Congressional Research Service
Informing the legislative debate since 1914

IN FOCUS

November 24, 2026

The Department of Justice Final Rule to Restore Firearms Rights to "Prohibited Persons"

The Gun Control Act (GCA) categorically prohibits certain classes of individuals—including individuals convicted of felony offenses—from possessing, receiving, shipping, or transporting firearms connected with interstate or foreign commerce. The GCA also authorizes these covered individuals to apply to the Attorney General to have their firearms rights restored. On August 20, 2026, the Department of Justice (DOJ) issued a final rule on the process to apply for "relief from disabilities."

This In Focus summarizes the rule. Before doing so, it provides an overview of relevant law, including a federal statute that effectively barred the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) from enforcing the relief statute, and relevant legal developments, including delegating enforcement responsibility of the relief statute to DOJ. The In Focus closes with considerations for Congress.

Gun Control Act: Relevant Overview

The GCA, at 18 U.S.C. §922(g), makes it unlawful for nine classes of individuals "to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce." The statute covers anyone

> (1) who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year; (2) who is a fugitive from justice; (3) who is an unlawful user of or addicted to any controlled substance…; (4) who has been adjudicated as a mental defective or who has been committed to a mental institution; (5) who, being an alien—(A) is illegally or unlawfully in the United States; or (B) [generally] has been admitted to the United States under a nonimmigrant visa…; (6) who has been discharged from the Armed Forces under dishonorable conditions; (7) who, having been a citizen of the United States, has renounced his citizenship; (8) who is subject to a [qualifying domestic violence restraining order]; (9) who has been convicted in any court of a misdemeanor crime of domestic violence.

Agency Administration of §925(c)

As first enacted, the 1968 GCA at 18 U.S.C. §925(c) allowed a single class of prohibited persons—an individual convicted of a non-firearm-related felony—to apply for relief from the statutory prohibition to the Secretary of the Treasury. The GCA authorized the Secretary to "grant such relief" if, upon consideration of the "circumstances regarding the conviction, and the applicant's record and reputation," the Secretary was satisfied that "the applicant will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest." In 1986, Congress amended Section 925(c) to allow any prohibited person to seek relief under Section 922(g). Congress also authorized applicants denied relief by the Secretary to submit petitions in federal court.

The administration of the original Section 925(c) relief program was delegated to the director of ATF, then a bureau within the Department of the Treasury. In 2002, Congress transferred ATF from Treasury to DOJ and delegated relief authority to the Attorney General. Describing this procedural history in a 2025 proposed rule, DOJ asserted that ATF's relief process had been beset by "*ad hoc* determinations" that compromised public safety, adding that the process was "time consuming and resource intensive." According to DOJ, it was for these reasons that, in 1992 and in subsequent appropriations measures, Congress precluded ATF from using any funds to grant relief under Section 925(c). In the 2002 case *United States v. Bean*, the Supreme Court acknowledged that ATF was barred from denying an application by the appropriations restriction and held that courts have no jurisdiction under the statute to restore firearms rights absent an actual denial by the delegated executive authority.

Background Supreme Court Cases

In *United States v. Rahimi*, the Supreme Court rejected a facial challenge to the prohibition on firearm possession by individuals subject to certain domestic violence restraining orders, explaining that sufficient historical support existed for the principle that "[w]hen an individual poses a clear threat of physical violence to another, the threatening individual may be disarmed" temporarily. In *United States v. Hemani*, the Supreme Court held that the prohibition regarding any person "who is an unlawful user of or addicted to any controlled substance" does not "automatically disarm … anyone who regularly uses any amount of any controlled substance for anything other than its 'prescribed purpose'" but instead requires consideration of individualized circumstances.

DOJ Rule on Applications for Relief

DOJ's March 2025 interim final rule (IFR) acknowledged that appropriations riders have prohibited ATF from using appropriated funds to investigate or act upon applications for relief from federal firearms disabilities since 1992 and

stated that the Attorney General was withdrawing the delegation to ATF to administer Section 925(c), providing "a clean slate on which to build a new approach to implementing 18 U.S.C. 925(c)." On July 22, 2025, DOJ published a notice of proposed rulemaking. Following the notice-and-comment period, on August 20, 2026, DOJ published a final rule.

