendment, it unanimously agreed to add the misdemeanor crime of domestic violence, which called for permanent disarmament.

Currently, 18 U.S.C. § 922(g)(9) allows too many offenders to slip through the cracks because it applies only when an offender commits the “use or attempted use of physical force” or “threatened use of a deadly weapon,” under a misdemeanor domestic violence conviction. Many misdemeanor crimes do not meet that threshold but still call for disarmament, such as stalking, harassment, or a terroristic threat. Offenders whose actions do not fall within the current statute remain armed and dangerous and may endanger innocent individuals or even cause death. As our knowledge of domestic violence continues to evolve, legislation must evolve with it. This amendment is the next step.

*This Comment discusses how Congress should amend § 922(g)(9) to effectively disarm dangerous individuals. As this Comment explains, this proposed amendment to § 922(g)(9) is constitutional under the historical analogue approach illustrated in *United States v. Rahimi*. Finally, this Comment will also explore public policy concerns, including how the Second Amendment interacts with targeted firearm restrictions and how this amendment can protect victims trapped in an abusive relationship.*

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TABLE OF CONTENTS

ABSTRACT	619
I. INTRODUCTION	621
II. THE LEGAL AND CONSTITUTIONAL LANDSCAPE OF FIREARMS AND DOMESTIC VIOLENCE	623
A. <i>Violence Against Intimate Partners</i>	623
B. <i>Federal Firearm Legislation</i>	625
1. <i>Gun Control Act of 1968</i>	625
2. <i>Violence Against Women Act</i>	625
3. <i>Lautenberg Amendment</i>	626
4. <i>Bipartisan Safer Communities Act</i>	628
C. <i>Constitutionality of Firearm Laws</i>	630
1. <i>District of Columbia v. Heller</i>	630
2. <i>New York State Rifle & Pistol Ass'n v. Bruen</i>	631
D. <i>Current Historical Analogue Analysis as Illustrated in United States v. Rahimi</i>	632
III. AMENDING 18 U.S.C. § 922(g)(9) WILL PROTECT POTENTIAL VICTIMS BY REINFORCING A STATUTE INTENDED TO PREVENT FUTURE HARM.....	634
A. <i>Proposed Amendment of § 922(g)(9)</i>	635
B. <i>The Proposed Amendment Is Constitutional Under the Rahimi Framework</i>	636
C. <i>Applying Rahimi Analysis to the Proposed Amendment</i>	637
1. <i>Surety Laws Applied to the Proposed Amendment</i>	637
2. <i>Going Armed Laws Applied to the Proposed Amendment</i>	639
D. <i>How the Proposed Amendment Furthers Congress's Intent Under § 922(g)(9)</i>	640
E. <i>The Proposed Amendment Is the Best Solution Because It Does Not Violate Due Process or Fundamental Rights</i>	641
1. <i>The Proposed Amendment Does Not Violate Due Process Rights</i>	642
2. <i>The Proposed Amendment Does Not Violate Fundamental Rights</i>	643
IV. LEGISLATIVE FRAMEWORKS AND ENFORCEMENT CHALLENGES	644
A. <i>Existing State Misdemeanors Provide a Sufficient Basis for Federal Disarmament</i>	644
B. <i>Alternative Amendment</i>	647
C. <i>Public Policy: Balancing Victim Protection and Second Amendment Rights</i>	648
V. CONCLUSION	650

I. INTRODUCTION

Imagine you are a single mom with two kids and you start dating someone.¹ You are very selective in what type of person you bring around your kids, and you hold yourself to high standards when picking a respectful partner.² However, when you decide to break things off with your partner, your worst nightmare happens.³ He begins to harass you with repeated text messages—calling at all hours—and when running your everyday errands, he is following your every step.⁴

You plan to pick up your children from school, but he is following you.⁵ He follows you after you pick up your children, and you both come to an intersection where he cuts you off.⁶ You tell him to leave you alone because you have your kids in the car—he does not care.⁷ He takes out his firearm and shoots you.⁸ Your life is over and your kids no longer have their mother.⁹ This is the worst-case scenario.¹⁰ This is not a hypothetical; it is a lived reality for far too many families.¹¹

This is what happened to Rashanda Franklin and her two children.¹² In 2017, Rashanda was killed by her ex-boyfriend, Dushan McBride.¹³ Franklin had broken things off with McBride after two years of dating.¹⁴ But he could not accept that; he stalked and harassed her for weeks leading up to her death.¹⁵ McBride followed Franklin after she picked up her two children from school.¹⁶ Franklin feared for her safety and called 911 as she drove away with her children.¹⁷ McBride eventually cut Franklin off at an intersection.¹⁸

Franklin pleaded with McBride as he got out of his car with his firearm, telling him, “I’ve got my kids in the car.”¹⁹ McBride responded, “I ain’t

1. See Daniella Segura, *Mom Pleaded to Boyfriend as He Fatally Shot Her in Front of Kids*, *CA Officials Say*, THE SACRAMENTO BEE (Oct. 13, 2025, at 10:25 CST), <https://www.sacbee.com/news/california/article312485960.html> [https://perma.cc/SQ2U-ANSM]; *Man Sentenced to Life for Richmond Murder of Ex-Girlfriend*, FOX KTVU (Oct. 10, 2025, at 17:27 PDT) [hereinafter *Man Sentenced to Life*], <https://www.ktvu.com/news/richmond-2017-murder-rashanda-franklin> [https://perma.cc/4EZH-Q8WX].

2. See *Man Sentenced to Life*, *supra* note 1.

3. See *id.*

4. See *id.*

5. See *id.*

6. See *id.*

7. See *id.*

8. See *id.*

9. See *id.*

10. See *id.*

11. See *id.*

12. *Id.*

13. *Id.*

14. See *id.*

15. *Id.*

16. *Id.*

17. *Id.*

18. *Id.*

19. *Id.* (internal quotes omitted).

playing with you.”²⁰ He then fatally shot Franklin in front of her children.²¹ McBride decided to end Franklin’s life, but that was not enough; he took her away from her children forever.²²

McBride was sentenced to life in prison.²³ The district attorney who handled the case said his sentence “sends a clear message that stalking and harassment are warning signs that must be taken seriously, and that those who perpetrate such violence will be held responsible under the law.”²⁴ However, the punishment came too late in that lawmakers needed a preventive law to reduce the number of victims killed.²⁵ Under the proposed amendment, authorities would take stalking, harassment, and terroristic threats more seriously by disarming individuals before they injure or kill someone.²⁶

Under this Comment’s proposed amendment, a heinous crime like this could be prevented if the offender were convicted under an expanded 18 U.S.C. § 922(g)(9).²⁷ If an offender commits a misdemeanor of harassment, stalking, or a terroristic threat, the law would prohibit them from possessing a firearm.²⁸ While the proposed amendment cannot prevent a person from illegally obtaining a firearm, it can prevent them from possessing a firearm under federal law, and a violation of § 922(g)(9) could result in imprisonment.²⁹

This Comment discusses how Congress can amend § 922(g)(9) to include other dangerous individuals who commit misdemeanor crimes against others, such as intimate partners.³⁰ Part II provides background on domestic violence and federal firearm legislation leading up to § 922(g)(9).³¹ It will also provide case law explaining the constitutionality of firearm laws.³² Part III proposes an amendment to § 922(g)(9) and analyzes its constitutionality under the historical analogue approach applied in *United States v. Rahimi*.³³

20. *Id.* (internal quotes omitted).

21. *Id.*

22. *See id.*

23. *Id.*

24. Josh DuBuse, *California Man Stalked, Killed Ex-Girlfriend in Front of Her Children*, KTLA5 (last updated Oct. 13, 2025, at 07:38 PDT), <https://ktla.com/news/california/california-man-stalked-killed-ex-girlfriend-in-front-of-her-children/> [<https://perma.cc/AT3W-KHNH>].

25. *See id.*

26. *See infra* Section III.A (discussing proposed amendment to current statute, 18 U.S.C. § 922(g)(9)).

27. *See infra* Section III.A (analyzing proposed amendment to current legislation).

28. *See infra* Section III.A (examining proposed amendment).

29. *See* 18 U.S.C. § 922(g)(9).

30. *See infra* Part III (analyzing how an expansion of § 922(g)(9) is constitutional).

31. *See infra* Sections II.B–C (discussing federal legislation concerning possession of firearms and caselaw concerning possession of firearms).

32. *See infra* Part III (analyzing how *Rahimi*’s foundation will allow the proposed legislation to pass constitutional scrutiny).

33. *See infra* Section III.E (discussing public policy arguments for proposed legislation).

II. THE LEGAL AND CONSTITUTIONAL LANDSCAPE OF FIREARMS AND DOMESTIC VIOLENCE

This Comment addresses an intolerable but all too common problem in the United States: domestic violence.³⁴ More specifically, domestic violence involving the use of a firearm. The nation has become desensitized to this issue.³⁵ Such violence is frequently reported in the media—whether it involves a stalker shooting an ex-partner or a person being killed after receiving threats.³⁶ It has become all too customary, and domestic violence continues to be a widely recognized crisis that affects people across the country.³⁷

A. Violence Against Intimate Partners

Fortunately, over the last thirty years, domestic violence incidents have decreased in the United States.³⁸ However, it must be noted that not all victims of domestic violence report abuse,³⁹ and data shows an increase in the use of weapons, particularly firearms, against intimate partners.⁴⁰ According to the Centers for Disease Control and Prevention (CDC), one in four women is physically abused by their intimate partner in their lives.⁴¹

Although intimate partner violence falls under the broader umbrella of domestic violence, it raises unique concerns that warrant separate attention.⁴² Domestic violence typically refers to violence that happens between residents within a single location.⁴³ This can include violence between parents and children, spouses, siblings, and even roommates.⁴⁴ But intimate partner violence happens only “between romantic partners who may or may not be living together.”⁴⁵ Intimate partner violence means more than just violence;

34. See Sydney Uhl, *How Domestic Violence Becomes Normalized*, PEACE AT HOME FAM. SHELTER (Nov. 30, 2023), <https://peaceathomeshelter.org/blog/how-domestic-violence-becomes-normalized/> [https://perma.cc/6DU5-92GK].

