

## A. J6 Hearings / Secret Service?

## 3 different destruction of property offenses

<https://www.law.cornell.edu/uscode/text/18/641>

**Whoever** embezzles, steals, purloins, or knowingly converts to his use or the use of another, or without authority, sells, conveys or **disposes of any record, voucher, money, or thing of value of the United States** or of any department or agency thereof, or any property made or being made under contract for the United States or any department or agency thereof; or

Whoever receives, conceals, or retains the same with intent to convert it to his use or gain, knowing it to have been embezzled, stolen, purloined or converted—

**Shall be fined under this title or imprisoned not more than ten years, or both;**

<https://www.law.cornell.edu/uscode/text/18/1361>

**Whoever willfully injures or commits any depredation against any property of the United States, or of any department or agency thereof, or any property which has been or is being manufactured or constructed for the United States, or any department or agency thereof, or attempts to commit any of the foregoing offenses, shall be punished as follows:**

**If the damage or attempted damage to such property exceeds the sum of \$1,000, by a fine under this title or imprisonment for not more than ten years, or both; if the damage or attempted damage to such property does not exceed the sum of \$1,000, by a fine under this title or by imprisonment for not more than one year, or both.**

<https://www.law.cornell.edu/uscode/text/18/2071>

**(a) Whoever willfully and unlawfully conceals, removes, mutilates, obliterates, or destroys, or attempts to do so, or, with intent to do so takes and carries away any record, proceeding, map, book, paper, document, or other thing, filed or deposited with any clerk or officer of any court of the United States, or in any public office, or with any judicial or public officer of the United States, shall be fined under this title or imprisoned not more than three years, or both.**

**(b) Whoever, having the custody of any such record, proceeding, map, book, document, paper, or other thing, willfully and unlawfully conceals, removes, mutilates, obliterates, falsifies, or destroys the same, shall be fined under this title or imprisoned not more than three years, or both; and shall forfeit his office and be disqualified from holding any office under the United States. As used in this subsection, the term "office" does not include the office held by any person as a retired officer of the Armed Forces of the United States.**

There are several important aspects to this offense. First, it is a specific intent crime. This means that the defendant must act intentionally with knowledge that he is violating the law. *See United States v. Simpson*, 460 F.2d 515, 518 (9th Cir. 1972). Moreover, one case has suggested that this specific intent requires that the defendant know that the documents involved are public records. *See United States v. DeGroat*, 30 F. 764, 765 (E.D.Mich. 1887).

The acts proscribed by this section are defined broadly. Essentially three types of conduct are prohibited by 18 U.S.C. § 2071(a). These are: (1) concealment, removal, mutilation, obliteration or destruction of records; (2) any attempt to commit these proscribed acts; and (3) carrying away any record with the intent to conceal, remove, mutilate or destroy it. It should be noted that all of these acts involve either misappropriation of or damage to public records. This has led one court to conclude that the mere photocopying of these records does not violate 18 U.S.C. § 2071. *See United States v. Rosner*, 352 F. Supp. 915, 919-22 (S.D.N.Y. 1972).

Subsection (b) of 18 U.S.C. § 2071 contains a similar prohibition specifically directed at custodians of public records. Any custodian of a public record who “willfully and unlawfully conceals, removes, mutilates, obliterates, falsifies, or destroys (any record) shall be fined not more than \$2,000 or imprisoned not more than three years, or both; and shall forfeit his office and be disqualified from holding any office under the United States.” While the range of acts proscribed by this subsection is somewhat narrower than subsection (a), it does provide the additional penalty of forfeiture of position with the United States.

United States Department of Justice, [Criminal Resource Manual](https://www.justice.gov/archives/im/criminal-resource-manual-1663-protection-government-property-protection-public-records-and), §1663 (updated January 23, 2020).  
<https://www.justice.gov/archives/im/criminal-resource-manual-1663-protection-government-property-protection-public-records-and>

National defense?

18 usc § 793 -Hillary Clinton

<https://www.law.cornell.edu/uscode/text/18/793>

**18 U.S.C. §793: Gathering, transmitting or losing defense information**, provides:

(f) **Whoever, being entrusted with or having lawful possession or control of any document**, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, note, or information, relating to the national defense, (1) **through gross negligence permits the same to be removed from its proper place of custody or delivered to anyone in violation of his trust, or to be lost, stolen, abstracted, or destroyed, or (2) having knowledge that the same has been illegally removed from its proper place of custody or delivered to anyone in violation of its trust, or lost, or stolen, abstracted, or destroyed, and fails to make prompt report of such loss, theft, abstraction, or destruction to his superior officer— Shall be fined under this title or imprisoned not more than ten years, or both.**

(g) If two or more persons conspire to violate any of the foregoing provisions of this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be subject to the punishment provided for the offense which is the object of such conspiracy.

Note the conspiracy provision in §793(g) which reflects the law of conspiracy generally. Planning with someone else to destroy government documents or to commit any other crime is often as bad as the crime itself. The general **conspiracy** provision is set forth in 18 U.S.C. §371 (“If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both”).

## B. Interview with Cong. Huffman

Health Share Transparency Act of 2022

HR 8324

<https://www.congress.gov/bill/117th-congress/house-bill/8324>

- Describe the Health Share Transparency Act & what it does
- Who are your cosponsors?
- What was the impetus for this bill?
- What specific information do you think we need?
- Do you see this as the start of a process? Insurance companies are highly regulated and have reserving requirements - CHSMs can comply with the terms of the bill but still leave its customers with no recourse
- What has the reception been?
- What's the political outcome? How do you navigate this through the House and what do you think would happen in the Senate?

