



## For Further Information

### To find out more about federal firearms prohibitions:

Bureau of Alcohol, Tobacco, and Firearms;  
*Misdemeanor Crimes of Domestic Violence*  
*Frequently Asked Questions* -  
<https://www.atf.gov/qa-category/misdemeanor-crime-domestic-violence>

### To find out more about Batterer Intervention Programs in your area:

Virginia Batterer Intervention Program  
Certification Board  
<https://www.vabipboard.org>

### For legal help:

Virginia Lawyer Referral Service - 1-800-552-7977  
<http://www.vsb.org/vlrs/>

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## VIRGINIA GUN OWNERS' RESPONSIBILITIES (VA. CODE § 18.2-308.1:4)

### If you have been served with a preliminary protective order:

- You cannot transport or purchase a firearm
- You cannot carry a concealed weapon even if you have a concealed weapons permit

If you have a concealed weapons permit, you must surrender it to the court that issued the preliminary protective order.

### If you have been served with a final protective order

- You cannot possess, transport, or purchase a firearm
- You may possess a firearm in the first 24 hours after you receive the protective order in order to
  - Sell or transfer it to a person who is allowed to possess firearms
  - Sell or transfer it to a dealer who is allowed to possess firearms
  - Surrender your firearm to a local law enforcement agency

### You must complete the firearm certification form indicating that you either do not possess firearms or that you have transferred or surrendered them as described above.

- Within 48 hours of service of the protective order you must file this certification with the clerk of the court in the court that issued the protective order.

If you have a concealed weapons permit, you must surrender it to the court that issued the protective order.

**If you were convicted of assault and battery of your spouse, your former spouse, or a person with whom you have a child in common, Virginia law prohibits you from purchasing, transporting, or possessing a firearm for three years from the date of your conviction. Violation of this prohibition is a class one misdemeanor, carrying up to 12 months in jail and/or a \$2,500 fine.**  
Va. Code §18.2-308.1:8

## FEDERAL AND STATE FIREARMS LAW:

## DOMESTIC VIOLENCE OFFENDER GUN BAN

### An Important Notice to Persons Convicted of Misdemeanor Crimes of Domestic Violence

Commonwealth of Virginia  
Information Pamphlet  
Office of the Executive Secretary  
Supreme Court of Virginia  
100 N. 9th Street  
Richmond, VA 23219

## Have you been convicted of a misdemeanor crime?

### 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?

If your answers to these questions are “yes” then you may be subject to federal laws making it a crime for you to possess, ship, transport, or receive any firearm or ammunition.

If you are convicted of a “misdemeanor crime of domestic violence,” it is unlawful for you to possess, ship, transport or receive any firearm or ammunition. 18 U.S.C. § 922(g)(9). This prohibition also applies to federal, state, and local governmental employees in both their official and private capacities. Violation of this prohibition is a federal criminal offense punishable by up to ten years imprisonment.

### What qualifies as a “misdemeanor crime of domestic violence” conviction?

The term “misdemeanor crime of domestic violence” means a criminal offense that:

- 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, the convicted offender 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 cohabiting with or had cohabited with the victim as a spouse, parent, or guardian,
  - a person who was or had been similarly situated to a spouse, parent, or guardian of the victim, or
  - a person who has a current or recent former dating relationship with the victim.

- A “dating relationship” means a relationship between individuals who have or have recently had a continuous serious relationship of a romantic or intimate nature.

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 intentionally 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 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.

### What should I do if I have been convicted of a misdemeanor crime of domestic violence?

The Federal Bureau of Alcohol, Tobacco and Firearms advises that you immediately and lawfully dispose of your firearm and/or ammunition by transferring it to a third party, such as your attorney, local police agency, or a Federal firearms dealer.

## Other Domestic Violence Statutes & Offenses

### Domestic Violence Offenses

- Bans access to firearms by people convicted of crimes of domestic violence: 18 U.S.C. § 922(g)(9)
- 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

### Firearms Offenses

- Possession of a firearm while subject to a protective order: 18 U.S.C. § 922(g)(8)
- 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 to person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year: 18 U.S.C. § 922(g)(1)
- A person convicted of a misdemeanor crime of domestic violence may not transport, ship, or receive a firearm that has gone through interstate or foreign commerce: 18 U.S.C. § 922(g)(9)
- Purchase or transportation of firearm by persons subject to protective orders: Va. Code § 18.2-308.1:4
- Possession of a concealed handgun while subject to a protective order: Va. Code § 18.2-308.1:4
- Possession of a concealed handgun by person convicted of assault, battery, or stalking: Va. Code §§ 18.2-308.09 and 18.2-308.013(A)

\*If you were convicted of a misdemeanor crime of domestic violence and you were in a dating relationship with the victim, you may want to talk with an attorney to determine whether your right to possess a firearm may be restored in the future under certain limited circumstances.