

Appendix 7D

Firearms Prohibitions¹

State Law

Whenever a defendant is convicted of domestic assault or of assault in the fifth degree against a family or household member, the court shall inform the defendant that the defendant is prohibited from possessing a pistol for 3 years from the date of conviction and that it is a gross misdemeanor to violate this prohibition. Minn. Stat. § 609.2242, subd. 3(d). In addition, when a person is convicted of assault (any degree) and the court makes written findings on the record that: (1) the assault was committed against a family or household member, (2) the defendant owns or possesses a firearm and (3) the firearm was used in any way during the commission of the assault, the court shall order the firearm forfeited and may order that the defendant is prohibited from possessing any firearm for any period longer than 3 years or for life. Minn. Stat. § 609.2242, subd. 3(a), (b) and (c).

Federal Law

In addition, under federal law, it is a crime to possess a firearm after conviction of a qualifying state misdemeanor crime of domestic violence. A "qualifying misdemeanor" is one which has as an element the use or attempted use of physical force or threatened use of a deadly weapon committed against a spouse, former spouse or intimate partner. 18 U.S.C. § Sec. 2261(a)(1); 18 U.S.C. § 922(g)(9). It is also a crime to possess a firearm while subject to a qualifying protective order. A "qualifying protective order" is one issued after a hearing of which the defendant had actual notice and an opportunity to participate and which contains an explicit provision restraining the person from harassing, stalking or threatening the intimate partner or child of the intimate partner or placing the partner or child in fear of bodily injury and which also contains an explicit finding that the person represents a credible threat to the physical safety of the intimate partner or child or explicitly prohibits domestic abuse (as defined in Minnesota law) against the intimate partner or child. 18 U.S.C. § 922(g)(8). (*Second Judicial District Domestic Abuse Guidelines and Procedures Manual*)

¹ States other than Minnesota have statutes similar to those cited here.

Chart of State Firearm Prohibitions²

| Conviction Offense | Statute (Conviction) | Offense Level | Other Conditions | Firearm/ Pistol | Duration | Statute (Prohibition) |
|---------------------------|-----------------------------|-----------------------------------|--|------------------------|--|------------------------------|
| Domestic Assault | 609.2242 | Misdemeanor/ Gross Misdemeanor | Victim was a family or household member | Pistol | 3 years as long as no subsequent conviction of 609.2241 or 609.224 | 609.2242, Subd 3 |
| Domestic Assault | 609.2242 | Misdemeanor/ Gross Misdemeanor | Victim was a family or household member AND Firearm used in any way during the commission of assault | Firearm | 3 years to life, as determined by court | 609.2242, Subd.3 |
| Assault 5 | 609.224 | Misdemeanor | Victim was a family or household member | Pistol | 3 years as long as no subsequent conviction of 609.2241 or 609.224 | 609.2242, Subd 3 |
| Assault 5 | 609.2242 | Misdemeanor | Victim was a family or household member AND Firearm used in any way during the commission of assault | Firearm | 3 years to life, as determined by court | 609.2242, Subd.3 |

² Offenses listed are those which are likely to be seen in a domestic violence related offense. See Minn.Stat. §624.713, Subd. 1(11) for other gross misdemeanors to which the 3 year prohibition applies.

| Conviction Offense | Statute (Conviction) | Offense Level | Other Conditions | Firearm/ Pistol | Duration | Statute (Prohibition) |
|-----------------------------------|-----------------------------|-----------------------------------|---|------------------------|---|------------------------------|
| Assault 5 | 609.224 | Misdemeanor/ Gross Misdemeanor | Committed within 3 years of previous conviction for assault 1, 2, 3, 4 or 5 | Pistol | 3 years as long as no subsequent conviction or 609.224 | 609.224, Subd. 3 |
| False Imprisonment | 609.255 | Gross Misdemeanor | Only applies to Gross Misd. level offenses | Firearm | 3 years as long as no subsequent conviction for listed offenses | 624.713, Subd. (11) |
| Neglect/ Endangerment of Child | 609.378 | Gross Misdemeanor | Only applies to Gross Misd. level offenses | Firearm | 3 years as long as no subsequent conviction for listed offenses | 624.713, Subd. (11) |
| Burglary 4 | 609.582, Subd. 4 | Gross Misdemeanor | Only applies to Gross Misd. level offenses | Firearm | 3 years as long as no subsequent conviction for listed offenses | 624.713, Subd. (11) |
| Harassment/ Stalking | 609.749 | Gross Misdemeanor | Only applies to Gross Misd. level offenses | Firearm | 3 years as long as no subsequent conviction for listed offenses | 624.713, Subd. (11) |



| Conviction Offense | Statute (Conviction) | Offense Level | Other Conditions | Firearm/ Pistol | Duration | Statute (Prohibition) |
|-------------------------------------|--------------------------------|------------------------------------|---|------------------------|--|--|
| Harassment/ Stalking | 609.749 | Gross Misdemeanor | Firearm used in any way during the commission of assault | Firearm | 3 years to life, as determined by court | 609.2242, Subd.3 |
| Violation of Order for Protection | 518B.01 | Misdemeanor/ Gross Misdemeanor | Firearm used in any way during commission of violation | Firearm | 3 years to life, as determined by court Court shall order firearm to be summarily forfeited | 518B.01 Subd.14 (j) 518B.01 Subd.14(m) 609. 5316, Subd3. |
| Violation of Order for Presentation | 518B.01 | Misdemeanor / Gross Misdemeanor | Any Violation of Order of Protection conviction, misdemeanor or Gross Misdemeanor | Pistol | 3 years from date of conviction | 518B.01 Subd. 14 (k) |
| Any Felony | --- | Felony | | Firearm | Duration of sentence | 624.713, Subd. 1(10)(1) and 624.712, subd.10 |
| “Crime of Violence”* | Long list, see 624.712, Subd 5 | Felony* | | Firearm | Life | 624.713, Subd. 1(2) |

*By definition, only felonies can be crimes of violence.