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HIDING IN PLAIN SIGHT

Domestic Violence & Firearms Policy REPORT Summary

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BACKGROUND

Guns pose a particular threat in the hands of domestic abusers.¹

- Abused women are five times more likely to be killed by their abuser if the abuser owns a firearm.²
- Domestic violence assaults involving a gun are 12 times more likely to result in death than those involving other weapons or bodily force.³
- More than two-thirds of spouse and ex-spouse homicide victims between 1980 and 2008 were killed with firearms.⁴
- In 2011, nearly two-thirds of women killed with guns were killed by their intimate partners.⁵

Domestic violence also plays a role in mass shootings. A study by Everytown for Gun Safety of every identifiable mass shooting (shooting in which four or more people were murdered) between January 2009 and July 2014 found that 57% of them involved the killing of a family member or a current or former intimate partner of the shooter.⁶

The impact of guns in domestic violence situations is not limited to homicides. A 2004 survey of female domestic violence shelter residents in California found that more than one third (36.7%) reported having been threatened or harmed with a firearm.⁷ In nearly two thirds (64.5%) of the households that contained a gun, the intimate partner had used the firearm against the victim, usually threatening to shoot or kill her.⁸

As described below, federal law prohibits abusers who have been convicted of domestic violence misdemeanors and abusers subject to certain domestic violence restraining orders from possessing guns.⁹ **The federal laws intended to prevent access to firearms by domestic abusers have significant limitations**, however, and some states have adopted broader laws to address these problems.

1. *Family and Dating Partner Violence*: Domestic violence affects persons in relationships that fall outside the protections of federal law. For example, dating partners are not within the federal prohibitions unless the partners are/were cohabitating as spouses or have a child in common. The risk of domestic violence being committed by a dating partner is well-documented. In 2008, individuals killed by current dating partners made up almost half of all spouse and current dating partner homicides.¹⁰ A study of applicants for domestic violence restraining orders in Los Angeles found that the most common relationship between the victim and abuser was a dating relationship, and applications for protective

orders were more likely to mention firearms when the parties had not lived together and were not married.¹¹

The current federal prohibitions also do not address violence against family members other than a child or intimate partner, such as an abused sibling or parent. According to data from the U.S Department of Justice, the proportion of family homicides that involve children killing their parents has been increasing, rising steadily from 9.7% of all family homicides in 1980 to 13% in 2008.¹²

Similar loopholes allow access to guns by convicted stalkers,¹³ and abusers subject to domestic violence protective orders that cover the period before a hearing (known as “ex parte” orders).¹⁴

2. *Removal of Firearms:* The federal prohibitions on firearm possession by domestic abusers do not ensure that guns that are already in the possession of an abuser are removed. A March 2013 investigation by the New York Times found that more than 50 people in Washington State were arrested on gun charges in 2011 while subject to protective orders, and that, over a three-year period, more than 30 people in Minnesota were convicted of an assault with a dangerous weapon while subject to protective orders.¹⁵ A survey of domestic abusers enrolled in Massachusetts batterer intervention programs between 2002 and 2005 found that perpetrators who continued to possess firearms after they were prohibited from doing so by federal law were more likely to attempt homicide or threaten their partners with guns than domestic violence perpetrators who had relinquished their firearms.¹⁶ Studies have also identified numerous instances of individuals killed by domestic abusers using firearms even after those abusers had become prohibited from possessing guns.¹⁷

3. *Reporting of Abusers:* In order for background checks to prevent abusers from obtaining guns, states must report abusers who fall within prohibited categories to the proper databases. Identifying the abusers to be reported involves a series of complex legal issues that many states have not yet addressed.¹⁸ As a result, many states do not comprehensively enter domestic violence protective order and offender information into the proper databases.

4. *Background Checks:* The lack of a requirement for a federal background check before every sale of a gun, including sales by unlicensed, private sellers, enables many domestic abusers to obtain the firearms they use against their victims. In states that require a background check for every handgun sale, 38% fewer women are shot to death by intimate partners.¹⁹ For more information about background check requirements, see our summary on [Universal Background Checks & the Private Sale Loophole](#).

State laws that restrict access to firearms by a person subject to a domestic violence restraining order are associated with a significant reduction in the number of intimate partner homicides. One study found that such laws are associated with a 19% reduction in the risk of intimate partner homicides.²⁰

Policies that protect victims of domestic violence enjoy tremendous public support. A 2006 survey of California residents demonstrated that 70% of men and 84% of women want firearms taken away from

domestic violence perpetrators.²¹ Similarly, a poll published in the New England Journal of Medicine in January 2013 found that 80.8% of people surveyed, including 75.6% of gun-owners, support prohibiting gun ownership for 10 years after a person has been convicted of violating a domestic violence restraining order; the same survey found that 73.7% of gun owners and 72.4% of non-gun owners support prohibiting gun ownership for 10 years after a person is convicted of domestic violence.²²

SUMMARY OF FEDERAL LAW

Federal law prohibits purchase and possession of firearms and ammunition by persons who have been convicted in any court of a “misdemeanor crime of domestic violence” and/or who are subject to certain domestic violence protective orders.²³