## C. HR 7910 Protecting Our Kids Act – **this is an unambiguously good bill!**

<https://www.congress.gov/bill/117th-congress/house-bill/7910/text>

### TITLE I--RAISE THE AGE

- generally prohibits the sale or transfer of certain semiautomatic firearms to individuals who are under 21 years of age;

#### SEC. 101. PROHIBITION ON FEDERAL FIREARMS LICENSEE SELLING OR DELIVERING CERTAIN SEMIAUTOMATIC CENTERFIRE RIFLES OR SEMIAUTOMATIC CENTERFIRE SHOTGUNS TO A PERSON UNDER 21 YEARS OF AGE, WITH EXCEPTIONS.

(a) In General.--Section 922(b)(1) of title 18, United States Code, is amended to read as follows:

**“(1)(A) any firearm or ammunition to any individual who the licensee knows or has reasonable cause to believe has not attained 18 years of age;**

**“(B) any semiautomatic centerfire rifle or semiautomatic centerfire shotgun that has, or has the capacity to accept, an ammunition feeding device with a capacity exceeding 5 rounds, to any individual who the licensee knows or has reasonable cause to believe has not attained 21 years of age and is not a qualified individual; or**

**“(C) if the firearm or ammunition is not a semiautomatic centerfire rifle or semiautomatic centerfire shotgun described in subparagraph (B) and is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any individual who the licensee knows or has reasonable cause to believe has not attained 21 years of age;”.**

(b) Conforming Amendment.--Section 922(c)(1) of such title is

amended by striking "in the case of any firearm" and all that follows through "eighteen years or more of age" and inserting "(1) in the case of a semiautomatic centerfire rifle or semiautomatic centerfire shotgun that has, or has the capacity to accept, an ammunition feeding device with a capacity exceeding 5 rounds, I am at least 21 years of age or a qualified individual (as defined in section 921(a)(30) of title 18, United States Code), (2) in the case of a firearm other than a shotgun, a rifle, or such a semiautomatic centerfire rifle or semiautomatic centerfire shotgun, I am at least 21 years of age, or (3) in the case of any other shotgun or rifle, I am at least 18 years of age".

(c) Qualified Individual Defined.--Section 921(a) of such title is amended by inserting after paragraph (29) the following:

"(30) The term 'qualified individual' means--

"(A) a member of the Armed Forces on active duty; and

"(B) a full-time employee of the United States, a State, or a political subdivision of a State who in the course of his or her official duties is authorized to carry a firearm.

"(31) The term 'ammunition feeding device' means a magazine, belt, drum, feed strip, or similar device, but does not include an attached tubular device which is only capable of operating with .22 caliber rimfire ammunition."

...

## TITLE II--PREVENT GUN TRAFFICKING

- establishes new federal criminal offenses for gun trafficking and related conduct;

### **SEC. 201. PROHIBITION ON STRAW PURCHASES OF FIREARMS; PROHIBITION ON GUN TRAFFICKING.**

(a) In General.--Chapter 44 of title 18, United States Code, is amended--

(1) in section 921(a), by adding at the end the following:

"(37) The term 'family members' means spouses, domestic partners, parents and their children, including step-parents and their step-children, siblings, aunts or uncles and their nieces or nephews, or grandparents and their grandchildren."; and

(2) by adding at the end the following:

#### **"Sec. 932. Gun trafficking**

**"(a) It shall be unlawful for any person (other than a licensee under this chapter), in or otherwise affecting interstate or foreign commerce, to knowingly purchase or acquire, or attempt to purchase or acquire, a firearm for the possession of a third party.**

**"(b) It shall be unlawful for any person (other than a licensee under this chapter), in or otherwise affecting interstate or foreign commerce, to hire, solicit, command, induce, or otherwise endeavor to persuade another person to purchase, or attempt to purchase, any firearm for the purpose of obtaining the firearm for the person or**

**selling or transferring the firearm to a third party.**

“(c) The Attorney General shall ensure that the firearm transaction record form required to be completed in connection with a firearm transaction includes a statement outlining the penalties that may be imposed for violating subsection (a).

“(d) This section shall not apply to any firearm, if the purchaser or person acquiring the firearm has no reason to believe that the recipient of the firearm will use or intends to use the firearm in a crime or is prohibited from purchasing or possessing firearms under State or Federal law and the firearm--

“(1) is purchased or acquired by any person, or that any person attempts to purchase or acquire, as a bona fide gift between family members; or

“(2) is purchased or acquired by an agent of a lawful business, or that an agent of a lawful business attempts to purchase or acquire, for the purpose of transferring to another agent of the business, for lawful use in the business.”.

(b) Forfeiture.--Section 982(a)(5) of such title is amended--

(1) in subparagraph (D), by striking “or” at the end; and

(2) by inserting after subparagraph (E) the following:

“(F) section 922(a)(1)(A) (related to unlicensed firearms sales);

“(G) section 922(d) (relating to illegal gun transfers);

or

“(H) section 932 (relating to gun trafficking),”.

(c) Money Laundering Amendment.--Section 1956(c)(7)(D) of such title is amended by striking “section 924(n)” and inserting “section 922(a)(1)(A), 922(d), 924(n), or 932”.

