Domestic Violence and Guns: Myths and Facts about S.1290

About S.1290: Current law prohibits certain people who have been convicted of misdemeanor crimes of domestic violence ("MCDVs") or who are subject to domestic violence restraining orders from possessing guns. But it is still legal for violent dating partners and stalkers to possess guns—even though more women in the U.S. are killed by dating partners than by husbands. S.1290 will close the loopholes that continue to allow stalkers and violent dating partners to lawfully possess guns.

Why federal law should aim to keep guns out of the hands of domestic abusers: Domestic violence continues to be a terrible reality in this country, and each year, more than a million American women are assaulted by an intimate partner.1

- Women in the United States are eleven times more likely to be killed with a gun than are women in other high-income countries.2
- The presence of a gun in a domestic violence situation increases the risk that a woman will die by 500 percent.3
- According to a 2010 study in the Journal of Injury Prevention, states that restrict access to guns for restraining order subjects see a 25 percent reduction in intimate partner gun homicides.4

Background checks work to keep guns out of the hands of domestic abusers: Since 1998, the background check system has blocked at least 300,000 sales to people prohibited from buying guns due to MCDVs or domestic violence restraining orders.

About the Misdemeanor Crime of Domestic Violence prohibitor: This prohibitor was added to federal law in 1997.

- Dating partners who are “similarly situated to a spouse” and are convicted of an MCDV are already prohibited from possessing guns. Nothing in S.1290 alters this language.
- Myth: Opponents claim that the U.S. Supreme Court “read out the ‘violence’ component” of MCDV in a recent decision.
  - Fact: The Supreme Court recognized that Congress wrote the MCDV prohibitor broadly to include domestic abusers convicted of any violent offense—regardless of the degree of violence.
- State Laws: Most states recognize the danger of abusive dating partners: 42 states and the District of Columbia allow dating partners to seek domestic violence protective orders against their abusers.

What S.1290 would do:

- Myth: Opponents claim that by extending the MCDV prohibitor to include abusive dating partners, S.1290 would include relationships described with “expansive and vaguely defined...terms.”
  - Fact: The dating relationships covered by S.1290 are not vaguely defined. In fact, the language in S.1290 defining dating relationship exactly mirrors the language of the Violence Against Women Act. S.1290 will put the federal gun laws in line with the rest of federal law combatting violence against women.
  - Fact: In 2013, more than two-thirds of Congress voted to reauthorize VAWA, affirming the inclusion of the same relationships covered in S.1290.
Myth: Opponents claim that by extending the federal gun prohibitors to abusive dating partners, S.1290 would effectively extend the reach of the law beyond domestic abuse (“reading” out the word “domestic” from “domestic violence”).

Fact: S.1290 includes a definition of ‘dating relationship’ that cabins the bill to incidents of real domestic abuse while confronting today’s reality of domestic violence.

Fact: The proportion of intimate partner homicides committed partners has risen steadily, and more women are now killed by dating partners than by husbands.5

Fact: S.1290 would close this loophole by prohibiting offenders convicted of abusing their intimate partners, regardless of whether they are married to their victims.

Myth: Opponents suggest that extending the federal gun prohibitors to abusive dating partners would be unreasonable because male partners would be covered.

Fact: Intimate partner violence is also a problem in same-sex relationships, and keeping guns out of the hands of violent same-sex dating partners is no less important than for heterosexual dating partners.

Fact: In 2011, one-third of same-sex intimate partner homicides were committed with guns.6

Myth: Opponents claim that some stalkers should not be prohibited from buying or owning guns because their stalking offenses might be protected activity under the First Amendment.

Fact: The bill does not create any new criminal offenses. Stalking offenses already exist in states across the country and are already crimes. Indeed, some state stalking offenses are felonies and are therefore already prohibiting under federal law. S.1290 would simply ensure that no stalking criminal could buy or possess a gun.

Fact: Stalking offenses are highly indicative of subsequent domestic violence. A study in 10 U.S. cities found that nearly 9 out of 10 attempted murders of women involved at least one stalking incident in the year preceding the attempted murder.

A majority of states have common-sense domestic violence laws on the books that recognize the reality of dating partner violence and the threat posed by the presence of guns in domestic violence situations.

The majority of states have recognized that abusive dating partners pose a serious threat to their victims and have enabled them to seek legal protection. According to the dating abuse prevention organization Break the Cycle, 42 states and the District of Columbia allow dating partners to seek domestic violence protective orders against their abusers.7

Thirty-two states and the District of Columbia prohibit some people subject to domestic violence restraining orders,8 and all but five of those laws include abusive dating partners.9

Nineteen states and D.C. prohibit convicted domestic abusers,10 and 11 of those state laws (plus D.C.) include abusive dating partners.11

States have also acted to provide for firearm surrender by domestic abusers. At least 28 states provide for surrender by restraining order subjects12 and at least 13 states do the same for convicted abusers.13
Several states passed strong new domestic violence gun laws in 2014.

- In 2014, six states—Louisiana, Minnesota, New Hampshire, Vermont, Washington, and Wisconsin—enacted bills designed to keep guns out of the hands of domestic abusers. All six of these bills garnered bipartisan support, including two signed into law by Republican governors (Governor Jindal in Louisiana and Governor Walker in Wisconsin).

6 FBI, Supplementary Homicide Reports (2011).
7 http://www.breakthecycle.org/state-law-report-cards
8 AK, AZ, CA, CO, CT, DE, DC, FL, HI, IL, IA, IN, LA, ME, MD, MA, MN, NE, NV, NH, NJ, NY, NC, NV, PA, RI, TN, TX, UT, VA, WA, WI, and WV
9 All except FL, LA, MD, UT, and VA
10 CA, CO, CT, DE, DC, HI, IL, IN, IA, LA, MN, NE, NJ, NY, PA, SD, TN, TX, WA, and WV
11 AZ, CT, DC, HI, IL, MN, NE, NJ, NY, TN, WA, and WV
12 AK, AZ, CA, CO, CT, DE, FL, HI, IA, IL, IN, MA, MD, ME, MN, NC, ND, NV, NH, NJ, NY, PA, RI, SD, TN, VA, WA, and WI
13 CA, CO, CT, HI, IA, IL, MA, MD, MN, NY, PA, TN, and WA