

## Appendix 7D

### Firearms Prohibitions<sup>1</sup>

#### ***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*)

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<sup>1</sup> States other than Minnesota have statutes similar to those cited here.

**Chart of State Firearm Prohibitions<sup>2</sup>**

<b>Conviction Offense</b>	<b>Statute (Conviction)</b>	<b>Offense Level</b>	<b>Other Conditions</b>	<b>Firearm/Pistol</b>	<b>Duration</b>	<b>Statute (Prohibition)</b>
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	Pistol	3 years as long as no subsequent conviction of	609.2242, Subd 3

<sup>2</sup> 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.

<i>Conviction Offense</i>	<i>Statute (Conviction)</i>	<i>Offense Level</i>	<i>Other Conditions</i>	<i>Firearm/Pistol</i>	<i>Duration</i>	<i>Statute (Prohibition)</i>
			household member		609.2241 or 609.224	
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
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)

<b>Conviction Offense</b>	<b>Statute (Conviction)</b>	<b>Offense Level</b>	<b>Other Conditions</b>	<b>Firearm/Pistol</b>	<b>Duration</b>	<b>Statute (Prohibition)</b>
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)
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/	Firearm used in any way during	Firearm	3 years to life, as determined by court	518B.01 Subd.14 (j) 518B.01 Subd.14(m)

<b>Conviction Offense</b>	<b>Statute (Conviction)</b>	<b>Offense Level</b>	<b>Other Conditions</b>	<b>Firearm/Pistol</b>	<b>Duration</b>	<b>Statute (Prohibition)</b>
		Gross Misdemeanor	commission of violation		Court shall order firearm to be summarily forfeited	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

<b>Conviction Offense</b>	<b>Statute (Conviction)</b>	<b>Offense Level</b>	<b>Other Conditions</b>	<b>Firearm/Pistol</b>	<b>Duration</b>	<b>Statute (Prohibition)</b>
"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.