

If I am subject to a "qualifying" protection order, may I carry a firearm if so required to do so as part of my official job duties?

Possibly. There is an official use exception for persons subject to a "qualifying" protection order. This exception only applies to persons who are required to carry a firearm or ammunition as part of their official employment duties with a governmental entity. Further, the exception only applies to official government-issued firearms or ammunition. It should be noted that the person may not possess government-issued firearms or ammunition during times he is not required to do so as part of his official employment duties.

What should I do if I have been convicted of a "qualifying" misdemeanor crime of domestic violence or I am subject to a "qualifying" protection order?

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) advises that you immediately and lawfully dispose of your firearm and/or ammunition by transferring it to a third party or a Federal firearms dealer. You should also contact your attorney.

Other Federal Statutes

- Transfer of a firearm to person subject to a protective order: 18 U.S.C. § 922(d)(8)
- Transfer of a firearm to person convicted of a misdemeanor crime of domestic violence: 18 U.S.C. § 922(d)(9)
- Possession of a firearm by convicted felon: 18 U.S.C. § 922(g)(1)
- Interstate travel to commit domestic violence: 18 U.S.C. § 2261
- Interstate stalking: 18 U.S.C. § 2261A
- Interstate travel to violate a protective order: 18 U.S.C. § 2262

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If you have questions, you should contact your attorney.

For further information about firearms prohibitions contact the Bureau of Alcohol, Tobacco, Firearms and Explosives by calling (800) 800-3855 or your local ATF office.

For general information about protection orders and firearms, contact the National Center for Full Faith and Credit at (800) 256-5883.



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FEDERAL FIREARMS LAW

Domestic Violence Offender Gun Ban

An Important Notice to Persons
Convicted of Misdemeanor
Crimes of Domestic Violence or
Subject to a Domestic Abuse
Protection Order

Have you been convicted of a misdemeanor crime?

If so, did the crime involve the use or attempted use of physical force, or threatened use of a deadly weapon, against someone in your household or someone with whom you have a relationship?

Are you subject to a "qualifying" protection order?

If you are convicted of a misdemeanor crime and that crime is a "qualifying" misdemeanor crime of domestic violence under federal law or you are subject to a "qualifying" protection order, it is unlawful for you to possess, ship, transport or receive any firearm or ammunition. 18 U.S.C. § 922(g)(9); 18 U.S.C. § 922(g)(8). A violation of these prohibitions is a federal criminal offense punishable by up to ten years imprisonment.

How do I know if my misdemeanor conviction qualifies as a misdemeanor crime of domestic violence under federal law?

Your misdemeanor conviction will qualify if you have been convicted of a criminal offense that meets the following criteria:

- Is a federal, state, local or tribal offense that is a misdemeanor under federal or state law;
- Has as an element the use or attempted use of physical force, or the threatened use of a deadly weapon; and
- At the time the misdemeanor was committed, you were:
 - a current or former spouse, parent, or guardian of the victim;
 - a person with whom the victim shared a child in common;
 - a person who was cohabiting with or has cohabited with the victim as a spouse, parent, or guardian; or
 - a person who was or has been similarly situated to a spouse, parent, or guardian of the victim.

For the purpose of applying this law, a person is not considered to have been convicted of a misdemeanor crime of domestic violence unless the person was represented by counsel, or knowingly and intelligently waived the right to counsel and, if entitled to have the case tried by a jury, the case was actually tried by a jury or the person knowingly and intelligently waived the right to have the case tried by a jury.

If the conviction is expunged or set aside, or if the convicted offender is pardoned for the offense, the conviction will not qualify, unless the expungement or pardon expressly provides that the person may not ship, transport, possess or receive firearms. 18 U.S.C. § 921(a)(33)(A), (B).

My "qualifying" misdemeanor conviction happened many years ago—does the federal gun law apply to me?

Since the effective date of the federal gun law, September 30, 1996, any person convicted of a misdemeanor crime of domestic violence may no longer possess a firearm or ammunition. This applies to persons who were convicted of misdemeanor crimes of domestic violence at any time, even before the passage of the law in September 1996.

If I have been convicted of a "qualifying" misdemeanor crime of domestic violence, will I be able to carry a firearm as part of my official job duties?

No. Once convicted, you may not possess, ship, transport or receive any firearm or ammunition for any reason. Federal law does not provide an official use exception for persons who have been convicted of a "qualifying" misdemeanor crime of domestic violence.

In addition, if you are provided with a firearm or ammunition by your employer, your employer could be in violation of 18 U.S.C. § 922(d)(9) which makes it a federal crime for any person to provide a firearm or ammunition to someone he knows or has reason to believe has been convicted of a "qualifying" misdemeanor crime of domestic violence.

How do I know if the court order to which I am subject qualifies for the federal firearms prohibition?

The federal firearms prohibition likely applies to you if you are subject to a court order that:

- Was issued after a hearing of which you received **actual notice** and had an **opportunity to participate**, even if you chose not to appear.
- Restrains you from **harassing, stalking** or **threatening** your intimate partner, your child or intimate partner's child; **OR** engaging in other conduct that would place the intimate partner in **reasonable fear of bodily injury** to self or child.
- Includes a finding that you are a **credible threat** to the physical safety of such intimate partner or child; **OR** prohibits the use, attempted use, or threatened use of **physical force** against such intimate partner or child that would reasonably be expected to cause bodily injury.

For purposes of the federal firearms prohibition, **intimate partner** means anyone who is:

- **your spouse;**
- **your former spouse;**
- **the parent of your child or children; or**
- **an individual with whom you cohabitate or have cohabited.**