The federal prohibition that applies to domestic violence misdemeanants was adopted in 1996 and is commonly known as the “Lautenberg Amendment” after its sponsor, the late Frank Lautenberg (D-NJ). It defines a “misdemeanor crime of domestic violence” as an offense that is a federal, state or tribal law misdemeanor and has the use or attempted use of physical force or threatened use of a deadly weapon as an element.²⁴ In addition, the offender must:

- Be a current or former spouse, parent, or guardian of the victim; or
- Share a child in common with the victim; or
- Be a current or former cohabitant with the victim as a spouse, parent or guardian; or
- Be similarly situated to a spouse, parent or guardian of the victim.²⁵

A conviction for a misdemeanor crime of domestic violence represents the third-most frequent reason for denial of an application to purchase a firearm by the FBI, after a felony conviction and an outstanding arrest warrant.²⁶ Between November 30, 1998 and July 31, 2014, over 109,000 people convicted of a misdemeanor crime of domestic violence were denied purchase of a firearm because of this law.²⁷

The federal law prohibiting subjects of protective orders from purchasing or possessing firearms and ammunition applies only if the protective order was issued after notice to the abuser and a hearing, and only if the order protects an “intimate partner” of the abuser or a child of the abuser or intimate partner.²⁸ An “intimate partner” includes a current or former spouse, a parent of a child in common with the abuser, or an individual with whom the abuser does or has cohabitated.²⁹ Between November 30, 1998 and July 31, 2014, over 46,000 people subject to domestic violence protective orders were denied purchase of a firearm because of this prohibition.³⁰ Research indicates that this prohibition also deters people subject to active protective orders from applying to purchase a firearm.³¹

The Violence Against Women and Department of Justice Reauthorization Act of 2005 (the “2005 VAWA”) required states and local governments, as a condition of certain funding, to certify that their judicial administrative policies and practices included notification to domestic violence offenders of both of the federal firearm prohibitions mentioned above and any applicable related federal, state, or local

laws.³² The 2005 VAWA did not require states or local governments to establish a procedure for the surrender of firearms by abusers, however.

SUMMARY OF STATE LAW

Many states have adopted laws that restrict access to firearms by domestic abusers:

- More than a dozen states prohibit possession of firearms by domestic violence misdemeanants, and five states specifically require abusers to surrender firearms when convicted of a domestic violence misdemeanor;
- Three states have enacted laws to facilitate the reporting of domestic violence misdemeanants to the database used for background checks;
- About two-thirds of the states prohibit firearm possession by abusers who are subject to domestic violence protective orders;
- About half of the states authorize or require a court that is issuing a domestic violence protective order to require the abuser to surrender firearms; and
- About a third of the states authorize or require law enforcement officers to remove firearms when they arrive at the scene of a domestic violence incident.

These laws are described in detail below. Some of these laws apply to ammunition, as well as firearms.

1. **State Laws Prohibiting Domestic Violence Misdemeanants from Purchasing or Possessing Firearms or Ammunition**³³

As noted above, federal law prohibits purchase and possession of firearms and ammunition by persons convicted of a “misdemeanor crime of domestic violence,” but federal law defines that term narrowly. Many states go beyond federal law and prohibit purchase or possession of firearms or ammunition by persons with misdemeanor convictions involving a broader class of victims. The strongest laws prohibit purchase or possession of firearms by individuals convicted of violent misdemeanors generally, regardless of the victim’s relationship to the offender.

California, for example, prohibits the purchase and possession of firearms or ammunition by anyone convicted of assault, battery, or stalking without regard to the victim’s relationship to the offender.³⁴ Connecticut, Hawaii, and New York also use this approach. For more information about these laws, see our summary on [Categories of Prohibited People](#).³⁵

The following jurisdictions have laws that specifically prohibit firearm purchase or possession by persons convicted of misdemeanor domestic violence offenses:³⁶

Colorado³⁷

Delaware³⁸

District of Columbia³⁹

Illinois⁴⁰

Indiana⁴¹

Iowa⁴²
Louisiana⁴³
Minnesota⁴⁴
Nebraska⁴⁵
New Jersey⁴⁶
Pennsylvania⁴⁷
South Dakota⁴⁸
Tennessee⁴⁹
Texas⁵⁰
Washington⁵¹
West Virginia⁵²

These laws exceed federal law in the following ways:

- Some of these laws include in their definitions of “domestic violence,” a violent misdemeanor against a former or current dating partner of the offender, or someone with whom the offender has had a romantic relationship.
- Some of these laws include in their definitions of “domestic violence,” a violent misdemeanor against any present or former household member or cohabitant of the offender.
- Some of these laws include in their definitions of “domestic violence,” a violent misdemeanor against any family member, regardless of whether the victim resides with the offender.
- A few of these laws also prohibit anyone convicted of a misdemeanor domestic violence from purchasing or possessing ammunition (in addition to firearms).