35. *Id.*

36. *Id.*

37. *Id.*

38. See *Data Says Domestic Violence Incidents Are Down but Half of All Victims Don't Report to Police*, USAFACTS (Oct. 21, 2021), <https://usafacts.org/articles/data-says-domestic-violence-incidents-are-down-but-half-of-all-victims-dont-report-to-police/> [https://perma.cc/3M48-MTCS].

39. *Id.*

40. See Heather Harris, *Reports of Domestic Violence Have Dropped but Their Severity Has Gone Up*, PUB. POL'Y INST. OF CAL. (Apr. 16, 2025), <https://www.pplic.org/blog/reports-of-domestic-violence-have-dropped-but-their-severity-has-gone-up/#:~:text=In%202023%2C%20the%20most%20recent%20year%20of,calls%2C%20or%20nearly%2023%20calls%20per%20hour> [https://perma.cc/8DCS-UJKD].

41. Martin R. Huecker et al., *Domestic Violence*, NAT'L LIB. OF MED. (last updated Apr. 9, 2023), <https://www.ncbi.nlm.nih.gov/books/NBK499891/> [https://perma.cc/F6ZM-3FK4].

42. *Intimate Partner Violence vs. Domestic Violence*, YWCA SPOKANE (Jan. 5, 2021), <https://ywcaspokane.org/what-is-intimate-partner-domestic-violence/> [https://perma.cc/AYS2-T4ZS].

43. *Id.*

44. *Id.*

45. *Id.*

it covers digital violence, financial violence, psychological violence, sexual violence, and stalking.⁴⁶

Based in North Texas, the Tarrant County District Attorney's Office instructs its Assistant District Attorneys handling domestic violence cases to refer to the chart of power and control that describes the different ways abusers maintain control over their partners.⁴⁷ The cycle includes: (1) using intimidation; (2) using emotional abuse; (3) using isolation; (4) denying, minimizing, and blaming; (5) using children; (6) using privilege; (7) using economic abuse; and (8) using coercion and threats.⁴⁸ This is a cycle that victims experience, and the cycle makes it difficult for them to leave an abusive relationship.⁴⁹

Around one in five homicide victims in the United States is killed by an intimate partner.⁵⁰ Over half of female homicide victims are killed by a current or former male intimate partner.⁵¹ A woman is five times more likely to be murdered by an abusive partner if that partner has access to a firearm.⁵² When an offender murders an intimate partner, in about one-quarter of those cases, that offender also murders another innocent person, whether the victim is a child, family member, or roommate.⁵³ More specifically, in Texas, the number of women shot and killed by their intimate partners has nearly doubled since 2013.⁵⁴ On an average day, domestic violence hotlines in the United States receive around 20,800 calls.⁵⁵ Current domestic violence laws fail to adequately protect domestic abuse victims.⁵⁶ The problem of intimate partner violence still exists, and there needs to be stronger measures and laws to prevent these acts.⁵⁷

46. See TARRANT COUNTY PUBLIC HEALTH DATA BRIEF (Oct. 2025), https://www.tarrantcountytx.gov/content/dam/main/public-health/PH%20DOCUMENTS/Epi/Data%20Briefs/2025/2025-10_Data-Brief_IPV-Update.pdf [<https://perma.cc/MKL9-8S6J>].

47. For more information on the chart of power and control, see Domestic Abuse Intervention Project, *Power and Control*, NAT'L DOMESTIC VIOLENCE HOTLINE, <https://www.thehotline.org/identify-abuse/power-and-control/> [<https://perma.cc/RKY6-5GCM>] (last visited Mar. 24, 2026).

48. *Id.*

49. *See id.*

50. *About Intimate Partner Violence*, CDC (Feb. 11, 2026), <https://www.cdc.gov/intimate-partner-violence/about/index.html> [<https://perma.cc/SL9B-FH6A>].

51. *Id.*

52. *United States v. Rahimi*, 602 U.S. 680, 706–07 (2024) (Sotomayor, J., concurring).

53. *Id.* at 707.

54. Caroline Love, *Report: Texas Domestic Violence Homicides Have Almost Doubled in the Past 10 Years*, KERA NEWS (Oct. 2, 2024, at 05:00 CST), <https://www.keranews.org/news/2024-10-02/texas-domestic-violence-homicides-have-almost-doubled-in-the-past-10-years> [<https://perma.cc/EV2Q-XJT7>].

55. *Id.*

56. *See id.*

57. *See id.*

B. Federal Firearm Legislation

This Section examines federal firearm legislation that Congress enacted over the last sixty years. The growing body of legislation shows that firearm violence is a constantly evolving problem that requires updated legislation to combat this issue.⁵⁸

1. Gun Control Act of 1968

As a first effort to address the firearm violence issue, Congress passed the Gun Control Act of 1968, which federally regulated gun ownership and prohibited the sale to certain individuals listed under the statute.⁵⁹ The law was largely influenced by the instability of the 1960s, as shown by the assassinations of President John F. Kennedy, Dr. Martin Luther King Jr., and Attorney General Robert Kennedy.⁶⁰ The Act added the “prohibited persons” language in § 922(g).⁶¹ It made gun ownership illegal for convicted felons, fugitives from justice, unlawful users, mentally defective individuals, illegal aliens, individuals who have been dishonorably discharged from the military, and persons who have renounced their citizenship.⁶²

2. Violence Against Women Act

After passing the Gun Control Act of 1968, Congress passed the Violence Against Women Act (VAWA) in 1994 to strengthen federal laws protecting domestic violence and sexual assault victims.⁶³ VAWA was the first federal legislation to acknowledge domestic violence and sexual assault as crimes.⁶⁴

Traditionally, before Congress enacted VAWA, police and court systems did not take domestic violence seriously.⁶⁵ Law enforcement training programs taught officers that violence within the home was a private matter

58. See *Gun Violence: The Impact on Society*, NIHCM FOUND. (updated Dec. 17, 2024), <https://nihcm.org/publications/gun-violence-the-impact-on-society> [<https://perma.cc/X3JP-FFYF>].

59. See *Gun Control Act*, BUREAU OF ALCOHOL, TOBACCO, FIREARMS & EXPLOSIVES (last updated Jan. 28, 2026), <https://www.atf.gov/rules-and-regulations/laws-alcohol-tobacco-firearms-and-explosives/gun-control-act> [<https://perma.cc/HW5U-FZ72>].

60. *Id.*

61. *Identify Prohibited Persons*, BUREAU OF ALCOHOL, TOBACCO, FIREARMS & EXPLOSIVES (last updated Jan. 9, 2020), <https://www.atf.gov/firearms/identify-prohibited-persons> [<https://perma.cc/2TQU-SSYH>].

62. *Id.*; see also 18 U.S.C. § 922(g)(1) (prohibiting felons from possessing firearms or ammunition).

63. 34 U.S.C. § 1291; see *Violence Against Women Act*, NAT'L NETWORK TO END DOMESTIC VIOLENCE [hereinafter *Violence Against Women Act*], <https://nnedv.org/content/violence-against-women-act/> [<https://perma.cc/LY4Z-SEB9>] (last visited Mar. 24, 2026).

64. *Id.*

65. See Joan Zorza, *Criminal Law of Misdemeanor Domestic Violence 1970-1990*, 83 J. CRIM. L. & CRIMINOLOGY 46, 47 (1992).

and they should not intervene.⁶⁶ Thus, police officers often ignored domestic violence calls and delayed responding.⁶⁷ There were even instances of apathetic responses to domestic violence, such as police officers laughing in a woman's face after she had told the police what type of violence occurred.⁶⁸ Before the VAWA, police hardly ever arrested abusers.⁶⁹ But, thankfully, our society has become more educated on the dangers of domestic violence.⁷⁰

When Congress passed the VAWA, the legislation provided funds for "housing, legal assistance, alternatives to criminal responses, and prevention programming."⁷¹ The legislation provided uniformity nationwide and victims access to the proper channels to seek justice.⁷² The VAWA set the standard for victims to finally have their day in court and for the United States to start taking violence against women seriously.⁷³

3. Lautenberg Amendment

Unfortunately, the VAWA and the Gun Control Act of 1968 were still not enough to adequately protect partners from domestic abuse.⁷⁴ This gap in protection prompted Congress to codify § 922(g)(9), the "Gun Ban for Individuals Convicted of a Misdemeanor Crime of Domestic Violence," otherwise known as the Lautenberg Amendment.⁷⁵ Congress passed the Lautenberg Amendment in 1996 as an expansion of the Gun Control Act of 1968.⁷⁶ The Lautenberg Amendment strengthened federal safeguards for domestic violence victims.⁷⁷

The support for the Lautenberg Amendment came from many directions.⁷⁸ People were concerned about the growing number of domestic violence victims being killed by firearms, and policymakers were likewise concerned about the practice of defendants routinely pleading down to

66. *Id.*

67. *Id.*

68. *Id.*

69. *Id.* at 48.

70. *See id.* at 46.

71. *See Violence Against Women Act*, *supra* note 63.

72. *See id.*

73. *See id.*

74. *See id.*

75. 18 U.S.C. § 922(g)(9); *Restrictions on the Possession of Firearms by Individuals Convicted of a Misdemeanor Crime of Domestic Violence*, U.S. DEP'T OF JUST. (last updated July 2013), <https://www.justice.gov/archives/jm/criminal-resource-manual-1117-restrictions-possession-firearms-individuals-convicted> [<https://perma.cc/U83R-3KYX>] [hereinafter *Restrictions on the Possession of Firearms*].

76. *Id.*

77. NAT'L RES. CTR ON DOMESTIC VIOLENCE & FIREARMS, A BRIEF HISTORY AND FRAMEWORK OF FEDERAL FIREARMS LAWS ADDRESSING INTIMATE PARTNER VIOLENCE 6 (last updated June 2024) [hereinafter *Framework of Federal Firearm Laws*], <https://nrcdvf.org/wp-content/uploads/2024/07/firearms-federal-laws-new.pdf> [<https://perma.cc/CQT4-6WEK>].

