



FIREARM POSSESSION AND DOMESTIC VIOLENCE RESTRAINING OR PROTECTIVE ORDERS AND CONVICTIONS

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GUN POSSESSION AND PURCHASE BY CERTAIN ABUSERS

More than 12 states specifically prohibit firearm possession by domestic violence misdemeanants; four specifically require convicted abusers to surrender firearms.

More than two-thirds of the states prohibit firearm possession by abusers subject to domestic violence protective orders.

About one-half of the states authorize or require a court issuing a domestic violence protective order to require the abuser to surrender the firearm.

About one-third of the states authorize or require police to remove firearms from a domestic violence scene.

Source: [Law Center to Prevent Gun Violence](#)

QUESTION

How do federal and state laws address firearm purchase and possession by people convicted of domestic violence crimes or under a domestic violence restraining or protective order? Do any states have laws stricter than federal laws?

SUMMARY

Federal law prohibits anyone convicted of a "misdemeanor crime of domestic violence" or subject to certain domestic violence protective orders from buying or possessing firearms or ammunition ([18 USC § 922\(g\)\(8\),\(9\)](#)).

In the case of domestic violence protective orders, the law applies only if the order (1) was issued after notice to the abuser and a hearing and (2) protects an intimate partner of the abuser or a child of the abuser or intimate partner ([18 USC § 922\(g\)\(8\)](#)). An "intimate partner" is narrowly defined as a current or former spouse; a person who has a child with the abuser; or an individual living with or who has lived with the abuser ([18 USC § 921\(a\)\(32\)](#)).

While federal law bans the purchase and possession of firearms by domestic abusers, it does not require such abusers to surrender or otherwise dispose of their firearms. Neither does it require the courts or law enforcement to remove the firearms from abusers.

Connecticut is among 35 states and the District of Columbia (D.C.) that have laws similar to the federal law prohibiting people under domestic violence protective orders from purchasing or possessing firearms, according to the Law Center to Prevent Gun Violence (Law Center).

Several of these states have laws broader than the federal law. For example:

1. Many states, including Connecticut, prohibit people with violent misdemeanor convictions from acquiring or possessing firearms or ammunition, regardless of the offender's relationship to the victim.
2. Some states, including Connecticut, require that firearms in the possession of domestic abusers be removed or surrendered.
3. Some states, including Connecticut, require or authorize law enforcement officers to remove firearms when they arrive at the scene of a domestic violence incident.
4. Many states, including California, Illinois, Massachusetts, and Texas, prohibit firearm purchase or possession by people under domestic violence protective orders issued before notice to the abuser or a hearing ("ex parte" orders).

The report largely summarizes research done by the [Law Center to Prevent Gun Violence](#). It is organized into three sections: (1) federal law, (2) Connecticut law, and (3) other states' laws.

FEDERAL LAW

Federal law prohibits anyone convicted of a misdemeanor crime of domestic violence from buying or possessing firearms or ammunition ([18 USC § 922\(g\)\(9\)](#)). A "misdemeanor crime of domestic violence" is a misdemeanor that has as an element the use or attempted use of physical force or threatened use of a deadly weapon committed by:

1. a current or former spouse, parent, or guardian of the victim;
2. a person with whom the victim has a child;
3. a person living with or who used to live with the victim as a spouse, parent, or guardian; or

4. someone similarly situated to a spouse, parent, or guardian of the victim ([18 USC § 921\(a\)\(33\)](#)).

Federal law also prohibits anyone under a domestic violence protective order from buying or possessing firearms or ammunition ([18 USC § 922\(g\)\(8\)](#)). The law applies only to orders (1) issued after notice to the abuser and a hearing and (2) protecting an "intimate partner" of the abuser or a child of the abuser or intimate partner ([18 USC § 922\(g\)\(8\)](#)).

CONNECTICUT LAW

State law allows any family or household member subjected to continuous threat of physical pain or injury, stalking, or a pattern of threatening by another family or household member to seek a court restraining order, and the court may issue a variety of protective and restraining orders to protect such individuals ([CGS § 46b-15](#)).

The law defines a "family or household member" as any of the following persons, regardless of age:

1. spouses or former spouses;
2. parents or their children;
3. people related by blood or marriage;
4. people other than those related by blood or marriage who live or have lived together;
5. people who have a child in common, regardless of whether they are or used to be married or have lived together; and
6. people in or recently in a dating relationship ([CGS § 46b-38a](#)).

