



LAW CENTER TO
PREVENT GUN VIOLENCE

BECAUSE SMART GUN LAWS SAVE LIVES

KEEPING ILLEGAL GUNS OUT OF DANGEROUS HANDS

AMERICA'S DEADLY
RELINQUISHMENT GAP

SEPTEMBER 2016

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A NATIONAL PROBLEM

**RELINQUISHMENT
AND THE
GUN VIOLENCE
CRISIS**

The numbers are staggering.

Every day, 314 Americans are killed or seriously injured by guns.¹ That's over 114,000 men, women, and children shot each year, nearly 1.1 million in the last decade.² Breaking it down by age is even more heartbreaking: in a single year, more than 8,800 children and minors are shot before their 18th birthday, more than 21,000 before they can buy their first beer.³ This is what an epidemic looks like.

These victims of gun violence were not nameless data points. They were, each of them, a singular, unique person brutalized by a bullet. The impact of this crisis is felt one devastating personal tragedy at a time, repeated hundreds of times, day after day, in our nation.

Fortunately, this is not a problem without solutions.

EVERY DAY, 314 AMERICANS
ARE KILLED OR SERIOUSLY
INJURED BY GUNS.

While a paralyzed Congress has failed to take more meaningful steps to address this national crisis, statehouses across the nation have seen a groundswell of activity and reform. Since the tragedy at Sandy Hook Elementary in December 2012, a remarkable 138 new gun violence prevention laws have been enacted in 42 states and the District of Columbia. And the momentum is only growing.

In some states, this momentum for reform is nothing new. Take California, the state with the nation's strongest gun violence prevention laws. The Golden State has led the way on this issue, building a successful model for smart, commonsense gun policy—and it's a model with results.

When the Law Center to Prevent Gun Violence was founded in 1993, roughly 5,500 Californians died from gun violence in a single year.⁴ At the time, California's gun laws were relatively weak and the state's gun death rate was significantly higher than the national average.⁵ But over the last 23 years, California has led the nation in strengthening its gun laws to keep deadly weapons out of dangerous hands. As a result, the state has cut its gun death rate by more than half in two decades,⁶ going from the state with the 16th highest rate of gun

deaths to the 9th lowest in that short period. Even as the state's population grew by over 7 million between 1993 and 2013, almost 2,500 fewer Californians were killed by guns in 2013 than 20 years before.⁷ Tens of thousands of Californians are healthy, able, productive—and alive—because grieving family members, advocates, law enforcement officials, and legislators came together to change the law and make their communities safer from violence.

ONE OF THE MOST GLARING GAPS IN THE NATION'S GUN LAWS—EVEN IN STATES WITH THE STRONGEST GUN LAWS IN THE COUNTRY, LIKE CALIFORNIA—IS THE LACK OF AN EFFECTIVE FIREARMS RELINQUISHMENT POLICY.

Gun laws matter because they work. That's what the remarkable successes in California show, and the state has served as a model for other states looking to adopt smart gun laws.

But the California model is hardly complete, and the work to save lives from gun violence is far from over. For all the state's

progress, nearly 28,000 Californians were killed by guns from 2006–14,⁸ with roughly 69,000 more hospitalized or treated in emergency rooms for gunshot wounds.⁹ Lingering gaps and loopholes in California's policies and weak laws in neighboring states have prevented California from saving even more lives, preventing more shootings, and stopping more crimes before they occur.

One of the most glaring gaps in the nation's gun laws—even in states with the strongest gun laws in the country, like California—is the lack of an effective firearms relinquishment policy. Few state legislatures have taken any meaningful steps to actually enforce their criminal gun restrictions by ensuring that armed offenders give up their firearms after they are convicted of serious crimes. This national problem is a collective failure, in spite of the fact that there is broad consensus across the ideological spectrum that such individuals must not have access to deadly weapons. Meaningfully and responsibly enforcing that principle means closing this reckless gap in our gun laws.

To encourage an informed policy discussion, this report will provide an overview and analysis of the firearm relinquishment laws in all 50 states, beginning with a case study examining the costs and consequences of this deadly problem in California. It will help illustrate how the relinquishment gap allows dangerous people, including newly convicted felons and domestic abusers, to keep and use illegal weapons—even in the state with the strongest gun laws in the nation. By assessing what policymakers throughout the country are doing—or more commonly not doing—to address this challenge and keep illegal guns out of dangerous hands, we hope to shed light on this egregious gap in American gun laws and provide a framework for adopting an effective firearms relinquishment policy that ensures fewer people fall victim to these heartbreaking, preventable tragedies.

A CASE STUDY

THE COSTS AND CONSEQUENCES OF THE RELINQUISHMENT GAP IN CALIFORNIA

Even in the state with the strongest gun laws in the nation, a glaring firearm relinquishment gap endangers public safety.

More than any other state, California has acted on gun safety. The state has implemented innovative, meaningful legislation to protect the public and prevent gun violence before it occurs.

The foundation of these reforms are smart, targeted laws that prohibit especially dangerous or irresponsible people from possessing firearms. California law prohibits firearm possession by people convicted of felonies, violent crimes, and other domestic abuse crimes, certain individuals with a history of grave mental illness or substance abuse, and those subject to court-issued “protective orders” (e.g., restraining orders against domestic abuse, stalking, or witness intimidation). California has also enacted smart gun laws like universal background checks to block these prohibited individuals from gaining new access to firearms. These policies have proven effective, stopping thousands of illegal gun purchases each year in California.¹⁰

THE LAW FAILS TO PREVENT CONTINUED FIREARM ACCESS BY PEOPLE WHO WERE ALREADY ARMED WHEN THEY FELL INTO A PROHIBITED CATEGORY—LIKE WHEN A GUN OWNER IS CONVICTED OF A VIOLENT CRIME.

But a startling gap in state law continues to undermine California’s work to keep deadly weapons out of the hands of those most likely to perpetrate violence. The law fails to prevent continued firearm access by people who were already armed when they fell into a prohibited category—the most glaring example is when a gun owner is convicted of a violent crime.

When such individuals become newly prohibited, California law requires them to relinquish possession of any firearms they previously owned or controlled, but the law includes few mechanisms to ensure that such dangerous individuals actually give up their guns. Essentially, the law relies only on an honor system to enforce its criminal firearm restrictions.

California does not have to look far for best-practice policy solutions. The state has already acted to close this deadly gap in one discrete area: California law establishes clear and mandatory procedures for relinquishment of firearms by individuals subject to domestic violence restraining orders and similar court orders.

Importantly, this law is enforceable. It has teeth. When a court issues a restraining order against a domestic abuser, state law requires the abuser to provide written receipts to the court verifying that he or she actually sold or transferred all firearms within specified time frames. The law also authorizes courts to issue search warrants to recover illegally owned firearms from abusers who fail to comply. (See pages 20–23 for more comprehensive information about this relinquishment process and California’s firearm laws).

Studies have shown that California’s relinquishment process has been effective at removing illegal firearms from domestic abusers.¹¹ Since 2000, when California law first mandated that all domestic violence protective order respondents relinquish their firearms to law enforcement or a licensed dealer and verify compliance with the courts,¹² the number of domestic violence calls to law enforcement involving the use or threatened use of a firearm has fallen by 44%. This drop happened even as the number of calls regarding domestic violence incidents without a weapon increased by nearly half.¹³ California’s domestic violence relinquishment law has saved lives, prevented shootings, and reduced the number of threats made with guns.

California has thus far failed to extend this effective best practice for firearm relinquishment to other contexts. A major gap in California law is that the state provides essentially no mechanism to ensure that individuals who have been convicted of a firearm-prohibiting criminal offense—including domestic violence crimes, as opposed to restraining orders—actually sell or transfer their firearms after conviction. The state’s approach has, in effect, been to rely on prohibited people to volunteer their illegal guns. Unsurprisingly, the evidence indicates that this honor system does not work.

Thousands of dangerous, prohibited individuals remain illegally armed every year in California.¹⁴ By cross-referencing gun dealer sale records against criminal history, mental health, and court records, the California Department of Justice maintains a database of these “armed prohibited persons” (APPS) in the state who have illegally retained firearms after becoming prohibited from possessing them. More than 7,700 new armed prohibited persons were added to this database in 2014, of which at least 42%—more than 3,200 people—illegally kept their guns following a new criminal conviction.¹⁵

The consequences of this non-compliance are dangerous and costly.

Researchers have shown that after prohibited misdemeanants in California were denied access to a new firearm, they were substantially less likely to commit future firearm-related offenses or violent crimes.¹⁶ Though some obtained firearms through alternate, illegal means, policies that prevented these offenders from legally arming themselves made an important, lifesaving difference in many cases. But the relinquishment gap allows previously owned firearms to remain in the hands of these same, demonstrably at-risk offenders.

