

# Proposal - A Modern Second Amendment

## Amendment XXVIII — Right to Keep and Carry Arms

### Section. 1.

The right of **law-abiding** United States **citizens**, United States **permanent residents** authorized under federal statute, and **temporary visitors** to the United States authorized under federal statute to **keep**, own, manufacture, purchase, sell, distribute, transfer, possess, and **carry** individually operable firearms and other weapons, and which may be issued to or used by members of law enforcement or the military, for lawful purposes including **self-defense, defense of others**, training, target practice, hunting, competition, **and to secure a free state, shall not be infringed**; taking care that no federal, state, or local authority shall impose licensing, registration, taxation, or any other condition on or control of the possession or carrying of such firearms or weapons by such **law-abiding individuals**, except as expressly provided in this amendment.

### Section. 2.

This **right** applies in full to **law-abiding** persons over the age of twelve. Persons twelve years of age or younger may exercise this **right** only when **directly supervised** by a parent or legal guardian while away from the person's private residence or other private property under the control of the parent or legal guardian. Within a person's private residence or other private property under the control of the parent or legal guardian, exercise of this **right** is subject to the direction and control of the parent or legal guardian.

### Section. 3.

**Supervision of minors twelve years of age or younger.** For purposes of Section 2, a person **twelve years of age or younger** may exercise the right to **carry firearms** only when **directly supervised** by that person's **parent or legal guardian**. No other person may serve as the supervising adult for a minor twelve years of age or younger. For purposes of this Section:

**Directly supervised** means the **physical presence** of the parent or legal guardian at all times while the minor is carrying the firearm, the parent or legal guardian **maintains immediate control** of the firearm or immediate physical access sufficient to intervene instantly, and the parent or legal guardian is able to prevent the minor from using the firearm except as expressly authorized by the parent or legal guardian.

A minor twelve years of age or younger **who is not directly supervised** by a parent or legal guardian **shall not** exercise the right to carry firearms outside the minor's private residence or other private property under the control of the parent or legal guardian.

A parent or legal guardian who permits a minor twelve years of age or younger to carry firearms **on or off** private property shall be **civilly liable** for harms proximately caused by negligent supervision; such civil liability shall be enforceable under applicable law.

Nothing in this Section or Section 2 creates a federal registry, licensing requirement, or certification requirement for parents or guardians.

For enforcement and evidentiary purposes, a law enforcement officer who encounters a minor twelve years of age or younger carrying a firearm may require the parent or legal guardian to produce reasonable proof of identity and relationship to the minor; such limited verification shall not be used to create or maintain any governmental registry or database.

#### **Section. 4.**

This **right** shall not extend to individuals convicted of a felony, unless their civil rights have been fully restored by pardon or an equivalent legal process; **nor** does this **right** extend to persons who are **actively engaged in violent or otherwise unlawful conduct which would likely result in a perpetrator's detainment or arrest by law enforcement.**

#### **Section. 5.**

Weapons that discharge explosive projectiles or munitions; that rely on explosive warheads; or that produce explosive fragmentation upon detonation are excluded from civilian possession or carry. This exclusion shall be defined and applied consistent with federal military ordnance classifications. The exclusion does not apply to possession, carry, or operation by qualified military personnel during authorized training or when lawfully engaged in the defense of the nation or its allies.

#### **Section. 6.**

Nothing in this amendment shall prevent **private property owners; Congress** with respect to federal buildings or enclosed facilities used for official governmental functions or where large numbers of people routinely gather; or **a state legislature** with respect to state-owned buildings or enclosed facilities used for official governmental functions or where large numbers of people routinely gather, from prohibiting the carrying of firearms or weapons within such buildings or enclosed facilities when they are conspicuously posted to exclude firearms or weapons, unless written permission is granted by the owner, an authorized agent, or the appropriate governmental authority. For purposes of this Section, signage and written permission shall meet standards established by law to ensure notice and documentation. This authority shall **not** extend to public lands, forests, parks, wilderness areas, public roads and bridges, waterways, airspace, or other unenclosed public outdoor spaces. This authority shall **not** apply when access is required for authorized personnel to carry out lawful duties in emergency or exigent circumstances.

#### **Section. 7.**

Nothing in this amendment shall prevent lawfully regulated United States citizens employed or serving in any branch of the military from operating any and all forms of weaponry approved by federal government authority for use in training or combat in support and defense of the nation and the Constitution of the United States against all enemies, foreign and domestic.