78. *Id.*

misdeemeanor convictions to avoid felony charges.⁷⁹ Members from both political parties in Congress also supported the Lautenberg Amendment because it was attached to the “must-pass” 1997 Omnibus Consolidated Appropriations Act.⁸⁰ The Senate approved the Lautenberg Amendment by a vote of ninety-seven to two.⁸¹

The Lautenberg Amendment provides that any individual who is convicted of a misdemeanor crime of domestic violence is not permitted to possess a firearm.⁸² The express language states:

It shall be unlawful for any person . . . 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.⁸³

The sponsoring United States Senator, Frank Lautenberg, spoke about the Lautenberg Amendment when Congress passed the legislation.⁸⁴ He stated, “If you beat your wife, if you beat your child, if you abuse your family and you are convicted, even of a misdemeanor, you have no right to possess a gun. That is the way it ought to be. Lord willing, it will be.”⁸⁵ Even with the supportive and well-intentioned addition of § 922(g)(9), the current law still permits dangerous individuals to have access to firearms, which too often leads these individuals to kill their intimate partner.⁸⁶ Dangerous individuals may still retain their right to possess a firearm because their acts did not amount to the “use or attempted use of physical force, or the threatened use of a deadly weapon” requirement.⁸⁷

A misdemeanor domestic violence conviction is currently the only misdemeanor conviction that prohibits an individual from possessing a firearm.⁸⁸ This prohibition is permanent, unless the record is expunged or the individual is pardoned.⁸⁹ There are three elements: (1) a misdemeanor conviction under federal, state, or tribal law; (2) the conviction has, as an element, “the use or attempted use of physical force, or the threatened use of

79. Rachel B. Polan, *The Context of Violence: The Lautenberg Amendment & Interpretive Issues in the Gun Control Act*, 83 BROOK. L. REV. 1441, 1442 (2018).

80. Melanie C. Schneider, *The Imprecise Draftsmanship of The Lautenberg Amendment and the Resulting Problems for the Judiciary*, 23 COLUM. J. GENDER & L. 505, 511 (2008).

81. Kerri Fredheim, *Closing the Loopholes in Domestic Violence Laws: The Constitutionality of 18 U.S.C. § 922(g)(9)*, 19 PACE L. REV. 445, 446–47 (1999).

82. 18 U.S.C. § 922(g)(9).

83. *Id.*

84. 142 CONG. REC. S11878 (daily ed. Sep. 30, 1996) (statement of Sen. Lautenberg).

85. *Id.*

86. *Framework of Federal Firearm Laws*, *supra* note 77, at 6–7.

87. 18 U.S.C. § 921(a)(33).

88. *Id.* § 922(g)(9).

89. *Id.*

a deadly weapon; and,” (3) the offense was committed by a “current or former spouse, parent, or guardian of the victim,” by a “person with whom the victim share[s] a child in common,” by a “person who is cohabiting with or ha[s] cohabited with the victim as a spouse, parent, or guardian,” by a “person who was similarly situated to a spouse, parent, or guardian of the victim,” or by a person who has “a current or recent former dating relationship with the victim.”⁹⁰

4. *Bipartisan Safer Communities Act*

In 2022, Congress amended § 922(g)(9) as part of the Bipartisan Safer Communities Act to expand disarmament to offenders who are in a dating relationship with the victim.⁹¹ Previously, abusive partners in a dating relationship fell under the “boyfriend loophole” and avoided disarmament under § 922(g)(9) because the law only applied to individuals who were current or former spouses, current or former parents or guardians, shared a child in common, currently or had cohabited as a spouse, parent or guardian of the victim, or were similarly situated to spouse, parent, or guardian of the victim.⁹²

This amendment changed the definition of a “dating relationship” to: (1) “[c]urrently exists or existed recently; [(2)] [i]s continuing and serious; [and (3)] [i]s of a romantic or intimate nature.”⁹³ Factors that courts use to determine whether the dating relationship qualifies under federal law are the “[(1)] length of the relationship; [(2)] [t]he nature of the relationship; [and (3)] [t]he frequency and type of interaction between the individuals in the relationship.”⁹⁴

If an individual is convicted of a domestic violence misdemeanor and the relationship qualifies as a dating relationship under the statute, that individual could have the prohibition lifted, unlike a non-dating relationship.⁹⁵ There are two ways to lift the prohibition if the offender was in a dating relationship with the victim: (1) if there is an expungement process; or (2) if the offender after five years “has not had more than one dating violence conviction” and has no other offense that “has an element the use or attempted use of physical force or the threatened use of a deadly weapon, or any other offense that would disqualify the person under [§] 922(g).”⁹⁶

90. See *Misdemeanor Crimes of Domestic Violence*, BUREAU OF ALCOHOL, DRUGS, TOBACCO, FIREARMS & EXPLOSIVES (May 2024), <https://www.atf.gov/media/25266/download> [<https://perma.cc/W4E7-GKSD>]; 18 U.S.C. § 921(a)(33).

91. *Framework of Federal Firearm Laws*, *supra* note 77, at 7.

92. *Id.*

93. *Id.*

94. *Id.*

95. *Id.* at 9.

96. *Id.*

In contrast to a non-dating relationship under § 922(g)(9), the ban on firearms is permanent and can only be lifted with an expungement, a pardon, or the restoration of the offender's civil rights.⁹⁷ When evaluating whether to classify the relationship as dating or a spousal relationship in cases involving dangerous offenders, federal prosecutors may examine whether the relationship between the victim and offender can be characterized as marital or cohabitation to offer more protection for the victim.⁹⁸ If the relationship is classified as a marital one, that individual will face a permanent firearm possession ban rather than a temporary prohibition for a dating relationship.⁹⁹

This Comment asserts that § 922(g)(9), as written, while beneficial, still does not provide enough protection from fatal domestic abuse.¹⁰⁰ The lack of adequate protection stems from the statute's "use or attempted use of physical force, or the threatened use of a deadly weapon" requirement.¹⁰¹ Crimes like stalking, harassment, or making terroristic threats—especially in our ever-increasing virtual world—may warrant disarmament even when there is no use or attempted use of physical force or use of a deadly weapon.¹⁰²

Take the case of Emma Walker, a high school cheerleader who was murdered by her ex-boyfriend, William Gaul.¹⁰³ They began dating in high school, but soon Gaul went off to play football in college.¹⁰⁴ Walker's parents eventually encouraged her to end things with Gaul because they "started to get many more red flags."¹⁰⁵ Towards the end of their relationship, Gaul sent threatening texts to Walker: "I'll see your name in the obituary."¹⁰⁶ Once Walker decided to end the relationship for good, Gaul started texting Walker under an unknown number, "I've got someone you love. If you don't comply[,] I will hurt them."¹⁰⁷ Finally, Gaul took Walker's life by firing two shots into her bedroom window with his grandfather's gun.¹⁰⁸

The next step in protecting domestic violence victims is to pass further legislation expanding the types of misdemeanors that qualify to allow the

97. *Id.*; 18 U.S.C. § 921(a)(33)(B)(ii). Civil rights are the right to vote, the right to run for state office, and the right to sit on a jury. *See Post-Conviction Restoration of Civil Rights*, U.S. DEP'T OF JUST., <https://www.justice.gov/archives/jm/criminal-resource-manual-1435-post-conviction-restoration-civil-rights> [https://perma.cc/CT39-5ADL] (last visited Mar. 24, 2026).

98. *Framework of Federal Firearm Laws*, *supra* note 77, at 10.

99. *Id.*

100. *See* 18 U.S.C. § 922(g)(9).

101. *See id.* § 921(a)(33).

102. *See id.*

103. Joseph Diaz, Kenturah Gray & Lauren Effron, *They Seemed Like the Picture-Perfect High School Sweethearts, but Their Toxic Relationship Ended in Murder*, ABC NEWS (Apr. 8, 2021, at 15:29 CST), <https://abcnews.go.com/Test/picture-perfect-high-school-sweethearts-toxic-relationship-ended/story?id=76950119> [https://perma.cc/M886-Q7J9].

104. *Id.*

105. *Id.* (internal quotes omitted).

106. *Id.* (internal quotations omitted).

107. *Id.* (internal quotations omitted).

108. *Id.*

federal government to disarm dangerous individuals.¹⁰⁹ This proposition is precisely what this Comment addresses with the proposed amendment: it constitutionally expands relevant misdemeanor convictions to disarm dangerous individuals before they cause serious harm or death.¹¹⁰

C. Constitutionality of Firearm Laws

Through decisions in *District of Columbia v. Heller*, *New York State Rifle & Pistol Ass’n v. Bruen*, and *United States v. Rahimi*, the Supreme Court developed the historical analogue test to determine whether federal firearm regulations are constitutional.¹¹¹ At first, the Court applied a stricter version of the historical analogue test than it does today.¹¹² The original application of this test, which stemmed from lower courts, essentially required federal firearm regulations to be based on a Founding Era historical twin.¹¹³ A historical twin analysis required a Founding Era law to be nearly identical to modern legislation.¹¹⁴ The Court later clarified the historical analogue test and reiterated that “[t]he law must comport with the principles underlying the Second Amendment, but it need not be a ‘dead ringer’ or a ‘historical twin.’”¹¹⁵

I. District of Columbia v. Heller

The Supreme Court first applied a version of the historical analogue test in *District of Columbia v. Heller*.¹¹⁶ It asked whether a ban on handguns comported with history and tradition.¹¹⁷ The District of Columbia imposed a general ban on possession of firearms in the home.¹¹⁸ Only the police chief had authority to issue firearm licenses for one year, and if a person did possess a firearm, those firearms had to be “‘unloaded and disassembled or bound by a trigger lock or similar device’ unless they are located in a place of business or are being used for lawful recreational activities.”¹¹⁹

The Supreme Court examined Founding Era laws and found none that were analogous to the District of Columbia’s ban.¹²⁰ The Court held the ban

109. See *infra* Section III.A (discussing proposed amendment to current legislation).

110. See *infra* Section III.A (analyzing proposed amendment to current legislation).

111. See generally *District of Columbia v. Heller*, 554 U.S. 570 (2008); *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1 (2022); *United States v. Rahimi*, 602 U.S. 680 (2024) (together creating firearm regulation test).