(d) Clerical Amendment.--The table of sections for such chapter is amended by adding at the end the following:

“932. Gun trafficking.”.

**SEC. 202. PROHIBITION ON DISPOSITION OF FIREARM TO PERSON INTENDING UNLAWFUL FURTHER DISPOSITION.**

Section 922(d) of title 18, United States Code, is amended in the 1st sentence--

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

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

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

**“(10) intends to sell or otherwise dispose of the firearm or ammunition in violation of a Federal law, or to sell or otherwise dispose of the firearm or ammunition to a person in another State in violation of a law of that State.”.**

SEC. 203. PENALTIES.

Section 924(a) of title 18, United States Code, is amended by adding at the end the following:

“(8) Whoever knowingly violates section 922(a)(1)(A) or 932 shall be fined under this title, imprisoned not more than 10 years, or both.”.

**SEC. 204. FIREARMS SUBJECT TO FORFEITURE.**

Section 924(d) of title 18, United States Code, is amended--

(1) in paragraph (1), by inserting “or 932” after “section 924”; and

(2) in paragraph (3)--

(A) in subparagraph (E), by striking “and” at the end;

(B) in subparagraph (F), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(G) any offense under section 932.”.

**TITLE III--UNTRACEABLE FIREARMS**

- establishes a federal statutory framework to regulate ghost guns (i.e., guns without serial numbers);

SEC. 301. REQUIREMENT THAT ALL FIREARMS BE TRACEABLE.

(a) Definitions.--Section 921(a) of title 18, United States Code, as amended by this Act, is further amended--

(1) in paragraph (10), by adding at the end the following:

**“The term ‘manufacturing firearms’ shall include assembling a functional firearm or molding, machining, or 3D printing a frame or receiver, and shall not include making or fitting special barrels, stocks, or trigger mechanisms to firearms.”; and**

(2) by adding at the end the following:

**“(38) The term ‘ghost gun’--**

**“(A) means a firearm, including a frame or receiver, that lacks a unique serial number engraved or cast on the frame or receiver by a licensed manufacturer or importer in accordance with this chapter; and**

**“(B) does not include--**

**“(i) a firearm that has been rendered permanently inoperable;**

**“(ii) a firearm that, not later than 30 months after the date of enactment of this paragraph, has been identified by means of a unique serial number, assigned by a State agency, engraved or cast on the receiver or**

frame of the firearm in accordance with State law;

“(iii) a firearm manufactured or imported before December 16, 1968; or

“(iv) a firearm identified as provided for under section 5842 of the Internal Revenue Code of 1986.

“(39) The term ‘fire control component’--

“(A) means a component necessary for the firearm to initiate or complete the firing sequence; and

“(B) includes a hammer, bolt or breechblock, cylinder, trigger mechanism, firing pin, striker, and slide rails.

“(40)(A) The term ‘frame or receiver’--

“(i) means a part of a weapon that provides or is intended to provide the housing or structure to hold or integrate 1 or more fire control components, even if pins or other attachments are required to connect those components to the housing or structure;

“(ii) includes a frame or receiver, blank, casting, or machined body, that requires modification, including machining, drilling, filing or molding, to be used as part of a functional firearm, and which is designed and intended to be used in the assembly of a functional firearm, unless the piece of material has had--

“(I) its size or external shape altered solely to facilitate transportation or storage; or

“(II) solely its chemical composition altered.

“(B) For purposes of subparagraph (A)(i), if a weapon with more than 1 part that provides the housing or a structure designed to hold or integrate 1 or more fire control or essential components, each such part shall be considered a frame or receiver, unless the Attorney General has provided otherwise by regulation or other formal determination with respect to the specific make and model of weapon on or before January 1, 2023.”.

(b) Prohibition; Requirements.--Section 922 of title 18, United States Code, is amended by adding at the end the following:

“(aa)(1)(A) Except as provided in subparagraph (B), it shall be unlawful for any person to manufacture, sell, offer to sell, transfer, purchase, or receive a ghost gun in or affecting interstate or foreign commerce.

“(B) Subparagraph (A) shall not apply to--

“(i) the manufacture of a firearm by a licensed manufacturer if the licensed manufacturer complies with section 923(i) before selling or transferring the firearm to another person;

“(ii) the offer to sell, sale, or transfer of a firearm to, or purchase or receipt of a firearm by, a licensed manufacturer or importer before the date that is 30 months after the date of enactment of this subsection; or

“(iii) transactions between licensed manufacturers and

importers on any date.

**“(2) It shall be unlawful for a person other than a licensed manufacturer or importer to engrave or cast a serial number on a firearm in or affecting interstate or foreign commerce unless specifically authorized by the Attorney General.**

**“(3) Beginning on the date that is 30 months after the date of enactment of this subsection, it shall be unlawful for any person other than a licensed manufacturer or importer to knowingly possess a ghost gun in or affecting interstate or foreign commerce.**

**“(4) Beginning on the date that is 30 months after the date of enactment of this subsection, it shall be unlawful for any person other than a licensed manufacturer or importer to possess a ghost gun in or affecting interstate or foreign commerce with the intent to sell or transfer the ghost gun with or without further manufacturing or to manufacture a firearm with the ghost gun.**

**“(5)(A) It shall be unlawful for any person to sell, offer to sell, or transfer, in or affecting interstate or foreign commerce, to any person other than a licensed manufacturer a machine that has the sole or primary function of manufacturing firearms.**

**“(B) Except as provided in subparagraph (A), beginning on the date that is 180 days after the date of enactment of this subsection, it shall be unlawful for any person other than a licensed manufacturer to possess, purchase, or receive, in or affecting interstate or foreign commerce, a machine that has the sole or primary function of manufacturing firearms.**

**“(C) Subparagraph (B) shall not apply to a person who is engaged in the business of selling manufacturing equipment to a licensed manufacturer who possesses a machine with the intent to sell or transfer the machine to a licensed manufacturer.”.**

(c) Requirements.--

(1) Removal of serial numbers.--Section 922(k) of title 18, United States Code, is amended--

(A) by striking “importer's or manufacturer's” each place it appears; and

(B) by inserting “authorized by this chapter or under State law” before “removed” each place it appears.