Illinois, for example, prohibits firearm and ammunition possession by anyone convicted of “domestic battery,” defined to include certain acts against:

- Any person related by blood or marriage, or through a child, to the defendant,
- Any person who shares, or has shared, a dwelling with the defendant,
- Any person who has, or has had, a dating or engagement relationship with the defendant (excluding casual acquaintances and ordinary fraternization in business or social contexts),
- Any person with disabilities if the defendant was his or her personal assistant, or
- Any person with a duty to care for an elderly person or a person with disabilities in that person’s home.⁵³

Illinois also prohibits firearm and ammunition possession by anyone convicted within the past five years of a battery, assault, aggravated assault or violation of an order of protection if the person used or possessed a firearm during the crime, regardless of the person’s relationship with the victim.⁵⁴

2. State Laws Requiring or Authorizing Removal or Surrender of Firearms and/or Ammunition When a Person is Convicted of a Domestic Violence Misdemeanor

A small number of states that prohibit domestic violence misdemeanants from possessing guns also require the surrender of firearms by every individual who has become ineligible to possess them: California, Connecticut, Hawaii, New York, and Pennsylvania. For a description of these laws, see

“Disarming Prohibited Possessors,” in our summary on [Categories of Prohibited People](#). In addition, Colorado,⁵⁵ Illinois,⁵⁶ Iowa,⁵⁷ Minnesota,⁵⁸ and Tennessee⁵⁹ specifically require surrender of firearms when a person is convicted of a domestic violence misdemeanor. In Iowa, for example, a state court that enters a judgment of conviction for a domestic violence misdemeanor and finds that the subject of the order or conviction is in possession of any firearm or ammunition must order the firearm or ammunition to be sold or transferred by a specific date to the custody of a qualified person in this state, as determined by the court.⁶⁰

3. State Laws Regarding the Reporting of Domestic Violence Misdemeanants to the Databases Used for Firearm Purchaser Background Checks

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 of that term. If the crime is found to fall within the definition, the clerk of the court must send a written report to a state agency, who then reports the determination to the FBI (which maintains the database used for firearm purchaser background checks).⁶¹ Illinois also enacted a similar law in 2011,⁶² and Minnesota enacted a similar law in 2013.⁶³

4. State Laws Prohibiting Subjects of Certain Domestic Violence Protective Orders From Purchasing or Possessing Firearms and/or Ammunition

The following states and D.C. have laws authorizing or requiring courts to prohibit subjects of certain domestic violence protective orders from purchasing or possessing firearms.⁶⁴ Many of these laws have significant loopholes, however.

Alaska⁶⁵

Arizona⁶⁶

California⁶⁷

Colorado⁶⁸

Connecticut⁶⁹

Delaware⁷⁰

District of Columbia⁷¹

Florida⁷²

Hawaii⁷³

Illinois⁷⁴

Indiana⁷⁵

Iowa⁷⁶

Louisiana⁷⁷

Maine⁷⁸

Maryland⁷⁹
Massachusetts⁸⁰
Michigan⁸¹
Minnesota⁸²
Montana⁸³
Nebraska⁸⁴
Nevada⁸⁵
New Hampshire⁸⁶
New Jersey⁸⁷
New York⁸⁸
North Carolina⁸⁹
North Dakota⁹⁰
Pennsylvania⁹¹
Rhode Island⁹²
South Dakota⁹³
Tennessee⁹⁴
Texas⁹⁵
Utah⁹⁶
Virginia⁹⁷
Washington⁹⁸
West Virginia⁹⁹
Wisconsin¹⁰⁰

As noted above, the federal law prohibiting subjects of protective orders from purchasing or possessing firearms and ammunition applies only if the protective order was issued after notice to the abuser and a hearing, and only if the order protects an “intimate partner” of the abuser, as federal law defines the term. Some state laws are broader, as described below.

a. *Ex Parte Orders:* Many states, including California, Illinois, Massachusetts, Texas, and West Virginia, go beyond federal law by prohibiting firearm purchase or possession by persons subject to certain domestic violence protective orders issued before notice to the abuser or a full hearing (known as “ex parte” orders), or authorize judges to prohibit firearm purchase or possession in certain ex parte protective orders. Massachusetts, for example, requires a court that is issuing an ex parte order to order the immediate suspension and surrender of any license to carry firearms or firearms identification card which the defendant may hold and order the defendant to surrender all firearms and ammunition which he or she possesses to the appropriate law enforcement official.¹⁰¹

b. *Individuals Who May Seek a Protective Order:*¹⁰² Many states exceed federal law by including a broader category of victims who may apply for a domestic violence protective order prohibiting firearms.

About half the states exceed federal law by allowing victims to seek a domestic violence protective order prohibiting purchase or possession of firearms by:

- A former or current dating partner or anyone with whom the victim has had a romantic relationship;
- Any person who is presently or has in the past resided with the victim; and/or
- Any family member, even if the abuser has never resided with the victim.

A small number of states also prohibit subjects of domestic violence protective orders from purchasing or possessing ammunition.

In California, for example, a person subject to any one of the following types of court orders is prohibited from possessing a firearm or ammunition:

- A domestic violence protective order whether issued ex parte, after notice and hearing, or in a judgment;
- A temporary restraining order issued to a victim of harassment;
- A temporary restraining order issued to an employer on behalf of an employee;
- A temporary restraining order issued to a postsecondary educational institution on behalf of a student;
- A protective order for an elderly or dependent adult who has suffered abuse, provided the abuse was not solely financial;
- An emergency protective order related to stalking; or
- A protective order relating to a crime of domestic violence or the intimidation or dissuasion of victim or witness.¹⁰³

Under California law, individuals may seek a domestic violence protective order, prohibiting the purchase or possession of firearms, against:

- A former or current dating partner or any person with whom the individual has had a romantic relationship;
- Any person who is presently or has in the past resided with the individual; or
- Any family member, even if the abuser has never resided with the individual.¹⁰⁴

5. State Laws Requiring or Authorizing Removal or Surrender of Firearms or Ammunition When a Protective Order Is Issued¹⁰⁵

To ensure that firearms are taken from the homes of abusers, some state laws require abusers to surrender firearms when they become subject to protective orders. The strongest laws require law enforcement to remove firearms at this point, while weaker laws authorize, but do not require, judges issuing protective orders to include requirements that the abuser surrender firearms.

a. States Requiring or Authorizing Removal of Firearms and/or Ammunition by Law Enforcement from Abusers Subject to a Protective Order.