112. See *Heller*, 554 U.S. at 629; *Bruen*, 597 U.S. at 18.

113. *United States v. Rahimi*, 61 F.4th 443, 453–54 (5th Cir. 2023), *rev’d*, 602 U.S. 680 (2024).

114. See *id.*

115. *Rahimi*, 602 U.S. at 692.

116. *Heller*, 554 U.S. at 600–02.

117. *Bruen*, 597 U.S. at 19.

118. *Heller*, 554 U.S. at 574–75.

119. *Id.* at 575.

120. *Id.* at 626.

unconstitutional because it violated the fundamental right to bear arms under the Second Amendment.¹²¹ The Supreme Court analyzed whether the firearm regulation comported with history and tradition.¹²² The Court reiterated that “the inherent right of self-defense has been central to the Second Amendment right.”¹²³ However, the Court recognized that “the right secured by the Second Amendment is not unlimited.”¹²⁴ It noted that this opinion should not “cast doubt” on the regulations of firearms by felons, the mentally ill, or laws imposing conditions on the sale of firearms.¹²⁵

2. New York State Rifle & Pistol Ass’n v. Bruen

Next, in *New York State Rifle & Pistol Ass’n v. Bruen*, the Court formally defined the historical analogue test.¹²⁶ The case was brought by New York residents who sought to own firearms for protection.¹²⁷ However, the State of New York placed a condition on owning a firearm; the state would only issue a public-carry license when an applicant could show a special need or proper cause.¹²⁸ New York courts interpreted proper cause as “demonstrat[ing] a special need for self-protection distinguishable from that of the general community.”¹²⁹

The Court rejected the two-part approach the Court of Appeals developed after *Heller* and instead adopted the historical analogue test.¹³⁰ The New York law was held unconstitutional because it violated an individual’s right to bear arms under the Second Amendment.¹³¹ The two-part approach consisted of “text and history to determine ‘whether the regulated activity falls within the scope of the Second Amendment.’”¹³²

The second step involved means-end scrutiny, which applied strict scrutiny or intermediate scrutiny depending on the burden of the law.¹³³ The Court abandoned the two-step approach due to judges balancing the Second Amendment against governmental interests; because of this, there could not be consistent results.¹³⁴ Justice Thomas said that the analogue test should not be a “straightjacket” nor a “blank check.”¹³⁵ The modern law being analyzed

121. *Id.* at 636.

122. *See id.* at 626.

123. *Id.* at 628.

124. *Id.* at 626.

125. *Id.* at 626–27.

126. *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1 (2022).

127. *Id.* at 11.

128. *Id.*

129. *Id.* at 12 (internal quotations omitted).

130. *Id.* at 17.

131. *Id.* at 71.

132. *Id.* at 103 (Breyer, J., dissenting).

133. *Id.*

134. *See id.* at 17.

135. *Id.* at 30.

should more than “remotely resemble” Founding Era laws, but at the same time, there does not need to be a historical twin.¹³⁶

D. Current Historical Analogue Analysis as Illustrated in United States v. Rahimi

The Court eventually further defined the historical analogue test in *United States v. Rahimi*.¹³⁷ In *Rahimi*, the Supreme Court applied the *Bruen* framework, but clarified the approach in analyzing the case.¹³⁸ Chief Justice Roberts stated there needs to be a historical analogue, not a twin.¹³⁹ This mirrors the standard applied in *Bruen*, which examined “whether the new law is relevantly similar to laws that our tradition is understood to permit.”¹⁴⁰ However, the Court further clarified the historical analysis in *Rahimi*.¹⁴¹

A state court in Fort Worth, Texas issued a civil restraining order against Zackey Rahimi after finding he posed a “credible threat” to the “physical safety” of his child’s mother and his child in February 2020.¹⁴² This restraining order automatically qualified him under § 922(g)(8) to be lawfully prohibited from possessing firearms.¹⁴³

After the restraining order, Rahimi engaged in five shooting incidents around Tarrant County and was subsequently arrested and charged federally under § 922(g)(8).¹⁴⁴ These shooting incidents included him driving by a drug customer’s residence and firing shots into it, multiple road rage incidents where he shot at other cars, and carelessly firing his gun in the air in neighborhoods and outside restaurants.¹⁴⁵ These incidents showed a carelessness for the safety of himself and others, in which he posed a credible threat to the physical safety of others.¹⁴⁶

Rahimi moved to dismiss this charge, arguing that § 922(g)(8) was facially unconstitutional because it violated his Second Amendment rights.¹⁴⁷ The district court denied his motion, and Rahimi pled guilty.¹⁴⁸ Rahimi then appealed to the Fifth Circuit, which denied under the two-part approach created by the Court of Appeals after *Heller*.¹⁴⁹ He then petitioned for a

136. *Id.*

137. *United States v. Rahimi*, 602 U.S. 680, 701 (2024).

138. *Id.* at 692.

139. *Id.*

140. *Id.* at 736 (Kavanaugh, J., concurring).

141. *Id.* at 701 (majority opinion).

142. *Id.* at 690.

143. *See* 18 U.S.C. § 922(g)(8).

144. *Rahimi*, 602 U.S. at 686–87.

145. *Id.* at 687–88.

146. *Id.* at 690.

147. *Id.* at 689.

148. *Id.*

149. *See id.*

rehearing en banc.¹⁵⁰ While Rahimi’s petition was pending, the Supreme Court decided *Bruen*.¹⁵¹ With a new panel, the Fifth Circuit reversed the district court’s ruling, and found that § 922(g)(8) violated Rahimi’s Second Amendment rights.¹⁵²

The federal government appealed, and the United States Supreme Court granted certiorari.¹⁵³ The Supreme Court reversed the Fifth Circuit and found that there was a historical analogue similar to § 922(g)(8).¹⁵⁴ The Court stated: “The law must comport with the principles underlying the Second Amendment, but it need not be a ‘dead ringer’ or a ‘historical twin.’”¹⁵⁵

The Court echoed its reasoning in *Bruen*, emphasizing that a modern law need not be a dead ringer to Founding Era law; it may be similar enough to satisfy constitutional scrutiny.¹⁵⁶ The Supreme Court found a sufficient connection between Founding Era laws and § 922(g)(8).¹⁵⁷ It analyzed surety laws and going armed laws and found that those laws provided a historical analogue to validate § 922(g)(8) as constitutional.¹⁵⁸

In English Common law, courts considered the act of “go[ing] armed to terrify the King’s subjects” to be a “great offen[s]e.”¹⁵⁹ In the 1200s and 1300s, the English Parliament began codifying such provisions.¹⁶⁰ The Militia Act of 1662 authorized the King to “seize all Armes in the custody or possession of any person . . . judge[d] dangerous to the Peace of the Kingdome.”¹⁶¹ However, after the Glorious Revolution, the Court explained that the Crown’s power to disarm decreased, but the principle that arms-bearing constrained “by Law” stood in place.¹⁶²

Looking ahead in the Founding Era, the Second Amendment largely eliminated the government’s power to disarm political opponents and disfavored religious groups, but regulations that targeted individuals who physically threatened others persisted.¹⁶³ Prohibitions on fighting—or even a private suit against individuals who threatened others—offered remedies.¹⁶⁴

By the 1800s, surety and affray laws developed from these English common law rules.¹⁶⁵ These laws gave courts a way to specifically address

150. *Id.*

151. *Id.*; see *N.Y. State Rifle & Pistol Ass’n. v. Bruen*, 597 U.S. 1, 24 (2022).

152. *Rahimi*, 602 U.S. at 689.

153. *Id.* at 690.

154. *Id.* at 692.

155. *Id.*

156. *Bruen*, 597 U.S. at 30.

157. See *Rahimi*, 602 U.S. at 701–02.

158. *Id.* at 697.

159. *Id.* at 693.

160. *Id.* at 694.

161. *Id.*

162. *Id.* at 694.

163. *Id.*

164. *Id.*

165. *Id.* at 694–95.

firearm violence.¹⁶⁶ The Supreme Court heavily analyzed these laws in *Rahimi*, showing a constitutional connection between those laws and § 922(g)(8).¹⁶⁷ This constitutional link permits § 922(g)(8) to pass constitutional scrutiny, and the same rationale justifies amending § 922(g)(9) to protect those vulnerable to domestic violence involving firearms.¹⁶⁸

This Comment proposed that an amendment to 18 U.S.C. § 922(g)(9) to include misdemeanor crimes of stalking, harassment, or a terroristic threat is necessary to continue to protect victims and save as many lives as possible.¹⁶⁹ The current legislation allows too many dangerous individuals to remain armed because they do not qualify under the use of force requirement under § 922(g)(9).¹⁷⁰

III. AMENDING 18 U.S.C. § 922(g)(9) WILL PROTECT POTENTIAL VICTIMS BY REINFORCING A STATUTE INTENDED TO PREVENT FUTURE HARM

Congress should amend legislation under 18 U.S.C. § 922(g)(9) to prohibit individuals who commit a misdemeanor of terroristic threat, harassment, or stalking from possessing firearms, thereby ensuring that more dangerous individuals can be disarmed under federal law.

The existing law under 18 U.S.C. § 922 falls short of achieving its intended goal of protecting the public from firearm-related violence.¹⁷¹ This law does not encompass enough dangerous individuals.¹⁷² Too many offenders fall between the “cracks” of these laws, including people who commit misdemeanors rather than felonies and who do not meet the use of force or threatened use of force requirement.¹⁷³ As a result, these individuals are allowed to possess firearms, increasing the potential risk of firearm-related harm or deaths.¹⁷⁴ In turn, those individuals may pose a credible threat to the physical safety of others.¹⁷⁵

If these offenders stalk, harass, or make threats against an individual, the next step could be serious injury or death.¹⁷⁶ In fact, the rate of recidivism among offenders convicted of stalking is alarmingly high for committing new

166. *Id.*

167. *Id.* at 680.

168. *See id.* at 681.

169. *See infra* Section III.A (analyzing proposed amendment under § 922(g)(9)).

170. *See* 18 U.S.C. § 922(g)(9).

