

Domestic Violence Gun Laws



Fact Sheet

Federal law restricts certain adjudicated abusers from possessing, receiving, shipping, or transporting firearms or ammunition. These restrictions are fully consistent with the 2nd Amendment as interpreted by *NYSRPA v. Bruen* and provide robust due process protections.

- Individuals convicted of felony crimes (crimes punishable by imprisonment for more than one year), including crimes against intimate partners, are restricted from having firearms¹ unless their conviction is expunged or set aside, they are pardoned, or they have their rights restored.²
- Individuals who have been dishonorably discharged from the military, including for domestic violence, and restricted from having firearms.³
- Respondents to a final protective order restraining the individual from harassing, stalking, or threatening the victim or their child or engaging in conduct that would place the victim in reasonable fear of bodily injury to the victim or their child are restricted from having firearms or ammunition for the duration of the order if:
 - The order was issued after a hearing of which the respondent received actual notice and at which the respondent had the opportunity to participate; AND
 - The respondent has one of the following relationships to the victim:
 - Current or former spouse;
 - Current or former cohabitant;
 - Shares a child in common; AND
 - The order either
 - Includes a finding the respondent poses a credible threat to the victim or child; OR
 - By its terms explicitly prohibits the use, attempted use, or threatened use of physical force against the victim or child that would reasonably be expected to cause bodily injury.⁴
- Individuals convicted of a misdemeanor crime involving the use or attempted use of physical force or a threat with a deadly weapon against someone with one of the following relationships with the victim is restricted from having firearms and ammunition unless their conviction is expunged or set aside, they are pardoned, or they have their rights restored:
 - Current or former spouse;
 - Parent or guardian;
 - Shares a child in common;
 - Cohabits or has cohabited as a spouse, parent, or guardian;
 - Similarly situated to a spouse, parent, or guardian;
 - Current or recent former dating partner when the individual has been convicted of more than one such offense.⁵

- Individuals convicted of a misdemeanor crime involving the use or attempted use of physical force or a threat with a deadly weapon against a current or recent former dating partner are restricted from having firearms and ammunition for five years after a first offense.⁶
- Federal domestic violence prohibitors protect the safety of victims and do not violate the rights of adjudicated abusers.
 - Final domestic violence protective orders:
 - Domestic violence protective orders are not issued on a whim. The petitioner must present evidence to the court when requesting a domestic violence protective order to prove abuse or imminent danger, as established in state law. A study of protective order hearings in a large Southwestern city found that more than one third of petitions for protective orders were denied, and, of those petitions that were granted, fewer than 40% were for orders lasting more than six months.⁷
 - Final domestic violence protective orders are issued after a hearing of which the respondent has notice and at which the respondent has the opportunity to appear and make their case.⁸ They can be represented by counsel, challenge the petitioner’s evidence, and submit their own evidence.
 - Protective orders are not an inferior version of a criminal prosecution. The purpose of a protective order is to prevent future violence and regulate the relationship between the respondent and the petitioner, whereas the purpose of a criminal prosecution is to hold the defendant accountable – the victim is not even a party to the case.
 - The firearm prohibition lasts for the duration of the order, which varies by state but typically lasts between six months and two years.
 - Misdemeanor crime of domestic violence:
 - For a conviction to activate the federal prohibitor, the defendant must have been represented by counsel or have knowingly and intelligently waived their right to counsel.⁹
 - If the individual was entitled to a jury trial in which the case was tried, the individual must have either had a jury trial or have knowingly and intelligently waived the right to a jury trial.¹⁰

Firearms restrictions for domestic abusers enjoy wide support from the American public.

- 82% of Americans agree with the statement, “Intimate partner violence perpetrators who have injunctions for protection (i.e., restraining orders or protection orders) in effect against them should not be allowed to possess firearms.” Only 10% disagree with that statement.¹¹
- 82% of Americans support a (generic) federal law that “bans those convicted of domestic violence from purchasing a gun.” This includes more than 80% of Republicans, more than 90% of Democrats, and almost 80% of independents.¹²

Critical gaps in federal laws allow adjudicated abusers to maintain possession of their firearms.

