H. R. 2708

To prevent a person who has been convicted of a misdemeanor hate crime, or received an enhanced sentence for a misdemeanor because of hate or bias in its commission, from obtaining a firearm.

IN THE HOUSE OF REPRESENTATIVES

MAY 14, 2019

Mr. Cicilline (for himself, Ms. Adams, Ms. Bass, Mr. Beyer, Mr. Blumenauer, Mr. Brendan F. Boyle of Pennsylvania, Mr. Brown of Maryland, Ms. Brownley of California, Mr. Carbajal, Mr. Cárdenas, Mr. Carson of Indiana, Ms. Castor of Florida, Ms. Judy Chu of California, Mr. Cisneros, Ms. Clark of Massachusetts, Ms. Clarke of New York, Mr. Clay, Mr. Cohen, Mr. Connolly, Mr. Cox of California, Mr. Crist, Mr. Crow, Mr. Cummings, Mr. Danny K. Davis of Illinois, Mrs. Davis of California, Ms. Dean, Ms. Delauro, Mr. DeSaulnier, Mr. Deutch, Mrs. Dingell, Mr. Michael F. Doyle of Pennsylvania, Mr. Engel, Ms. Eshoo, Mr. Espaillat, Mr. Foster, Ms. Frankel, Mr. Garcia of Illinois, Ms. Garcia of Texas, Mr. Green of Texas, Mr. Grijalva, Ms. Haaland, Mr. Hastings, Mrs. Hayes, Ms. Hill of California, Ms. Houlahan, Mr. Huffman, Ms. Jackson Lee, Ms. Jayapal, Mr. Johnson of Georgia, Ms. Kaptur, Ms. Kelly of Illinois, Mr. Kennedy, Mr. Khanna, Mr. Kildee, Mr. Krishnamoorthi, Mr. Langevin, Mr. Larson of Connecticut, Mrs. Lawrence, Ms. Lee of California, Mr. Levin of Michigan, Ms. Lofgren, Mr. Lowenthal, Mrs. Lowey, Mr. Lynch, Mrs. McBath, Ms. McCollum, Mr. Meeks, Ms. Meng, Ms. Moore, Mr. Morelle, Ms. Mucarsel-Powell, Mr. Nadler, Ms. Norton, Mr. Pallone, Mr. Payne, Mr. Quigley, Ms. Omar, Mr. Perlmutter, Mr. Raskin, Mr. Rouda, Mr. Rose of New York, Ms. Roybal-Allard, Mr. Ruppersberger, Mr. Rush, Ms. Scanlon, Ms. Schakowsky, Mr. Serrano, Ms. Shalala, Ms. Sherrill, Mr. Sires, Mr. Smith of Washington, Mr. Soto, Ms. Speier, Mr. Suozzi, Mr. Swalwell of California, Mr. Takano, Ms. Titus, Mr. Thompson of California, Mr. Tonko, Mr. Trone, Mr. Vargas, Ms. Velázquez, Ms. Wasserman Schultz, Ms. Waters, Mrs. Watson Coleman, Ms. Wexton, and Ms. Wilson of Florida) introduced the following bill; which was referred to the Committee on the Judiciary.
A BILL

To prevent a person who has been convicted of a misdemeanor hate crime, or received an enhanced sentence for a misdemeanor because of hate or bias in its commission, from obtaining a firearm.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Disarm Hate Act".

SEC. 2. PREVENTION OF PERSON WHO HAS BEEN CONVICTED OF A MISDEMEANOR HATE CRIME, OR RECEIVED AN ENHANCED SENTENCE FOR A MISDEMEANOR BECAUSE OF HATE OR BIAS IN ITS COMMISSION, FROM OBTAINING A FIREARM.

(a) DEFINITIONS.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

``(36) The term 'convicted in any court of a misdemeanor hate crime'—

``(A) means being convicted by a court of an offense that—

``(i) is a misdemeanor under Federal, State, or tribal law;

``(ii) has, as an element, that the conduct of the offender was motivated by hate or bias

..."
because of the actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity (as defined in section 249), or disability of any person; and

“(iii) involves the use or attempted use of physical force, the threatened use of a deadly weapon, or other credible threat to the physical safety of any person; and

“(B) does not include—

“(i) a conviction of an offense described in subparagraph (A), unless—

“(I) the person—

“(aa) was represented by counsel in the case; or

“(bb) knowingly and intelligently waived the right to counsel in the case; and

“(II) in the case of a prosecution for an offense described in subparagraph (A) for which a person was entitled to a jury trial in the jurisdiction in which the case was tried—

“(aa) the case was tried by a jury; or
“(bb) the person knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea or otherwise; or

“(ii) a conviction of an offense described in subparagraph (A) if—

“(I) the conviction—

“(aa) has been expunged or set aside; or

“(bb) is an offense for which the person has been pardoned or has had civil rights restored (if the law of the applicable jurisdiction provides for the loss of civil rights under such an offense); and

“(II) the pardon, expungement, or restoration of civil rights does not expressly provide that the person may not ship, transport, possess, or receive firearms.

“(37) The term ‘received from any court an enhanced hate crime misdemeanor sentence’—

“(A) means a court has imposed a sentence for a misdemeanor under Federal, State, or tribal law—
“(i) that involves the use or attempted use of physical force, the threatened use of a deadly weapon, or other credible threat to the physical safety of any person; and

“(ii) based, in whole or in part, on a judicial finding that the conduct of the offender was motivated, in whole or in part, by hate or bias for any reason referred to in paragraph (36)(A)(ii); and

“(B) does not include—

“(i) the imposition of a sentence described in subparagraph (A), unless—

“(I) the person—

“(aa) was represented by counsel in the case; or

“(bb) knowingly and intelligently waived the right to counsel in the case; and

“(II) if the sentence described in subparagraph (A) was imposed in a prosecution for an offense for which a person was entitled to a jury trial in the jurisdiction in which the case was tried—

“(aa) the case was tried by a jury; or
“(bb) the person knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea or otherwise; or
“(ii) the imposition of a sentence described in subparagraph (A) if—
“(I)(aa) the conviction of the offense for which the sentence was imposed has been expunged or set aside; or
“(bb) the offense for which the sentence was imposed is an offense for which the person has been pardoned or has had civil rights restored (if the law of the applicable jurisdiction provides for the loss of civil rights under such an offense); and
“(II) the pardon, expungement, or restoration of civil rights does not expressly provide that the person may not ship, transport, possess, or receive firearms.”.

(b) Prohibition on Sale or Other Disposition of Firearm.—Section 922(d) of such title is amended in the first sentence—
(1) in paragraph (8)(B)(ii), by striking “or” at the end;
(2) in paragraph (9), by striking the period and inserting “; or”; and

(3) by inserting after paragraph (9) the following:

“(10) has been convicted in any court of a misdemeanor hate crime, or has received from any court an enhanced hate crime misdemeanor sentence.”.

(c) Prohibition on Possession, Shipment, or Transport of Firearm.—Section 922(g) of such title is amended—

(1) in paragraph (8), by striking “or” at the end;

(2) in paragraph (9), by striking the comma and inserting “; or”; and

(3) by inserting after paragraph (9) the following:

“(10) who has been convicted in any court of a misdemeanor hate crime, or has received from any court an enhanced hate crime misdemeanor sentence,”.