171. *See id.*

172. *Id.*

173. *Id.*

174. *See* Winnie Stachelberg et al., *Preventing Domestic Abusers and Stalkers from Accessing Guns*, CTR. FOR AM. PROGRESS (May 9, 2013), <https://www.americanprogress.org/article/preventing-domestic-abusers-and-stalkers-from-accessing-guns/#:~:text=Although%20stalking%20is%20often%20categorized,the%20cases%20below%20tragically%20illustrate> [https://perma.cc/PR59-6MUX].

175. *See* *United States v. Rahimi*, 602 U.S. 680, 690 (2024).

176. *See* Stachelberg et al., *supra* note 174.

stalking offenses or other violent reoffending.¹⁷⁷ In a nine-year follow-up study on stalker recidivism, researchers found a recidivism rate of 56%.¹⁷⁸ Expanding § 922(g)(9) is constitutional because of the historical analogue framework applied in *United States v. Rahimi* when the Supreme Court upheld 18 U.S.C. § 922(g)(8).¹⁷⁹

Accordingly, Congress should amend § 922(g)(9) to expand the law to include misdemeanor stalking, harassment, or terroristic threat convictions.¹⁸⁰ Disarming people convicted of these crimes will prevent needless deaths because it will disarm people before they have an opportunity to commit more violent crimes.¹⁸¹

A. Proposed Amendment of § 922(g)(9)

This Comment is the first to suggest an amendment to 18 U.S.C. § 922(g)(9) to expand the types of misdemeanor crimes that will qualify under the statute. The misdemeanors should expand to include stalking, harassment, or making a terroristic threat. This amendment satisfies constitutional scrutiny under the historical analogue analysis used in *United States v. Rahimi* because the surety and going armed laws provide an adequate historical analogue.¹⁸²

18 U.S.C. § 922(g)(9) would be amended to add the italicized language:

It shall be unlawful for any person . . . who has been convicted in any court of a misdemeanor crime of domestic violence, *harassment, stalking, or a terroristic threat*, 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.¹⁸³

Stalking, harassment, and terroristic threats constitute illustrative, and not exhaustive, categories of misdemeanor offenses that may qualify under this statute.

The last paragraph in this proposed amendment is necessary because states use different names for comparable criminal offenses.¹⁸⁴ For example,

177. See Angela W. Eke et al., *Predictors of Recidivism by Stalkers: A Nine-Year Follow-up of Police Contacts*, 29 BEHAV. SCI. L. 271, 271–83 (2011).

178. *Id.*

179. See *Rahimi*, 602 U.S. at 680.

180. See 18 U.S.C. § 922(g)(9).

181. See Eke et al., *supra* note 177, at 280.

182. See *Rahimi*, 602 U.S. at 680.

183. See 18 U.S.C. § 922(g)(9).

184. See *State Domestic Terrorism Laws in the United States*, INT'L CTR. FOR NOT-FOR-PROFIT LAW (last updated Nov. 18, 2025), <https://www.icnl.org/resources/terrorism-laws-in-the-united-states> [<https://perma.cc/G33E-2VBC>].

Texas codifies “terroristic threat,” while New Mexico does not have a terrorism crime.¹⁸⁵ Listing every statute in every state that would possibly fit into this definition would be unworkable.¹⁸⁶ Instead, it will be up to the specific United States Attorney’s Office to determine if the applicable state law statute would qualify under § 922(g)(9).¹⁸⁷

B. The Proposed Amendment Is Constitutional Under the Rahimi Framework

This Comment’s proposed amendment to § 922(g)(9) is constitutional under the framework applied in *Rahimi*, where the Court used the historical analogue analysis to uphold the disarmament of an individual subject to a civil restraining order.¹⁸⁸ In *United States v. Rahimi*, the Supreme Court relied on that analysis to uphold § 922(g)(8).¹⁸⁹ Under the same framework, an expanded § 922(g)(9) is constitutional because Founding Era laws—such as the surety and going armed laws—provide a sufficient historical analogue for the proposed amendment.¹⁹⁰

Before the case reached the Supreme Court, the Fifth Circuit reversed *Rahimi*’s conviction, and applying the historical analogue test, found § 922(g)(8) unconstitutional.¹⁹¹ The Fifth Circuit relied heavily on the fact that no restraining order “historical twin” existed in the Founding Era.¹⁹² *Rahimi*’s lawyer argued that the previous historical analogue test under *New York State Rifle & Pistol Ass’n v. Bruen* required a much tighter fit between the modern legislation and Founding Era laws.¹⁹³ The Fifth Circuit also found no link between the restraining order and the surety or affray laws that the federal government relied on.¹⁹⁴ The court claimed that § 922(g)(8) “is an ‘outlier[] that our ancestors would never have accepted.’”¹⁹⁵

However, the Supreme Court criticized the Fifth Circuit’s decision and said that it took too narrow of an approach to find an analogue.¹⁹⁶ It stated, “The Fifth Circuit erred in reading *Bruen* to require a ‘historical twin’ rather

185. *Id.*

186. Telephone Interview with Alex Lewis, Fed. Prosecutor, N. Dist. Tex., (Nov. 4, 2025).

187. *Id.*

188. *United States v. Rahimi*, 602 U.S. 680, 682–83 (2024).

189. *Id.*

190. See *infra* Section III.C (applying *Rahimi* framework to proposed amendment).

191. *United States v. Rahimi*, 61 F.4th 443, 461 (5th Cir. 2023), *rev’d*, 602 U.S. 680 (2024).

192. *Id.* at 454.

193. See Amanda L. Tyler, *Rahimi, Second Amendment Originalism, and the Disarming of Loyalists During the American Revolution*, LAWFARE (Nov. 30, 2023, at 13:32 CST) <https://www.lawfaremedia.org/article/rahimi-second-amendment-originalism-and-the-disarming-of-loyalists-during-the-american-revolution> [https://perma.cc/22D8-UJZE].

194. *Rahimi*, 61 F.4th at 459.

195. *Id.* at 461.

196. *United States v. Rahimi*, 602 U.S. 680, 700 (2024).

than a ‘historical analogue.’”¹⁹⁷ The Supreme Court reversed the Fifth Circuit and devoted a significant portion of its opinion to analyzing the history of American gun laws, taking a step back to the origins of English law.¹⁹⁸

Surety laws prohibited individuals from possessing firearms when they were known to be loyal to the British Government or who posed a danger and risk to the Colonies.¹⁹⁹ As the Blackstone commentaries state, these surety laws were “‘intended merely for prevention’ and were ‘not meant as any degree of punishment.’”²⁰⁰ Affray laws, also known as the going armed laws, prohibited individuals from “riding or going armed, with dangerous or unusual weapons, [to] terrify[] the good people of the land.”²⁰¹ Chief Justice Roberts, who wrote the majority opinion in *Rahimi*, stated that “[§] 922(g)(8) is not identical to these founding-era regimes, but it does not need to be.”²⁰² Applying the *Rahimi* analysis to the proposed amendment, the Chief Justice’s reasoning supports the proposed amendment passing constitutional scrutiny.²⁰³

C. Applying Rahimi Analysis to the Proposed Amendment

Surety laws and going armed laws are the focal point of the historical analogue analysis that will allow the proposed amendment to be constitutional.²⁰⁴ This Section provides an analysis of comparing the proposed amendment with both surety and going armed laws.²⁰⁵ “[S]urety laws provided a mechanism for preventing violence before it occurred,” while going armed laws “provided a mechanism for punishing those who had menaced others with firearms.”²⁰⁶

1. Surety Laws Applied to the Proposed Amendment

Applying the surety law analysis provides the constitutional foundation to prevent serious violence by disarming dangerous people before actual violence occurs.²⁰⁷ This is a main aspect of the proposed amendment; it is a

197. *Id.*

198. *Id.* at 697.

199. See Tyler, *supra* note 193; Brief for Petitioner at 7, 11, *United States v. Rahimi*, 602 U.S. 680 (2024) (No. 22-915), 2023 WL 7106695.

200. *N.Y. State Rifle & Pistol Ass’n. v. Bruen*, 597 U.S. 1, 57 (2022) (quoting 4 WILLIAM BLACKSTONE, COMMENTARIES ON THE LAWS OF ENGLAND 249 (1768)).

201. *Rahimi*, 602 U.S. at 681–82 (internal quotations omitted).

202. *Id.*

203. See *id.*

204. See *infra* Sections III.C.1–2 (analyzing surety and going armed laws applied to proposed amendment).

205. See *infra* Sections III.C.1–2 (examining both surety and going armed laws as the historical analogue).

206. *Rahimi*, 602 U.S. at 697.

207. *Id.* at 680.

preventive law. The media and victims of domestic violence criticize the government for failing to take enough proactive measures to stop violence.²⁰⁸ Specifically, critics argue that the government does not acknowledge meaningful warning signs or red flags.²⁰⁹ This proposed amendment gives the federal government—and specifically federal prosecutors—an avenue to intervene early in domestic violence situations by being proactive in disarming individuals before serious injury occurs or someone loses their life.²¹⁰

In *Rahimi*, the Court described the surety laws as a bond system in the Founding Era.²¹¹ These laws authorized magistrate judges “to require individuals suspected of future misbehavior to post a bond.”²¹² If those individuals “broke the peace,” or failed to post bond, they would be jailed.²¹³ These surety laws also focused on the misuse of firearms.²¹⁴ The laws authorized justices of the peace to “‘arrest’ all who ‘go armed offensively [and] require of the offender to find sureties for his keeping the peace.’”²¹⁵

The Court even found that these surety law bonds could prevent “spousal abuse, and also targeted the misuse of firearms.”²¹⁶ As the Blackstone commentaries explained, “[w]ives [could] demand [sureties] against their husbands[,] or husbands, if necessary, against their wives.”²¹⁷ At common law, wives could also demand sureties for good behavior where a husband pledged to “behave himself well.”²¹⁸

Interestingly, Justice Thomas, who dissented in *Rahimi*, also explained that surety laws were applied when “[w]herever any private man [had] cause to fear, . . . or do him a corporal injury, by killing, imprisoning, or beating him . . . he [could] demand surety of the peace against such person.”²¹⁹ Justice Thomas also emphasized that these surety laws extended to domestic violence.²²⁰ “Surety could be sought by ‘a wife against her husband who threatens to kill her or beat her outrageously, or, if she have notorious cause to fear he will do either.’”²²¹

208. See Bernard Condon, ‘Red Flag’ Laws Get Little Use Even as Mass Shooting, Gun Deaths Soar, PBS NEWS (Sep. 2, 2022, at 14:17 EDT), <https://www.pbs.org/newshour/politics/red-flag-laws-get-little-use-even-as-mass-shootings-gun-deaths-soar> [<https://perma.cc/K38F-TUJP>].