(2) Licensed importers and manufacturers.--Section 923(i) of title 18, United States Code, is amended--

(A) by inserting “(1)(A)” before “Licensed”;

and  
(B) by adding at the end the following: “The serial number shall be engraved or cast on the frame or receiver in a manner sufficient to identify the firearm and the manufacturer or importer that put the serial number on the firearm.

**“(2)(A) Not later than 180 days after the date of enactment of this paragraph, the Attorney General shall prescribe regulations for**

engraving a unique serial number onto a ghost gun.

- “(B) The regulations prescribed under subparagraph (A) shall--
  - “(i) allow an owner of a firearm described in subparagraph (A) to have a unique serial number engraved on the firearm by a licensed manufacturer or importer; and
  - “(ii) require that a serial number be engraved on the frame or receiver in a manner sufficient to identify the firearm and the licensed manufacturer or importer that put the serial number on the firearm.

“(C) The regulations authorized under this paragraph shall expire on the date that is 30 months after the date of enactment of this paragraph.”

(d) Penalties.--Section 924 of title 18, United States Code, is amended--

(1) in subsection (a)(1)(B), by striking “or (q)” and inserting “(q), (aa)(1), (aa)(2), (aa)(4), or (aa)(5)”;

(2) in subsection (c)

(A) in paragraph (1)--

(i) in subparagraph (A), in the matter preceding clause (i), by inserting “functional” before “firearm” each place it appears;

(ii) in subparagraph (B), in the matter preceding clause (i), by inserting “functional” before “firearm”; and

(iii) in subparagraph (D)(ii), by inserting “functional” before “firearm”; and

(B) in paragraph (4), by striking “all or part of the firearm” and all that follows through “person.” and inserting the following: “all or part of the functional firearm, or otherwise make the presence of the functional firearm known to another person, in order to intimidate that person, regardless of whether the functional firearm is directly visible to that person.”;

(3) in subsection (d)(1), by striking “or (k)” and inserting “(k), (aa)(1), (aa)(2), (aa)(4), or (aa)(5)”;

(4) in subsection (e)(1), by inserting “through the possession of a functional firearm” before “and has three”; and

(5) by adding at the end the following:

“(q) A person who violates section 922(aa)(3) shall--

“(1) in the case of the first violation by the person, be fined under this title, imprisoned not more than 1 year, or both; or

“(2) in the case of any subsequent violation by the person, be fined under this title, imprisoned not more than 5 years, or both.”

SEC. 302. MODERNIZATION OF THE PROHIBITION ON UNDETECTABLE FIREARMS.

Section 922(p) of title 18, United States Code, is amended--

(1) in paragraph (1)--

(A) in the matter preceding subparagraph (A), by striking "any firearm";

(B) by amending subparagraph (A) to read as follows:

**"(A) an undetectable firearm; or"; and**

**(C) in subparagraph (B), by striking "any major component of which, when subjected to inspection by the types of x-ray machines commonly used at airports, does not generate" and inserting the following: "a major component of a firearm which, if subjected to inspection by the types of detection devices commonly used at airports for security screening, would not generate";**

(2) in paragraph (2)--

(A) by amending subparagraph (A) to read as follows:

**"(A) the term 'undetectable firearm' means a firearm, as defined in section 921(a)(3)(A), of which no major component is wholly made of detectable material;"**

(B) by striking subparagraph (B) and inserting the following:

**"(B) the term 'major component', with respect to a firearm--**

**"(i) means the slide or cylinder or the frame or receiver of the firearm; and**

**"(ii) in the case of a rifle or shotgun, includes the barrel of the firearm; and"; and**

(C) by striking subparagraph (C) and all that follows through the end of the undesignated matter following subparagraph (C) and inserting the following:

**"(C) the term 'detectable material' means any material that creates a magnetic field equivalent to or more than 3.7 ounces of 17-4 pH stainless steel.";**

(3) in paragraph (3)--

(A) in the first sentence, by inserting "including a prototype," after "of a firearm"; and

(B) by striking the second sentence; and

(4) in paragraph (5), by striking "shall not apply to any firearm which" and all that follows and inserting the following: "shall not apply to--

**"(A) any firearm received by, in the possession of, or under the control of the United States; or**

**"(B) the manufacture, importation, possession, transfer,**

receipt, shipment, or delivery of a firearm by a licensed manufacturer or licensed importer pursuant to a contract with the United States."

#### TITLE IV--SAFE STORAGE

##### SEC. 401. ETHAN'S LAW.

- establishes a framework to regulate the storage of firearms on residential premises at the federal, state, and tribal levels;

Better known as Ethan's Law, [HB 7218](#) would require that a gun, loaded or unloaded, be properly stored so that individuals under the age of 18 cannot access the firearm. The bill was prompted by the tragic death of 15 year-old Guilford resident, Ethan Song. While at a friend's house, Ethan shot himself with an improperly stored gun and due to a loophole, the owner of the gun could not be prosecuted.