When they remain illegally armed, such individuals too often use firearms to perpetrate armed crimes and violence. Multi-state surveys of prison inmates indicate that between 40% and 69% of those incarcerated for firearm-related crimes were already legally prohibited from owning firearms when they committed their offense.¹⁷

To combat this behavior and correct for the failures of the current honor system, California law enforcement has worked, at great risk and expense, to arrest and incarcerate large numbers of illegally armed offenders. The state's Department of Justice reported that over a three-year period nearly 6,000 Californians were arrested solely because they illegally possessed firearms after a felony or violent crime conviction.¹⁸ Nearly 7,000 more were arrested over this period for offenses that included illegal weapon possession charges and other, often more violent conduct.¹⁹

SURVEYS OF STATE PRISON INMATES INDICATE THAT BETWEEN 40% AND 69% OF THOSE INCARCERATED FOR FIREARM-RELATED CRIMES WERE ALREADY LEGALLY PROHIBITED FROM OWNING FIREARMS WHEN THEY COMMITTED THEIR OFFENSE.

The California Department of Corrections and Rehabilitation also reported that, in 2013, 8% of the state's newly admitted felon inmates and nearly 10% of parole violators sentenced to a new prison term were incarcerated for illegal weapon possession offenses.²⁰ As of December 2013, California taxpayers were paying to incarcerate 4,742 people whose "controlling" (most serious) offense was illegal weapon possession,²¹ at a cost of about \$285 million per year, according to California Department of Finance

estimates.²² This population was actually 38% larger just five years earlier, before the state acted under court order to reduce its prison population.²³ These numbers do not encompass the thousands more arrested and incarcerated for crimes related to the use of illegally owned firearms.²⁴

This costly punitive approach has not done enough to actually remove illegal guns from these offenders, despite the fact that they pose a very substantial risk of committing subsequent

illegal conduct. In recent years, between 49% and 60% of inmates who completed a sentence for illegal weapon possession subsequently recidivated and returned to prison within just three years of release, too often because of repeated weapon offenses.²⁵

By replacing a passive honor system with an proactive firearm relinquishment law—one that requires prohibited offenders to verify compliance—California would help prevent these individuals from illegally retaining and using firearms and from returning to the criminal justice system. Even incremental reductions in the number of offenders arrested and incarcerated for illegal gun possession and other crimes could result in tens of millions of dollars in savings for state taxpayers every year.

Instead, California currently requires teams of law enforcement officers to go door-to-door to recover illegal guns from prohibited persons. While these enforcement efforts have been critical to public safety—APPS enforcement teams recovered over 11,500 illegally owned firearms, 456 combat-style assault weapons, and well over 1,000,000 rounds of illegally owned ammunition in just two years²⁶—this process imposes significant manpower burdens and financial expenses on law enforcement, and, in many cases, proves too little too late.

This problem is hardly unique to California. There is a clear need in all 50 states for smart, comprehensive relinquishment policy to close this gap and better protect the public from illegal guns.

THE POLICY LANDSCAPE

**50-STATE
ANALYSIS
OF
RELINQUISHMENT
LAWS**

The firearm relinquishment gap puts Americans in all 50 states at risk.

Though a number of states have enacted clear, mandatory, and enforceable relinquishment laws to disarm domestic abusers, few have enacted any legislation to meaningfully ensure that other offenders relinquish their guns after they are convicted of firearm-prohibiting crimes.

Only five states—Connecticut, Hawaii, Massachusetts, New York, and Pennsylvania—provide any statutory process for the relinquishment of firearms by criminal defendants who become prohibited from possessing them.²⁷ However, outside the domestic violence context, no state expressly requires all prohibited criminal offenders to provide proof of compliance verifying that they relinquished their firearms after conviction. Connecticut comes closest: the state requires all individuals who become prohibited to submit firearm sale records to a state agency showing that they sold or transferred their guns within specified time frames unless they transferred their firearms to law enforcement.

In addition to the five states named above, five more states—Colorado, Iowa, Minnesota, Rhode Island,²⁸ and Tennessee—expressly require individuals convicted of domestic violence crimes to relinquish their firearms after conviction. Of these, only Colorado, Minnesota, and Rhode Island expressly require the convicted abuser to provide proof of compliance. (Tennessee also requires people to attest under oath that they complied).²⁹

ONLY FIVE STATES—
CONNECTICUT, HAWAII,
MASSACHUSETTS, NEW YORK, AND
PENNSYLVANIA—PROVIDE ANY
STATUTORY PROCESS FOR THE
RELINQUISHMENT OF FIREARMS
BY CRIMINAL DEFENDANTS WHO
BECOME PROHIBITED FROM
POSSESSING THEM.

As discussed in the preceding case study, firearm relinquishment is an area in which California's domestic violence gun laws are notably and dangerously weaker than some other states'. Though California has implemented an effective relinquishment law to disarm abusers subject to domestic violence restraining orders, California law does not require abusers convicted of domestic violence crimes to provide proof that they relinquished their firearms after conviction.

Finally, 12 states explicitly require all individuals subject to a domestic violence protective order to relinquish their firearms for the duration of the court order. These states are: California, Colorado, Connecticut, Hawaii, Iowa, Maryland, Massachusetts, Minnesota, New Hampshire, Tennessee, Washington, and Wisconsin. Of these, five states—California, Colorado, Minnesota, Washington, and Wisconsin—require the abuser to provide proof of compliance.³⁰

The strongest of these laws are mandatory for all prohibited individuals, provide clear guidance to such persons, expressly require proof of compliance, and require further enforcement action if the prohibited person fails to relinquish his or her firearms as required. Prosecutors Against Gun Violence and the Consortium for Risk-Based Firearm Policy issued [a comprehensive report](#) in February 2016 identifying these best practices in the domestic violence context.³¹

In sum, certain states have led the nation by crafting and implementing effective firearm relinquishment models to disarm domestic abusers. These best practices offer a promising policy roadmap to close the relinquishment gap in other contexts, especially for removing illegal arms from dangerous convicted offenders. This is an unacceptable loophole in the laws of every state, and smart, concerted reform efforts are needed nationwide.

To learn more about the relinquishment laws in each state, [explore the 50-state analysis below](#).

RELINQUISHMENT LAWS AT A GLANCE

OFFENDER	CONVICTED FELONS	VIOLENT/ GUN RELATED MISDEMEANANTS	DOMESTIC VIOLENCE MISDEMEANANTS	DOMESTIC VIOLENCE RESTRAINING ORDER RESPONDENTS	DANGEROUSLY MENTALLY ILL
STATE	PROHIBITS GUN POSSESSION? RELINQUISHMENT LAW? REQUIRES PROOF?	PROHIBITS GUN POSSESSION? RELINQUISHMENT LAW? REQUIRES PROOF?	PROHIBITS GUN POSSESSION? RELINQUISHMENT LAW? REQUIRES PROOF?	PROHIBITS GUN POSSESSION? RELINQUISHMENT LAW? REQUIRES PROOF?	PROHIBITS GUN POSSESSION? RELINQUISHMENT LAW? REQUIRES PROOF?
AL	SOME CASES	✓	✓	✓	✓
AK	✓				
AZ	✓			COURT MAY COURT MAY	✓
AR	✓				✓
CA	✓	✓	✓	✓ ✓ ✓	✓ SOME CASES SOME CASES
CO	✓		✓ ✓ ✓	✓ ✓ ✓	
CT	✓ ✓ SOME CASES	✓ ✓ SOME CASES		✓ ✓ SOME CASES	✓ ✓ SOME CASES
DE	✓	✓	✓	COURT MAY COURT MAY COURT MAY	✓
FL	✓	✓		✓ COURT MAY	
GA	✓				
HI	✓ ✓	✓ ✓	✓ ✓	✓ ✓	✓ ✓
ID	✓				
IL	✓ SOME CASES	✓ SOME CASES	✓ SOME CASES	✓ SOME CASES	✓ SOME CASES
IN	SOME CASES		✓	COURT MAY COURT MAY	
IA	✓		✓ ✓	✓ ✓	
KS	✓				✓
KY	✓				
LA	SOME CASES	✓	✓	✓	
ME	✓	✓	✓	✓	✓
MD	SOME CASES	✓	✓	✓ ✓	✓
MA	✓ ✓	✓ ✓	✓ ✓	✓ ✓	✓ ✓
MI	✓			COURT MAY	
MN	✓	✓	✓ ✓ ✓	✓ ✓ ✓	✓