## Section. 8.

**Infringe.** “Infringe” means **to encroach upon, impair, prevent, block, or violate, directly or indirectly, a constitutional right by governmental or legal action.** In U.S. law, for purposes of this amendment, it denotes a government measure that materially burdens or nullifies the right to keep and bear arms rather than a mere, minor regulation. As applied to firearms, infringement includes, but is not limited to, any action, regulation, or law that prevents, bans, restricts, conditions, or otherwise materially limits the manufacture, sale, use, transfer, or possession of applicable accessories, components, attachments, or ammunition with the intent to render any firearm unusable or ineffective. Restrictions placed on firearms related items that are commonly used to enable, enhance, restore, or materially affect the functional operation, capacity, accuracy, or defensive utility of individually operable firearms — including, without limitation, applicable magazines, feeding and sound suppression devices — shall be treated as an infringement of the rights protected by this amendment unless expressly prohibited herein. Bans on ammunition used in conjunction with firearms, laws that make self-defense using firearms or weapons impossible or impractical, and similar actions are examples of infringements. No lawmaker, judge, or legal professional shall assert that their interpretation of the term “infringe” is entitled to greater weight or deference than any other person’s interpretation in order to craft restrictions applied to firearms or weapons.

**Law-abiding.** “Law-abiding” shall refer to persons **not** subject to a final felony conviction, **not** under arrest and subject to legal adjudication procedures, and **not** incarcerated for violating any law.

**Weapon.** “Weapon” means **anything** that is used, designed to be used, or intended to be used to threaten, intimidate, or cause bodily harm to or the death of another living being.

**Firearm.** “Firearm” means a device designed to propel a projectile by the action of an explosive or other propellant. Firearms are a subcategory of weapons or arms.

**Conspicuously posted.** “Conspicuously posted” means signage or notice that (1) is placed at each primary public entrance to a building or enclosed facility, (2) is readily visible to a person entering the premises or property under normal conditions, (3) uses clear language, and (4) meets any minimum size, placement, and wording standards established by law to ensure adequate public notice.

**Individually operable personal firearms and weapons.** “Individually operable personal firearms and weapons” means firearms and weapons designed to be carried and operated by a single human without a need for any assistance or mechanical support, and include those commonly issued to or used by individual members of law enforcement or the military, as further defined by applicable federal standards.

**Explosive projectile or munition.** “Explosive projectile or munition” means any ordnance, munition, or device that discharges an explosive projectile, relies on an explosive warhead, or is designed to produce explosive fragmentation upon detonation, as defined by federal military ordnance classifications and regulations.

**Written permission.** “Written permission” means a dated, signed, and reasonably specific authorization issued by the owner, an authorized agent, or the appropriate governmental authority that identifies the person or persons granted permission, the scope of permission, and the period during which permission is effective; such permission shall be carried by the grantee and produced upon lawful request.

**Temporary visitors to the United States authorized under federal statute.** “Temporary visitors to the United States authorized under federal statute” means a nonresident person who is **expressly** authorized to possess or carry firearms in the United States under federal statute or regulation, and who complies with any conditions or documentation required by federal law.

## **Section. 9.**

Upon ratification in accordance with **Article V** of the **Constitution of the United States**, this amendment shall supersede **Amendment II** within **The U.S. Bill of Rights** in its entirety.

# Legislative Intent - Explanation

## Purpose and Scope

The purpose of this amendment is to modernize and clarify the **right to keep and bear arms** in a manner consistent with contemporary realities, technological advancements, and the need for clear constitutional guidance. History dictates that some compromises must be entertained to that end, yet yielding principals in favor of waning wisdom will likely not produce reliable ends. The original Second Amendment, drafted in the 18th century, contains language that has generated centuries of interpretive disputes. This amendment replaces perceived ambiguity with more precise definitions, explicit boundaries, and a clear articulation of the **rights and responsibilities of U.S. citizens and legal residents or visitors**.

## An Individual Right, Public Safety and Government Infringement

The amendment's primary intent is to affirm that the **right** to possess and carry personal weapons, including modern-day firearms, is an individual **right** belonging to all law-abiding U.S. citizens and other positively approved and vetted legal residents and visitors. For good reasons, non-citizens need to meet more restrictive legal requirements, under actual law, before such a **right** is conferred upon them. The safety and security of the citizenry is a priority which shall always outweigh that of others.

