

116TH CONGRESS  
1ST SESSION

# S. 1462

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.

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## IN THE SENATE OF THE UNITED STATES

MAY 14, 2019

Mr. CASEY (for himself, Ms. BALDWIN, Mr. BLUMENTHAL, Mr. BOOKER, Mr. CARDIN, Ms. HARRIS, Ms. KLOBUCHAR, Mr. MARKEY, Mr. MURPHY, Mr. VAN HOLLEN, Mr. WHITEHOUSE, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## 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.

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 “Disarm Hate Act”.

1 **SEC. 2. PREVENTION OF PERSON WHO HAS BEEN CON-**  
 2 **VICTED OF A MISDEMEANOR HATE CRIME,**  
 3 **OR RECEIVED AN ENHANCED SENTENCE FOR**  
 4 **A MISDEMEANOR BECAUSE OF HATE OR BIAS**  
 5 **IN ITS COMMISSION, FROM OBTAINING A**  
 6 **FIREARM.**

7 (a) DEFINITIONS.—Section 921(a) of title 18, United  
 8 States Code, is amended by adding at the end the fol-  
 9 lowing:

10 “(36) The term ‘convicted in any court of a mis-  
 11 demeanor hate crime’—

12 “(A) means being convicted by a court of an of-  
 13 fense that—

14 “(i) is a misdemeanor under Federal,  
 15 State, or tribal law;

16 “(ii) has, as an element, that the conduct  
 17 of the offender was motivated by hate or bias  
 18 because of the actual or perceived race, color,  
 19 religion, national origin, gender, sexual orienta-  
 20 tion, gender identity (as defined in section  
 21 249), or disability of any person; and

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

26 “(B) does not include—

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

3                   “(I) the person—

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

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

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

14                           “(aa) the case was tried by a  
15                           jury; or

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

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

22                           “(I) the conviction—

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

1                   “(bb) is an offense for which the  
2                   person has been pardoned or has had  
3                   civil rights restored (if the law of the  
4                   applicable jurisdiction provides for the  
5                   loss of civil rights under such an of-  
6                   fense); and

7                   “(II) the pardon, expungement, or  
8                   restoration of civil rights does not ex-  
9                   pressly provide that the person may not  
10                  ship, transport, possess, or receive fire-  
11                  arms.

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

14               “(A) means a court has imposed a sentence for  
15 a misdemeanor under Federal, State, or tribal law—

16               “(i) that involves the use or attempted use  
17 of physical force, the threatened use of a deadly  
18 weapon, or other credible threat to the physical  
19 safety of any person; and

20               “(ii) based, in whole or in part, on a judi-  
21 cial finding that the conduct of the offender  
22 was motivated, in whole or in part, by hate or  
23 bias for any reason referred to in paragraph  
24 (36)(A)(ii); and

25               “(B) does not include—

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

3           “(I) the person—

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

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

9           “(II) if the sentence described in sub-  
10          paragraph (A) was imposed in a prosecu-  
11          tion for an offense for which a person was  
12          entitled to a jury trial in the jurisdiction in  
13          which the case was tried—

14          “(aa) the case was tried by a  
15          jury; or

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

20          “(ii) the imposition of a sentence described  
21          in subparagraph (A) if—

22          “(I)(aa) the conviction of the offense  
23          for which the sentence was imposed has  
24          been expunged or set aside; or

1           “(bb) the offense for which the sen-  
2           tence was imposed is an offense for which  
3           the person has been pardoned or has had  
4           civil rights restored (if the law of the appli-  
5           cable jurisdiction provides for the loss of  
6           civil rights under such an offense); and

7           “(II) the pardon, expungement, or  
8           restoration of civil rights does not ex-  
9           pressly provide that the person may not  
10          ship, transport, possess, or receive fire-  
11          arms.”.

12          (b) PROHIBITION ON SALE OR OTHER DISPOSITION  
13 OF FIREARM.—Section 922(d) of title 18, United States  
14 Code, is amended—

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

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

19           (3) by inserting after paragraph (9) the fol-  
20          lowing:

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

1           (c) PROHIBITION ON POSSESSION, SHIPMENT, OR  
2 TRANSPORT OF FIREARM.—Section 922(g) of title 18,  
3 United States Code, is amended—

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

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

8           (3) by inserting after paragraph (9) the fol-  
9 lowing:

10           “(10) who has been convicted in any court of  
11 a misdemeanor hate crime, or has received from any  
12 court an enhanced hate crime misdemeanor sen-  
13 tence,”.

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