(a) Secure Gun Storage or Safety Device.--Section 922(z) of title 18, United States Code, is amended by adding at the end the following:

``(4) Secure gun storage by owners.--

``(A) Offense.--

``(i) In general.--Except as provided in clause (ii), **it shall be unlawful for a person to store or keep any firearm** that has moved in, or that has otherwise affected, interstate or foreign commerce on the premises of a residence under the control of the person **if the person knows, or reasonably should know, that--**

``(I) **a minor is likely to gain access to the firearm without the permission of the parent or guardian of the minor; or**

``(II) **a resident of the residence is ineligible to possess a firearm under Federal, State, or local law.**

``(ii) Exception.--Clause (i) shall not apply to a person if--

``(I) the person--

``(aa) keeps the firearm--

``(AA) secure using a secure gun storage or safety device; or

``(BB) in a location which a reasonable person would believe to be secure;

or

“(bb) carries the firearm on his or her person or within such close proximity thereto that the person can retrieve and use the firearm as readily as if the person carried the firearm on his or her person;

or

“(II) another individual unlawfully enters the premises under the control of the person and thereby gains access to the firearm.

“(B) Penalty.--

“(i) In general.--Except as otherwise provided in this subparagraph, **any person who violates subparagraph (A) shall be fined \$500 per violation.**

“(ii) Forfeiture of improperly stored firearm.--Any firearm stored in violation of subparagraph (A) shall be subject to seizure and forfeiture in accordance with the procedures described in section 924(d).

“(C) Minor defined.--In this paragraph, the term ‘minor’ means an individual who has not attained 18 years of age.”

(b) Firearm Safe Storage Program.--Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10101 et seq.) is amended by adding at the end the following:

“PART PP--FIREARM SAFE STORAGE PROGRAM

“SEC. 3061. FIREARM SAFE STORAGE PROGRAM.

“(a) In General.--**The Assistant Attorney General shall make grants to an eligible State or Indian Tribe to assist the State or Indian Tribe in carrying out the provisions of any State or Tribal law that is functionally identical to section 922(z)(4) of title 18, United States Code.**

“(b) Eligible State or Indian Tribe.--

“(1) In general.--Except as provided in paragraph (2), a State or Indian Tribe shall be eligible to receive grants under this section on and after the date on which the State or Indian Tribe enacts legislation functionally identical to section 922(z)(4) of title 18, United States Code.

“(2) First year eligibility exception.--

“(A) In general.--A covered State or Indian Tribe

shall be eligible to receive a grant under this section during the 1-year period beginning on the date of enactment of this part.

“(B) Covered state or Indian tribe.--In this paragraph, the term ‘covered State or Indian Tribe’ means a State or Indian Tribe that, before the date of enactment of this part, enacted legislation that is functionally identical to section 922(z)(4) of title 18, United States Code.

“(c) Use of Funds.--Funds awarded under this section may be used by a State or Indian Tribe to assist law enforcement agencies or the courts of the State or Indian Tribe in enforcing and otherwise facilitating compliance with any State law functionally identical to section 922(z)(4), of title 18, United States Code.

“(d) Application.--An eligible State or Indian Tribe desiring a grant under this section shall submit to the Assistant Attorney General an application at such time, in such manner, and containing or accompanied by such information, as the Assistant Attorney General may reasonably require.

“(e) Incentives.--For each of fiscal years 2023 through 2027, the Attorney General shall give affirmative preference to all Bureau of Justice Assistance discretionary grant applications of a State or Indian Tribe that has enacted legislation functionally identical to section 922(z)(4) of title 18, United States Code.”.

#### SEC. 402. SAFE GUNS, SAFE KIDS.

Paragraph (4)(B) of section 922(z) of title 18, United States Code, as added by this Act, is amended by adding at the end the following:

“(iii) Enhanced penalty.--**If a person violates subparagraph (A) and a minor or a resident who is ineligible to possess a firearm under Federal, State, or local law obtains the firearm and causes injury or death to such minor, resident, or any other individual, the person shall be fined under this title, imprisoned for not more than 5 years, or both.**”.

#### SEC. 403. KIMBERLY VAUGHAN FIREARM SAFE STORAGE.

(a) Best Practices for Safe Firearm Storage.--

(1) Establishment.--

(A) In general.--

(i) Not later than 180 days after the enactment of this Act, **the Attorney General shall establish voluntary best practices relating to safe firearm storage solely for the**

**purpose of public education.**

(ii) The Attorney General shall give not less than ninety days public notice, and shall afford interested parties opportunity for hearing, before establishing such best practices.

(B) Requirements.--In establishing the best practices required under subparagraph (A), the Attorney General shall outline such best practices for preventing firearm loss, theft, and other unauthorized access for the following locations:

- (i) Businesses.
- (ii) Vehicles.
- (iii) Private homes.
- (iv) Off-site storage facilities.
- (v) Any other such place the Attorney General deems appropriate to provide such guidance.

(C) Publication.--Not later than 1 year after the enactment of this Act, the Attorney General shall publish, in print and on a public website, the best practices created pursuant to subparagraph (A) and shall review such best practices and update them not less than annually.