209. *Id.*

210. See *supra* Section III.A (analyzing proposed amendment for current legislation).

211. See *Rahimi*, 602 U.S. at 681.

212. *Id.*

213. *Id.*

214. *Id.* at 696.

215. *Id.*

216. *Id.* at 681.

217. *Id.* at 695 (quoting 4 WILLIAM BLACKSTONE, COMMENTARIES ON THE LAWS OF ENGLAND 253 (1768)) (internal quotations omitted).

218. *Id.* at 695–96.

219. *Id.* at 763 (Thomas, J., dissenting).

220. See *id.*

221. *Id.*

The historical analogue of an abusive spouse posting bond is the framework that will allow the proposed amendment to withstand constitutional scrutiny.²²² However, Justice Thomas's dissent in *Rahimi* mentioned that individuals who failed to follow their surety bonds were not automatically disarmed.²²³ However, as Justice Roberts points out, there does not need to be a historical twin, just an analogue.²²⁴ If these surety bonds were broken, magistrate judges could jail the offender.²²⁵ Logically, if an offender was jailed, they would not possess or have access to their firearm.²²⁶

Under this proposed amendment, once an individual is convicted of a qualifying misdemeanor, the federal government should prohibit that person from possessing a firearm before any act of violence occurs.²²⁷ Recognizing that this amendment is not a historical twin to the Founding Era surety laws, it is still consistent with what Chief Justice Roberts stated in *Rahimi*, “[T]he surety . . . laws confirm what common sense suggests: When an individual poses a clear threat of physical violence to another, the threatening individual may be disarmed.”²²⁸ A clear threat of physical violence can be met when an individual stalks, harasses, or commits a terroristic threat against another.²²⁹

2. Going Armed Laws Applied to the Proposed Amendment

In contrast, the going armed laws punish those who menace others with firearms, and therefore provide historical support for the proposed amendment.²³⁰ One difference between going armed laws and the proposed amendment is that the misdemeanor offenses of stalking, harassment, or a terroristic threat do not require the offender to use a firearm.²³¹ As a result, the phrase “menaced others with firearms” does not align with the proposed amendment word-for-word.²³²

However, if an individual committing these crimes against an intimate partner does possess a firearm, using the firearm against their partner is always a possibility.²³³ Even if the offender never raises the gun, the partner faces constant risk that the offender could use it, which could escalate into serious injury or even death.²³⁴

222. *See id.*

223. *Id.* at 764.

224. *Id.* at 692 (majority opinion).

225. *Id.* at 695.

226. *See id.*

227. *See supra* Section III.A (discussing proposed amendment to § 922(g)(9)).

228. *Rahimi*, 602 U.S. at 688.

229. *See id.*

230. *Id.* at 680.

231. *See* 18 U.S.C. § 922(g)(9).

232. *Rahimi*, 602 U.S. at 697.

233. *See id.* 706–07 (Sotomayor, J., concurring).

234. *Id.*

Fortunately for victims of domestic violence, 18 U.S.C. § 922(g)(9) already prohibits firearm possession by individuals who have been convicted of misdemeanor domestic violence offenses that involve threatening another person with a firearm.²³⁵ However, if the perpetrator's remarks fall just below the legal definition of a firearm threat, this proposed amendment fills that gap.²³⁶ For example, an offender could tell his partner that he plans to beat her up, which may qualify as harassment or a terroristic threat under state law.²³⁷ The Department of Justice's Office on Violence Against Women reports that 76% of women who were murdered by intimate partners were first stalked by their partner.²³⁸ This proposed amendment would preserve the intended effect of § 922(g)(9), ensuring protection for vulnerable victims.²³⁹

*D. How the Proposed Amendment Furthers Congress's Intent Under
§ 922(g)(9)*

The proposed amendment mirrors and furthers Congress's intent when it enacted 18 U.S.C. § 922(g)(9), also known as the Lautenberg Amendment (Amendment) in 1996.²⁴⁰ When Congress added this Amendment to the Federal Gun Control Act of 1968, it "passed with almost unanimous support."²⁴¹ Senator Frank Lautenberg of New Jersey spoke about this Amendment when it was passed on the Senate floor.²⁴²

Lautenberg stated, "In my view, anyone who attempts or threatens violence against a loved one has demonstrated that he or she poses an unacceptable risk, and should be prohibited from possessing firearms."²⁴³ This Comment's proposed amendment centers on the phrase "threatens violence" and would prohibit firearm possession by individuals who harass, issue a terroristic threat, or stalk an intimate partner.²⁴⁴

Lautenberg understood the seriousness of allowing an abuser continued access to a firearm.²⁴⁵ He stated, "[F]or many battered women and abused children, whether their abuser gets access to a gun will be nothing short of a matter of life and death."²⁴⁶ The data today still supports his concern: A

235. *Restrictions on the Possession of Firearms*, *supra* note 75; 18 U.S.C. §§ 922(g)(9), 921(a)(33)(ii).

236. *See* 18 U.S.C. § 922(g)(9).

237. *See infra* Section IV.A (discussing state law crimes that would fit under the proposed amendment).

238. *See* Stachelberg et al., *supra* note 174.

239. *See* 142 CONG. REC. S11878 (1996).

240. *See Restrictions on the Possession of Firearms*, *supra* note 75.

241. *Id.*

242. 142 CONG. REC. S11878 (1996).

243. *Id.* at S11877.

244. *See id.*

245. *Id.*

246. *Id.*

woman becomes “five times more likely to be murdered” by an abusive partner if that partner has access to a firearm.²⁴⁷

Lautenberg concluded his speech with one final quote: “I believe that this legislation will save the lives of many battered wives and abused children. And it will send a message that, as a nation, we are determined to take the problem of domestic violence seriously.”²⁴⁸ The nation must continue to take domestic violence seriously, and Congress can advance that commitment by passing the proposed amendment.²⁴⁹

This proposed amendment recognizes the gravity of the domestic violence problem, which is why it calls for the permanent disarmament of individuals convicted under the new legislation.²⁵⁰ Section 922(g)(9) already authorizes the federal government to impose a permanent firearm ban on people convicted of a misdemeanor of domestic violence.²⁵¹ Implementing permanent disarmament will reduce the likelihood of individuals causing firearm violence.²⁵² Although offenders may acquire firearms illegally, this legislation will make it significantly harder for an individual to obtain firearms through legal channels.²⁵³

E. The Proposed Amendment Is the Best Solution Because It Does Not Violate Due Process or Fundamental Rights

The proposed amendment is the best solution because it avoids violations of due process and fundamental rights. A misdemeanor conviction requires the highest burden of proof in the United States—proof beyond a reasonable doubt.²⁵⁴ Additionally, the proposed amendment will include both an expungement and a restoration process to restore firearm rights.²⁵⁵ It also avoids fundamental right violations because not all rights are unlimited; there are exceptions.²⁵⁶

The proposed amendment does not differ significantly from the current law.²⁵⁷ However, by allowing people who commit these crimes to possess a firearm, it is easier for them to commit violence or take significant steps

247. See *United States v. Rahimi*, 602 U.S. 680, 706–07 (2024) (Sotomayor, J., concurring).

248. 142 CONG. REC. S11878 (1996).

249. See *id.*

250. See *supra* Section III.A (analyzing proposed amendment to § 922(g)(9)).

251. 18 U.S.C. § 922(g)(9).

252. See *Firearm Prohibitions*, GIFFORDS L. CTR TO PREVENT GUN VIOLENCE, <https://giffords.org/lawcenter/gun-laws/policy-areas/who-can-have-a-gun/firearm-prohibitions/> [https://perma.cc/MAE8-5T7Z] (last visited Mar. 24, 2026).

253. See *id.*

254. *Beyond a Reasonable Doubt*, CORNELL L. SCHOOL: LEGAL INFO INST., (last updated Aug. 2025), https://www.law.cornell.edu/wex/beyond_a_reasonable_doubt [https://perma.cc/L945-NNZ5].

255. See 18 U.S.C. § 922(g)(9).

256. See *District of Columbia v. Heller*, 554 U.S. 570, 626 (2008).

257. See 18 U.S.C. § 922(g)(9).

towards serious injury or death.²⁵⁸ The legislation does not attempt to reinvent the wheel; the legislation is simply making the wheel bigger to protect more victims.²⁵⁹

1. The Proposed Amendment Does Not Violate Due Process Rights

The proposed amendment does not violate an individual's due process rights, as it requires a higher standard of proof—especially compared to the civil restraining order in *Rahimi*.²⁶⁰ In *Rahimi*, the standard of proof to attain a civil restraining order requires a preponderance of the evidence.²⁶¹ The Supreme Court ruled it was lawful for the federal government to temporarily disarm an individual subject to a civil restraining order.²⁶²

In contrast, the proposed amendment will require a higher standard of proof for disarmament: a misdemeanor conviction.²⁶³ A misdemeanor conviction requires proof beyond a reasonable doubt.²⁶⁴

Requiring a higher standard of proof will make it harder for individuals to argue their due process rights were violated in a criminal trial.²⁶⁵ Civil proceedings require a preponderance of the evidence, which is only a 51% burden, and there is little opportunity for the accused to present evidence in a protective order judgment.²⁶⁶ There is also only a minimum of forty-eight hours' notice given to a defendant in these types of cases prior to final trial.²⁶⁷ Critics argue that this gives defendants little time to prepare and deprives them of an opportunity to be heard or to have a meaningful trial.²⁶⁸

However, in a criminal trial, an individual receives more protections.²⁶⁹ A jury or judge will decide guilt on a much higher standard, proof beyond a reasonable doubt, meaning they are firmly convinced that the defendant committed the crime.²⁷⁰ This heightened standard of proof is also a reason why the proposed amendment pushes for a permanent disarmament under federal law, which mirrors the current penalty under § 922(g)(9).²⁷¹

258. See *Firearm Prohibitions*, *supra* note 252.

259. See *id.*

260. *United States v. Rahimi*, 602 U.S. 680, 886–87 (2024).

