

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1488

To control crime by increasing penalties for armed violent criminals.

---

## IN THE HOUSE OF REPRESENTATIVES

APRIL 7, 1995

Mr. BARR (for himself, Mr. MCCOLLUM, Mr. BRYANT of Tennessee, Mrs. CHENOWETH, Mr. STOCKMAN, Mr. BARTLETT of Maryland, Mr. BREWSTER, Mr. TAUZIN, and Mr. VOLKMER) introduced the following bill; which was referred to the Committee on the Judiciary

---

## A BILL

To control crime by increasing penalties for armed violent criminals.

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 “Citizens’ Protection  
5 From Violent Crime Act of 1995”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) One of the primary duties of government is  
9 to protect its citizens from armed violent criminals.  
10 America’s cherished liberty and the social and eco-

1        nomic prosperity of its communities are dependent  
2        upon government's ability to maintain public safety.

3            (2) The fulfillment of government's responsibil-  
4        ity is not achieved by gun control laws. Criminals,  
5        by definition, operate outside the law and routinely  
6        acquire firearms when they so desire.

7            (3) The only true effect of gun control laws is  
8        to disarm citizens who have no intention of harming  
9        others except in the course of self-defense. These  
10       laws also have the effect of criminalizing the mere  
11       possession of certain types of guns even when such  
12       possession is for entirely lawful purposes.

13           (4) The Second Amendment to the Constitution  
14       of the United States guarantees citizens the right to  
15       possess firearms. This right is grounded in the need  
16       for self-defense.

17           (5) People in the United States frequently use  
18       firearms to defend themselves because police cannot  
19       always protect, and are not legally liable for failing  
20       to protect, individual citizens.

1 **SEC. 3. MANDATORY PRISON TERMS FOR POSSESSING,**  
2 **BRANDISHING, OR DISCHARGING A FIREARM**  
3 **OR DESTRUCTIVE DEVICE DURING A STATE**  
4 **CRIME THAT IS A SERIOUS VIOLENT FELONY**  
5 **OR SERIOUS DRUG OFFENSE.**

6 Section 924(c) of title 18, United States Code, is  
7 amended—

8 (1) by redesignating paragraphs (2) and (3) as  
9 paragraphs (5) and (6), respectively;

10 (2) by striking paragraph (1) and inserting the  
11 following:

12 “(1) A person who, during and in relation to any  
13 crime of violence or drug trafficking crime (including a  
14 crime of violence or serious drug trafficking crime which  
15 provides for an enhanced punishment if committed by the  
16 use of a deadly or dangerous weapon or device) for which  
17 the person may be prosecuted in a court of the United  
18 States—

19 “(A) possesses a firearm, shall, in addition to  
20 the sentence imposed for the crime of violence or  
21 drug trafficking crime, be sentenced to imprison-  
22 ment for 5 years;

23 “(B) brandishes a firearm, shall, in addition to  
24 the sentence imposed for the crime of violence or  
25 drug trafficking crime, be sentenced to imprison-  
26 ment for 10 years; or

1           “(C) discharges a firearm with the intent to in-  
2           jure another person, shall, in addition to the sen-  
3           tence imposed for the crime of violence or drug traf-  
4           ficking crime, be sentenced to imprisonment for 20  
5           years;

6           except that if the firearm is a short-barreled rifle or short-  
7           barreled shotgun, such additional sentence shall be impris-  
8           onment for 5 years more than the term of imprisonment  
9           that would otherwise be imposed under this paragraph,  
10          and if the firearm is a machinegun or destructive device  
11          or is equipped with a firearm silencer or firearm muffler,  
12          such additional sentence shall be imprisonment for 30  
13          years.

14          “(2)(A) A person who, during and in relation to a  
15          serious violent felony or serious drug offense (including  
16          a serious violent felony or serious drug offense that pro-  
17          vides for an enhanced punishment if committed by the use  
18          of a deadly or dangerous weapon or device) for which the  
19          person may be prosecuted in a court of any State—

20                  “(i) possesses a firearm, shall, in addition to  
21                  the sentence imposed for the serious violent felony or  
22                  serious drug offense, be sentenced to imprisonment  
23                  for not less than 5 years;

24                  “(ii) brandishes a firearm, shall, in addition to  
25                  the sentence imposed for the serious violent felony or

1 serious drug offense, be sentenced to imprisonment  
2 for not less than 10 years; or

3 “(iii) discharges a firearm with the intent to in-  
4 jure another person, shall, in addition to the sen-  
5 tence imposed for the serious violent felony or seri-  
6 ous drug offense, be sentenced to imprisonment for  
7 not less than 20 years;

8 except that if the firearm is a machinegun or destructive  
9 device or is equipped with a firearm silencer or firearm  
10 muffler, such additional sentence shall be imprisonment  
11 for not less than 30 years.