A few states directly authorize or require law enforcement officers to remove firearms and/or ammunition from abusers subject to domestic violence protective orders, including ex parte protective orders.

- In Massachusetts, when law enforcement serves a domestic violence protective order, law enforcement must immediately take possession of all firearms and ammunition in the abuser's possession, or under his or her ownership or control.¹⁰⁶

- In Hawaii, upon service of a domestic violence restraining order, the police officer may take custody of any firearms and ammunition in plain sight, discovered pursuant to a consensual search, or surrendered by the person. If the police officer is unable to locate firearms or ammunition registered to that person or known to the victim, the police officer must apply to the court for a search warrant for the purpose of seizing firearms and ammunition.¹⁰⁷
- New Jersey authorizes a judge issuing a domestic violence protective order to order law enforcement to search for and seize any firearm in the abuser's possession.¹⁰⁸
- In Illinois, when a court issues a domestic violence protective order that triggers the federal firearms prohibition, the court must also issue a warrant for seizure of any firearms in the abuser's possession.¹⁰⁹

b. States Requiring or Authorizing the Court to Order the Abuser to Surrender Firearms and/or Ammunition:

About half of the states and D.C. authorize or require a court that is issuing a domestic violence protective order to require the abuser to surrender firearms. Some of these states also authorize or require firearm surrender provisions in certain ex parte domestic violence protective orders, and some of these states also authorize or require orders requiring the surrender of ammunition.

The following states require abusers subject to at least some domestic violence protective orders to surrender certain firearms in their possession:¹¹⁰

California

Colorado

Connecticut

Hawaii

Illinois

Iowa

Maryland

Massachusetts

Minnesota

New Hampshire

New York

North Carolina

Tennessee

Washington

Wisconsin

Six of these states (California, Illinois, Maryland, New Hampshire, Tennessee, and Wisconsin) require subjects of domestic violence protective orders to surrender all firearms in his or her possession, regardless of the circumstances leading to the order. California's law authorizes the court to issue a search warrant if the abuser fails to relinquish firearms he or she possesses.

In other states, domestic violence protective orders must direct the abuser to surrender firearms if certain conditions are met. In New York, for example, a court issuing a domestic violence protective order (including an ex parte order) must order the immediate surrender of all firearms owned or possessed by the abuser if the court finds a substantial risk that the abuser may use or threaten to use a firearm unlawfully against the victim, and in other specified situations.¹¹¹ Note that the federal prohibition on firearm possession may apply even if these state laws do not require the surrender of firearms already in the abuser's possession.

In addition, the following states and D.C. authorize (but do not require) courts to issue protective orders that direct the abuser to surrender certain firearms in his or her possession in various circumstances:

Alaska

Arizona

Delaware

Florida

Indiana

Nevada

New Jersey

North Dakota

Pennsylvania

Rhode Island

South Dakota

Vermont¹¹²

Note that the federal prohibition on firearm possession may apply even if the court has not chosen to order the abuser to surrender firearms.

c. *To Whom Must the Abuser Surrender the Firearms:* About half of the states listed above specify to whom an abuser must surrender his or her weapons for safekeeping during the term of the order. Among these states, most require or authorize abusers to surrender their firearms to law enforcement. Illinois, for example, requires the abuser to turn over his or her firearms to law enforcement.¹¹³ California requires the abuser either to surrender his or her firearms to law enforcement or to sell those firearms to a licensed gun dealer.¹¹⁴ Other states permit the abuser to surrender his or her firearms to other designated third parties.¹¹⁵

6. State Laws Authorizing Law Enforcement to Remove Firearms or Ammunition at the Scene of a Domestic Violence Incident

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. These laws vary in terms of whether removal is required or simply authorized, which firearms must be removed, and the length of time that must pass after the incident before the firearms can be returned.

For laws regarding law enforcement removal of firearms from dangerous people generally, see the section entitled “Removal of Firearms from Individuals Shown to Be Dangerous” in our summary on [Categories of Prohibited People](#).

a. *States Requiring or Authorizing the Removal of Firearms at the Scene of a Domestic Violence Incident:*

The following states require, rather than simply authorize, law enforcement to remove at least some firearms at the scene of a domestic violence incident:

California¹¹⁶

Hawaii¹¹⁷

Illinois¹¹⁸

Montana¹¹⁹

Nebraska¹²⁰

New Hampshire¹²¹

New Jersey¹²²

Ohio¹²³

Oklahoma¹²⁴

Pennsylvania¹²⁵

Tennessee¹²⁶

Utah¹²⁷

West Virginia¹²⁸

The following states authorize, but do not require, law enforcement to remove firearms at the scene of a domestic violence incident: Alaska,¹²⁹ Arizona,¹³⁰ Connecticut,¹³¹ Indiana,¹³² and Maryland.¹³³

b. *Firearms Subject to Removal:* The most comprehensive approach requires law enforcement to remove all firearms in the abuser’s possession, ownership or control.

