

PROTECTION ORDERS AND FEDERAL FIREARMS PROHIBITIONS

Persons subject to a qualifying protection order under federal law are generally prohibited from possessing any firearm or ammunition in or affecting commerce (or shipping or transporting any firearm or ammunition in interstate or foreign commerce, or receiving any such firearm or ammunition). Violation of this prohibition while the order remains in effect is a federal offense punishable by up to ten years imprisonment. Title 18 U.S.C. §§ 922(g)(8), 924(a)(2).

A qualifying court order may be issued by a criminal court or a civil court, such as divorce court, family court, magistrate or general jurisdiction court. The following list enumerates the elements that define a qualifying protection order under the Federal firearms prohibition. *Generally, a defendant/respondent subject to a protection order that includes one element (indicated by a diamond) from each section listed below is covered by the Federal firearms prohibition.*

I. HEARING

- ❖ Defendant/Respondent received **actual notice** and had an **opportunity to participate**.

II. INTIMATE PARTNER

Plaintiff/Petitioner is an **intimate partner** of the Defendant/Respondent, (18 U.S.C. § 921(a)(32)). **An intimate partner may include:**

- ❖ A **spouse** or **former spouse** of the Defendant/Respondent;
- ❖ A person who **cohabitates** or **who has cohabitated** with the Defendant/Respondent (i.e., who resides/resided together in sexual/romantic relationship); or
- ❖ A person with whom the Defendant/Respondent **has or had a child in common** (regardless of whether they ever married or cohabitated).

III. RESTRAINS FUTURE CONDUCT

- ❖ The order **restrains** Defendant/Respondent from **harassing, stalking, or threatening** the intimate partner, child of the Defendant/Respondent, or child of the Defendant/Respondent's intimate partner; **or**
- ❖ The order **restrains** Defendant/Respondent from engaging in other conduct that would place the intimate partner in **reasonable fear of bodily injury** to the partner or child.

IV. CREDIBLE THREAT OR PHYSICAL FORCE

- ❖ The order includes a finding that Defendant/Respondent is a **credible threat** to the physical safety of the intimate partner or child; **or**
- ❖ The order, by its terms, explicitly prohibits the use, attempted use, or threatened use of **physical force** against the intimate partner or child that would reasonably be expected to cause bodily injury.

FOR FURTHER INFORMATION ABOUT SECTION 922(g)(8) OR FEDERAL FIREARMS PROHIBITIONS GENERALLY, CONTACT YOUR LOCAL FIELD DIVISION OF THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES BY CALLING 1-800-800-3855, OR VISIT WWW.ATF.GOV/FIELD/. FOR FURTHER INFORMATION ABOUT DOMESTIC VIOLENCE, PLEASE CONTACT THE NATIONAL CENTER ON PROTECTION ORDERS AND FULL FAITH AND CREDIT AT 1-800-903-0111, PROMPT 2, OR VISIT THEIR WEB SITE AT WWW.BWJP.ORG.