

Domestic Violence Conviction And The Servicemember (The Lautenberg Amendment)



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In 1996 the Gun Control Act of 1968 was amended by Congress to make it a federal felony for persons convicted of domestic violence offenses to possess firearms and prohibiting anyone from providing weapons to such persons. The "Lautenberg Amendment" (18 U.S.C. Section 922 (g) (9)) intentionally did NOT provide the exclusion that was in the previous law for those involved in "public service" like police officers and members of the military. A conviction thus precludes a servicemember from being provided with or carrying a weapon even in the course of his or her duties.

Obviously, a conviction for domestic violence now can have a devastating impact on a military career and a charge must be treated seriously.

To fall under Lautenberg, there must be (1) a conviction of (2) a qualifying offense.

A conviction requires a finding of guilt by a court. Accordingly, a deferred finding (taking a case under advisement with terms) is not a conviction. If the conditions of the deferred finding are not complied with, a conviction will result, and Lautenberg will apply. Changing the charge from assault on a family member to simple assault and being found guilty of that; however, is a qualifying conviction because the underlying facts involve domestic violence.

Each branch of the military service has its own regulations governing Lautenberg convictions.

