

DEFINITION OF KEY TERMS

DoD IMPLEMENTATION OF DOMESTIC VIOLENCE AMENDMENT

For purposes of the DoD policy to implement the domestic violence amendment to the Gun Control Act of 1968, the following definitions shall apply:

- The term "firearm" means (A) any weapon (including a starter gun) which will, or is designed to, or may readily be converted to, expel a projectile by the action of an explosive;(B) the frame or receiver of my such weapon; and (C) any firearm muffler or firearm silencer, or (D) any destructive device. However, it does not include major military weapons systems or "crew served" military weapons (tanks, missiles, aircraft, etc.)
- The term "destructive device" means (A) any explosives, incendiary, or poison gas bomb, grenade, mine, or any such rocket having a propellant charge of more than four ounces, any such missile having an explosive or incendiary charge of more than more than one-quarter ounce, or any device similar to any of the devices described in the preceding clauses; (B) any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and (C) any combination of parts either designed or intended for use in converting any device into any destructive device described in subparagraph (A) or (B) and from which a destructive device may be readily assembled. Provided, however, that the term "destructive device" shall not include any device which is neither designed nor redesigned for use as a weapon nor shall include any device, although originally designed as a weapon, which is redesigned for use of a signaling, pyrotechnic, line throwing, safety, or similar device.
- The term "ammunition" means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm. However, it does not include ammunition for major military weapons systems or "crew served" military weapons systems.
- The term "possession" includes both "active possession" and "constructive possession", whether authorized or unauthorized. Active possession of a firearm or ammunition exists when the firearm or ammunition is in the immediate possession of the person. Constructive possession exists when a person does not have actual possession but instead knowingly has the power and at a given time to exercise dominion and control over the firearm or ammunition, either directly or through others. Possession need not be exclusive but may be joint with others.
- The term "reasonable cause" means that there is reliable information that a reasonable, prudent person would rely on which makes it more likely than not that the individual has a qualifying conviction.
- The term "receive" means to obtain, to take, to accept, to acquire, or to come into possession of.
- The term "dispose" means to exercise control over, to direct or to assign for use, or to alienate, bargain away, bestow, convey, exchange, give away, or transfer by authority.
- The term "transport" means to move, convey, carry, by any means, or to deliver or receive for the purpose of movement or conveyance.
- The term "ship" means the transportation, or the effecting of transportation, without limitation as to the means or facilities used or with respect to the person to whom any shipment is made.
- The term "interstate or foreign commerce" includes commerce between any place in a state and any place outside of that state, or within any possession of the United States (not including the Canal Zone) or the District of Columbia, but such term does not include commerce between places within the same state but through any place outside of that state.
- The term "crime of domestic violence" means an offense that has as its factual basis, 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 cohabitating with or has cohabitated with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.

- The term "misdemeanor crime of domestic violence" is a "crime of domestic violence" that is classified as a misdemeanor under State or Federal law.
- The term "felony crime of domestic violence" is a "crime of domestic violence" that is classified as a felony under State or Federal law.
- The term "qualifying conviction" applies to any of the following: (1) a State or Federal conviction for a "misdemeanor crime of domestic violence"; (2) a State or Federal conviction for a "felony crime of domestic violence" adjudged on or after the date of this memorandum, and (3) any general or special court-martial conviction for a Uniform Code of Military Justice offense which otherwise meets the elements of a "crime of domestic violence" even though not classified as misdemeanor or felony.

A person shall not be considered to have a qualifying conviction unless the convicted offender was represented by counsel, or knowingly and intelligently waived the right to counsel and, if entitled to have the case tried by jury or before court members, the case was actually tried by a jury or court members or the person knowingly and intelligently waived the right to have the case tried by a jury or court members, and;

A person shall not be considered to have a qualifying conviction if the conviction has been expunged or set aside, or the convicted offender has been pardoned for the offense or had civil rights restored, unless the pardon, expungement, or restoration provides that the person may not ship, transport, possess, or receive firearms.