261. See *Beyond a Reasonable Doubt*, *supra* note 254; *Protective Orders*, TARRANT CNTY. TEX. (last updated Feb. 6, 2025), <https://www.tarrantcountytx.gov/en/criminal-district-attorney/civil-division/Protective-orders.html> [<https://perma.cc/5659-CQ3M>].

262. *Rahimi*, 602 U.S. at 693.

263. See 18 U.S.C. § 922(g)(9).

264. See *Beyond a Reasonable Doubt*, *supra* note 254.

265. See *Protective Order Reform Campaign*, OUR CHILDREN MATTER MOST, <https://www.ourchildrenmattermost.org/protective-orders> [<https://perma.cc/7BPB-2CCQ>] (last visited Mar. 24, 2026).

266. See *id.*

267. *Id.*

268. *Id.*

269. See *Beyond a Reasonable Doubt*, *supra* note 254.

270. *Id.*

271. See 18 U.S.C. § 922(g)(9).

Additionally, an expungement process and a restoration process similar to the current § 922(g)(9) will be available.²⁷² If a court overturns a conviction or grants a pardon, the individual may regain the right to possess a firearm.²⁷³ For example, Texas allows individuals convicted of a Class A misdemeanor of family violence to restore their firearm rights five years after completing their sentence.²⁷⁴

Furthermore, if the offender and victim were in a dating relationship, the proposed amendment will mirror the current law under § 922(g)(9).²⁷⁵ Therefore, if the parties were in a dating relationship, the firearm ban may be lifted five years after the offender completes their sentence, parole, or probation.²⁷⁶ This restoration process is only available when the offender has not committed another domestic violence offense or other crime § 922(g) covers.²⁷⁷ The proposed amendment adopts the same approach, allowing a five-year restoration process when the parties were in a dating relationship.²⁷⁸

Prosecutors must look at the dating factors carefully and decide whether they can charge the individual with the more stringent offense that classifies the relationship as a spouse.²⁷⁹ Some factors to determine whether a dating relationship exists are (1) the length of the relationship; (2) the nature of the relationship; and (3) the frequency and type of interaction between the individuals involved in the relationship.²⁸⁰ By requiring prosecutors to confirm a dating relationship exists in each case, the law ensures that only those defendants lose firearm privileges, not individuals with unrelated misdemeanor convictions.²⁸¹

2. The Proposed Amendment Does Not Violate Fundamental Rights

The proposed amendment does not violate an individual's fundamental rights, as firearm ownership rights are not unlimited.²⁸² In *Heller*, Justice Scalia stated, "Like most rights, the right secured by the Second Amendment is not unlimited."²⁸³ As Justice Scalia explained, citizens of the United States must follow certain rules, and anyone who violates them may be lawfully

272. *See id.*

273. *Restrictions After a Criminal Conviction*, TEX. STATE L. LIBR. (last updated Mar. 5, 2026, at 15:06 CST), <https://guides.sll.texas.gov/criminal-conviction-restrictions/firearms> [<https://perma.cc/3TGP-XV68>].

274. *Id.*

275. *See Framework of Federal Firearm Laws*, *supra* note 77.

276. *Id.* at 10–11.

277. *Id.*

278. *Id.*

279. *Id.* at 7–8.

280. 18 U.S.C. § 921(a)(37)(B).

281. *See id.*; Telephone Interview with Alex Lewis, Fed. Prosecutor, N. Dist. Tex., (Nov. 4, 2025).

282. *See District of Columbia v. Heller*, 554 U.S. 570, 626 (2008).

283. *Id.*

disarmed to protect society as a whole.²⁸⁴ Exceptions to this fundamental right apply to individuals who are convicted felons, fugitives from justice, dishonorably discharged from the military, or subject to a domestic violence protection order.²⁸⁵

Furthermore, the privilege of owning a firearm should not extend to people who are violent.²⁸⁶ In 1829, the Supreme Court in Michigan astutely stated:

The constitution of the United States also grants to the citizen the right to keep and bear arms. But the grant of this privilege cannot be construed into the right in him who keeps a gun to destroy his neighbor. No rights are intended to be granted by the constitution for an unlawful or unjustifiable purpose.²⁸⁷

IV. LEGISLATIVE FRAMEWORKS AND ENFORCEMENT CHALLENGES

This Section explains how existing state misdemeanor offenses can function as the basis for federal charges under the proposed amendment. It also introduces an alternative proposed amendment that would impose only a temporary, rather than a permanent, disarmament.²⁸⁸ Finally, it presents a public policy argument, prioritizing the protection of potential victims over concerns about limiting Second Amendment rights.²⁸⁹

A. Existing State Misdemeanors Provide a Sufficient Basis for Federal Disarmament

State governments will not need to enact additional legislation because stalking, harassment, and terroristic threat statutes already exist at the state level.²⁹⁰ Once a state misdemeanor crime has been committed, the federal government could enforce disarmament after the state conviction.²⁹¹ The example statutes below, taken from the Texas Penal Code (TPC) and the Model Penal Code (MPC), illustrate how these crimes are defined under state law.²⁹² The relevant sections read:

284. *Id.*

285. *See Framework of Federal Firearm Laws*, *supra* note 77, at 2.

286. *See Heller*, 554 U.S. at 612.

287. *Id.* (quoting *United States v. Sheldon* 1829WL3021, at *12 (Mich. Mar 5, 1829)).

288. *See infra* Section IV.B (proposing an alternative amendment).

289. *See infra* Part IV (discussing public policy concerns associated with balancing victim protection and the Second Amendment).

290. TEX. PENAL CODE §§ 22.07, 42.07, 42.702.

291. *See* 18 U.S.C. § 922(g)(9).

292. TEX. PENAL CODE §§ 22.07, 42.07; MODEL PENAL CODE §§ 250.4, 211.3.

TPC § 22.07. Terroristic Threat.

- (a) A person commits an offense if he threatens to commit any offense involving violence to any person or property with intent to:
- (2) place any person in fear of imminent serious bodily injury²⁹³

TPC § 42.07. Harassment.

- (a) A person commits an offense if, with intent to harass, annoy, alarm, abuse, torment, or embarrass another, the person:
- (2) threatens, in a manner reasonably likely to alarm the person receiving the threat, to inflict bodily injury on the person or to commit a felony against the person, a member of the person's family or household, or the person's property²⁹⁴

MPC § 250.4. Harassment.

A person commits a petty misdemeanor if, with purpose to harass another, he: . . .

- (4) subjects another to an offensive touching²⁹⁵

MPC § 211.3. Terroristic Threats.

A person is guilty of a felony of the third degree if he threatens to commit any crime of violence with purpose to terrorize another or to cause evacuation of a building, place of assembly, or facility of public transportation, or otherwise to cause serious public inconvenience, or in reckless disregard of the risk of causing such terror or inconvenience.²⁹⁶

Thankfully, under Texas law, stalking is already considered a third-degree felony, which makes offenders “prohibited persons” under § 922(g)(1).²⁹⁷ Under the TPC the offense of stalking is:

TPC § 42.072. Stalking.

293. TEX. PENAL CODE § 22.07.

294. TEX. PENAL CODE § 42.07.

295. MODEL PENAL CODE § 250.4.

296. MODEL PENAL CODE § 211.3.

297. TEX. PENAL CODE § 42.072; 18 U.S.C. § 922(g)(1).

(a) A person commits an offense if the person, on more than one occasion and pursuant to the same scheme or course of conduct that is directed at a specific other person, knowingly engages in conduct that:

(1) constitutes an offense under Section 42.07, or that the actor knows or reasonably should know the other person will regard as threatening:

(A) bodily injury or death for the other person; or

(B) that an offense will be committed against:

(i) a member of the other person's family or household;

(ii) an individual with whom the other person has a dating relationship; or

(iii) the other person's property;

(2) causes the other person, a member of the other person's family or household, or an individual with whom the other person has a dating relationship:

(A) to be placed in fear of bodily injury or death or in fear that an offense will be committed against the other person, a member of the other person's family or household, or an individual with whom the other person has a dating relationship, or the other person's property²⁹⁸

There are only certain acts under each misdemeanor crime that would be considered worthy of disarmament.²⁹⁹ Not all harassment subsections would apply.³⁰⁰ This proposed amendment is not made for prosecuting individuals who send annoying emails or repeated texts.³⁰¹ Federal prosecutors must determine if the crime qualifies based on the relationship between the offender and victim and if the crime will qualify based on the severity of putting victims at risk of domestic violence.³⁰²

Federal prosecutors are often unable to disarm individuals because state prosecutors plead charges down to harassment or simple assault rather than securing a misdemeanor domestic violence conviction.³⁰³ Defense attorneys know to avoid § 922(g)(9) because of the possibility of disarmament.³⁰⁴ However, the proposed amendment would encompass more misdemeanor crimes, allowing the federal government to pursue charges under § 922(g)(9),

298. TEX. PENAL CODE § 42.072.

299. See TEX. PENAL CODE §§ 22.07, 42.07; MODEL PENAL CODE §§ 250.4, 211.3.

300. See *id.*

301. See TEX. PENAL CODE § 42.07.

302. Telephone Interview with Alex Lewis, Fed. Prosecutor, N. Dist. Tex., (Nov. 4, 2025).

303. *Id.*

304. *Id.*

and would limit defendants' ability to plead to alternative misdemeanor offenses.³⁰⁵

The federal government will track these misdemeanors the same way it tracks misdemeanor domestic violence crimes.³⁰⁶ Records of misdemeanors are entered into a federal criminal database, which provides the National Instant Criminal Background Check System (NICS) with data.³⁰⁷ When an individual attempts to purchase a firearm from a federally-licensed firearm dealer, that dealer runs a background check to determine whether the purchaser is subject to any prohibitions, such as a felony conviction, a misdemeanor domestic violence conviction, or a dishonorable discharged from the military.³⁰⁸ This statute will prevent prohibited purchasers from buying firearms from federally-licensed dealers.³⁰⁹ By contrast, no statute can fully prevent an individual from illegally obtaining a firearm.³¹⁰ What this statute *can* punish those who are caught.³¹¹

B. Alternative Amendment

The alternate amendment this Comment proposes calls for the temporary disarmament of individuals who commit a misdemeanor stalking, terroristic threat, or harassment crime.³¹² This temporary disarmament directly aligns with *Rahimi*, because *Rahimi* involved a temporary disarmament for a state restraining order, and the disarmament exists as long as the restraining order is in place.³¹³ When the restraining order contains a finding that a person presents a “credible threat to the physical safety of [another],” that individual can be prohibited from possessing firearms for the length of the order.³¹⁴ Disarmament should last for the duration of the individual’s incarceration, probation, or parole.³¹⁵

The burden should be on the defendant to petition the court for the restoration of their firearm.³¹⁶ For example, this restoration process could mirror Texas law: five years after the offender’s sentence, parole, or probation has been completed, the right to possess a firearm may be restored.³¹⁷

305. *Id.*

306. *See Framework of Federal Firearm Laws*, *supra* note 77.