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OFFENDER	CONVICTED FELONS	VIOLENT/ GUN RELATED MISDEMEANANTS	DOMESTIC VIOLENCE MISDEMEANANTS	DOMESTIC VIOLENCE RESTRAINING ORDER RESPONDENTS	DANGEROUSLY MENTALLY ILL
STATE	PROHIBITS GUN POSSESSION? RELINQUISHMENT LAW? REQUIRES PROOF?	PROHIBITS GUN POSSESSION? RELINQUISHMENT LAW? REQUIRES PROOF?	PROHIBITS GUN POSSESSION? RELINQUISHMENT LAW? REQUIRES PROOF?	PROHIBITS GUN POSSESSION? RELINQUISHMENT LAW? REQUIRES PROOF?	PROHIBITS GUN POSSESSION? RELINQUISHMENT LAW? REQUIRES PROOF?
MS	✓				
MO	✓				✓
MT			COURT MAY	COURT MAY	
NE	✓		✓	COURT MAY	
NV	✓		✓	✓ COURT MAY COURT MAY	✓
NH	SOME CASES			✓ ✓	
NJ	SOME CASES	✓	✓	✓ COURT MAY	✓
NM	✓				
NY	✓ ✓	✓ ✓	✓ ✓	SOME CASES COURT MAY COURT MAY	✓
NC	✓	✓		✓ COURT MAY	
ND	✓	✓		COURT MAY COURT MAY	✓
OH	SOME CASES				✓
OK	✓				✓
OR	✓		✓	✓	✓
PA	SOME CASES ✓	✓ ✓	✓ ✓	COURT MAY COURT MAY COURT MAY	✓ ✓
RI	SOME CASES	✓	✓ ✓ ✓	COURT MAY COURT MAY COURT MAY	✓
SC	SOME CASES		✓	COURT MAY	✓
SD	SOME CASES	✓	✓		
TN	✓	✓	✓ ✓	✓ ✓	✓
TX	SOME CASES		✓		
UT	✓	SOME CASES		COURT MAY	✓
VT	SOME CASES	✓	✓	COURT MAY COURT MAY	
VA	✓			✓	✓
WA	SOME CASES	✓	✓	✓ ✓ ✓	✓
WV	✓		✓	✓	✓ ✓
WI	✓			✓ ✓ ✓	✓ ✓
WY	SOME CASES				✓

ALABAMA

PROHIBITED PERSON CATEGORIES

Alabama law generally prohibits firearm possession by individuals who have been convicted of crimes of violence³² and domestic abuse,³³ in addition to domestic violence protective order respondents,³⁴ substance abusers,³⁵ and certain people with a history of mental illness.³⁶

RELINQUISHMENT

Alabama has no law requiring the relinquishment of firearms by persons who have become prohibited from possessing them.

Alabama law requires any law enforcement officer arresting a person for illegal firearm possession to remove any handguns from the arrestee's possession or control.³⁷ The arresting officer is required to deliver those seized handguns to the local county sheriff, city clerk, or other specified custodians for retention pending disposition of the arrestee's case. If the arrestee is convicted of the illegal weapons charge, Alabama law requires the local district attorney to promptly petition the local circuit court to declare the seized handgun as contraband and order it destroyed. The court must generally issue such an order, unless the judge finds that non-destruction is necessary or proper, in which case the judge may award the handguns to the county sheriff or municipal police chief to be used exclusively for law enforcement purposes.

ALASKA

PROHIBITED PERSON CATEGORIES

Alaska law generally prohibits possession of a handgun by individuals who have been convicted of a felony.³⁸

RELINQUISHMENT

Alaska has no law requiring the relinquishment of firearms by persons who have become prohibited from possessing them.

ARIZONA

PROHIBITED PERSON CATEGORIES

Arizona law generally prohibits firearm possession by individuals who have been convicted of a felony or who are currently serving a term of probation pursuant to a domestic violence or felony conviction, in addition to certain people with a history of mental illness or who have been found to constitute a danger to self or others.³⁹ Arizona law also authorizes, but does not require, courts to prohibit domestic violence protective order respondents from possessing firearms for the duration of the protective order if the court finds that the respondent poses a credible threat to the physical safety of the petitioner or other specified persons.⁴⁰

RELINQUISHMENT

Arizona authorizes courts to prohibit domestic violence protective order respondents from possessing firearms and, in such cases, requires the respondent to relinquish his or her firearms to law enforcement. Arizona has no law requiring relinquishment by other persons who have become prohibited from possessing them.

When issuing a final domestic violence protective order, Arizona courts may also issue an order prohibiting the respondent from possessing firearms. In such cases, the respondent must transfer his or her firearms to local law enforcement immediately after being served with the court order and in any event within 24 hours after being served with the order.

ARKANSAS

PROHIBITED PERSON CATEGORIES

Arkansas law generally prohibits firearm possession by individuals who have been convicted of a felony or found to be dangerously mentally ill.⁴¹

RELINQUISHMENT

Arkansas has no law requiring the relinquishment of firearms by persons who have become prohibited from possessing them.

CALIFORNIA

PROHIBITED PERSON CATEGORIES

California law generally prohibits firearm possession by individuals who have been convicted of a felony⁴² or specified misdemeanors such as those relating to violence, domestic abuse, or the unlawful use of firearms,⁴³ in addition to domestic violence and civil protective order respondents,⁴⁴ gun violence protective order respondents,⁴⁵ certain substance abusers,⁴⁶ and certain persons with a history of mental illness.⁴⁷

RELINQUISHMENT

California has adopted clear, mandatory, and enforceable relinquishment requirements for individuals subject to domestic violence protective orders, civil protective orders, and gun violence protective orders. However, the state has not enacted an enforceable mechanism for relinquishment of firearms by other persons who have become prohibited from possessing them.

Relinquishment in the Criminal Context

Under California law, when a criminal defendant is convicted of a felony or specified misdemeanors, including domestic violence offenses, the court must provide the defendant with a form supplied by the state Department of Justice, notifying the defendant that he or she is prohibited from possessing firearms.⁴⁸ This law requires that the defendant also receive a form to “facilitate the transfer of [his or her] firearms,” but does not otherwise provide any clear or enforceable procedures, time limits, or proof of compliance requirements to ensure that the defendant actually relinquishes his or her firearms after conviction.

The California Department of Justice has attempted to fill this gap by developing a standard notification form called the “Bureau of Firearms Form 110: General Notice of Firearm Prohibition and Power of Attorney for Firearms Relinquishment, Sale, or Transfer for Storage.”⁴⁹ This form does provide standard procedures and time limits for relinquishment of firearms by prohibited persons, but does not require proof of compliance.

The fact that thousands of new prohibited persons are added to California’s database of “Armed Prohibited Persons” (AAPS) each year indicates that the procedures outlined in this form have not been adequate to enforce existing relinquishment requirements.

Though California law only expressly requires that a notification form be provided to convicted felons and specified misdemeanants, Form 110 states:

[T]his form is provided to individuals who are prohibited under the law from owning or possessing firearms: (1) any person who has been convicted of a felony, a specified misdemeanor, or a specified firearms offense; (2) any person who is addicted to narcotics; (3) any person who is the subject of a protective order; or (4) any person who has been found by a court or mental health facility to have certain mental disabilities.

Form 110 states that the firearm prohibition becomes effective “immediately upon occurrence of the prohibiting event.” The form requires a person who has become prohibited from possessing firearms to immediately designate a third party who will have power of attorney to relinquish the prohibited person’s firearms on his or her behalf. The person and his or her designee must both complete a power of attorney declaration and the designee must declare under penalty of perjury that he or she is not prohibited from possessing firearms. The form must also be notarized. According to Form 110, the power of attorney designee will have 30 days to relinquish the prohibited person’s firearms by (1) selling or transferring the firearms to a licensed firearms dealer or (2) transferring the firearms to a law enforcement agency either for storage or destruction. Completion of this form does not allow the designee to possess the prohibited person’s firearms beyond the 30-day period.⁵⁰

California law (and Bureau of Firearms Form 110) provide much more enforceable relinquishment procedures for persons who have become prohibited from possessing firearms as a result of domestic violence protective orders, civil protective orders, and gun violence protective orders.

Relinquishment by Persons Subject to Domestic Violence and Gun Violence Protective Orders

California law requires a court issuing a domestic violence protective order⁵¹ or gun violence protective order⁵² to order the respondent to relinquish all firearms within 24 hours of being served with notice of the protective order. The respondent must immediately transfer his or her firearms to a law enforcement officer upon any officer’s request, but if no request is made, the respondent may either sell or transfer his or her firearms to a federally licensed dealer or transfer his or her firearms to local law enforcement officials within 24 hours. Bureau of Firearms Form 110 requires that the prohibited respondent designate a third party with power of attorney to relinquish the respondent’s firearms on his or her behalf. However, California law does not expressly include this requirement.