[PA 14-217 §§ 186-190](#) allows the Superior Court to issue a new type of order called a civil protection order to an applicant who (1) is a victim of sexual abuse, sexual assault, or 1st, 2nd, or 3rd degree stalking; (2) has not obtained any other court order of protection arising out of the abuse, assault, or stalking; and (3) does not qualify for relief under a civil restraining order, which is limited to family and household members.

Types of Orders

Restraining orders are issued by civil courts, which may make appropriate orders to protect an applicant and dependent children or others. This includes issuing an ex parte order if an applicant alleges immediate and present physical danger. The application for a civil family violence restraining order must include a space for the applicant to indicate whether the alleged offender possesses a gun permit, firearms, or ammunition ([CGS § 46b-15](#)).

Criminal protective orders are issued at arraignment and generally remain in effect until the case disposition.

Standing criminal restraining orders are issued at the end of a criminal case.

Prohibitions

State law explicitly prohibits:

1. anyone from possessing a firearm or ammunition knowing that he or she is under a (a) state restraining or protective order issued after notice and an opportunity to be heard for using, attempting to use, or threatening to use physical force against someone or (b) foreign order of protection issued (out of state) in a similar situation ([CGS § 53a-217](#) & [53a-217c](#)) or
2. issuing a permit to carry handguns or gun eligibility certificate to acquire firearms to anyone under a restraining or protective order issued for the use, attempted use, or threatened use of physical force against someone ([CGS §§ 29-28\(b\)](#) & [29-36f\(b\)](#)).

Gun Surrender

State law also requires people placed under a state domestic violence restraining or protective order or foreign order of protection to relinquish any firearms they possess. They must, within two business days after becoming ineligible, transfer them to a federally licensed gun dealer or deliver or surrender them to the emergency services and public protection commissioner. They must similarly dispose of ammunition or transfer it to an eligible person ([CGS § 29-36k](#)).

STATE LAWS

Prohibition on Purchasing or Possessing Firearms, Ammunition, or Both by People Under Protective Order

According to the Law Center to Prevent Gun Violence, 35 states and D.C. have laws similar to the federal law prohibiting subjects of domestic violence protective orders from purchasing or possessing firearms or ammunition (see Appendix 1). The Law Center has identified the following areas in which some state laws exceed federal law.

Ex Parte Orders. Many states, including California, Illinois, Massachusetts, Texas, Virginia, and West Virginia (1) prohibit firearm purchase or possession by people subject to domestic violence protective orders issued before notice to the offender or a hearing ("ex parte" orders) or (2) authorize judges to prohibit firearm purchase or possession in certain ex parte protective orders.

Massachusetts, for example, requires courts issuing ex parte orders to (1) order the immediate suspension and surrender of any firearms identification card or license to carry firearms the defendants may hold and (2) order them to surrender to law enforcement officials any firearms or ammunition they possess (Mass. Gen. Laws ch. 209A, § 3B).

People Who May Seek Domestic Violence Protective Orders. Compared to federal law, about half the states allow a broader category of victims to seek a domestic violence protective order prohibiting firearms. California, for example, allows victims to seek such an order against:

1. a former or current dating partner or anyone with whom the victim was romantically involved;
2. anyone living, or who used to live, with the victim; and
3. any family member, even one who has never lived with the victim (Cal. Penal Code § 29825(d); Cal. Civ. Proc. Code § 527.9(d); Cal. Fam. Code §§ 6209 – 6211).

A few states, such as California, also prohibit subjects of domestic violence protective orders from purchasing or possessing ammunition.

Firearm or Ammunition Removal from Abusers Subject to a Protective Order

According to the Law Center, a few states directly authorize or require law enforcement officers to remove firearms, ammunition, or both from people subject to domestic violence protective orders, including ex parte protective orders. For example, in Massachusetts, a law enforcement officer who serves a domestic violence protective order must immediately take possession of any firearms and ammunition the abuser owns, possesses, or controls (Mass. Gen. Laws ch. 209A, § 3B). And New Jersey authorizes a judge issuing a domestic violence protective order to order law enforcement officers to search for and seize any firearm in the abuser's possession (N.J. Stat. Ann. § 2C:25-29b(16)).