- In New Hampshire, 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.¹³⁴
- Connecticut authorizes, but does not require, the removal of all firearms and ammunition at the location where domestic violence is alleged to have been committed if the firearms or ammunition are in the possession of the suspect or in plain view.¹³⁵

Other states allow the removal of only certain firearms, or allow the removal of firearms only if certain conditions are met:

- In New Jersey, law enforcement must remove firearms observed at the scene if law enforcement has probable cause to believe domestic violence has occurred and reasonably believes these firearms expose the victim to danger.¹³⁶
- In California, law enforcement officers who are 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 pursuant to a consensual or other lawful search.¹³⁷

- In Hawaii, a police officer who believes that a person recently assaulted or threatened to assault a family or household member must seize all firearms and ammunition that were used or threatened to be used in the commission of the offense, and may seize all firearms in plain view, or discovered pursuant to a consensual search, as necessary for the protection of the officer or any family or household member.¹³⁸ Many states, such as Oklahoma,¹³⁹ have even weaker laws, and only allow the seizure of firearms used in the incident, and only if the abuser is simultaneously arrested.
- c. *Duration of the Removal:* 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, requiring firearms seized at the scene of a domestic violence incident to be given (permanently) to law enforcement, sold at public auction, or destroyed, although this law only applies to firearms used, brandished, or threatened to be used in the incident.¹⁴⁰
- 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.¹⁴¹
- Some states require firearms to be held for a specified time period:
 - Arizona requires firearms seized at a domestic violence scene be held by law enforcement for at least 72 hours, and up to 6 months if a court finds that return of the firearm may endanger the victim.¹⁴²
 - New Jersey gives the prosecutor 45 days in which to petition for title of a firearm seized at a domestic violence scene.¹⁴³

FEATURES OF COMPREHENSIVE LAW

The features listed below are intended to provide a framework from which policy options may be considered. A jurisdiction considering new legislation should consult with counsel.

- In addition to persons prohibited by federal law, persons convicted of a violent misdemeanor against a former or current dating partner, cohabitant, or family member are prohibited from purchasing or possessing firearms and ammunition (*California, Connecticut, Illinois, New York*)
- When a person is convicted of a domestic violence misdemeanor, the court must order the person to surrender all firearms and ammunition in his or her possession (*Colorado, Iowa, Tennessee*)
- A court that is convicting a defendant of a violence misdemeanor must determine whether the crime falls within the federal definition of “misdemeanor crime of domestic violence,” and, if so, must report the defendant to the databases used for firearm purchaser background checks (*Illinois, New York*)
- In addition to persons prohibited by federal law, former or current dating partners, cohabitants, or family members who are subject to a domestic violence protective order are prohibiting from purchasing or possessing firearms and ammunition (*California, Hawaii, Massachusetts, Utah*)

- Persons subject to a domestic violence protective order issued before notice or a hearing are prohibited from purchasing or possessing firearms and ammunition (*California, Illinois, Massachusetts, Texas, Virginia, West Virginia, Wisconsin*)
 - All domestic violence protective orders require law enforcement to seize all firearms and ammunition in the abuser's possession, or under his or her ownership or control (*Illinois, Massachusetts*)
 - Law enforcement responding to a domestic violence incident are required to remove all firearms and ammunition in the abuser's possession, or under his or her ownership or control (*New Hampshire*)
 - Firearms seized at the scene of a domestic violence incident must be permanently given to law enforcement, sold at public auction, or destroyed (*Ohio*)
1. See Center for American Progress, *Preventing Domestic Abusers and Stalkers from Accessing Guns* (May 9, 2013) at <http://www.americanprogress.org/wp-content/uploads/2013/05/GunsStalkersBrief-3.pdf>. []
 2. Jacquelyn C. Campbell et al., *Risk Factors for Femicide in Abusive Relationships: Results from a Multisite Case Control Study*, 93 Am. J. Pub. Health 1089, 1092 (July 2003). []
 3. Linda E. Saltzman, et al., *Weapon Involvement and Injury Outcomes in Family and Intimate Assaults*, 267 JAMA, 3043-3047 (1992). []
 4. Bureau of Justice Statistics, U.S. Dep't of Justice, *Homicide Trends in the United States, 1980-2008*, 20 (Nov. 2011), at <http://bjs.gov/content/pub/pdf/htus8008.pdf>. []
 5. Violence Policy Center, *When Men Murder Women: An Analysis of 2011 Homicide Data 6*, (September 2013) at <http://www.vpc.org/studies/wmmw2013.pdf>. []
 6. Everytown for Gun Safety, *Analysis of Recent Mass Shootings 3* (July 2014), at <http://3gbwir1ummda16xrhf4do9d21bsx.wpengine.netdna-cdn.com/wp-content/uploads/2014/07/analysis-of-recent-mass-shootings.pdf>. []
 7. Susan B. Sorenson et al., *Weapons in the Lives of Battered Women*, 94 Am. J. Pub. Health 1412, 1413 (2004). []
 8. *Id.* at 1414. []
 9. 18 U.S.C. § (g)(8), (9). []
 10. *Homicide Trends in the U.S.*, *supra* note 4, at 19. []
 11. Katherine A. Vittes et al., *Are Temporary Restraining Orders More Likely to be Issued When Application Mention Firearms?*, 30 Evaluation Rev. 266, 271, 275 (2006). []
 12. *Homicide Trends in the U.S.*, *supra* note 4, at 21. []
 13. Center for American Progress, *Women Under the Gun: How Gun Violence Affects Women and 4 Policy Solutions to Better Protect Them* 12-15 (July 2014), at <http://cdn.americanprogress.org/wp-content/uploads/2014/06/GunsDomesticViolence2.pdf>. []
 14. Center for American Progress, *Preventing Domestic Abusers and Stalkers from Accessing Guns* 6, 10-11 (May 2013), at <http://cdn.americanprogress.org/wp-content/uploads/2013/05/GunsStalkersBrief-3.pdf>. []
 15. Michael Luo, "In Some States, Gun Rights Trump Orders of Protection," *The New York Times*, March 17, 2013, at <http://www.nytimes.com/2013/03/18/us/facing-protective-orders-and-allowed-to-keep-guns.html?pagewanted=all&r=0>. []
 16. Emily F. Rothman et al., *Gun Possession Among Massachusetts Batterer Intervention Program Enrollees*. 30 Evaluation Review 283, 291 (2006). []
 17. See Center for American Progress, *Preventing Domestic Abusers and Stalkers from Accessing Guns* (May 9, 2013) at <http://www.americanprogress.org/wp-content/uploads/2013/05/GunsStalkersBrief-3.pdf>; Michael Luo, "In Some States, Gun Rights Trump Orders of Protection," *The New York Times*, March 17, 2013, at <http://www.nytimes.com/2013/03/18/us/facing-protective-orders-and-allowed-to-keep-guns.html?pagewanted=all&r=0>. []
 18. Whether a crime falls with the federal definition of "misdemeanor crime of domestic violence," depends on the offender's relationship with the victim and whether the state was required to prove that the offender used or threatened to use "physical force" within the meaning of the federal law. For a discussion of these legal issues, see U.S. Dep't of Justice, *Information Needed to Enforce the Federal Prohibition Misdemeanor Crimes of Domestic Violence* (Nov. 2007), at http://www.ncdsv.org/images/MCDV_Info%20needed%20to%20enforce%20the%20firearm%20prohibition.pdf. []