The law enforcement officer or licensed firearms dealer who receives the respondent’s firearm must issue a receipt to the person relinquishing the firearm at the time of relinquishment.

The respondent must then file the receipt with the court that issued the protective order within 48 hours of receiving the order showing that his firearm was either transferred to law enforcement or sold or transferred to a licensed firearms dealer. The respondent must also file a copy of this receipt with the law enforcement agency that served the protective order. A failure to timely file either of these receipts will constitute a violation of the protective order.

California law also expressly authorizes courts to issue a warrant to search for and seize firearms in the possession or custody of a domestic violence or gun violence protective order respondent if he or she fails to comply with these requirements.⁵³

Relinquishment by Persons Subject to Other Civil Protective Orders

California law generally prohibits firearm possession by persons subject to specified temporary restraining orders or injunctions—specifically, those enjoining harassment, workplace violence and threats, threats against students at a college or university, intimidation of victims or witnesses in a criminal case, and elder or dependent adult abuse—for the duration of the order or injunction.⁵⁴ California law requires respondents subject to such orders to comply with relinquishment procedures that are generally similar to those outlined in the domestic violence and gun violence protective order context.

Relinquishment by Persons Subject to Criminal Protective Orders

California also requires courts issuing a criminal protective order either for the protection of a victim or witness during a criminal case or as a condition of probation against a defendant charged with a domestic violence offense, to require the respondent to relinquish his or her firearms within 24 hours.⁵⁵ At any hearing where the court has issued such a criminal protective order, the court must also consider all credible information to determine whether there is good cause to believe that the defendant has a firearm within his or her “immediate possession or control.” If the court finds good cause to believe that the defendant does possess a firearm, the court must set a subsequent review hearing to ascertain whether he or she has complied with the relinquishment requirement and provided receipts to the court verifying compliance.

If the defendant is not in custody at the time the order is issued, the compliance review hearing must occur within two court days after issuance of the order, though courts have discretion to extend the hearing to occur within five court days. If the defendant is in custody at the time the criminal protective order is issued, the court is encouraged to order the defendant to appear for a review hearing within two court days after the defendant’s release from custody.

COLORADO

PROHIBITED PERSON CATEGORIES

Colorado law generally prohibits firearm possession by individuals who have been convicted of a felony⁵⁶ or domestic violence offense or who are subject to a domestic violence protective order.⁵⁷ The state also requires the Colorado Bureau of Investigation to deny the transfer of a firearm to individuals who are prohibited under state or federal law, or to individuals who have been arrested, charged, or indicted for various firearm-prohibiting offenses pending final disposition of their case.⁵⁸

RELINQUISHMENT

Colorado has adopted clear, mandatory, and enforceable relinquishment requirements for individuals subject to domestic violence protective orders and individuals who have been convicted of domestic violence crimes. However, Colorado has no law requiring relinquishment by other persons who have become prohibited from possessing firearms.

Under a law enacted in 2013, Colorado requires courts issuing a domestic violence protective order to also order the respondent to relinquish his or her firearms for the duration of the protective order.⁵⁹ The 2013 law also requires courts to order defendants convicted of domestic violence offenses to relinquish their firearms upon release from custody, unless the court chooses to require relinquishment while the defendant remains in custody.⁶⁰ Colorado also authorizes the court to condition the prohibited abuser's release from custody on bond on his or her relinquishment of any firearms.⁶¹ Colorado's law generally requires the prohibited abuser to relinquish his or her firearms within 24 hours of being served with a relinquishment order in open court, or within 48 hours if the order was served outside of court.⁶²

To satisfy the relinquishment requirement, the prohibited abuser must sell or transfer his or her firearms to a federally licensed firearms dealer or to any person who has passed a background check, or else arrange for the firearm to be stored for the duration of the relinquishment order by a consenting law enforcement agency. In any of these events, the abuser must acquire a receipt from the recipient of his or her firearms demonstrating that the firearms were lawfully relinquished; the abuser must then file that receipt with the court that issued the relinquishment order within three business days of relinquishing the firearm. If the abuser sold or transferred his or her firearms to a private party, the receipt provided to the court must also include written verification that the transferee passed a background check to acquire the firearm.⁶³ An abuser's failure to timely file this receipt or written statement with the court constitutes a violation of the protective order and in such cases, the court is instructed to issue a warrant for the abuser's arrest.⁶⁴

If the person is held in the custody of a law enforcement agency, the surrender must occur within 24 hours of release. The person must file a receipt demonstrating that firearms and ammunition have been surrendered with the court within three business days of the surrender. The law includes extensive provisions to protect law enforcement's decision to store, or not store, firearms or ammunition on behalf of a protective order defendant.

Outside the domestic violence context, Colorado law also requires the Department of Corrections to provide written notification to prison inmates upon their release from custody that convicted felons are prohibited from possessing firearms.⁶⁵ However, the state does not provide any clear process for such individuals to relinquish their firearms and has no law requiring proof of relinquishment upon conviction of a criminal offense.

CONNECTICUT

PROHIBITED PERSON CATEGORIES

Connecticut law generally prohibits firearm possession by individuals who have been convicted of a felony or, beginning October 1, 2013, certain other offenses involving violence, reckless endangerment, and illegal drug possession, as well as certain restraining order and protective order respondents, individuals subject to a “firearms seizure order,”⁶⁶ and certain people with a history of mental illness.⁶⁷

RELINQUISHMENT

Connecticut law establishes a clear, mandatory, and somewhat enforceable process for relinquishment of firearms by all prohibited persons, requiring them to submit records to law enforcement verifying that their firearms were relinquished in certain circumstances.

Connecticut law generally requires individuals to relinquish their firearms within two business days of any event that renders them prohibited from possessing firearms.⁶⁸ A newly prohibited person must either transfer his or her firearms to any other person eligible to possess firearms under state and federal law, or transfer such firearms to the Connecticut Department of Emergency Services and Public Protection (DESPP) or local law enforcement.⁶⁹ However, individuals who become ineligible as a result of an active restraining order or protective order must sell their firearms to a federally licensed firearms dealer or temporarily relinquish them to DESPP or law enforcement within 24 hours of receiving notice of the order.⁷⁰

Prohibited individuals who relinquish their firearms to a private party or to a licensed dealer, as opposed to law enforcement, must obtain background check authorization numbers for the sale or transfer from DESPP and must also submit a form recording the sale or transfer to DESPP.⁷¹ This requirement ensures that this state agency will receive records verifying that firearms were relinquished from these individuals. Connecticut law requires the DESPP Commissioner, in conjunction with the Chief State’s Attorney and the Connecticut Police Chiefs Association, to develop a protocol to ensure that people who become ineligible to possess firearms relinquish them, as required.⁷² However, the prohibited person is not expressly required to provide proof of compliance if they relinquished their firearms to law enforcement, meaning that DESPP will only be able to ensure compliance by ensuring effective communication and coordination with local law enforcement. Connecticut law also does not specify further enforcement action to recover weapons from prohibited persons who fail to relinquish their firearms.

If a prohibited person relinquished his or her firearms to DESPP, Connecticut law provides the person (or his or her legal representative) one year to arrange to lawfully transfer his or her firearms to an eligible third party before the firearms will be destroyed.⁷³ Upon receiving written notification of the firearm transfer from the transferee and the prohibited person (or his or her legal designee), the commissioner must deliver the firearms to the transferee within ten days.⁷⁴ This option is not available to restraining and protective order respondents.

DELAWARE

PROHIBITED PERSON CATEGORIES

Delaware law generally prohibits firearm possession by individuals who have been convicted of a felony, or certain drug offenses, domestic violence offenses, and crimes of violence involving physical injury to another person within the past five years, as well as domestic violence protective order respondents, and certain people with a history of mental illness.⁷⁵

RELINQUISHMENT

Delaware authorizes courts to require certain domestic violence protective order respondents to relinquish their firearms, but has no law requiring relinquishment by other persons who have become prohibited from possessing them.