Firearms or Ammunition Surrender

According to the Law Center, half of the states and D.C. authorize or require courts issuing domestic violence protective orders to require the abuser to surrender firearms. Connecticut is among 15 states that require abusers subject to at least some domestic violence protective orders to surrender their firearms. The others are California, Colorado, Hawaii, Illinois, Iowa, Maryland, Massachusetts, Minnesota, New Hampshire, New York, North Carolina, Tennessee, Washington, and Wisconsin. In six of these states (California, Illinois, Maryland, New Hampshire, Tennessee, and Wisconsin) the abuser must surrender all firearms, regardless of the circumstances leading to the order. In other states, the orders must direct abusers to surrender their firearms under specified circumstances. In New York, for example, a court must order the abusers to immediately surrender all their firearms if it finds "a substantial risk that the abuser may use or threaten to use a firearm unlawfully against the victim, and in other specified situations" (N.Y. Fam. Ct. Act § 842-a).

In addition, according to the Law Center, 11 states and D.C. authorize, but do not require, courts to issue protective orders directing abusers to surrender certain firearms in various circumstances.

Firearm or Ammunition Purchase after Conviction for Domestic Violence Misdemeanor

According to the Law Center, many states go beyond federal law in prohibiting purchase or possession of firearms or ammunition by people with misdemeanor convictions involving a broader class of victims.

Some jurisdictions, such as Colorado, Illinois, New Jersey, and Texas have laws that specifically prohibit people from acquiring or possessing firearms after a conviction for a misdemeanor domestic violence offense (see Appendix 2 for complete list). According to the Law Center, these laws exceed federal law in the following ways. Some of these laws include in their definitions of "domestic violence," a violent misdemeanor against

1. someone who the offender is or was dating, or with whom he or she has had a romantic relationship;
2. any present or former household member or cohabitant of the offender; or
3. any family member, regardless of whether the victim resides with the offender.

A few states also prohibit anyone convicted of a misdemeanor domestic violence incident from purchasing or possessing ammunition.

Illinois, for example, prohibits firearm and ammunition possession by anyone convicted of "domestic battery," which includes certain acts against anyone:

1. related by blood or marriage, or through a child, to the defendant,
2. who shares, or has shared, a dwelling with the defendant;
3. who has, or has had, a dating or engagement relationship with the defendant (excluding casual acquaintances and ordinary fraternization in business or social contexts);
4. with disabilities if the defendant was his or her personal assistant; or
5. with a duty to care for an elderly person or a person with disabilities in that person's home (430 Ill. Comp. Stat. 65/2(a)(1), (2), 65/8(l); 720 Ill. Comp. Stat. 5/12-3.2(a)(1), (2), 725 Ill. Comp. Stat. 5/112A-3).

Illinois also prohibits anyone convicted within the previous five years of battery, assault, aggravated assault, or violation of an order of protection from possessing firearms or ammunition if the person used or possessed a firearm during the crime, regardless of how he or she is related to the victim (430 Ill. Comp. Stat. 65/2(a)(1), (2), 65/8(k)).

Firearm or Ammunition Removal or Surrender

According to the Law Center, a few states, including Connecticut ([CGS § 29-36k](#)), require the surrender of firearms by anyone who becomes ineligible to possess them.

In addition, some states specifically require a person convicted of a domestic violence misdemeanor to surrender his or her firearms upon conviction (see Colorado (Colo. Rev. Stat. §§ 18-1-1001(3)(c), 18-12-108(6)(c)(I), 18-6-801(8)); Iowa (Iowa Code §§ 236.2, 708.1, 708.2A, 708.11, 724.15(1), 724.26); Minnesota (Minn. Stat. § 609.2242, subd 3); and Tennessee (Tenn. Code Ann. §§ 39-13-111(c)(6), 39-17-1307(f)(1)(A)).

Reporting of Domestic Violence Misdemeanants to Firearm Database

According to the Law Center, three states have recently enacted laws designed to facilitate the reporting of abusers whose crimes fall within the federal definition of a “misdemeanor crime of domestic violence” to the databases used for firearm purchaser background checks.

In 2011, New York enacted a law establishing a procedure to be used in trials for certain violent misdemeanors to determine whether the crime qualifies as domestic violence under the federal definition. If it does, the court must send a written report to a state agency and the agency must inform the FBI, which maintains the database used for firearm purchaser background checks. Illinois and Minnesota enacted similar laws in 2011 and 2013, respectively.

Removal of Firearms or Ammunition at the Scene of a Domestic Violence Incident

According to the Law Center, about a third of the states require or authorize law enforcement officers to remove firearms when they arrive at the scene of a domestic violence incident (see Appendix 3).

According to the Law Center, the most comprehensive approach requires law enforcement to remove all firearms in the abuser’s possession, ownership, or control. In New Hampshire, for example, law enforcement must remove all firearms and ammunition in an abuser’s control, ownership, or possession whenever law enforcement has probable cause to believe that a person has been abused (N.H. Rev. Stat. Ann § 173B-10). Connecticut authorizes the removal of all firearms and ammunition at the scene of a domestic violence incident if the firearms or ammunition are in the suspect’s possession or in plain view ([CGS § 46b-38b](#)).

Other states allow the removal of only certain firearms, or allow the removal of firearms only under certain conditions. For example, in New Jersey, law enforcement officials must remove firearms observed at the scene if they have probable cause to believe a domestic violence incident has occurred and reasonably believe the firearms expose the victim to danger (N.J. Stat. Ann. 2C: 25-21(d)).

And in California, law enforcement officers at the scene of a domestic violence incident involving a threat to human life or a physical assault must take temporary custody of any firearm in plain sight or discovered under a consensual or other lawful search (Cal. Penal Code §§ 18250-18500, 33850-33395).

Many states, such as Oklahoma (Okla. Stat. tit. 22 § 60.8) allow the seizure only of firearms used in the incident, and only if the abuser is simultaneously arrested.

Duration of the Removal. According to the Law Center, state laws vary with respect to the duration of the removal of firearms from domestic abusers.

Of the states that specify a duration, Ohio law is the strictest according to the Law Center, requiring firearms seized at the scene to be given permanently to law enforcement, sold at public auction, or destroyed. This law only applies to firearms used, brandished, or threatened to be used in the incident (Ohio Rev. Code Ann. §§ 2935.03 (B)(3)(h), 2981.12(A)(2)).

According to the Law Center, some states, such as Illinois and Maryland, direct that firearms may only be held so long as they are needed for evidence or until the proceedings against the abuser are concluded (725 Ill. Comp. Stat. 5/112A-30(a)(2), 750 Ill. Comp. Stat. 60/304(a)(2). Md. Code Ann. Fam. Law § 4-511).

Some states require firearms seized at the scene to be held for a specified period. Arizona requires such firearms to be held by law enforcement for at least 72 hours, and up to 6 months if a court finds that return may endanger the victim (Ari. Rev. Stat. 13-3601). New Jersey gives the prosecutor 45 days to petition for title of such a firearm (N.J. Stat. Ann. § 2C:25-21(d)).

Appendix 1: States that Prohibit Subjects Under Domestic Abuse Protective Orders From Buying or Possessing Firearms or Ammunition

Alaska Alaska Stat. §§ 18.66.100(c)(6), (7), 18.66.990(3), (5)	Louisiana La. Rev. Stat. § 46:2136.3 (as reenacted by 2014 La. H.B. 753 (signed by Governor May 22, 2014))	North Dakota N.D. Cent. Code §§ 14-07.1-01, 14-07.1-02, 14-07.1-03.
Arizona Ariz. Rev. Stat. §§ 13-3601, 13-3602(G)(4), 13-3624(D)(4).	Maryland Md. Code Ann., Fam. Law §§ 4-501, 4-506; Pub. Safety § 5-133(b)(12).	Oklahoma Okla. Stat. Ann. tit. 22, § 60.11.
California Cal. Penal Code §§ 136.2, 1524(a)(11), 18250, 29825(d), 30305; Cal. Civ. Proc. Code §§ 527.6(t), 527.9; Cal. Fam. Code §§ 6211, 6218, 6304, 6306(a), 6389	Massachusetts Mass. Gen. Laws ch. 140, §§ 129B(1)(viii), 129C, 131(d)(vi); ch. 209A.	Pennsylvania 18 Pa. Cons. Stat. § 6105; 23 Pa. Cons. Stat. §§ 6102, 6107 – 6108.3
Colorado Colo. Rev. Stat. §§ 13-14-105, 13-14-105.5, 18-1-1001(9), 18-6-803.5(c)(l)	Michigan Mich. Comp. Laws §§ 28.422(3)(a)(iii)-(v), 600.2950(1)(e), (12), , 600.2950a(3)(c), (26)	Rhode Island R.I. Gen. Laws §§ 15-15-1, 15-15-3
Connecticut CGS §§ 29-36f(b), 29-36k, 46b-15, 46b-38a, 53a-217, 53a-217c	Minnesota Minn. Stat. §§ 260C.201, subd. 3, 518B.01, subd. 6, 624.713, subd. 1	South Dakota S.D. Codified Laws § 25-10-24
Delaware Del. Code Ann. tit. 10, §§ 1041(2), 1043(e), 1045(a)(8); tit. 11, § 1448(a)(6)	Montana Mont. Code Ann. §§ 40-15-102(2)(a), 40-15-103(6), 40-15-201(f).	Tennessee Tenn. Code §§ 36-3-625, 39-13-113, 39-17-1307(f)(1))
District of Columbia D.C. Code Ann. §§ 7-2501.01(9B), 7-2502.03(a)(12), 7-2506.01, 16-1001(6)-(9), 16-1005(c)(10)	Nebraska Neb. Rev. Stat. §§ 28-1206(1)(a), (4)(b), 42-903, 42-924	Texas Tex. Penal Code Ann. §§ 25.07, 46.04; Tex. Fam. Code Ann. §§ 71.001 et seq., 85.022(b)(6), (d); Tex. Crim. Proc. Code Ann. art. 17.292(c)(4)
Florida Fla. Stat. Ann. §§ 741.28, 741.30(1)(e), (6)(g), 741.31(4), 790.233.	Nevada Nev. Rev. Stat. §§ 33.018, 33.020, 33.031, 33.033).	Utah Utah Code Ann. §§ 78B-7-102.78B-7-106(2)(d), 78B-7-107(2), 78B-7-402(3), 78B-7-404(3)(b),(5).

Appendix 1 (continued)

Hawaii Haw. Rev. Stat. §§ 134-7(f), 586-1, 586-3	New Hampshire N.H. Rev. Stat. Ann. §§ 173-B:1, 173-B:4, 173-B:5	Virginia Va. Code Ann. §§ 16.1-228, 16.1-253.1, 16.1-253.4, 16.1-279.1, 18.2-308.1:4, 18.2-308.2:2.
Illinois 430 Ill. Comp. Stat. 65/2(a)(1), (2), 65/8.2; 725 Ill. Comp. Stat. 5/112A-3, 5/112A-14(b)(14.5); 750 Ill. Comp. Stat. 60/201, 60/214(b)(14.5), 60/217(a)(3)(i).	New Jersey N.J. Stat. Ann. §§ 2C:25-19, 2C:25-28(f), (j), 2C:25-29(b), 2C:39-7(b)(3), 2C:58-3(c)(6)	Washington Wash. Rev. Code Ann. §§ 9.41.800, 10.99.040, 26.50.010, 26.50.070. 2014 Wa. ALS 111
Indiana Ind. Code Ann. §§ 31-9-2-42, 31-9-2-44.5, 34-26-5-2, 34-26-5-9(c)(4), (f).	New York N.Y. Crim. Proc. Law §§ 530.11, 530.12, 530.14; N.Y. Fam. Ct. Act §§ 812, 822, 828(3), 842-a; N.Y. Penal Code § 400.00.	West Virginia W. Va. Code §§ 48-27-204, 48-27-305, 48-27-403(a), 48-27-502(b), 61-7-7(a)(7)
Iowa Iowa Code §§ 236.2(2), (4), 236.5(1)(b)(2), 724.26(2), (4).	North Carolina N.C. Gen. Stat. §§ 50B-1, 50B-3(11), 50B-3.1.	Wisconsin Wis. Stat. §§ 813.12(1)(am), (b), (c), (4m) 941.29(1)(f), (g), (2)(d), (e)

Source: Law Center to Prevent Gun Violence

Appendix 2: States that Prohibit Firearm Purchase or Possession by Persons Convicted of Misdemeanor Domestic Violence Offenses