Eligibility

The final rule states that individuals convicted of presumptively disqualifying crimes or who are otherwise presumptively prohibited would likely not be eligible for relief. The rule specifically names fugitives from justice (18 U.S.C. §922(g)(2)), unlawful users of and those addicted to controlled substances other than marijuana (18 U.S.C. §922(g)(3)), unlawfully present aliens or certain aliens admitted on nonimmigrant visas (18 U.S.C. §922(g)(5)), individuals subject to domestic violence restraining orders (18 U.S.C. §922(g)(8)), and individuals currently serving sentences of imprisonment or currently under any form of supervision as part of criminal sentences as those who would be presumptively ineligible for relief and denied relief absent extraordinary circumstances. The final rule also clarifies that applicants are presumptively disqualified if they have been convicted under state or federal law of certain offenses punishable by terms exceeding one year if the offenses involved, among other things, the death of another person, sexual abuse or sexual assault, or human trafficking or if the Attorney General has determined that the recency of prior conviction for certain offenses renders an applicant presumptively unable to establish that he or she will not likely act in a manner dangerous to public safety.

The primary potential recipients of relief from federal firearms disabilities under this rule are those whom the Attorney General determines to be less likely to become recidivists and whose access to firearms would "not be contrary to public safety and the public interest." This includes any individual who has been convicted of a crime punishable by more than one year in prison that is not a listed presumptively disqualifying crime in the final rule (18 U.S.C. §922(g)(1)), has been adjudicated as a mental defective or committed to a mental institution (18 U.S.C. §922(g)(4)); has been discharged from the U.S. Armed Forces under dishonorable conditions (18 U.S.C. §922(g)(6)), has renounced his or her U.S. citizenship (18 U.S.C. §922(g)(7)), or has been convicted in any court of a misdemeanor crime of domestic violence (18 U.S.C. §922(g)(9)) but only if the "applicant could show that the underlying circumstances of the prior misdemeanor offense did not involve a firearm or potentially lethal violence and that the applicant's good behavior over time [would] make relief under section 925(c) appropriate." Individuals who have had their firearm rights revoked for these reasons would need to prove that their relief from federal firearms disabilities would be consistent with public safety and the public interest. The final rule further explains that any individuals who previously committed certain violent or otherwise serious offenses will be presumptively unable to demonstrate that they will not act in a manner dangerous to public safety. The final rule also explains that anyone who has committed certain violent misdemeanors while also prohibited from possessing firearms under Section 922(g) will be presumptively unable to demonstrate that he or she will not act in a manner dangerous to public safety for a period of five years following completion of a sentence imposed for a violent misdemeanor.

Timing

The final rule also prescribes other periods of delay during which a person convicted of a crime is presumptively disqualified from relief. For offenses with direct relationship to violence, the rule establishes a minimum period of 10 years—after successful conclusion of any term of probation, parole, supervised release, or other supervision during which the offender must not commit any other crime or recidivate in any way—before an application will generally be considered. These crimes include drug distribution, misdemeanor domestic violence, committing or threatening acts of violence, and discharging a firearm or explosive when committing the aforementioned offenses. The rule further indicates a five-year period of presumed ineligibility for all other offenses that are not violent or sexual in nature as defined in a new standard definition implemented after the comment period that applies to both 18 U.S.C. §922(g) and 18 U.S.C. §921(a)(20). The notice set out a timeline for applications, prioritizing applicants first before opening applications to the public in phases, who—by virtue of not being subject to one of the aforementioned presumptions—are most likely to be able to establish that they satisfy the standard for restoration in Section 925(c). The relief statute, and the rule, extends to federal licensees (e.g., a dealer) that have been barred from continuing their operations, though DOJ estimates that the effect of the rule on licensees will be relatively low.

Documentation

In response to comments about required documentation, DOJ amended the final rule to require most individuals who served in the military to submit records of their service, individuals who have renounced citizenship to provide supplemental statements describing the circumstances surrounding the renunciation, and individuals who have engaged in conduct outside of the United States that would be disqualifying if it had occurred in the United States to provide documentation—in English—associated with any foreign adjudication or conviction.

Considerations for Congress

Congress could consider whether this rule is consistent with the policy goals of its prior ban on ATF using appropriated funds for processing relief applications. For example, it could prescribe some or all of the procedural aspects of an application for relief. It could also delineate the criminal offenses that may disqualify an individual from relief or that make relief presumptively dangerous to public safety. Congress could instead maintain the status quo, observing how the implementation of the final rule proceeds.

Dave S. Sidhu, Legislative Attorney
Jordan B. Cohen, Analyst in Firearms Policy

IF13361

Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.