Delaware authorizes, but does not require, a court issuing a domestic violence protective order to direct the abuser to surrender all firearms in his or her possession to law enforcement or a federally licensed firearms dealer.⁷⁶ In 2015, Delaware enacted a law to require such protective respondents to provide proof of relinquishment.⁷⁷ In accordance with this law, such protective order respondents must immediately relinquish their firearms to law enforcement if requested by a police officer serving the protective order. If no request is made by a police officer, the respondent must transfer his or her firearms to any staffed police station or to a federally licensed firearms dealer within 24 hours of being served with the protective order. Within 48 hours of being served, the respondent must also file either (1) A certification signed under oath that the respondent did not own, possess, or control any firearms at the time of the order and currently does not own, possess, or control any firearms, (2) A copy of a proof of transfer showing that each firearm owned, possessed, or controlled by the respondent at the time of the order was relinquished to a police officer or a federally licensed firearms dealer located in Delaware. (3) A certification, signed under oath, for each firearm owned, possessed, or controlled by the respondent at the time of the order, that the respondent is unable to obtain access to the firearm, specifying the location of the firearm and the reason why the respondent is unable to obtain access.

Delaware courts issuing protective orders may also direct law enforcement to search for and seize a respondent's firearms upon a showing that the respondent possesses firearms if the petitioner can describe, with sufficient particularity, the type and location of the firearm and the respondent has used or threatened to use a firearm against the petitioner or the petitioner expresses a fear that the respondent may use a firearm against him or her.⁷⁸

FLORIDA

PROHIBITED PERSON CATEGORIES

Florida law generally prohibits firearm possession by individuals who have been convicted of a felony,⁷⁹ who have been convicted three or more times of specified violent offenses,⁸⁰ or who are subject to a domestic violence protective order.⁸¹ Florida law also prevents other categories of individuals, including those convicted of domestic violence offenses and certain persons with a history of mental illness from purchasing firearms at licensed firearms dealers, but the state generally does not prohibit them from obtaining firearms by other means or possessing firearms.⁸²

RELINQUISHMENT

Florida law authorizes courts to direct domestic violence protective order respondents to relinquish their firearms, but has no other law requiring the relinquishment of firearms by persons who have become prohibited from possessing them.

Florida does require a final domestic violence protective order to notify the respondent that it is a violation of Florida law for the respondent to possess firearms for the duration of the order.⁸³ Florida law also authorizes courts to direct domestic violence protective order respondents to relinquish their firearms.⁸⁴ However, Florida law provides no clear process for implementing or enforcing this provision, and has no law requiring relinquishment by other persons who have become prohibited from possessing them.

GEORGIA

PROHIBITED PERSON CATEGORIES

Georgia law generally prohibits firearm possession by individuals who have been convicted of a felony or who are on probation as a “felony first offender.”⁸⁵ Georgia has no other laws to prevent dangerous individuals from possessing firearms.

RELINQUISHMENT

Georgia has no law requiring the relinquishment of firearms by persons who have become prohibited from possessing them.

Georgia law declares illegally owned firearms and firearms used in the commission of crimes to be contraband, subject to civil forfeiture.⁸⁶ Georgia also requires that, upon being convicted of a crime involving the use or illegal possession of a firearm, a criminal defendant must transfer ownership of any firearm used in the commission of the crime to the law enforcement agency that originally recovered the weapon.⁸⁷ However, Georgia has no law requiring the removal of firearms when a person initially becomes prohibited from possessing them.

HAWAII

PROHIBITED PERSON CATEGORIES

Hawaii law generally prohibits firearm possession by any person who is prohibited under federal law, as well as individuals who have been convicted of, or who are under indictment for, a felony, crime of violence, or illegal drug offense. Hawaii law also generally prohibits firearm possession by certain substance abusers, restraining order and protective order respondents, and certain persons with a history of mental illness.⁸⁸

RELINQUISHMENT

Hawaii provides a clear and mandatory process for relinquishment of firearms by persons who have become prohibited from possessing them, and provides somewhat clearer enforcement mechanisms in the protective order context. Generally, however, Hawaii does not require proof of compliance to ensure that prohibited persons actually relinquish their firearms.

Hawaii law states that any person who becomes prohibited from possessing firearms must transfer his or her firearms within 30 days to the chief of police in the county where he or she resides or to any other person who is legally eligible to receive them.⁸⁹ If the prohibited person fails to relinquish his or her firearms within 30 days, the chief of police may seize those firearms.⁹⁰ State law has no other enforcement mechanism to verify that the prohibited person actually relinquished his or her firearms, but it does require local law enforcement to adopt standard procedures “to implement and administer” this requirement.⁹¹ Hawaii enacted a law in 2016 requiring the chief of police to provide written notice to individuals who become prohibited from possessing firearms due to substance abuse or severe mental illness that they are required to immediately relinquish all firearms and ammunition to the police.⁹² If the person fails to relinquish all firearms and ammunition upon receiving the written notice, the chief of police may seize those weapons.⁹³

Hawaii law provides clearer penalties for non-compliance by protective order respondents. Under state law, such respondents must relinquish their firearms to their county police department for the duration of the order.⁹⁴ Hawaii law specifies that respondents who refuse to relinquish, or disclose the location of, any firearm registered to them are subject to criminal penalties, unless they do not know the location of their firearm.⁹⁵ If a police officer is unable to locate firearms either registered to the respondent or known to be in the respondent’s possession, the officer must petition the court that issued the order for a limited scope search warrant to seize the firearm.⁹⁶

IDAHO

PROHIBITED PERSON CATEGORIES

Idaho law generally prohibits firearm possession by any person who has been convicted of a felony.⁹⁷

RELINQUISHMENT

Idaho has no law requiring the relinquishment of firearms by persons who have become prohibited from possessing them.

Furthermore, the Idaho Constitution generally prohibits any law “permit[ting] the confiscation of firearms, except those actually used in the commission of a felony.”⁹⁸

ILLINOIS

PROHIBITED PERSON CATEGORIES

Illinois law generally prohibits firearm possession by any person who has been convicted of a felony, domestic violence misdemeanor, or other violent offense, or of a firearm-related misdemeanor within the past five years.⁹⁹ Illinois also prohibits certain substance abusers, people with a history of mental illness,¹⁰⁰ and protective order respondents from possessing firearms.¹⁰¹

RELINQUISHMENT

Illinois provides clear and enforceable mechanisms for firearm relinquishment in a few, narrow circumstances, but otherwise has no law requiring the relinquishment of firearms by persons who have become prohibited from possessing them.

Under Illinois law, if a person is convicted of a felony or domestic violence misdemeanor and receives a sentence of probation or a conditional discharge, the court must condition the sentence on the person relinquishing his or her Firearm Owner's Identification (FOID) Card and any firearms at a time and place designated by the court.¹⁰² Illinois requires courts to place similar bail conditions on individuals released after being charged with specified offenses, including domestic violence and drug crimes.¹⁰³ All legally possessed firearms must be returned to the person if the charges are dismissed, or if the person is found not guilty.¹⁰⁴

In addition, a court may issue a civil order under the Illinois Domestic Violence Act requiring law enforcement to remove firearms from certain domestic violence protective order respondents. When issuing such an order, the court must issue a warrant for the seizure of any firearm in the respondent's possession, to be kept by local law enforcement for the duration of the order.¹⁰⁵ If the court issued a criminal protective order, as opposed to a civil protective order, the court must order that the respondent transfer his or her firearms to another person who is legally eligible to receive them.¹⁰⁶

Finally, Illinois requires any mental hospital that admits a person as an inpatient pursuant to the Mental Health and Developmental Disabilities Code to seize any firearms in the patient's possession at the time of admission, or at any time the firearms are discovered in the person's possession during his or her hospitalization.¹⁰⁷ The hospital must, as soon as possible following confiscation, transfer custody of the firearms to the appropriate law enforcement agency and give written notice to the person from whom the firearm was confiscated of the identity and address of the law enforcement agency to which it has given the firearm. The law enforcement agency must maintain possession of any firearm it obtains pursuant to this subsection for a minimum of 90 days, and then dispose of the firearm after that period pursuant to state law.¹⁰⁸

INDIANA

PROHIBITED PERSON CATEGORIES

Indiana law generally prohibits firearm possession by any person who has been convicted of domestic battery or of a “serious violent felony.”¹⁰⁹ Indiana also authorizes, but does not require, its courts to prohibit certain domestic violence protective order respondents from possessing firearms.¹¹⁰

RELINQUISHMENT

Indiana authorizes courts to issue domestic violence protective orders that specifically direct the abuser to relinquish his or her firearms to a specified law enforcement agency for the duration of the order.¹¹¹ However, the state has no other law requiring the relinquishment of firearms by persons who have become prohibited from possessing them.¹¹²

IOWA

PROHIBITED PERSON CATEGORIES

Iowa law generally prohibits firearm possession by any person who has been convicted of a felony¹¹³ or domestic violence offense, or who is subject to a domestic violence protective order.¹¹⁴

RELINQUISHMENT

Iowa provides a clear and mandatory process for relinquishment of firearms by domestic abusers, but does not require proof of compliance. Iowa has no law requiring the relinquishment of firearms by other persons who have become prohibited from possessing them.