The amendment is designed to protect peaceful, responsible possession and carrying of arms for lawful purposes including (but not limited to) self-defense, defense of others, hunting, and the security of a free state.

It has been long recognized that governments can become corrupted even when the people are not. Citizens will need to exercise good judgement should they determine that government wishes them death, destruction or intolerable ill will. The United States was formed with one well founded philosophy as expressed clearly in the original Declaration of Independence:

**The unanimous Declaration of the thirteen united States of America**, When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain **unalienable Rights**, that among these are Life, Liberty and the pursuit of Happiness.--That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, --That whenever any Form of Government becomes destructive of these ends, it is **the Right** of the People to alter or to abolish it, and to institute new Government, laying its

foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness...

It is the intend of this amendment that should the citizens need to alter their government and the government itself becomes militarily disobedient, possibly coming under control of tyrants or dictators, that the citizens might have equal chance of self-defense and survivability should battle ensue against corrupted rulers in an attempt to correct Government wrongs.

Therefore, the intent of this amendment is to insure that all citizens no matter their age, sex, mental capacity, size, social status, beliefs, cultural differences or other unique qualities enjoy the **right** equally, to the extent **reasonably** possible. It is, however, intended that some **reasonable** conditions apply as regards the **right**, in very limited situations, the primary limitation being loss of the **right** if someone proves to be a high risk to others or proves they do not respect the rights of others. For example, those convicted of high crimes, specifically felonies, **shall lose the right**. Law-abiding citizens will retain the **right**. Persons in legal custody, falling under due-process actions or when incarcerated, while they may retain the **right** until conviction results in permanent loss of the **right**, may temporarily have their **right suspended**. All citizens would be treated equally in such cases.

Likewise, persons employed in law enforcement, political positions, military service, civil service, legislative positions, a court system, or other special professions and activities should have no more or less access to this **right** than any other citizen.

At the same time, the amendment recognizes that certain categories of weapons — such as those employing explosive projectiles or explosive components — pose risks that exceed the scope of civilian use. These are therefore excluded from civilian possession and remain an exception when operated by qualified military personnel in order to defend the nation.

The purpose of this amendment is, also, to secure the **right** to keep and carry arms while preventing the incremental creation of governmental registries, licensing regimes, taxation schemes, or discretionary approval processes that would functionally deny the **right** to every citizen equally. To that end, no law, regulation, or administrative practice shall be interpreted to permit the creation, maintenance, or use of any governmental registry, database, or searchable record of lawful weapon or firearm owners. Routine, non-discriminatory administrative measures that do not create retained records and that are incapable of producing a registry may be used only if expressly authorized by statute and implemented in a manner that preserves the amendment's core prohibitions.

Recognizing rapid technological change, the amendment contemplates a Technical Annex limited to definitional and technical clarifications (for example, the meaning of "frame," "receiver," "explosive projectile," and "individually operable"). Updates to the Annex shall be made only by Act of Congress or by an expert standards process established by statute and subject to congressional review; such updates shall be limited to technical definitions and shall not alter substantive weapons related rights, create registries, or authorize discretionary licensing. In exigent circumstances, temporary restrictions on possession or carry may be imposed only upon a judicial finding of imminent threat, must be narrowly tailored, and shall expire automatically

within a short, specified period unless extended by a court after expedited due-process review.

### **Age and Responsibility**

The amendment establishes a minimum age greater than twelve (teenage or older) for unsupervised carrying of weapons outside the home, reflecting a balance between parental authority, youth firearm education, and public safety. Children twelve or under may carry only under direct supervision outside their home property. As law makers often attempt to do in other situations, this responsibility shall not be delegated to others by social norms crafted to undermine parental rights or power.

### **Felony Exclusion**

The amendment excludes individuals convicted of felonies unless their civil rights have been restored. This reflects a longstanding principle that serious criminal conduct may result in the temporary or permanent loss of certain civil rights.

### **No Licensing or Registration**

The legislative intent is to prevent governments at any level from converting a constitutional right, such as this one, into a regulated privilege. Licensing, registration, taxation, or other conditions that could be used to burden or nullify the **right** are expressly prohibited without further constitutional amendment efforts.