**(b) Promotion of Safe Firearm Storage.--**

(1) In general.--Section 923 of title 18, United States Code, is amended by adding at the end the following:

“(m) Beginning on January 1, 2025, licensed manufacturers and licensed importers that serialize not less than 250 firearms annually pursuant to subsection (i) shall provide a clear and conspicuous written notice with each manufactured or imported handgun, rifle, or shotgun that--

“(1) is attached or adhered to, or appears on or within any packaging of, each handgun, rifle, or shotgun; and

“(2) states ‘SAFE STORAGE SAVES LIVES’ followed by the address of the public website established by the Attorney General pursuant to section 403(a) of the Protecting Our Kids Act.”.

**(c) Safe Storage Devices for All Firearm Sales.--**

(1) In general.--Section 922(z) of title 18, United States Code, is amended by striking “handgun” each place it appears and inserting “handgun, rifle, or shotgun”.

(2) Effective date.--This section and the amendments made by this section shall take effect on the date that is 180 days after the enactment of this Act.

(d) Kimberly Vaughan Safe Firearm Storage Grant Program.--Part PP of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10101 et seq.), as added by this Act, is amended by adding

at the end the following:

“SEC. 3062. KIMBERLY VAUGHAN FIREARM SAFE STORAGE GRANT PROGRAM.

“(a) Authorization.--The Attorney General may award grants to States and Indian Tribes for the development, implementation, and evaluation of Safe Firearm Storage Assistance Programs.

“(b) Application Requirements.--Each applicant for a grant under this section shall--

“(1) submit to the Attorney General an application at such time, in such a manner, and containing such information as the Attorney General may require; and

“(2) to the extent practicable, identify State, local, Tribal, and private funds available to supplement the funds received under this section.

“(c) Reporting Requirement.--

“(1) Grantee report.--A recipient of a grant under this section shall submit to the Attorney General an annual report, which includes the following information:

“(A) The amount distributed to each Safe Firearm Storage Assistance Program in the jurisdiction.

“(B) The number of safe firearm storage devices distributed by each such Safe Firearm Storage Assistance Program.

A recipient of a grant under this section may not include any personally identifying information of recipients of safe firearms storage devices pursuant to a Safe Firearm Storage Assistance Program that received funding pursuant to this section.

“(2) Attorney general report.--Beginning 13 months after the first grants are awarded under this section, and annually thereafter, the Attorney General shall submit to Congress a report, which shall include following information:

“(A) A list of grant recipients during the previous year, including the funds awarded, cumulatively and disaggregated by grantee.

“(B) The information collected pursuant to subsection (d)(1).

“(d) Authorization of Appropriations.--There is authorized to be appropriated to the Attorney General to carry out this section \$10,000,000 for each of fiscal years 2023 through 2033, to remain available until expended.

“(e) Use of Funds.--Funds awarded under this section shall be allocated as follows:

“(1) Not less than 75 percent of the funds received by a grantee shall be used to create or to provide resources for Safe Firearm Storage Assistance Programs in the jurisdiction.

“(2) Not more than 25 percent of the funds received by a

grantee may be made available to nonprofit organizations to partner with units of local government to purchase and distribute safe firearm storage devices.

“(f) Definitions.--For purposes of this section:

“(1) The term ‘safe firearm storage device’ means a device that is--

“(A) designed and marketed for the principal purpose of denying unauthorized access to, or rendering inoperable, a firearm or ammunition; and

“(B) secured by a combination lock, key lock, or lock based on biometric information which, once locked, is incapable of being opened without the combination, key, or biometric information, respectively.

“(2) The term ‘Safe Firearm Storage Assistance Program’ means a program--

“(A) carried out by a unit of local government or an Indian tribe; and

“(B) solely for the purpose of acquiring and distributing safe firearm storage devices to the public.”.

#### TITLE V--CLOSING THE BUMP STOCK LOOPHOLE

- subjects bump stocks to regulation under federal firearms laws;

#### SEC. 501. BUMP STOCKS.

(a) In General.--Section 5845 of the Internal Revenue Code of 1986 is amended--

(1) in subsection (a), by striking “and (8) a destructive device.” and inserting “(8) a destructive device; and (9) a bump stock.”; and

(2) by adding at the end the following new subsections:

“(n) **Bump Stock.--The term ‘bump stock’ means any of the following:**

“(1) **Any manual, power-driven, or electronic device that is designed such that when the device is attached to a semiautomatic weapon, the device eliminates the need for the operator of a semiautomatic weapon to make a separate movement for each individual function of the trigger and--**

“(A) **materially increases the rate of fire of the semiautomatic weapon, or**

“(B) **approximates the action or rate of fire of a machinegun.**

“(2) **Any part or combination of parts that is designed and functions to eliminate the need for the operator of a semiautomatic weapon to make a separate movement for each individual function of the trigger and--**

**“(A) materially increases the rate of fire of a semiautomatic weapon, or**

**“(B) approximates the action or rate of fire of a machinegun.**

**“(3) Any semiautomatic weapon that has been modified in any way that eliminates the need for the operator of the semiautomatic weapon to make a separate movement for each individual function of the trigger and--**

**“(A) materially increases the rate of fire of the semiautomatic weapon, or**

**“(B) approximates the action or rate of fire of a machinegun.**

**“(o) Semiautomatic Weapon.--The term ‘semiautomatic weapon’ means any repeating weapon that--**

**“(1) utilizes a portion of the energy of a firing cartridge or shell to extract the fired cartridge case or shell casing and chamber the next round, and**

**“(2) requires a separate function of the trigger to fire each cartridge or shell.”.**

(b) Amendments to Title 18, United States Code.--

(1) Section 921(a) of title 18, United States Code, as amended by this Act, is further amended--

(A) in paragraph (3), by striking “muffler or firearm silencer” and inserting “muffler, firearm silencer, or bump stock”; and

(B) by adding at the end the following:

**“(41) The term ‘bump stock’ has the meaning given such term in section 5845(n) of the National Firearms Act (26 U.S.C. 5845(n)).”.**

(2) Section 922 of title 18, United States Code, is amended--

(A) in each of subsections (a)(4) and (b)(4), by inserting “bump stock,” before “machinegun”; and

(B) in subsection (o)(1) , by inserting “or bump stock” before the period.