19. Mayors Against Illegal Guns, *Gun Laws and Violence Against Women*, at http://libcloud.s3.amazonaws.com/9/e9/e/1726/Gun_Laws_and_Violence_Against_Women.pdf. []
20. April M. Zeoli et al., *Effects of Domestic Violence Policies, Alcohol Taxes, and Police Staffing Levels on Intimate Partner Homicide in Large US Cities*, 16 *Inj. Prev.* 90 (2010). See also Elizabeth R. Vigdor et al., *Do Laws Restricting Access to Firearms by Domestic Violence Offenders Prevent Intimate Partner Homicide?*, 30 *Evaluation Rev.* 313, 332 (June 2006). []
21. Susan B. Sorenson, *Taking Guns from Batterers: Public Support and Policy Implications*, 30 *Evaluation Review* 361, 369 (2006). []
22. Colleen L. Barry et al., *Perspective: After Newtown — Public Opinion on Gun Policy and Mental Illness*, 368 *New Eng. J. Med.* 1077-1081 (March 21, 2013) at http://www.nejm.org/doi/full/10.1056/NEJMp1300512?query=featured_home&&. []
23. 18 U.S.C. § 922(g)(8), (9). []
24. 18 U.S.C. § 921(a)(33). []
25. *Id.* Also note that a conviction requires that the offender was represented by counsel or waived the right to counsel and was tried by a jury or waived the right to a jury, if the offense entitled the offender to a jury trial. []
26. Federal Bureau of Investigation, “Federal Denials, November 30, 1998 –July 31, 2014,” at <http://www.fbi.gov/about-us/cjis/nics/reports/denials073114.pdf>. []
27. *Id.* []
28. 18 U.S.C. § 922(g)(8). []
29. 18 U.S.C. § 921(a)(32). The order must also contain a finding that the person presents a credible threat to the victim or restrain him or her from certain specified conduct. 18 U.S.C. § 922(g)(8). Most state laws require these elements for the issuance of a protective order. []
30. Federal Bureau of Investigation, “Federal Denials, November 30, 1998 –July 31, 2014,” at <http://www.fbi.gov/about-us/cjis/nics/reports/denials073114.pdf>. []
31. Katherine A. Vittes et al., *Keeping Guns Out of the Hands of Abusers: Handgun Purchases and Restraining Orders*, 98 *Am. J. Public Health* 828 (May 2008), at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2374807/>. []
32. 42 U.S.C. § 3796gg-4. []
33. Note that federal law does not require background checks on ammunition purchasers. For more information on laws governing the transfer of ammunition, see our summary on [Ammunition Regulations](#). []
34. Cal. Penal Code §§ 29805, 30305. []
35. California also authorizes courts to prohibit defendants from purchasing or possessing firearms in cases where the defendant is *charged* with, but not yet convicted of, a domestic violence misdemeanor. Cal. Penal Code § 136.2(a)(7)(B),(d),(e). []
36. The Law Center is also aware of the following laws that require courts to provide domestic violence misdemeanants notice of the federal law prohibiting firearm possession, but which do not prohibit firearm possession by these individuals, or require them to surrender firearms already in their possession. Ark. Code § 5-26-313; S.C. Code Ann. §§ 16-25-20, 16-25-65, 16-25-30. []
37. Colo. Rev. Stat. §§ 18-1-1001(3)(c), 18-12-108(6)(c)(I), 18-6-801(8). []
38. Del. Code Ann. tit. 10, § 901(12); tit. 11, § 1448(a)(7), (d). []
39. 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). []
40. 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. []
41. Ind. Code §§ 35-47-2-1(c); 35-47-4-6. []
42. Iowa Code §§ 236.2, 708.1, 708.2A, 708.11, 724.15(1), 724.26. []
43. La. Rev. Stat. § 14:95.10 (as reenacted by 2014 La. H.B. 753 (signed by Governor May 22, 2014)). []
44. Minn. Stat. §§ 609.2242, 624.713, subd. 1. []
45. Nebraska prohibits firearm possession by domestic violence misdemeanants for seven years following conviction. Neb. Rev. Stat. § 28-1206(1)(b), (4)(a). []
46. N.J. Stat. Ann. §§ 2C:25-19(a), (d), 2C:25-26(a), 2C:39-7(b), 2C:58-3(c)(1). []
47. 18 Pa. C. S. § 6105(c)(9). []
48. S.D. Codified Laws § 22-14-15.2. []
49. Tenn. Code Ann. §§ 39-13-111(a), (b), (c)(6), 39-17-1307(f)(1)(A). []