307. *Id.*

308. *See id.* at 2.

309. *Id.*

310. Telephone Interview with Alex Lewis, Fed. Prosecutor, N. Dist. Tex., (Nov. 4, 2025).

311. *Id.*

312. *See infra* Section IV.A (proposed alternative legislation).

313. *United States v. Rahimi*, 602 U.S. 680, 686–87 (2024).

314. *Id.* at 690.

315. *See Restrictions After a Criminal Conviction*, *supra* note 273.

316. *Id.*

317. *Id.*

A defendant could petition the court early to display evidence of why the defendant should have their fundamental right restored.³¹⁸ If courts enforce this temporary disarmament statute, then state laws—such as those in Texas—would not be preempted by federal law because under this proposed amendment, the federal restriction would be temporary rather than permanent.³¹⁹

18 U.S.C. § 922(g)(9) would be amended to add the italicized language:

It shall be unlawful for any person . . . who has been convicted in any court of a misdemeanor crime of domestic violence, *harassment, stalking, or a terroristic threat*, 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 *for a period of five years after the sentence, parole, or probation has been completed.*³²⁰

C. Public Policy: Balancing Victim Protection and Second Amendment Rights

When balancing the goal of preventing domestic violence against protecting individuals' firearm rights, there is no question as to which side the scales should fall: the priority is saving victims. However, being able to “keep and bear Arms” is one of the fundamental rights on which this country was built.³²¹ Yet, our progress as a society is reflected in how we protect our most vulnerable individuals.³²²

This Comment is not claiming that the proposed amendment will stop all intimate partner violence, but it will lessen the risk of serious injury from a firearm by prohibiting dangerous individuals from possessing a firearm.³²³ This proposed amendment will offer further protections for those who need it the most.³²⁴ There is always the possibility that people will harm their intimate partner without a firearm.³²⁵ However, firearms are the weapon of choice used in the majority of intimate partner violence.³²⁶

To address concerns regarding the erosion of the Second Amendment, this proposed amendment is narrow in scope and far from overbearing.³²⁷ The

318. *Id.*

319. *Id.*

320. *See* 18 U.S.C. § 922(g)(9).

321. *See* U.S. CONST. amend. II.

322. *See* Elizabeth Tobin-Tyler, *Intimate Partner Violence, Firearm Injuries and Homicides: A Heath Justic Approach to Two Intersecting Public Health Crises*, 51 J. L. MED. & ETHICS 64, 65 (2023).

323. *See supra* Section III.A (discussing proposed amendment).

324. *See supra* Section III.A (analyzing proposed amendment).

325. *See* Tobin-Tyler, *supra* note 322.

326. *Id.*

327. *See supra* Section III.A (discussing the breadth of the proposed amendment).

proposed amendment covers a small and specific group of criminal acts.³²⁸ It does not implicate, for example, inebriated bar fights.³²⁹ Nor does it implicate simple assault charges when the victim has no relationship with the defendant.³³⁰ To legally disarm someone under this proposed amendment, the individual must commit a misdemeanor of stalking, harassment, or making a terroristic threat against an individual who qualifies under § 921(a)(33)(ii).³³¹

This proposed amendment is consistent with Congress's original intent to protect victims of domestic violence.³³² Federal law already prohibits individuals convicted of a misdemeanor crime of domestic violence from possessing a firearm.³³³ This proposed amendment simply extends that prohibition to other misdemeanor crimes that are indicative of domestic violence: stalking, harassment, and terroristic threats.³³⁴ Each of these misdemeanor convictions must still satisfy the standards for a federal charge.³³⁵

Senator Lautenberg made significant progress towards reducing intimate partner violence when Congress amended the Gun Control Act of 1968.³³⁶ Unfortunately, the nation still fails to protect victims of this type of violence.³³⁷ Additional legislation is necessary to keep pace with evolving criminality and to better protect victims.³³⁸ The time has come to enact this necessary amendment to the Gun Control Act of 1968.³³⁹

The proposed amendment could also save a substantial amount of money by preventing violence before it occurs.³⁴⁰ In the United States, the cost of intimate partner violence is \$103,767 per female victim.³⁴¹ The overall cost of intimate partner violence is around \$3.6 trillion; this number reflects criminal proceedings, hospital bills, lost jobs, and lost housing.³⁴² This proposed and preventive amendment, will likely decrease the amount of money that the nation spends on domestic violence.³⁴³

328. *See supra* Section III.A (examining the scope of the proposed amendment).

329. *See supra* Section III.A (discussing which acts the proposed amendment excludes).

330. *See supra* Section III.A (describing the crimes included in the scope of proposed amendment).

331. *See supra* Section II.B.3 (explaining the elements of § 922(g)(9)).

332. *See* 142 CONG. REC. S11878 (1996).

333. 18 U.S.C. § 922(g)(9).

334. *See supra* Section III.A (discussing the proposed amendment and the qualifying misdemeanors).

335. *See supra* Section II.B.3 (describing the elements under § 922(g)(9)).

336. *See supra* Section III.B.3 (discussing the Lautenberg Amendment).

337. *See Domestic Violence Statistics*, SAFE HOMES DOMESTIC VIOLENCE CTR., <https://safehomesdv.org/about/domestic-violence-statistics/> [https://perma.cc/CCS7-H3HE] (last visited Mar. 24, 2026).

338. *See id.*

339. *See id.*

340. *See* Cora Peterson et al., *Lifetime Economic Burden of Intimate Partner Violence Among U.S. Adults*, 55 AM. J. PREV. MED., 433, 438 (2018).

341. *Id.*

342. *Id.*

343. *See id.*

Domestic violence negatively affects society as a whole, not just the victim.³⁴⁴ It not only affects any children involved, but other relationships beyond immediate family.³⁴⁵ This proposed amendment protects victims who cannot escape the cycle of abuse.³⁴⁶ An abusive relationship can be extremely difficult to leave, especially when children or pets are involved, this delays escaping the abuser.³⁴⁷ However, under this proposed amendment, even if some victims remain in an abusive relationship, the permanent disarmament of the abuser reduces the risk of serious injury or death by firearm.³⁴⁸

People will always find a way to perpetuate violence, but this proposed amendment will make it more difficult to do so with a firearm.³⁴⁹ What is the value of human life? How much is one woman's life worth saving?

V. CONCLUSION

This Comment addresses an issue that is not new: domestic violence.³⁵⁰ Current legislation only includes convicted felons and misdemeanors of domestic violence.³⁵¹ These convictions cannot encompass all dangerous individuals who commit crimes against their loved ones, because these offenders do not always meet the use of force requirement under the current version of § 922(g)(9).³⁵²

Congress's intent in passing § 922(g)(9) was sound, but now it is time to expand that legislation to include more misdemeanors.³⁵³ Congress should amend 18 U.S.C. § 922(g)(9) to prohibit individuals who commit a misdemeanor of making a terroristic threat, harassment, or stalking from possessing firearms, thereby ensuring that federal law disarms more dangerous individuals.

Courts will evaluate this legislation's constitutionality under the *Rahimi* historical analogue framework, while also considering public policy concerns

344. See *supra* Section II.A (addressing the widespread effects of domestic and intimate partner violence).

345. See *supra* Section II.A (noting that domestic violence can negatively impact various types of relationships).

346. See *supra* Section III.D (discussing how the proposed amendment will help victims by disarming abusers).

347. See Jonathan Lowe, *40 Percent of Domestic Violence Victims Stay, Won't Leave Pet*, SOJOURNER CTR., <https://www.sojournercenter.org/40-percent-of-domestic-violence-victims-stay-wont-leave-pet/#:~:text=That%20is%20a%20real%20barrier,officer%20of%20the%20Sojourner%20Center> [<https://perma.cc/CGA9-J29A>] (last visited Mar. 24, 2026).

348. See *supra* Section III.A (explaining how the proposed amendment will disarm more abusers by covering related misdemeanor offenses).

349. Telephone Interview with Alex Lewis, Fed. Prosecutor, N. Dist. Tex., (Nov. 4, 2025).

350. See Lowe, *supra* note 347.

351. See 18 U.S.C. § 922(g)(9).

352. See *id.*

353. See 142 CONG. REC. S11878 (1996).

centered on protecting victims.³⁵⁴ The strongest counterargument to the proposed amendment is that firearm possession is a fundamental right.³⁵⁵ While that is true, this right is not unlimited.³⁵⁶ Passing this amendment would not only save lives on its own, but also pave the way for future reforms.³⁵⁷ It is the next essential step in protecting as many victims as possible.³⁵⁸

354. See *supra* Sections III.C, IV.B–C (applying the *Rahimi* framework to the proposed amendment and explaining the public policy arguments).

355. See U.S. CONST. amend. II.

356. See *District of Columbia v. Heller*, 554 U.S. 570, 626 (2008).

357. See *supra* Section III.D (explaining how the proposed amendment furthers Congress’s goal of saving lives).

358. See *supra* Section IV.C (noting that the proposed amendment will increase protections for victims of domestic violence).