## TITLE VI--KEEP AMERICANS SAFE

- generally prohibits the import, sale, manufacture, transfer, and possession of large capacity ammunition feeding devices; and

### SEC. 601. DEFINITIONS.

Section 921(a) of title 18, United States Code, as amended by this Act, is further amended by adding at the end the following:

**“(42) The term ‘large capacity ammunition feeding device’--**

**“(A) means a magazine, belt, drum, feed strip, helical feeding device, or similar device, including any such device joined or coupled with another in any manner, that has an**

**overall capacity of, or that can be readily restored, changed, or converted to accept, more than 15 rounds of ammunition; and**

“(B) does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition.

“(43) The term ‘qualified law enforcement officer’ has the meaning given the term in section 926B.”.

#### SEC. 602. RESTRICTIONS ON LARGE CAPACITY AMMUNITION FEEDING DEVICES.

(a) In General.--Section 922 of title 18, United States Code, is amended by inserting after subsection (u) the following:

**“(v)(1) It shall be unlawful for a person to import, sell, manufacture, transfer, or possess, in or affecting interstate or foreign commerce, a large capacity ammunition feeding device.**

“(2) Paragraph (1) shall not apply to the possession of any large capacity ammunition feeding device otherwise lawfully possessed on or before the date of enactment of this subsection.

“(3) Paragraph (1) shall not apply to--

“(A) the importation for, manufacture for, sale to, transfer to, or possession by the United States or a department or agency of the United States or a State or a department, agency, or political subdivision of a State, or a sale or transfer to or possession by a qualified law enforcement officer employed by the United States or a department or agency of the United States or a State or a department, agency, or political subdivision of a State for purposes of law enforcement (whether on or off-duty), or a sale or transfer to or possession by a campus law enforcement officer for purposes of law enforcement (whether on or off-duty);

“(B) the importation for, or sale or transfer to a licensee under title I of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) for purposes of establishing and maintaining an on-site physical protection system and security organization required by Federal law, or possession by an employee or contractor of such licensee on-site for such purposes or off-site for purposes of licensee-authorized training or transportation of nuclear materials;

“(C) the possession, by an individual who is retired in good standing from service with a law enforcement agency and is not otherwise prohibited from receiving ammunition, of a large capacity ammunition feeding device--

“(i) sold or transferred to the individual by the agency upon such retirement; or

“(ii) that the individual purchased, or otherwise obtained, for official use before such retirement; or

“(D) the importation, sale, manufacture, transfer, or possession of any large capacity ammunition feeding device by a

licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Attorney General.

“(4) For purposes of paragraph (3)(A), the term ‘campus law enforcement officer’ means an individual who is--

“(A) employed by a private institution of higher education that is eligible for funding under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.);

“(B) responsible for the prevention or investigation of crime involving injury to persons or property, including apprehension or detention of persons for such crimes;

“(C) authorized by Federal, State, or local law to carry a firearm, execute search warrants, and make arrests; and

“(D) recognized, commissioned, or certified by a government entity as a law enforcement officer.”.

(b) Identification Markings for Large Capacity Ammunition Feeding Devices.--Section 923(i) of title 18, United States Code, as amended by this Act, is further amended by inserting after subparagraph (A) of paragraph (1) the following:

“(B) A large capacity ammunition feeding device manufactured after the date of enactment of this subparagraph shall be identified by a serial number and the date on which the device was manufactured or made, legibly and conspicuously engraved or cast on the device, and such other identification as the Attorney General shall by regulations prescribe.”.

(c) Seizure and Forfeiture of Large Capacity Ammunition Feeding Devices.--Section 924(d) of title 18, United States Code, as amended by this Act, is further amended--

(1) in paragraph (1)--

(A) in the first sentence--

(i) by striking “Any firearm or ammunition involved in” and inserting “Any firearm or ammunition or large capacity ammunition feeding device involved in”;

(ii) by inserting “(v),” after “(k),”;

and

(iii) by striking “any firearm or ammunition intended” and inserting “any firearm or ammunition or large capacity ammunition feeding device intended”; and

(B) by inserting “or large capacity ammunition feeding device” after “firearms or ammunition” each place the term appears;

(2) in paragraph (2)--

(A) in subparagraph (A), by inserting “or large capacity ammunition feeding device” after “firearms or ammunition”; and

(B) in subparagraph (C), by inserting “or large

capacity ammunition feeding devices" after ``firearms or quantities of ammunition"; and (3) in paragraph (3)(E), by inserting ``922(v)," after ``922(n),".

#### SEC. 603. PENALTIES.

Section 924(a)(1)(B) of title 18, United States Code, as amended by this Act, is further amended by inserting ``(v)," after ``(q),".