Under a law enacted in 2010, Iowa requires that when a state court enters a judgment of conviction for a domestic violence misdemeanor or issues a domestic violence protective order and finds that the abuser possesses a firearm, the court must order the abuser to sell or transfer the firearm by a specified date to the custody of another Iowan, determined to be “qualified” by the court.¹¹⁵ If the court is unable to identify a qualified person to receive the firearm, the court must instead order that the abuser transfer his or her firearm by a specified date to the county sheriff or a local law enforcement agency designated by the court for safekeeping until a qualified person is identified or the firearm prohibition expires or is lifted.¹¹⁶

KANSAS

PROHIBITED PERSON CATEGORIES

Kansas law generally prohibits firearm possession by any person who has been convicted of a drug offense or felony for specified time periods,¹¹⁷ by certain substance abusers, and certain persons with a history of mental illness.¹¹⁸

RELINQUISHMENT

Kansas has no law requiring the relinquishment of firearms by persons who have become prohibited from possessing them.

KENTUCKY

PROHIBITED PERSON CATEGORIES

Kentucky law generally prohibits firearm possession by any person who has been convicted of a felony.¹¹⁹

RELINQUISHMENT

Kentucky has no law requiring the relinquishment of firearms by persons who have become prohibited from possessing them.

Kentucky authorizes a court or agency making a decision regarding the pretrial release of a person who was arrested for assault or certain sexual offenses or who has been charged with a violation of a domestic violence protective order to issue an order prohibiting the arrestee from using or possessing a firearm as a condition of his or her pretrial release.¹²⁰ However, this law provides no clear mechanism for relinquishment of the arrestee's firearms and does not require proof of compliance.¹²⁰

LOUISIANA

PROHIBITED PERSON CATEGORIES

Louisiana law generally prohibits a person from possessing firearms for 10 years following completion of his or her sentence, probation, or parole for specified felonies, armed drug offenses, burglary, sex offenses, and domestic abuse battery.¹²¹ Louisiana also prohibits firearm possession by some domestic violence protective order respondents.¹²²

RELINQUISHMENT

Louisiana has no law requiring the relinquishment of firearms by persons who have become prohibited from possessing them.

Louisiana law does provide that persons convicted of domestic abuse battery cannot receive a suspended sentence unless they refrain from possessing a firearm for the entire length of the original sentence.¹²³ However, this law does not mandate relinquishment of the defendant's firearms, provides no clear mechanism for relinquishment, and does not require proof of compliance.

MAINE

PROHIBITED PERSON CATEGORIES

Maine law generally prohibits firearm possession by individuals who have been convicted of a felony or an offense involving the use of a dangerous weapon,¹²⁴ as well as some domestic violence protective order respondents,¹²⁵ certain substance abusers,¹²⁶ and certain persons with a history of mental illness.¹²⁷ Maine also imposes a five-year firearm prohibition on individuals who have been convicted of specified domestic violence offenses.¹²⁸

RELINQUISHMENT

Maine has no law requiring the relinquishment of firearms by persons who have become prohibited from possessing them.

MARYLAND

PROHIBITED PERSON CATEGORIES

Maryland law generally prohibits firearm possession by individuals who have been convicted of a violent offense, specified drug offenses, or another crime for which the person received a term of imprisonment of more than two years,¹²⁹ in addition to certain substance abusers, certain protective order respondents,¹³⁰ and certain persons with a history of mental illness.¹³¹

RELINQUISHMENT

Maryland has enacted a mandatory law requiring the relinquishment of firearms by domestic violence protective order respondents, but this law does not provide a clear process and does not require proof of compliance. Maryland has no law requiring relinquishment of firearms by other persons who have become prohibited from possessing them.

Under Maryland law, a court issuing a final domestic violence protective order must generally order the respondent to transfer his or her firearms to law enforcement authorities for the duration of the protective order.¹³² The law enforcement authorities are required to safely store the respondent's firearms while the protective order is in effect and to return them to the respondent, if he or she is not otherwise prohibited, when the protective order expires.¹³³ However, this law does not require proof of compliance and does not otherwise impose clear time limits and mechanisms for relinquishment by the respondent.

MASSACHUSETTS

PROHIBITED PERSON CATEGORIES

Massachusetts law generally requires a person to obtain a state-issued firearms license, called a Firearm Identification Card (FID) in order to possess firearms. The state generally prohibits firearm possession by individuals who have been convicted of a felony, domestic violence crime, specified weapons offenses, or illegal drug offense, in addition to certain substance abusers, certain protective order respondents, and certain persons with a history of mental illness.¹³⁴ A 2014 law also authorizes Massachusetts law enforcement agencies to petition a court to temporarily suspend or revoke a person's firearms license and, thereby, his or her eligibility to possess firearms, if the person poses a risk to public safety.¹³⁵

RELINQUISHMENT

Massachusetts has enacted a clear and mandatory relinquishment process for individuals who have become prohibited from possessing firearms, but this law does not require proof of compliance.

Massachusetts law requires that licensing authorities revoke a person's FID card following the occurrence of any event that renders the cardholder prohibited from possessing firearms.¹³⁶ Once a person receives written notice from the licensing authority that his or her FID card was revoked, the prohibited person must "without delay" transfer all firearms in his or her possession to the licensing authority where he or she resides.¹³⁷

After taking possession of the person's firearms, the licensing authority may transfer them to a licensed firearms dealer for storage. In such cases, the dealer must issue a receipt to the prohibited person, who is liable to the dealer for the reasonable costs of storing the firearms. Through the dealer, the prohibited person may transfer any relinquished firearms to a person lawfully permitted to purchase or take possession of the weapon. After a year in storage, or 90 days of unpaid storage charges, the state police are directed to sell the relinquished firearms at public auction.¹³⁸

MICHIGAN

PROHIBITED PERSON CATEGORIES

Michigan law generally prohibits firearm possession by any person who has been convicted of a felony if that person has not yet satisfied statutory requirements to restore his or her ability to own or possess a firearm, including serving any applicable sentence or conditions for parole, and paying any relevant fines.¹³⁹ Michigan also authorizes, but does not require, courts to prohibit the possession of firearms by protective order respondents.¹⁴⁰ Michigan also prohibits other categories, including certain persons with a history of mental illness from qualifying for a handgun purchase permit, but the state does not otherwise prohibit firearm possession by such individuals.¹⁴¹

RELINQUISHMENT

Michigan has no law requiring relinquishment of firearms by persons who have become prohibited from possessing them.

MINNESOTA

PROHIBITED PERSON CATEGORIES

Minnesota law generally prohibits firearm possession by any person who has been convicted of a felony, crime of violence, or specified misdemeanors and domestic violence offenses. Minnesota also prohibits individuals who have been convicted of certain drug, other domestic violence, and weapons offenses within the past three years, in addition to domestic violence protective order respondents, certain substance abusers, and certain persons with a history of mental illness from possessing firearms.¹⁴²

RELINQUISHMENT

Minnesota has enacted a clear, mandatory, and enforceable relinquishment process for domestic violence protective order respondents and certain domestic violence offenders. However, the state has no law requiring relinquishment of firearms by other persons who have become prohibited from possessing them.

Minnesota enacted a law in 2014 to provide a clear and enforceable process for relinquishment of firearms in the domestic violence context.¹⁴³ Minnesota requires that when a court issues specified protective orders against domestic or child abuse, the court shall inform the respondent that he or she is prohibited from possessing firearms for the duration of the order.¹⁴⁴ If the court determines that the respondent poses an imminent risk of causing substantial bodily harm to another person, the court must order that the local law enforcement agency take immediate possession of the respondent's firearms.¹⁴⁵

If the court does not issue such an order, the court must instead order the respondent to transfer his or her firearms within three business days to a federally licensed firearms dealer, a law enforcement agency, or a third party who is legally eligible to receive them and who does not live in the same residence as the respondent.¹⁴⁶ The transferee must provide a written receipt to the respondent verifying that he or she received the respondent's firearms.¹⁴⁷ The receipt must specify whether the firearms were permanently or temporarily transferred to the recipient, and include the name of the respondent, the date of transfer, and the serial number, make, and model of the firearms.¹⁴⁸ The respondent must then file this receipt with the court as proof of compliance within two business days of transferring the firearms.¹⁴⁹ The law enforcement agency, federally licensed firearms dealer, or third party that took possession of the firearms must then return them to the person upon request after the expiration of the prohibiting time period, provided that the person is not otherwise prohibited from possessing firearms under state or federal law.¹⁵⁰

Minnesota law also imposes these same relinquishment requirements on individuals convicted of a stalking offense or a domestic assault offense against a family or household member.¹⁵¹

Finally, Minnesota authorizes courts to order as a condition of release for a defendant pending trial or hearing in a case involving certain interpersonal crimes, that the defendant relinquish his or her firearms to local law enforcement and that the defendant not live in a residence where others possess firearms.¹⁵²

MISSISSIPPI

PROHIBITED PERSON CATEGORIES

Mississippi law generally prohibits firearm possession by any person who has been convicted of a felony.¹⁵³

RELINQUISHMENT

Mississippi has no law requiring relinquishment of firearms by persons who have become prohibited from possessing them.

MISSOURI

PROHIBITED PERSON CATEGORIES

Missouri law generally prohibits firearm possession by any person who has been convicted of a felony, in addition to certain substance abusers and certain persons with a history of mental illness.¹⁵⁴

RELINQUISHMENT

Missouri authorizes courts to order the relinquishment of firearms from convicted felons who used a firearm in the commission of their offense. However, Missouri has no other law requiring relinquishment of firearms by persons who have become prohibited from possessing them.

For persons convicted of committing or attempting to commit a felony in which a firearm is used in any manner, Missouri law authorizes, but does not require, the convicting court to order the confiscation and disposal, or sale or trade to a licensed firearms dealer, of any firearms or ammunition used in the commission of the crime or found in the possession or immediate control of the defendant at the time of his or her arrest.¹⁵⁵ However, this law provides no further guidance, time limits, or mechanisms for relinquishment by the defendant.

MONTANA

PROHIBITED PERSON CATEGORIES

Montana has unusually weak laws prohibiting dangerous persons from possessing firearms. Montana law generally prohibits firearm possession by individuals who have been convicted of a crime for which they received a sentence enhancement related to the use of a dangerous weapon.¹⁵⁶ Montana also authorizes, but does not require, courts to prohibit individuals convicted of domestic violence offenses or subject to domestic violence protective orders from possessing the firearm that was used in the commission of a domestic violence assault.¹⁵⁷

RELINQUISHMENT

Montana has no law requiring relinquishment of firearms by persons who have become prohibited from possessing them.

Though Montana law authorizes courts to prohibit certain domestic abusers from possessing the specific firearm they used in the commission of a domestic violence assault, this law does not expressly mandate relinquishment of the firearm and provides no clear mechanism or time limits for doing so; it does not require proof of compliance and does not bar the defendant from obtaining new weapons.

NEBRASKA

PROHIBITED PERSON CATEGORIES

Nebraska law generally prohibits firearm possession by individuals who have been convicted of a felony, or of a domestic violence offense within the past seven years.¹⁵⁸ A Nebraska law enacted in 2012 also authorizes, but does not require, a court that is issuing a domestic violence protective order to prohibit the abuser from possessing firearms.¹⁵⁹

RELINQUISHMENT

Nebraska has no law requiring relinquishment of firearms by persons who have become prohibited from possessing them.

Nebraska does require that, when sentencing a person convicted of a misdemeanor crime of domestic violence, as defined by federal law, or when issuing a domestic violence protective order, courts must notify the defendant or respondent that he or she may be subject to federal firearm prohibitions.¹⁶⁰ However, the state does not otherwise require prohibited domestic abusers or other persons to relinquish their firearms.

NEVADA

PROHIBITED PERSON CATEGORIES

Nevada law generally prohibits firearm possession by individuals who have been convicted of a felony or domestic violence offense, in addition to certain substance abusers, certain persons with a history of mental illness, and individuals, such as domestic violence protective order respondents, who are otherwise prohibited by federal law.¹⁶¹ Nevada also authorizes, but does not require, courts issuing an extended domestic violence protective order to prohibit the abuser from possessing firearms for the duration of the order.¹⁶²

RELINQUISHMENT

Nevada has enacted a clear and enforceable relinquishment process for domestic violence protective order respondents, though courts are not mandated to order relinquishment in those cases. The state has no law requiring relinquishment of firearms by other persons who have become prohibited from possessing them.

When issuing an extended domestic violence protective order, Nevada courts may choose to include an order prohibiting the respondent from possessing firearms. In such cases, the court will order the respondent to transfer his or her firearms within 24 hours either to a local law enforcement agency, to a private party designated by the court, or else to a licensed firearms dealer.¹⁶³ If the court orders the respondent to transfer his or her firearms to law enforcement or a licensed dealer, the recipient will issue the respondent a written receipt verifying that he or she received the respondent's firearms; in such cases, the respondent must provide the receipt to the court within 72 hours or one business day, whichever is later, after transferring the firearms. If the court instead orders the respondent to transfer his or her firearms to a private party designated by the court, the respondent shall provide to the court and local law enforcement within the same time frame the name and address of the person who received the firearms along with a written description of each firearm relinquished.¹⁶⁴

If the court finds probable cause that the respondent has not relinquished his or her firearms as required, the court may issue a search warrant authorizing law enforcement to search for and seize the firearm.¹⁶⁵

NEW HAMPSHIRE

PROHIBITED PERSON CATEGORIES

New Hampshire law generally prohibits firearm possession by individuals who have been convicted of a felony against the person or property of another and of specified drug-related felonies,¹⁶⁶ in addition to respondents subject to domestic violence protective orders and similar protective orders.¹⁶⁷

RELINQUISHMENT

New Hampshire has enacted a mandatory relinquishment process for domestic violence protective order respondents, but has no law requiring relinquishment of firearms by other persons who have become prohibited from possessing them.

When issuing a domestic violence protective order, a New Hampshire court must direct the respondent to relinquish his or her firearms to a peace officer for the duration of the order.¹⁶⁸ The state authorizes law enforcement to charge the respondent a reasonable fee for storage of the relinquished firearms.¹⁶⁹ However, this law provides no further guidance, time limits, or mechanisms to ensure relinquishment by the respondent.

If there is probable cause to believe that firearms are kept on the respondent's premises, the court may also issue a search warrant authorizing a peace officer to seize any and all firearms and ammunition.¹⁷⁰

NEW JERSEY

PROHIBITED PERSON CATEGORIES

New Jersey law generally prohibits firearm possession by individuals who have been convicted of specified crimes, including domestic violence, weapons, and illegal drug offenses, in addition to domestic violence protective order respondents and certain persons with a history of mental illness.¹⁷¹ New Jersey prohibits broader categories of individuals from obtaining a permit to purchase firearms.

RELINQUISHMENT

New Jersey authorizes courts to order the search for and seizure of firearms from domestic violence protective order respondents, but has no law requiring relinquishment of firearms by persons who have become prohibited from possessing them.

New Jersey generally requires courts issuing ex parte domestic violence protective orders to bar the respondent from possessing firearms, and also authorizes courts to prohibit the possession of firearms in other ex parte protective orders.¹⁷² This law expressly authorizes judges issuing a relinquishment order to a domestic violence respondent to simultaneously “order the search for and seizure of any firearm or other weapon at any location where the judge has reasonable cause to believe the [respondent’s] weapon is located.”¹⁷³ However, this law does not require proof of compliance and does not otherwise impose clear time limits and mechanisms to ensure relinquishment by the respondent.

In 2016, the New Jersey Legislature passed legislation that would implement a clear, mandatory, and enforceable relinquishment process for abusers who are convicted of domestic violence offenses or become subject to prohibiting domestic violence protective orders. This legislation would require the abuser to relinquish his or her firearm to law enforcement or a licensed dealer within specified time frames and to provide proof of compliance to the prosecutor in a criminal case or to the court in a protective order case.¹⁷⁴ The legislation would authorize further enforcement action if the prohibited abuser failed to relinquish his or her firearms as required.¹⁷⁵ New Jersey’s governor vetoed this legislation in May 2016 and despite ongoing negotiations, New Jersey has not, as of this writing, adopted these firearm relinquishment procedures into state law.

Though New Jersey has other laws requiring individuals to relinquish their permits to purchase a firearm to the state police within five days of becoming prohibited, the state does not otherwise require persons to relinquish their firearms after becoming prohibited.¹⁷⁶

NEW MEXICO

PROHIBITED PERSON CATEGORIES

New Mexico law generally prohibits firearm possession by individuals who have been convicted of a felony for 10 years following completion of the person's sentence or probation.¹⁷⁷

RELINQUISHMENT

New Mexico has no law requiring relinquishment of firearms by persons who have become prohibited from possessing them.