50. 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). []
51. Wash. Rev. Code Ann. §§ 9.41.010, 9.41.040(2)(a)(i), 10.99.020(3). []
52. W. Va. Code § 61-7-7(a)(8). []
53. 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. []
54. 430 Ill. Comp. Stat. 65/2(a)(1), (2), 65/8(k). []
55. Colo. Rev. Stat. §§ 18-1-1001(3)(c), 18-12-108(6)(c)(l), 18-6-801(8). []
56. 730 Ill. Comp. Stat. 5/5-6-3(a)(9). []
57. Iowa Code §§ 236.2, 708.1, 708.2A, 708.11, 724.15(1), 724.26. []
58. Minn. Stat. § 609.2242, subd. 3. []
59. Tenn. Code Ann. §§ 39-13-111(c)(6), 39-17-1307(f)(1)(A). []
60. Iowa Code § 724.26(4). []
61. N.Y. Crim. Proc. Law §§ 370.15, 380.97. []
62. 725 Ill. Comp. Stat. 5/112A-11.1, 5/112A-11.2. []
63. Minn. Stat. § 624.713, subd. 5. []
64. Some additional states require courts to provide protective order defendants notice of the federal law prohibiting firearm possession, but do not prohibit firearm possession by these individuals, or require them to surrender firearms already in their possession. See, e.g., Ark. Code § 9-15-207(b)(3). []
65. Alaska Stat. §§ 18.66.100(c)(6), (7), 18.66.990(3), (5). []
66. Ariz. Rev. Stat. §§ 13-3601, 13-3602(G)(4), 13-3624(D)(4). []
67. 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. []
68. Colo. Rev. Stat. §§ 13-14-105, 13-14-105.5, 18-1-1001(9), 18-6-803.5(c)(l). []
69. Conn. Gen. Stat. §§ 29-36f(b), 29-36k, 46b-15, 46b-38a, 53a-217, 53a-217c. []
70. Del. Code Ann. tit. 10, §§ 1041(2), 1043(e), 1045(a)(8); tit. 11, § 1448(a)(6). []
71. D.C. Code Ann. §§ 7-2501.01(9B), 7-2502.03(a)(12), 7-2506.01, 16-1001(6)-(9), 16-1005(c)(10). []
72. Fla. Stat. Ann. §§ 741.28, 741.30(1)(e), (6)(g), 741.31(4), 790.233. []
73. Haw. Rev. Stat. §§ 134-7(f), 586-1, 586-3. []
74. 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). []
75. Ind. Code Ann. §§ 31-9-2-42, 31-9-2-44.5, 34-26-5-2, 34-26-5-9(c)(4), (f). []
76. Iowa Code §§ 236.2(2), (4), 236.5(1)(b)(2), 724.26(2), (4). []
77. La. Rev. Stat. § 46:2136.3 (as reenacted by 2014 La. H.B. 753 (signed by Governor May 22, 2014)). []
78. Maine Rev. Stat. tit. 15, § 393(1)(D), tit. 19-A, § 4007(1)(A-1). []
79. Md. Code Ann., Fam. Law §§ 4-501, 4-506; Pub. Safety § 5-133(b)(12). []
80. Mass. Gen. Laws ch. 140, §§ 129B(1)(viii), 129C, 131(d)(vi); ch. 209A. []
81. Mich. Comp. Laws §§ 28.422(3)(a)(iii)-(v), 600.2950(1)(e), (12), , 600.2950a(3)(c), (26). []
82. Minn. Stat. §§ 260C.201, subd. 3, 518B.01, subd. 6, 624.713, subd. 1. []
83. Mont. Code Ann. §§ 40-15-102(2)(a), 40-15-103(6), 40-15-201(f). []
84. Neb. Rev. Stat. §§ 28-1206(1)(a), (4)(b), 42-903, 42-924. []
85. Nev. Rev. Stat. §§ 33.018, 33.020, 33.031, 33.033. []
86. N.H. Rev. Stat. Ann. §§ 173-B:1, 173-B:4, 173-B:5. []
87. 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). []
88. 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. []
89. N.C. Gen. Stat. §§ 50B-1, 50B-3(11), 50B-3.1. []
90. N.D. Cent. Code §§ 14-07.1-01, 14-07.1-02, 14-07.1-03. []
91. 18 Pa. Cons. Stat. § 6105; 23 Pa. Cons. Stat. §§ 6102, 6107 – 6108.3. []
92. R.I. Gen. Laws §§ 15-15-1, 15-15-3. []
93. S.D. Codified Laws § 25-10-24. []
94. Tenn. Code §§ 36-3-625, 39-13-113, 39-17-1307(f)(1). []