12 “(B) Subparagraph (A) shall not apply to the con-  
13 duct of a person in defense of person or property during  
14 the course of a crime committed by another person (in-  
15 cluding the arrest or attempted arrest of such other per-  
16 son during or immediately after the commission of the  
17 crime), unless the person engaged in or participated in  
18 criminal conduct that gave rise to the criminal conduct  
19 of such other person.

20 “(C) It is the intent of the Congress that—

21 “(i) this paragraph shall be used to supplement  
22 but not supplant the efforts of State and local pros-  
23 ecutors in prosecuting serious violent felonies and  
24 serious drug offenses that could be prosecuted under  
25 State law; and

1           “(ii) the Attorney General shall give due def-  
2           erence to the interest that a State or local prosecu-  
3           tor has in prosecuting a person under State law.

4           “(3) In the case of the second or subsequent convic-  
5           tion of a person under this subsection—

6           “(A) if the person possessed a firearm during  
7           and in relation to such second or subsequent crime  
8           of violence, drug trafficking crime, serious violent  
9           felony, or serious drug offense, the person shall, in  
10          addition to the sentence imposed for such second or  
11          subsequent offense, be sentenced to imprisonment  
12          for not less than 20 years;

13          “(B) if the person brandished a firearm during  
14          and in relation to such second or subsequent crime  
15          of violence, drug trafficking crime, serious violent  
16          felony, or serious drug offense, the person shall, in  
17          addition to the sentence imposed for such second or  
18          subsequent offense, be sentenced to imprisonment  
19          for not less than 25 years; or

20          “(C) if the person discharged a firearm with  
21          the intent to injure another person during and in re-  
22          lation to such second or subsequent crime of vio-  
23          lence, drug trafficking crime, serious violent felony,  
24          or serious drug offense, the person shall, in addition  
25          to the sentence imposed for such second or subse-

1       quent offense, be sentenced to imprisonment for not  
2       less than 30 years;  
3       except that if the firearm is a machinegun or destructive  
4       device or is equipped with a firearm silencer or firearm  
5       muffler, the person shall, in addition to the sentence im-  
6       posed for such second or subsequent offense, be sentenced  
7       to life imprisonment.

8       “(4)(A) Notwithstanding any other provision of law,  
9       the court shall not impose a probationary sentence on any  
10      person convicted of a violation of this subsection, nor shall  
11      a term of imprisonment imposed under this subsection run  
12      concurrently with any other term of imprisonment includ-  
13      ing that imposed for the crime of violence, drug trafficking  
14      crime, serious violent felony, or serious drug offense in  
15      which the firearm was used.

16      “(B) No person sentenced under this subsection shall  
17      be released for any reason whatsoever during a term of  
18      imprisonment imposed under this subsection.”; and

19               (3) by adding at the end the following:

20      “(7) For purposes of this subsection, the term ‘seri-  
21      ous violent felony’ shall have the meaning given such term  
22      by section 3559(c)(2)(F)(i).

23      “(8) For purposes of this subsection, the term ‘seri-  
24      ous drug offense’ means an offense under State law that,  
25      had the offense been prosecuted in a court of the United

1 States, would have been punishable under section  
2 401(b)(1)(B) or section 408 of the Controlled Substances  
3 Act (21 U.S.C. 841(b)(1)(B), 848), or section 1010(b)(2)  
4 of the Controlled Substances Import and Export Act (21  
5 U.S.C. 960(b)(2)).”.

6 **SEC. 4. MANDATORY PENALTIES FOR VIOLENT FELONS.**

7 Section 924(a)(2) of title 18, United States Code, is  
8 amended by adding at the end the following: “The court  
9 shall sentence a person convicted of an offense under sec-  
10 tion 922(g)(1) of this title to not less than 5 years in pris-  
11 on if the person has a prior conviction for a serious violent  
12 felony (as defined in section 3559(c)(2)(F)), and to not  
13 less than 10 years in prison if the person has 2 such prior  
14 convictions.”.