### **Property Rights and Sensitive Government Facilities**

The amendment respects private property rights by allowing owners to prohibit firearms on clearly posted premises unless written permission is granted. It also allows Congress and state legislatures to prohibit firearms in specific government-owned buildings or enclosed facilities, such as military bases, government owned sports complexes or research facilities, used for official governmental functions or where large numbers of people routinely gather. This authority does not extend to open public lands, forests, wilderness areas, roads, highways or other unenclosed outdoor spaces open to all and shared and enjoyed equally.

### **Superseding the Original Second Amendment**

Upon ratification under Article V, this amendment replaces the original Second Amendment in its entirety, providing a modern, comprehensive, and unambiguous framework for the right to keep and bear arms.

# How Courts Would Likely Interpret This Amendment in Practice

Courts do not and should not evaluate amendments or constitutional rights based on whether they “like” or “dislike” the policy outcome. They evaluate:

- the text
- the structure
- the legislative intent
- the historical context
- and the boundaries explicitly written into the amendment

Here’s how courts would likely approach challenges brought by someone who strongly opposes broad **keep and bear arms** rights.

## 1. Courts would begin with the text — and the text is extremely clear

The amendment is written with unusually explicit definitions:

- who holds the right (primarily citizens or granted persons)
- what weapons are covered (those easily carried by a single person)
- what weapons are excluded (only very specifically specified types)
- what governments may not do (specifically)
- what governments may do (specifically)
- age limits (specifically)
- felony exclusions (specifically)
- property-rights exceptions (specifically)

Because the text is so detailed, courts would rely heavily on **plain meaning** rather than judicial interpretation.

Opponents of broad rights would have very little room to argue ambiguity.

## 2. Courts would treat the right as a strong, individual constitutional right

The amendment explicitly states:

- “shall not be infringed”
- “no licensing, registration, taxation, or any other condition”
- “law-abiding U.S. citizens or legal residents”

This leaves no room for courts to uphold:

- permit systems
- registration schemes
- waiting periods
- taxes on firearms
- “good cause” requirements

- discretionary approvals

A court would almost certainly strike down any such law as unconstitutional.

### 3. Courts would uphold the explosive-projectile restriction

Because the amendment explicitly excludes:

- explosive projectiles
- explosive type warheads

...courts would treat this as a **built-in constitutional limit**, not a regulation.

Opponents of broad rights might argue that this exclusion should be expanded, but courts would say:

“The Constitution itself draws the line. Courts cannot expand or contract it.”

### 4. Courts would uphold the age rule exactly as written

The amendment clearly states:

- greater than 12 → full right
- 12 or less → only if and when supervised outside home

Courts would not reinterpret this. Opponents could not argue for higher age limits because the Constitution explicitly sets the threshold.

### 5. Courts would strictly enforce the property-rights clause

Private property owners may prohibit firearms if:

- the property is clearly posted (laws could specify how to meet this requirement)
- written permission (or owner removal) is required to override the posting

Courts would uphold this because:

- property rights are constitutionally protected
- the amendment explicitly grants this authority
- the fourth amendment would complement this right
- no other amendment or part of the constitution would be infringed by this right

Opponents could not argue for broader bans on public lands or general public spaces.

### 6. Courts would reject attempts to ban carry in public spaces

Opponents might argue:

- “Guns make people uncomfortable.”
- “Guns in public are dangerous.”

- “We need more restrictions in cities.”

Courts would respond:

“The Constitution does not allow such restrictions. The text is explicit and consistent for all.”

The amendment’s clarity leaves no room for judicial balancing tests.

## 7. Courts would uphold the felony exclusion

Opponents might argue that felons should regain rights automatically. Courts would say:

“The Constitution explicitly excludes felons unless pardoned.”

This is not a matter of judicial discretion.

## 8. Courts would treat the amendment as the controlling authority

Because the amendment explicitly states it replaces the original Second Amendment:

- all prior Second Amendment case law becomes historical background
- the new text governs
- courts apply the new rules exactly as written
- the original intent of the second amendment would remain primarily in effect

Opponents could not rely on older precedents to narrow the right.

In short: Courts would or should interpret this amendment as a strong, clear, and highly protective individual **right** with narrow, well-defined and very limited exceptions.

## AI Question

Should the amendment be ratified it seems to us, the drafter(s), that the intent will survive, law enforcement will be possible, legislatures will have clear guidance once the intent is fully contemplated, and the average citizen and corporations who market firearms and other weapons will be able to perform economic transactions without being encumbered as much as they historically have been.

Is that not true?

