



Legal Assistance Office
Office of the Staff Judge Advocate

Lewis Main Post
Building 2027
Liggett Avenue and North 8th Street
253-477-1875

McChord Airfield
Suite 1096
100 Col Joe Jackson Blvd
253-982-5513

The Lautenberg Amendment

1. What is the Lautenberg Amendment?

The Lautenberg Amendment is a federal law making it a crime for any person convicted of a qualifying crime of domestic violence to possess or receive a firearm or ammunition. There is no exception for duty or issued weapons. The Lautenberg Amendment further restricts the possessing or receiving of a weapon when there is a domestic violence restraining order. There is a military exception for domestic violence restraining orders allowing a Soldier to use his/her duty weapon.

A conviction for a Lautenberg offense often ends a military career and must be avoided if at all possible. Army Regulations require separation from service if a Lautenberg issue is not cured within a reasonable amount of time.

2. What if my commander issues me a weapon?

The Lautenberg Amendment further restricts transfer to a disqualified person when the transferor knew or should have known the transferee was disqualified. Commanders are held to a higher standard as they are assumed to be aware of the contents of their Soldiers' personnel records and of any criminal cases.

3. What is a qualifying crime of domestic violence?

A qualifying crime of domestic violence is a crime in which three basic factors are present: (1) the use or attempted use of physical force or threatened use of deadly force; (2) against a family member or intimate partner; (3) which qualifies as a felony or misdemeanor under state, tribal, or federal law.

4. What are some common Washington state crimes that qualify?



There are numerous crimes that could arguably qualify. It is best to consult with a legal assistance attorney or criminal defense attorney to get an opinion if a certain charge would be a qualifying crime. The most common example is Assault in the Fourth Degree (RCW 9A.36.041).

5. I have been charged with Assault in the Fourth Degree against my spouse. Does the Lautenberg Amendment apply?

Maybe. The outright ban on possession of firearms and ammunition does not attach until conviction, so it would not apply. But, the provision barring possession while a domestic violence restraining order is pending may apply. It is best to schedule an appointment with a legal assistance attorney or a civilian criminal law attorney.

6. What counts as a “conviction”?

A qualifying conviction requires a guilty plea and/or a finding of guilt, a lawyer or waiver of representation by a lawyer, and a warning about Lautenberg. Pretrial diversions do not count as convictions whereas deferred sentencing (probation) does count as convictions.

7. I have been offered a plea bargain deal by the prosecutor. The Prosecutor said it will not count as a conviction. Will the Lautenberg Amendment apply?

Maybe. It would be important in this situation to have the prosecutor put that it is not a conviction in writing and keep that document for you records. Please consult with a legal assistance attorney or a civilian criminal law attorney.

8. The prosecutor offered to “drop” or “strike” the domestic portion of the assault. Will the Lautenberg Amendment apply?

Maybe. Whether or not the Lautenberg Amendment will apply will depend on whether there are sufficient facts to determine if the assault was against a family member or intimate partner. Please consult with a legal assistance attorney or a criminal law attorney.

9. After a plea of guilty the judge wrote an exception in my sentence allowing me to use my military weapon.

You are likely still bared from possession or receipt of a firearm or ammunition.