15 **SEC. 5. SERIOUS JUVENILE DRUG OFFENSES AS ARMED CA-**  
16 **REER CRIMINAL ACT PREDICATES.**

17 Section 924(e)(2)(A) of title 18, United States Code,  
18 is amended—

19 (1) by striking “or” at the end of clause (i);

20 (2) in clause (ii), by striking the semicolon and  
21 inserting “or which, if it had been prosecuted as a  
22 violation of the Controlled Substances Act (21  
23 U.S.C. 801 et seq.) at the time of the offense, and  
24 because of the type and quantity of the controlled  
25 substance involved, would have been punishable by a



1 maximum term of imprisonment of 10 years or  
2 more; or”; and

3 (3) by adding at the end the following:

4 “(iii) any act of juvenile delinquency  
5 that if committed by an adult would be a  
6 serious drug offense described in this para-  
7 graph;”.

8 **SEC. 6. PRETRIAL DETENTION FOR POSSESSION OF FIRE-**  
9 **ARMS OR EXPLOSIVES BY CONVICTED VIO-**  
10 **LENT FELONS.**

11 Section 3156(a)(4) of title 18, United States Code,  
12 is amended—

13 (1) by striking “or” at the end of subparagraph  
14 (B);

15 (2) by striking the period at the end of sub-  
16 paragraph (C) and inserting a semicolon; and

17 (3) by adding after subparagraph (C) the fol-  
18 lowing:

19 “(D) an offense that is a violation of sec-  
20 tion 842(i) of this title (relating to possession  
21 of explosives by convicted felons); or

22 “(E) an offense that is a violation of sec-  
23 tion 922(g)(1) of this title (relating to posses-  
24 sion of firearms by convicted felons), if the of-  
25 fender has previously been convicted of such a

1 violation or of any other offense described in  
2 this paragraph.”.

3 **SEC. 7. ARMED VIOLENT CRIMINAL APPREHENSION DIREC-**  
4 **TIVE.**

5 (a) IN GENERAL.—Not later than 180 days after the  
6 date of the enactment of this Act, the Attorney General  
7 of the United States shall establish an armed violent  
8 criminal apprehension program consistent with the follow-  
9 ing requirements:

10 (1) Each United States attorney shall designate  
11 at least 1 assistant United States attorney to pros-  
12 ecute armed violent criminals.

13 (2) Each United States attorney shall establish  
14 an armed violent criminal apprehension task force  
15 comprised of appropriate law enforcement represent-  
16 atives. The task force shall develop strategies for re-  
17 moving armed violent criminals from the streets,  
18 taking into consideration—

19 (A) the importance of severe punishment  
20 in deterring armed violent crime;

21 (B) the effectiveness of Federal and State  
22 laws pertaining to apprehension and prosecu-  
23 tion of armed violent criminals;

1 (C) the resources available to each law en-  
2 forcement agency participating in the task  
3 force;

4 (D) the nature and extent of the violent  
5 crime occurring in the district for which the  
6 United States attorney is appointed; and

7 (E) the principle of limited Federal in-  
8 volvement in the prosecution of crimes tradi-  
9 tionally prosecuted in State and local jurisdic-  
10 tions.

11 (3) Not less frequently than monthly, the Attor-  
12 ney General shall require each United States attor-  
13 ney to report to the Department of Justice the num-  
14 ber of defendants charged with, or convicted of, vio-  
15 lating section 922(g) or 924 of title 18, United  
16 States Code, in the district for which the United  
17 States attorney is appointed.

18 (4) Not less frequently than twice annually, the  
19 Attorney General shall submit to the Congress a  
20 compilation of the information received by the De-  
21 partment of Justice pursuant to paragraph (3) and  
22 a report on all waivers granted under subsection (b).

23 (b) WAIVER AUTHORITY.—

24 (1) REQUEST FOR WAIVER.—A United States  
25 attorney may request the Attorney General to waive

1 the requirements of subsection (a) with respect to  
2 the United States attorney.

3 (2) PROVISION OF WAIVER.—The Attorney  
4 General may waive the requirements of subsection  
5 (a) pursuant to a request made under paragraph  
6 (1), in accordance with guidelines which shall be es-  
7 tablished by the Attorney General. In establishing  
8 the guidelines, the Attorney General shall take into  
9 consideration the number of assistant United States  
10 attorneys in the office of the United States attorney  
11 making the request and the level of violent crime  
12 committed in the district for which the United  
13 States attorney is appointed.