## AI Answer

Yes. **If ratified with provided legislative Intent and clear anti-registry language, this amendment is likely to preserve individual rights, allow routine law-enforcement checks, give legislatures clear guardrails, and reduce transactional friction for lawful commerce.** That outcome depends on careful review of the intent and a few targeted safeguards to prevent misinterpretation or administrative workarounds.

## Why this is likely to happen

- **Text + intent together guide courts.** A clear, emphatic anti-registry clause and an expanded Legislative Intent will steer courts to interpret the amendment as forbidding governmental registries and compulsory screening that weaken the right for all while permitting ordinary investigative actions by law-enforcement.
- **Law enforcement needs are preserved.** Section 4's exclusion of felons and ordinary investigative authority mean officers can verify status during stops, arrests, and prosecutions without creating a permanent registry.
- **Private commerce remains feasible.** By forbidding government-imposed conditions (registries, licensing, taxes, etc.) and by clarifying that private, voluntary screening is not a constitutional violation, lawful sellers and manufacturers can transact with less regulatory friction.
- **Legislatures get clearer boundaries.** Robust intent statements give lawmakers roadmaps for drafting durable, constitutional statutes that target excluded persons and avoid coercive administrative schemes.

## Key caveats to secure that outcome

- **Make the anti-registry rule explicit.** Courts and administrators respond to clear prohibitions. Add language that forbids government creation, maintenance, publication, or compulsion to use any centralized, searchable registry of lawful owners or disqualified persons. Otherwise, Congress may still attempt to exercise such power under **Article I, Section 8, Clause 1** of the U.S. Constitution which speaks to the "...general Welfare of the United States."
- **Preserve investigative access but limit retention.** Clarify that law-enforcement queries for investigative or prosecutorial purposes are permitted, but require retention limits and purpose-bound use so queries are not repurposed into registries.

- **Guard against agency delegation.** Prevent agencies from using rulemaking to create de facto licensing or registry systems; require legislative action for any new conditions on the right.
- **Provide restoration and proportionality guidance.** Make clear how rights are restored and encourage proportional penalties for excluded persons to avoid Eighth Amendment and due-process challenges that could complicate enforcement.

### **Practical next steps I recommend**

- **Insert two short intent paragraphs** (anti-registry; law-enforcement investigatory carve-out) into the Legislative Intent section (done).
- **Add an explicit anti-compulsion sentence** forbidding laws that require private actors to consult any governmental or government-endorsed database as a condition of transfer (Congress retained power).
- **Draft a brief statutory template** lawmakers can use to criminalize possession by excluded persons while meeting mens-rea and proportionality standards (Congress retained power).
- **Prepare a one-page guidance memo** for administrators explaining permissible investigative uses and forbidden registry practices (if ratified).

### **Closing**

You're right to focus on intent rather than over-engineering the constitutional text. With the targeted clarifications above, the amendment should achieve the balance you describe: strong protection of individual self-defense rights, workable law-enforcement tools, clearer legislative guidance, and smoother lawful commerce. Anyone can draft any other redline insertions and the one-page guidance memo as needed to proceed.

## Next practical steps to lock in gains

This is a strong moment — a major legal hurdle cleared. Now the work shifts to **implementation, education, and defense** so the amendment actually protects people in practice.

### High-priority actions

- **Legislative Intent Notes** — concise, authoritative statements explaining purpose, scope, and limits (non-binding annex language; examples of intended applications and non-applications).
- **Attorney General / Prosecutor Guidance Memo** — emergency legal guidance for law enforcement and prosecutors on enforcement priorities and transitional rules.
- **Patrol Training Brief** — one-page field guidance for officers: stops, verification, detention thresholds, juvenile handling, and documentation.
- **Model Statutory Revisions** — draft statutory language states can adopt to harmonize criminal code, juvenile code, and administrative rules with the amendment.
- **Public Communication Plan** — clear messaging for citizens, ranges, retailers, and schools explaining rights, limits, and safety expectations.
- **Litigation Playbook** — model briefs, sample record excerpts, and evidentiary strategies to defend the amendment in early test cases.
- **Retention and Privacy Protocols** — template policies to prevent de facto registries while preserving legitimate investigative records.

### Quick operational priorities

- Issue an **immediate AG memo** clarifying that stops and seizures must meet the amendment's standards and advising limited retention of identity checks.
- Roll out a **rapid 15-minute patrol module** for frontline officers within days.
- Coordinate with prosecutors to adopt **interim charging standards** to avoid needless arrests and suppression.