- Respondents to final domestic violence protective orders involving a dating partner are not prohibited from having firearms.
 - Most intimate partner violence is committed by dating partners rather than by spouses,¹³ and 80% of intimate partner violence calls to law enforcement are for dating violence.¹⁴
 - While the rate of spousal homicide has dropped substantially since 1994, when the first federal domestic violence firearms prohibitor was enacted, the rate of dating partner homicide has remained relatively steady.¹⁵
 - Dating partner homicides now comprise approximately 60% of intimate partner homicides.¹⁶
 - State laws restricting firearm access by dating partners subject to domestic violence protective orders are associated with a 13% decrease in intimate partner homicide.¹⁷
- Individuals convicted of a misdemeanor crime of stalking are not restricted from having firearms.
 - In the domestic violence context:
 - Stalking is a key indicator of lethality. 76% of women murdered by intimate partners were stalked by the person who murdered them; 85% of women who survived intimate partner homicide attempts were stalked.¹⁸
 - Stalking and gun threats co-occur, with 78% of survivors who have experienced gun threats also experiencing stalking.¹⁹
 - Two-thirds of contacts surveyed by the National Domestic Violence Hotline had experienced intimate partner stalking.²⁰
 - Outside the domestic violence context:
 - 10% of stalking victims fear they will be killed by the stalker,²¹ and 20% of stalking victims are physically attacked by the stalker.²²
 - 89% of women killed by men who had been physically assaulted before their murder were also stalked in the year prior to their murder.²³
 - 54% of women killed by men who stalked them had reported the stalking to law enforcement before they were murdered.²⁴
 - People who experience stalking are at least 200 times more likely to be murdered than those who do not experience stalking; due to data limitations, the increased risk is likely to be even higher.²⁵
- Respondents to ex parte domestic violence protective orders are not restricted from having firearms.
 - The most dangerous time in an abusive relationship is when the victim takes steps to leave, including seeking legal protections from a court. Most homicides occur when victims are ending the relationship.²⁶
 - Ex parte domestic violence protective orders provide short-term injunctive relief which is necessary to prevent irreparable harm. Depending on the state, ex parte orders last between a few days and a few weeks. Ex parte domestic violence protective orders are issued based on credible evidence and only take effect upon service.
 - State laws restricting firearm access by respondents to ex parte protective orders are associated with a 12% decrease in intimate partner homicides.²⁷
- Federal law requires local law enforcement to be notified when an adjudicated abuser attempts to purchase a firearm and fails a background check.²⁸ An attempt to purchase a weapon is often an indication of escalating violence. However, the law does not require victims to be notified, so survivors may not be able to engage in informed safety planning.

Many states have closed these gaps at the state level. However, state laws are inconsistently enforced.

- State laws requiring adjudicated abusers to relinquish firearms are associated with a 12% decrease in intimate partner homicide.²⁹
- Law enforcement has highlighted enforcement of domestic violence firearm prohibitions as a key priority for improving victim safety.³⁰
- A study of domestic violence protective orders issued in Arizona found when the petitioner specifically requested firearms be removed from the respondent, judges only ordered firearm surrender in half of cases.³¹

¹18 USC § 922(g)(1)

²18 USC § 921(a)(20)

³18 USC § 922(g)(6)

⁴18 USC § 921(a)(32), 18 USC § 922(g)(8)

⁵18 USC § 921(a)(33), 18 USC § 922(g)(9)

⁶ibid.

⁷Bejinariu, A., Troshynski, E. I., & Miethe, T. D. (2019). Civil protection orders and their courtroom context: The impact of gatekeepers on legal decisions. *Journal of Family Violence*, 34, 231-243. <https://doi.org/10.1007/s10896-018-9999-7>

⁸18 USC § 922(g)(8)

⁹18 USC § 921(a)(33)

¹⁰ibid.