#### **SEC. 604. USE OF BYRNE GRANTS FOR BUY-BACK PROGRAMS FOR LARGE CAPACITY AMMUNITION FEEDING DEVICES.**

Section 501(a)(1) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10152(a)(1)) is amended by adding at the end the following:

**``(I) Compensation for surrendered large capacity ammunition feeding devices, as that term is defined in section 921 of title 18, United States Code, under buy-back programs for large capacity ammunition feeding devices.".**

#### TITLE VII--MISCELLANEOUS

- requires the Department of Justice to report on the demographic data of persons who are determined to be ineligible to purchase a firearm based on a background check performed by the national instant criminal background check system.

#### SEC. 701. NICS REPORT.

Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report that includes, with respect to the preceding year, the demographic data of persons who were determined to be ineligible to purchase a firearm based on a background check performed by the National Instant Criminal Background Check System, including race, ethnicity, national origin, sex, gender, age, disability, average annual income, and English language proficiency, if available.

Passed the House of Representatives June 8, 2022.

## COVENANTS AND EQUITABLE SERVITUDES

-bundle of sticks vs. privity

-bundle: how you transfer the property but keep some interests

-privity: when you want to constrain the land for the future

Classic example is an easement

-If I own a home and you're my neighbor and I let you drive across my driveway to get to the street, and I go to sell my home, you might ask "hey, what if the guy you sell this to says no?" So we can write an easement into the deed, and that will bind all future purchasers of the property.

The easement is a *benefit* to you and a *burden* to me

And the question becomes does either part of that "run with the land" – if it

### **Real Covenant:**

A contractual obligation that relates to the ownership and/or use and enjoyment of real property.

### **"Touch and Concern":**

The status that a covenant has with regard to a particular parcel of land if the terms of the covenant call for actions or restrictions that are in regard to that parcel of land.

### **Privity:**

A successive or mutual interest by two or more people in the same property that exists at the time that such property is transferred.

### **Horizontal Privity:**

Privity between the parties who agree to a covenant or equitable servitude.

### **Vertical Privity:**

Privity between transferor and transferee of property that is bound by a covenant or equitable servitude.

### **Equitable Servitude:**

An agreement between two or more parties that restricts the right of use or enjoyment of one or more parcels of property that can be enforced through equity (i.e., by specific performance).

The key element of a real covenant that distinguishes it from an ordinary promise is that a real covenant can sometimes be enforced against successive owners of the property. If a covenant can be enforced against successive owners, it is said to “run with the land.” This means that, like an easement, the covenant can remain effective even if the land is transferred to a third party. Of course, this distinguishes real covenants from ordinary contracts, as all ordinary contracts are enforceable only by and against people who are parties to the contract or intended beneficiaries.

The most important question regarding successor owners is whether the burden runs with the servient land. In other words, if the owner of the burdened land sells or transfers the property, will the covenant still apply to the transferee? The rule is that the burden of the real covenant will run with the land if six conditions are met. Essentially, these six conditions boil down to one idea: if the transferee knew or should have known about the covenant and it’s fair to bind the transferee to the terms of the covenant, then the burden will run with the land. The six conditions are:

1. The covenant must have been in writing.

2. The intent of original parties must have been for the covenant to run with the land: This is usually satisfied with a term in the covenant that applies the covenant to the “successors heirs and assigns” of the burdened land owner. Even without this provision, such intent will usually be presumed by a court if the circumstances are such that this was the likely intent of the parties and in the absence of evidence to the contrary.

3. The covenant must “touch and concern” the land: In other words, the covenant must be in connection with the parties’ status as landowners. Examples of covenants that touch and concern the land include agreements to pay homeowners’ association fees or an agreement by condominium owners to abide by restrictions set forth by the governing body of the condominium complex.

4. Horizontal Privity: This is the element that is least likely to be satisfied. This element requires that the parties who made up the covenant must have shared some ownership or contractual relationship in the servient land. In other words, the original contracting parties must have shared some level of ownership or control in the land. This could be because the servient land was sold from one party to the other or because one party rented out the servient land to the other party, etc. However, if the two parties who agreed to the covenant were merely neighbors and one of the parties had no ownership interest in the servient land, then the covenant will not run with the land. For example:

5. Vertical Privity: The owner of the servient land must have voluntarily transferred the land to the successor owner for the burden to run with the land. For example:

6. The transferee must have had notice, or reason to have notice, that the covenant existed at the time that the transferee took possession of the burdened estate.

## Equitable Servitudes

An equitable servitude is similar to a real covenant. It is a promise that restricts the use of land in some way that is designed to be enforced with specific performance, rather than with monetary damages. In other words, while covenants are usually enforced by the awarding of monetary damages to the aggrieved party, equitable servitudes are enforced with an injunction preventing the use of the property in the manner that is proscribed by the servitude.

Differences:

- **Remedy:** The key difference is the difference we have already discussed. A covenant is enforceable by monetary damages and a servitude is enforced by an injunction to comply with the servitude.
- **No privity required to run with the land:** For an equitable servitude to run with the land, no privity (horizontal or vertical) is required. Thus, for an equitable servitude to be binding upon the successor owner of the servient property, the only elements that are required are elements 1,2,3 and 6 (writing, intent, "touch and concern" and notice) above. Note that the "notice" requirement is also satisfied, as in the case of a covenant, if the successor owner should have known of the covenant under the circumstances. For example:

