

117TH CONGRESS
1ST SESSION

H. R. 4139

To amend title 18, United States Code, to protect more victims of domestic violence by preventing their abusers from possessing or receiving firearms, to amend the Omnibus Crime Control and Safe Streets Act of 1968 to establish a grant program relating to the removal of firearms from adjudicated domestic violence offenders, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 2021

Mr. HIMES introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to protect more victims of domestic violence by preventing their abusers from possessing or receiving firearms, to amend the Omnibus Crime Control and Safe Streets Act of 1968 to establish a grant program relating to the removal of firearms from adjudicated domestic violence offenders, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Lori Jackson-Nicolette
5 Elias Domestic Violence Survivor Protection Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Congress has the responsibility to keep the
4 populace of the United States safe, and domestic
5 gun violence is a significant threat to the well-being
6 of the United States.

7 (2) Each year in the United States, more than
8 600 women are shot to death by an intimate part-
9 ner. More women are killed in the United States by
10 domestic partners than by any other type of assail-
11 ant, and most of these homicides are committed with
12 firearms.

13 (3) Approximately 4,500,000 women alive in
14 the United States today report having been threat-
15 ened with a gun by a domestic partner.

16 (4) More than half of intimate partner homi-
17 cides in the United States are committed with a fire-
18 arm. If a woman has an abusive male partner who
19 has access to a firearm, the woman is 5 times more
20 likely to be killed than she would be if the abusive
21 male partner did not have access to a firearm, and
22 domestic violence assaults involving a gun are 12
23 times more likely to result in death than domestic vi-
24 olence assaults involving other weapons or bodily
25 force.

1 (5) Perpetrators of intimate partner violence
2 are far more likely to commit additional acts of gun
3 violence. Nearly half of all mass shooters have com-
4 mitted acts of domestic violence.

5 (6) Victims of intimate partner violence often
6 pursue restraining orders as a means of protection
7 in the immediate aftermath of, or in conjunction
8 with, leaving dangerous partners and situations.
9 This time period is especially dangerous for victims.

10 (7) Although individuals against whom there is
11 a domestic violence restraining order are barred
12 from purchasing a firearm under section 922(g)(8)
13 of title 18, United States Code, various loopholes in
14 that section allow perpetrators to purchase and
15 maintain possession of firearms. For example, Fed-
16 eral law only protects domestic violence victims
17 against spouses, former spouses, cohabitants, former
18 cohabitants, and individuals with whom those vic-
19 tims have a child. Furthermore, under Federal law,
20 protective orders issued against domestic violence
21 abusers on an emergency or ex parte basis do not
22 prohibit those abusers from possessing or purchasing
23 firearms.

24 (8) Some States and local governments have
25 passed laws that go beyond the Federal baseline by

1 expanding the range of abusive partners included in
2 firearm restrictions to encompass abusive dating
3 partners. Numerous studies conducted between 2000
4 and 2017 have shown that States that pass these
5 laws experience a significant reduction in intimate
6 partner homicides.

7 (9) States that restrict access to guns to indi-
8 viduals subject to active domestic violence restrain-
9 ing orders have experienced a 13-percent reduction
10 in intimate partner homicides involving firearms.

11 (10) Congress has the power to set a national
12 standard to protect domestic violence victims who
13 seek restraining orders against abusive partners by
14 preventing those abusive partners from possessing or
15 purchasing firearms and ammunition while the re-
16 straining order is in effect.

17 **SEC. 3. TITLE 18 AMENDMENTS.**

18 (a) DEFINITIONS OF “INTIMATE PARTNER” AND
19 “MISDEMEANOR CRIME OF DOMESTIC VIOLENCE” EX-
20 PANDED.—Section 921(a) of title 18, United States Code,
21 is amended—

22 (1) by inserting before paragraph (32) the fol-
23 lowing:

1 “(31) The term ‘covered domestic violence court
2 order’ means a court order, with respect to a per-
3 son—

4 “(A)(i) that was issued after a hearing of
5 which the person received actual notice, and at
6 which the person had an opportunity to partici-
7 pate; or

8 “(ii) in the case of an ex parte order, rel-
9 ative to which notice and opportunity to be
10 heard are provided—

11 “(I) within the time required by
12 State, Tribal, or territorial law; and

13 “(II) in any event within a reasonable
14 time after the order is issued, sufficient to
15 protect the due process rights of the per-
16 son;

17 “(B) that restrains the person from—

18 “(i) harassing, stalking, or threat-
19 ening an intimate partner of the person or
20 child of the intimate partner or person, or
21 engaging in other conduct that would place
22 an intimate partner in reasonable fear of
23 bodily injury to the partner or child; or

24 “(ii) intimidating or dissuading a wit-
25 ness from testifying in court; and

1 “(C) that—

2 “(i) includes a finding that the person
3 represents a credible threat to the physical
4 safety of an individual described in sub-
5 paragraph (B); or

6 “(ii) by its terms explicitly prohibits
7 the use, attempted use, or threatened use
8 of physical force against an individual de-
9 scribed in subparagraph (B) that would
10 reasonably be expected to cause bodily in-
11 jury.”;

12 (2) in paragraph (32), by striking all that fol-
13 lows after “The term ‘intimate partner’” and insert-
14 ing the following: “—

15 “(A) means, with respect to a person, the
16 spouse of the person, a former spouse of the person,
17 an individual who is a parent of a child of the per-
18 son, and an individual who cohabitates or has
19 cohabited with the person; and

20 “(B) includes—

21 “(i) a dating partner (as defined in section
22 2266) or former dating partner; and

23 “(ii) any other individual similarly situated
24 to a spouse who is protected by the domestic or
25 family violence laws of the State, local, or Trib-

1 al jurisdiction in which the injury occurred or
 2 where the victim resides.”; and

3 (3) in paragraph (33)(A)—

4 (A) in clause (i), by inserting after “Fed-
 5 eral, State,” the following: “municipal,”; and

6 (B) in clause (ii)—

7 (i) by striking “or the threatened”
 8 and inserting “the threatened”;

9 (ii) by inserting “or stalking,” after
 10 “deadly weapon,”; and

11 (iii) by inserting “dating partner (as
 12 defined in section 2266),” after “spouse,”
 13 each place it appears.

14 (b) UNLAWFUL SALE OF FIREARM TO A PERSON
 15 SUBJECT TO COURT ORDER.—Section 922(d)(8) of title
 16 18, United States Code, is amended to read as follows:

17 “(8) is subject to a covered domestic violence
 18 court order; or”.

19 (c) LIST OF PERSONS SUBJECT TO A RESTRAINING
 20 OR SIMILAR ORDER PROHIBITED FROM POSSESSING OR
 21 RECEIVING A FIREARM EXPANDED.—Section 922(g)(8)
 22 of title 18, United States Code, is amended to read as
 23 follows:

24 “(8) who is subject to a covered domestic vio-
 25 lence court order; or”.

1 (d) TECHNICAL AND CONFORMING AMENDMENTS.—
 2 The NICS Improvement Amendments Act of 2007 (34
 3 U.S.C. 40902 et seq.) is amended—

4 (1) in section 3(1) (34 U.S.C. 40903(1)), by
 5 striking “court order (as described in section
 6 922(g)(8))” and inserting “covered domestic violence
 7 court order (as defined in section 921(a)”; and

8 (2) in section 102(b)(1)(C)(v) (34 U.S.C.
 9 40912(b)(1)(C)(v)), by striking “court order de-
 10 scribed in section 922(g)(8))” and inserting “covered
 11 domestic violence court order, as defined in section
 12 921(a)”.

13 **SEC. 4. GRANT PROGRAM.**

14 (a) AMENDMENT.—Title I of the Omnibus Crime
 15 Control and Safe Streets Act of 1968 (34 U.S.C. 10101
 16 et seq.) is amended by adding at the end the following:

17 **“PART PP—GRANT PROGRAM REGARDING RE-**
 18 **MOVAL OF FIREARMS FROM ADJUDICATED**
 19 **DOMESTIC VIOLENCE PARTIES**

20 **“SEC. 3061. DEFINITIONS.**

21 “In this part:

22 “(1) AMMUNITION; FIREARM.—The terms ‘am-
 23 munition’ and ‘firearm’ have the meanings given
 24 those terms in section 921 of title 18, United States
 25 Code.

1 “(2) COVERED ENTITY.—The term ‘covered en-
2 tity’ means—

3 “(A) a State;

4 “(B) an Indian Tribe; or

5 “(C) a unit of local government.

6 “(3) DOMESTIC VIOLENCE PROTECTION
7 ORDER.—The term ‘domestic violence protection
8 order’ has the meaning given the term ‘covered do-
9 mestic violence court order’ in section 921 of title
10 18, United States Code.

11 **“SEC. 3062. GRANT PROGRAM.**

12 “(a) AUTHORITY TO MAKE GRANTS.—The Attorney
13 General may make grants to covered entities to assist the
14 covered entities in carrying out the policies, procedures,
15 protocols, laws, court rules, or regulations described in
16 section 3063.

17 “(b) ELIGIBLE COVERED ENTITY.—

18 “(1) IN GENERAL.—A covered entity shall be
19 eligible to receive a grant under this section on and
20 after the date on which the Attorney General deter-
21 mines that the covered entity has in effect policies,
22 procedures, protocols, laws, court rules, or regula-
23 tions that are substantially similar to the policies,
24 procedures, laws, court rules, or regulations de-
25 scribed in section 3063.

1 “(2) DETERMINATION.—In making a deter-
2 mination under paragraph (1), the Attorney General
3 may consider policies, procedures, protocols, laws,
4 court rules, or regulations of a covered entity to be
5 substantially similar to the policies, procedures,
6 laws, courts rules, or regulations described in section
7 3063 even if the policies, procedures, protocols, laws,
8 court rules, or regulations of the covered entity—

9 “(A) vary in scope;

10 “(B) prescribe different types of protective
11 orders or firearm surrender orders; or

12 “(C) provide different timing requirements.

13 “(c) USE OF FUNDS.—Grant funds awarded under
14 this section may be used by a covered entity—

15 “(1) to assist law enforcement agencies or
16 courts of the covered entity in carrying out the poli-
17 cies, procedures, protocols, laws, court rules, or reg-
18 ulations described in section 3063; and

19 “(2) in order to ensure the safety of domestic
20 violence victims after a domestic violence protection
21 order is issued in accordance with the policies, pro-
22 cedures, protocols, laws, court rules, or regulations
23 described in section 3063, to partner with and pro-
24 vide support to not less than 1 domestic violence vic-

1 tim service provider, which may include an organiza-
2 tion that is a culturally specific organization.

3 “(d) APPLICATION.—

4 “(1) IN GENERAL.—A covered entity desiring a
5 grant under this section shall submit to the Attorney
6 General an application at such time, in such man-
7 ner, and containing or accompanied by such infor-
8 mation as the Attorney General may reasonably re-
9 quire.

10 “(2) CONTENTS.—An application submitted
11 under this subsection shall include a description of
12 an action plan of the covered entity to establish a
13 partnership described in subsection (c)(2).

14 **“SEC. 3063. STATE AND TRIBAL POLICIES AND PROCE-**
15 **DURES.**

16 “The policies, procedures, protocols, laws, court rules,
17 or regulations described in this section are policies, proce-
18 dures, protocols, laws, court rules, or regulations relating
19 to the possession of a firearm or ammunition that—

20 “(1) direct a court, upon the issuance of a do-
21 mestic violence protection order, to issue an addi-
22 tional order (referred to in this section as a ‘firearm
23 surrender order’) that—

24 “(A) is in effect for the duration of the do-
25 mestic violence protection order;

1 “(B) automatically terminates upon the ex-
2 piration of the domestic violence protection
3 order;

4 “(C) requires—

5 “(i) the individual subject to the fire-
6 arm surrender order to, not later than 24
7 hours after the firearm surrender order is
8 served, surrender physical possession of all
9 firearms and ammunition in the posses-
10 sion, care, custody, or control of the indi-
11 vidual, including any firearm that the indi-
12 vidual has entrusted or lent to a third
13 party, by either—

14 “(I) surrendering the firearms
15 and ammunition to the chief law en-
16 forcement officer of the district in
17 which the individual resides or a law
18 enforcement agency designated by the
19 State or Indian Tribe to receive and
20 store firearms and ammunition; or

21 “(II) selling the firearms and
22 ammunition to a licensed dealer (as
23 defined in section 921 of title 18,
24 United States Code); or

1 “(ii) the chief law enforcement officer
2 of the district in which the individual re-
3 sides or a law enforcement agency des-
4 ignated by the State or Indian Tribe to re-
5 ceive and store firearms and ammunition
6 to, not later than 24 hours after the fire-
7 arm surrender order is served, request the
8 surrender of and remove and store any
9 firearm or ammunition in the possession,
10 care, custody, or control of the individual,
11 including firearms and ammunition that
12 the individual has entrusted or lent to a
13 third party;

14 “(D) prohibits the individual from pur-
15 chasing, possessing, or receiving, or attempting
16 to purchase or receive, a firearm or ammunition
17 for the period of time during which the firearm
18 surrender order is in effect;

19 “(E) revokes any permit or license of the
20 individual to purchase, possess or carry a fire-
21 arm or ammunition for the period of time dur-
22 ing which the firearm surrender order is in ef-
23 fect; and

24 “(F) requires the individual subject to the
25 firearm surrender order to, not later than 48

1 hours after the firearm surrender order is
2 served by a court, file with the court—

3 “(i) a declaration under penalty of
4 perjury that—

5 “(I) the individual has made the
6 surrender described in subparagraph
7 (C)(i);

8 “(II) the chief law enforcement
9 officer of the district in which the in-
10 dividual resides has conducted the re-
11 moval described in subparagraph
12 (C)(ii); or

13 “(III) the individual did not pos-
14 sess any firearm or ammunition at the
15 time of the issuance and service of the
16 firearm surrender order and continues
17 to not possess any firearms or ammu-
18 nition; and

19 “(ii) an itemized receipt of any fire-
20 arms or ammunition surrendered by the
21 individual subject to the firearm surrender
22 order under subparagraph (C)(i), or re-
23 moved by a chief law enforcement officer
24 from that individual under subparagraph
25 (C)(ii), that is signed by the individual who

1 took possession of those firearms or am-
2 munition;

3 “(2) in the case of an individual who does not
4 comply with paragraph (1)(C)(i), and where there
5 are reasonable grounds to believe that the individual
6 possesses or has purchased a firearm, require the
7 chief law enforcement officer or designated law en-
8 forcement agency described in paragraph (1)(C)(ii)
9 to remove any firearm or ammunition from the indi-
10 vidual;

11 “(3) requires a chief law enforcement officer or
12 designated law enforcement agency that conducts a
13 removal under paragraph (1)(C)(ii) or (2) or re-
14 ceives a firearm or ammunition surrendered by an
15 individual under paragraph (1)(C)(i)(I) to, not later
16 than 48 hours after conducting the removal or re-
17 ceiving the surrendered firearm or ammunition, no-
18 tify the court of the removal or surrender;

19 “(4) with respect to a firearm or ammunition
20 that is surrendered under paragraph (1)(C)(i) or
21 any firearm or ammunition removed under para-
22 graph (1)(C)(ii) or (2), require the law enforcement
23 agency to which the firearm or ammunition is sur-
24 rendered or that removes any firearm or ammunition
25 to—

1 “(A) safely store the firearm or ammuni-
2 tion; and

3 “(B) at the request of the individual sub-
4 ject to the firearm surrender order, not later
5 than 7 days after the date on which the domes-
6 tic violence protection order described in para-
7 graph (1) expires or is removed—

8 “(i) perform a background check on
9 the individual subject to the firearm sur-
10 render order to determine whether the in-
11 dividual is prohibited from possessing or
12 receiving a firearm under Federal or State
13 law; and

14 “(ii) return the firearm or ammuni-
15 tion to the individual subject to the firearm
16 surrender order if the individual is not pro-
17 hibited from possessing or receiving a fire-
18 arm under Federal, State, or Tribal law;
19 and

20 “(5) require the courts and relevant law en-
21 forcement agencies to partner with and provide sup-
22 port for local domestic violence programs in order to
23 ensure the safety of victims of domestic violence
24 after the issuance of a firearm surrender order.”.

1 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
2 1001(a) of title I of the Omnibus Crime Control and Safe
3 Streets Act of 1968 (34 U.S.C. 10261) is amended by
4 adding at the end the following:
5 “(29) There are authorized to be appropriated such
6 sums as are necessary to carry out part PP.”.

○