95. 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). []
96. 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). []
97. Va. Code Ann. §§ 16.1-228, 16.1-253.1, 16.1-253.4, 16.1-279.1, 18.2-308.09, 18.2-308.1:4, 18.2-308.2:2. []
98. Wash. Rev. Code Ann. §§ 9.41.800, 10.99.040, 26.50.010, 26.50.070. 2014 Wa. ALS 111 (effective June 2014). []
99. W. Va. Code §§ 48-27-204, 48-27-305, 48-27-403(a), 48-27-502(b), 61-7-7(a)(7). []
100. Wis. Stat. §§ 813.12(1)(am), (b), (c), (4m) 941.29(1)(f), (g), (2)(d), (e). []
101. Mass. Gen. Laws ch. 209A, § 3B. []
102. State laws may also prohibit firearm purchase or possession by persons subject to anti-stalking protective orders that do not depend on the relationship between the offender and the victim. These laws are not discussed here. []
103. 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), 6320-6322, 6389. []
104. Cal. Penal Code § 29825(d); Cal. Civ. Proc. Code § 527.9(d); Cal. Fam. Code §§ 6209 – 6211. []
105. Some states also authorize issuance of protective orders that require the abuser to surrender his or her firearms license or to direct law enforcement to remove a firearms license from the abuser. For example, North Carolina requires a judge issuing a domestic violence protective order to direct the abuser to surrender all permits to purchase firearms and permits to carry concealed firearms if certain conditions exist. N.C. Gen. Stat. § 50B-3.1. []
106. Mass. Gen. Laws ch. 209A, § 3B. []
107. Haw. Rev. Stat. § 134-7(f). []
108. N.J. Stat. Ann. § 2C:25-29b(16). []
109. 750 Ill. Comp. Stat. 60/214. []
110. For relevant citations, see the section entitled “State Laws Prohibiting Subjects of Certain Domestic Violence Protective Orders from Purchasing or Possessing Firearms or Ammunition” above. []
111. N.Y. Fam. Ct. Act § 842-a. []
112. 2014 Vt. H.B. 735. []
113. 750 Ill. Comp. Stat. 60/214. []
114. Cal. Fam. Code § 6389. []
115. See, e.g., 23 Pa. Cons. Stat. Ann. §§ 6108-6108.3. []
116. Cal. Penal Code §§ 18250-18500, 33850-33895. []
117. Haw. Rev. Stat. §§ 134-7.5, 709-906. []
118. 725 Ill. Comp. Stat. 5/112A-30(a)(2), 750 Ill. Comp. Stat. 60/304(a)(2). []
119. Mont. Code Ann. § 46-6-603. []
120. Neb. Rev. Stat. § 29-440. []
121. N.H. Rev. Stat. Ann. § 173-B:10. []
122. N.J. Stat. Ann. § 2C:25-21(d). []
123. Ohio Rev. Code Ann. §§ 2935.03(B)(3)(h), 2981.12(A)(2). []
124. Okla. Stat. tit. 22, § 60.8. []
125. 18 Pa. Cons. Stat. § 2711. []
126. Tenn. Code Ann. §§ 36-3-620, 39-17-1317. []
127. Utah Code Ann. § 77-36-2.1(1)(b). []
128. W. Va. Code § 48-27-1002. []
129. Alaska Stat. § 18.65.515(b). []
130. Ariz. Rev. Stat. § 13-3601. []
131. Conn. Gen. Stat. § 46b-38b(a). []
132. Ind. Code Ann. § 35-33-1-1.5. []
133. Md. Code Ann., Fam. Law § 4-511. []
134. N.H. Rev. Stat. Ann. § 173-B:10. []
135. Conn. Gen. Stat. § 46b-38b(a). []
136. N.J. Stat. Ann. § 2C:25-21(d). []
137. Cal. Penal Code §§ 18250-18500, 33850-33895. []

138. Haw. Rev. Stat. §§ 134-7.5, 709-906. []

139. Okla. Stat. tit. 22, § 60.8. []

140. Ohio Rev. Code Ann. §§ 2935.03(B)(3)(h), 2981.12(A)(2). []

141. 725 Ill. Comp. Stat. 5/112A-30(a)(2), 750 Ill. Comp. Stat. 60/304(a)(2); Md. Code Ann., Fam. Law § 4-511. []

142. Ariz. Rev. Stat. § 13-3601. []

143. N.J. Stat. Ann. § 2C:25-21(d). []