¹¹Montanez, J., & Donley, A. (2021). Opinions on a firearm prohibition policy that targets intimate partner violence. *Journal of Interpersonal Violence*, 36(11-12). <https://doi.org/10.1177/0886260518807213>

¹²The 19th & Survey Monkey. (2023, September 18). 2023 19th News/SurveyMonkey poll full crosstabs. https://docs.google.com/spreadsheets/d/18XkFkrTsiFxFV_IKTQ41rGM_-6paEDNZD/edit#gid=1377403796.

¹³Truman, J.L. and Morgan, R.E. (2014). *Nonfatal domestic violence: 2003-2012*. U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. <https://www.bjs.gov/content/pub/pdf/ndv0312.pdf>.

¹⁴Sorenson, S. B. & Spear, D. (2018). New data on intimate partner violence and intimate relationships: Implications for gun laws and federal data collection. *Preventive Medicine*, 107, 103-108. <https://doi.org/10.1016/j.ypmed.2018.01.005>

¹⁵Federal Bureau of Investigation. (2021). *Expanded homicide data*. Crime Data Explorer. <https://crime-data-explorer.app.cloud.gov/pages/explorer/crime/shr>.

¹⁶ibid.

¹⁷Zeoli, A. M., McCourt, A., Buggs, S., Frattaroli, S., Lilley, D., & Webster, D. W. (2018). Analysis of the strength of legal firearms restrictions for perpetrators of domestic violence and their association with intimate partner homicide. *American Journal of Epidemiology*. doi: 10.1093/aje/kwx362

¹⁸McFarlane, J.M., Campbell, J.C., Wilt, S., Sachs, C.J., Ulrich, Y., & Xu, X. (1999). Stalking and intimate partner femicide. *Homicide Studies*, 3(4), 300-316. <https://psycnet.apa.org/doi/10.1177/1088767999003004003>

¹⁹Logan, T. & Lynch, K. R. (2018). Dangerous liaisons: Examining the connection of stalking and gun threats among partner abuse victims. *Violence and Victims*, 33(13), 399-416. <http://dx.doi.org/10.1891/0886-6708.VV-D-17-00134>

²⁰ibid.

²¹Baum, K., Catalon, S., Rand, S., & Rose, K. (2009). Stalking victimization in the United States. *Bureau of Justice Statistics Special Report*. <http://www.bjs.gov/index.cfm?ty=pbdetail&iid=365>.

²²ibid.

²³McFarlane, J.M., Campbell, J.C., Wilt, S., Sachs, C.J., Ulrich, Y., & Xu, X. (1999). Stalking and intimate partner femicide. *Homicide Studies*, 3(4), 300-316. <https://psycnet.apa.org/doi/10.1177/1088767999003004003>

²⁴ibid.

²⁵Meloy, J. R. (1999). Stalking: An old behavior, a new crime. *Forensic Psychiatry*, 22(1), 85-99. DOI: 10.1016/s0193-953x(05)70061-7

²⁶Vittes, K. A. & Sorenson, S. B. (2008). Restraining orders among victims of intimate partner homicide. *Injury Prevention*, 14(1), 191-195. DOI: 10.1136/ip.2007.017947

²⁷Zeoli, A. M., McCourt, A., Buggs, S., Frattaroli, S., Lilley, D., & Webster, D. W. (2018). Analysis of the strength of legal firearms restrictions for perpetrators of domestic violence and their association with intimate partner homicide. *American Journal of Epidemiology*. doi: 10.1093/aje/kwx362

²⁸18 USC § 925B

²⁹Zeoli, A. M., McCourt, A., Buggs, S., Frattaroli, S., Lilley, D., & Webster, D. W. (2018). Analysis of the strength of legal firearms restrictions for perpetrators of domestic violence and their association with intimate partner homicide. *American Journal of Epidemiology*. doi: 10.1093/aje/kwx362

³⁰Police Executive Research Forum. (2019). *Reducing gun violence: What works, and what can be done now*. <https://www.policeforum.org/assets/reducinggunviolence.pdf>

³¹Wallin, M., & Durfee, A. (2020). Firearm removal, judicial decision-making, and domestic violence protection orders. *Violence and Gender*, 7(1), 27-32. DOI:10.1089/vio.2019.0029