14 (c) ARMED VIOLENT CRIMINAL DEFINED.—As used  
15 in this section, the term “armed violent criminal” means  
16 a person who is accused of violating section 922(g)(1) of  
17 title 18, United States Code, having been previously con-  
18 victed of a violent crime, or who is accused of violating  
19 section 924 of such title.

20 (d) SUNSET.—This section shall have no force or ef-  
21 fect after the 5-year period that begins 180 days after the  
22 date of the enactment of this Act.

1 **SEC. 8. RIGHT TO USE FIREARMS IN DEFENSE OF SELF OR**  
2 **OTHER PERSONS WITHIN A HOME; ENFORCE-**  
3 **MENT.**

4 (a) REAFFIRMATION OF RIGHT.—A person not pro-  
5 hibited by Federal law from receiving a firearm shall have  
6 the right to use firearms within a home in defense of self  
7 or other persons against a reasonably perceived threat of  
8 imminent and unlawful infliction of serious bodily injury.

9 (b) FIREARM DEFINED.—As used in subsection (a),  
10 the term “firearm” means—

11 (1) a shotgun (as defined in section 921(a)(5)  
12 of title 18, United States Code);

13 (2) a rifle (as defined in section 921(a)(7) of  
14 title 18, United States Code); or

15 (3) a handgun (as defined in section 10 of Pub-  
16 lic Law 99–408).

17 (c) ENFORCEMENT.—

18 (1) IN GENERAL.—A person whose right under  
19 subsection (a) is violated in any manner by any  
20 other person or by any government may bring an ac-  
21 tion in any United States district court against such  
22 other person or government for damages, injunctive  
23 relief, and such other relief as the court deems ap-  
24 propriate.

25 (2) AUTHORITY TO AWARD A REASONABLE AT-  
26 TORNEY’S FEE.—In an action brought under para-

1 graph (1), the court, in its discretion, may allow the  
2 prevailing plaintiff a reasonable attorney's fee as  
3 part of the costs.

4 (3) STATUTE OF LIMITATIONS.—An action may  
5 not be brought under paragraph (1) after the 5-year  
6 period that begins with the date the violation de-  
7 scribed in paragraph (1) is discovered.

8 **SEC. 9. REPEAL OF THE BAN ON SEMIAUTOMATIC FIRE-**  
9 **ARMS AND THE BAN ON LARGE CAPACITY**  
10 **AMMUNITION FEEDING DEVICES.**

11 (a) IN GENERAL.—Section 922 of title 18, United  
12 States Code, is amended by striking subsections (v) and  
13 (w) and by striking the appendix.

14 (b) CONFORMING AMENDMENTS AND REPEALS.—

15 (1) Section 921(a) of such title is amended by  
16 striking paragraphs (30) and (31).

17 (2) Section 924(a)(1)(B) of such title is amend-  
18 ed by striking “(r), (v), or (w)” and inserting “or  
19 (r)”.

20 (3) Section 923(i) of such title is amended by  
21 striking the last 2 sentences.

22 (4) Section 110104 of the Violent Crime Con-  
23 trol and Law Enforcement Act of 1994 (18 U.S.C.  
24 921 note) is hereby repealed.

1           (5) Section 110501 of such Act (28 U.S.C. 994  
2 note) is hereby repealed.

3           (c) EFFECTIVE DATES.—

4           (1) RETROACTIVE EFFECT GENERALLY.—Ex-  
5 cept as provided in paragraph (2), the amendments  
6 made by this section shall take effect as if such  
7 amendments had been included in subtitle A of title  
8 XI of the Violent Crime Control and Law Enforce-  
9 ment Act of 1994 on the date of the enactment of  
10 such Act. Any liability, penalty, or forfeiture in-  
11 curred by reason of any amendment made by section  
12 110102 or 110103 of such Act is hereby extin-  
13 guished, and any action or prosecution for the en-  
14 forcement of any such liability, penalty, or forfeiture  
15 shall not be sustained.

16           (2) EXCEPTION.—The amendment made by  
17 subsection (b)(5) shall take effect on the date of the  
18 enactment of this Act.

○