<p>Arizona</p> <p>Ariz. Rev. Stat. §§ 13-3101(A)(7)(d), 13-3102(A)(4), 13-3601.</p>	<p>Montana</p> <p>Mont. Code Ann. § 45-5-206. In Montana, the court may prohibit an offender from “possession or use of the firearm used in the assault.” Mont. Code Ann. § 45-5-206(7).</p>
<p>Colorado</p> <p>Colo. Rev. Stat. §§ 18-1-1001(3)(c), 18-12-108(6)(c)(I), 18-6-801(8).</p>	<p>Nebraska</p> <p>Nebraska prohibits firearm possession by domestic violence misdemeanants for seven years following conviction. Neb. Rev. Stat. § 28-1206(1)(b), (4)(a).</p>
<p>Delaware</p> <p>Del. Code Ann. tit. 10, § 901(12); tit. 11, § 1448(a)(7), (d).</p>	<p>New Jersey</p> <p>N.J. Stat. Ann. §§ 2C:25-19(a), (d), 2C:25-26(a), 2C:39-7(b), 2C:58-3(c)(1).</p>
<p>District of Columbia</p> <p>The District of Columbia prohibits anyone convicted of an “[i]ntrafamily offense” from registering a firearm for five years following the conviction. All firearms in the District must be registered. D.C. Code Ann. 7-2502.03(a)(4)(D).</p>	<p>Tennessee</p> <p>Tenn. Code Ann. §§ 39-13-111(a), (b), (c)(6), 39-17-1307(f)(1)(A).</p>
<p>Illinois</p> <p>430 Ill. Comp. Stat. 65/2(a)(1), (2), 65/8(k), (l); 720 Ill. Comp. Stat. 5/12-3.2; 725 Ill. Comp. Stat. 5/112A-3.</p>	<p>Texas</p> <p>Texas prohibits firearm possession by domestic violence misdemeanants for five years following release from confinement or community supervision. Tex. Fam. Code Ann. § 71.001 et seq.; Tex. Penal Code Ann. §§ 22.01, 46.04(b).</p>
<p>Iowa</p> <p>Iowa Code §§ 236.2, 708.1, 708.2A, 708.11, 724.15(1), 724.26.</p>	<p>Washington</p> <p>Wash. Rev. Code Ann. §§ 9.41.010, 9.41.040(2)(a)(i), 10.99.020(3).</p>
<p>Louisiana</p> <p>La. Rev. Stat. § 14:95.10 (as reenacted by 2014 La. H.B. 753 (signed by Governor May 22, 2014))</p>	<p>West Virginia</p> <p>W. Va. Code § 61-7-7(a)(8).</p>
<p>Minnesota</p> <p>Minn. Stat. §§ 609.2242, 624.713, subd. 1</p>	

Source: Law Center to Prevent Gun Violence

Appendix 3: States Requiring or Authorizing Law Enforcement Officers to Remove Firearms and Ammunition

Alaska (A) Alaska Stat. § 1865.515(b)	Nebraska Neb. Rev. Stat. § 29-440
Arizona (A) Ariz. Rev. Stat. § 13-3601	New Hampshire N.H. Rev. Stat. Ann. § 173-B:10
California Cal. Penal Code §§ 18250-18500, 33850-33895	New Jersey N.J. Stat. Ann. § 2C:25-21(d)
Connecticut (A) CGS § 46b-38b(a)	Ohio Ohio Rev. Code Ann. § 2935.03(B)(3)(h), 2981.12(A)(2)
Hawaii Haw. Rev. Stat. § 134-7.5, 709-906.	Oklahoma Okla. Stat. Tit. 22 § 60.8
Illinois 725 Ill Comp. Stat. 5/112A-30(a), 750 Ill. Comp. Stat. 60/304(a)(2)	Pennsylvania 18. Pa. Cons. Stat. § 2711
Indiana (A) Ind. Code Ann. § 35-33-1-1-1.5	Tennessee Tenn. Code Ann. §§ 36-3-620, 39- 17-1317
Maryland (A) Md. Code Ann. Fam. Law § 4-5-11	Utah Utah Code Ann. 77-36-2.1(1)(b)
Montana Mont. Code Ann. -6-603	West Virginia W. Va. Code § 48-27-1002

Source: Law Center to Prevent Gun Violence
A=States Authorizing

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