



IT IS A FEDERAL CRIME TO POSSESS A FIREARM WHILE SUBJECT TO A QUALIFYING PROTECTION ORDER

Federal law generally prohibits a person who is the subject of a qualifying protection order from possessing a firearm or ammunition that has affected or traveled in interstate or foreign commerce. A violation of this federal statute is punishable by up to ten years imprisonment. 18 U.S.C. § 922(g)(8); see also 18 U.S.C. §§ 921(a)(32), 924(a)(2), and 925(a)(1).

The law applies to a protection order that:

- Was issued by a court following a hearing of which the person had notice and an opportunity to be heard.
- Involves an intimate partner, which includes
 - a spouse or former spouse of the defendant/respondent
 - an individual who is a parent of a child of the defendant/respondent, OR
 - an individual who cohabitates or has cohabitated with the

defendant/respondent.

The order must restrain the defendant/respondent from one or both of the following types of conduct:

- Prohibits the use, attempted use, or threatened use of physical force against an intimate partner or child that would be expected to cause bodily injury, OR
- Restrains the defendant/respondent from harassing, stalking, or threatening an intimate partner or child, or restrains the defendant/respondent from other conduct that would place an intimate partner in reasonable fear of bodily injury
- AND the order includes a finding that the defendant/respondent presents a credible threat to the safety of the intimate partner or child.

In most instances, the final Protective Order form issued by Utah courts restrains the conduct outlined above which would allow federal prosecution of firearms violations. For more information about this federal offense or other federal firearms violations contact:

The United States Attorney's Office for the District of Utah
(801) 524-5682

Bureau of Alcohol, Tobacco, Firearms and Explosives
(801) 524-7000

Or your local law enforcement agency.



**IT IS A FEDERAL CRIME
TO POSSESS A FIREARM
FOLLOWING A CONVICTION FOR
A MISDEMEANOR CRIME OF
DOMESTIC VIOLENCE**

Federal law generally prohibits a person who has been convicted in any court of certain domestic-violence related misdemeanor crimes from possessing a firearm or ammunition that has affected or traveled in interstate or foreign commerce. A violation of this federal statute is punishable by up to ten years imprisonment. 18 U.S.C. § 922(g)(9); see also 18 U.S.C. §§ 921(a)(33), 924(a)(2), 925(a)(1).

The law applies when the prior crime is an offense that:

- Is a misdemeanor under local, state, or federal law;
- Has as an element of the offense the use or attempted use of physical force, or the threatened use of a deadly weapon;
- At the time the offense was committed, the defendant was:
 - 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 cohabitating with or had cohabitated with the victim as a spouse, parent, or guardian; or
 - a person who was or had been similarly situated to a spouse, parent, or guardian of the victim.

It is a defense to this crime:

- If the person was not represented by counsel, **unless** the person knowingly and intelligently waived the right to counsel;
- If the person was entitled to a jury trial and the case was not tried by a jury, **unless** the person knowingly and intelligently waived the right to a jury trial, or

The law may not apply:

- If the conviction was set aside or expunged; the person was pardoned; or the person's civil rights (the right to vote, sit on a jury, and hold elected office) were restored (if the law of the applicable jurisdiction provides for the loss of civil rights under such an offense). BUT, this exception does not lift the prohibition if the order expressly provides that the person may not possess, ship, transport, or receive firearms, OR the person is otherwise prohibited by the law of the jurisdiction in which the proceedings were held from receiving or possessing any firearms.

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