NEW YORK

PROHIBITED PERSON CATEGORIES

New York law generally prohibits firearm possession by individuals who have been convicted of a felony or a “serious offense,” including certain weapon and domestic violence offenses, as well as certain domestic violence protective order respondents, certain substance abusers, certain persons with a history of mental illness, and persons who are not of “good moral character.”¹⁷⁸

RELINQUISHMENT

New York has enacted a clear, mandatory, and enforceable process for relinquishment of firearms by some domestic violence protective order respondents. New York has also enacted a limited law requiring prohibited criminal offenders to relinquish firearms to law enforcement.

New York authorizes a prohibited individual to voluntarily surrender firearms to a designated local law enforcement agency with immunity from the charge of illegal firearm possession.¹⁷⁹

New York has also enacted a relatively weak law that directs courts pronouncing a sentence for any offense that would require the seizure of firearms from the defendant, to also direct the defendant to relinquish his or her firearm license or registration and all firearms to law enforcement.¹⁸⁰ However, this law does not require proof of compliance and does not otherwise impose clear time limits and mechanisms for relinquishment by the defendant.

In the mental health context, where a criminal defendant is found (by verdict or plea) to be not responsible by reason of mental disease or defect or is otherwise found to be mentally “incapacitated,” the court must revoke the defendant’s firearm license and inquire about the existence and location of any firearms in the defendant’s possession. The court must then direct the defendant to relinquish any such firearms to law enforcement.¹⁸¹ This law similarly does not require proof of compliance and does not otherwise impose clear time limits and mechanisms for relinquishment by the defendant.

In the domestic violence context, New York requires a court issuing a protective order to order the respondent to immediately relinquish his or her firearms to law enforcement if the court finds good cause to believe that (1) the respondent has a prior conviction of any “violent felony offense”; (2) the defendant was previously found to have willfully violated a protective order and the violation involved the infliction of physical injury, the threatened use of a deadly weapon, or the commission of a “violent felony offense”; (3) the respondent has a conviction for stalking; or (4) if the court finds a substantial risk that the respondent may use or threaten

to use a firearm against the person protected by the protective order.¹⁸² When a domestic violence relinquishment order has been issued, the court order must specify the place, date, and time for relinquishment, and must direct law enforcement to notify the court immediately upon receiving the person's firearms.¹⁸³ If a respondent promptly surrenders a firearm pursuant to the court order, it is considered a voluntary surrender and the respondent may arrange for the transfer or sale of the firearm to a licensed dealer within one year. After a year, the firearm is declared a nuisance and can be disposed of by the law enforcement authority that received it.¹⁸⁴

NORTH CAROLINA

PROHIBITED PERSON CATEGORIES

North Carolina law generally prohibits firearm possession by individuals who have been convicted of most felonies or specified weapon offenses, in addition to certain domestic violence protective order respondents. North Carolina also generally requires that regular conditions of probation or “controlling conditions” for prison release include a prohibition on possessing firearms without the written permission of the court or specified parole officers.¹⁸⁵ North Carolina prohibits broader categories of individuals from obtaining a permit to purchase handguns.¹⁸⁶

RELINQUISHMENT

North Carolina provides a clear and mandatory process for domestic abusers who have become subject to protective orders to relinquish their firearms to law enforcement under certain circumstances. However, North Carolina has no law requiring relinquishment of firearms by other persons who have become prohibited from possessing them.

North Carolina law provides that upon issuing an emergency or ex parte domestic violence protective order, the court must order the defendant to transfer his or her firearms to the sheriff, if the court makes specified findings regarding the person’s risk of serious injury to self or others.¹⁸⁷ At any hearing for a domestic violence protective order, the court must also ask the petitioner to provide information about any firearms in the respondent’s possession.¹⁸⁸ Upon service of a relinquishment order, the respondent must immediately transfer his or her firearms to the sheriff.¹⁸⁹ If the respondent is unable to immediately transfer his or her firearms to the sheriff at the time the order is served, he or she must do so within 24 hours of service at a time and place specified by the sheriff.¹⁹⁰

If the court does not enter a final protective order when the ex parte or emergency order expires, the respondent may retrieve any firearms that he or she relinquished to the sheriff, unless the court finds that the respondent is otherwise prohibited from possessing a firearm pursuant to state or federal law or if the respondent has any pending criminal charges for crimes committed against the person protected by the current protective order.¹⁹¹

NORTH DAKOTA

PROHIBITED PERSON CATEGORIES

North Dakota law generally prohibits individuals who have been convicted of a felony involving violence or intimidation from possessing firearms for 10 years following their conviction or release from confinement or probation. North Dakota imposes a five-year firearm prohibition on individuals who have been convicted of other felonies or of specified misdemeanors involving violence or intimidation. North Dakota also prohibits certain persons with a history of mental illness.¹⁹² Finally, North Dakota authorizes, but does not require, courts to prohibit certain domestic violence protective order respondents from possessing firearms for the duration of the order.¹⁹³

RELINQUISHMENT

North Dakota provides a clear process for certain abusers subject to domestic violence protective orders to relinquish their firearms to law enforcement under certain circumstances. Outside the protective order context, North Dakota has no law requiring relinquishment of firearms by persons who have become prohibited from possessing them.

North Dakota law authorizes a court that is issuing a domestic violence protection order to require the respondent to relinquish his or her firearms, if the court has probable cause to believe that the respondent is likely to use, display, or threaten to use the firearm in acts of violence.¹⁹⁴ If the court issues a relinquishment order, the respondent is required to transfer his or her firearms to the designee of the county sheriff or the chief of police of the city where the respondent resides.¹⁹⁵ However, this law does not require proof of compliance and does not otherwise impose clear time limits and mechanisms for relinquishment by the defendant.

OHIO

PROHIBITED PERSON CATEGORIES

Ohio law generally prohibits firearm possession by individuals who have been convicted of, or who are under indictment for, a violent felony or felony drug offense, as well as certain substance abusers, and certain persons with a history of mental illness.¹⁹⁶

RELINQUISHMENT

Ohio has no law requiring relinquishment of firearms by persons who have become prohibited from possessing them.

Ohio does require courts issuing a domestic violence protective order to notify the respondent that the order may trigger a firearm prohibition under federal law. However, aside from advising such individuals to consult an attorney, state law provides no process for such individuals to relinquish their firearms.¹⁹⁷

OKLAHOMA

PROHIBITED PERSON CATEGORIES

Oklahoma law generally prohibits firearm possession by individuals who have been convicted of, or who are serving a term of probation for, a felony.¹⁹⁸ The state also prohibits certain persons with a history of mental illness.¹⁹⁹

RELINQUISHMENT

Oklahoma has no law requiring relinquishment of firearms by persons who have become prohibited from possessing them.

Oklahoma does require courts issuing a domestic violence protective order to notify the respondent that the order may trigger a firearm prohibition under federal law.²⁰⁰ However, state law provides no process for such individuals to relinquish their firearms.

OREGON

PROHIBITED PERSON CATEGORIES

Oregon law generally prohibits firearm possession by individuals who have been convicted of a felony or domestic violence offense, or who are serving a term of probation for a criminal offense.²⁰¹ Oregon also penalizes a person who “carries or bears” a firearm if the person has committed murder or manslaughter with a firearm, either voluntarily or involuntarily, or has in a careless or reckless manner killed or injured another person with a firearm.²⁰² The state also prohibits certain persons with a history of mental illness²⁰³ and, as of 2015, certain domestic violence protective order respondents from possessing firearms.²⁰⁴

RELINQUISHMENT

Oregon has no law requiring relinquishment of firearms by persons who have become prohibited from possessing them.

PENNSYLVANIA

PROHIBITED PERSON CATEGORIES

Pennsylvania law generally prohibits firearm possession by individuals who have been convicted of specified crimes, including weapons, illegal drug, domestic violence, and other violent offenses, for ten years following conviction.²⁰⁵ Pennsylvania also authorizes, but does not require, a court issuing a domestic violence protective order to prohibit the respondent from possessing firearms for the duration of the order.²⁰⁶

RELINQUISHMENT

Pennsylvania has enacted a mandatory relinquishment requirement for all individuals who have become prohibited from possessing firearms, but this law does not require proof of compliance. Pennsylvania has also enacted a clear and enforceable process for relinquishment by certain domestic abusers subject to a protective order, but courts are not mandated to order relinquishment in such cases.

Pennsylvania law generally requires individuals to relinquish their firearms within “a reasonable period of time, not to exceed 60 days” after they have become prohibited from possessing them. The prohibited person is required to sell or transfer his or her firearms to any other person who is legally eligible to possess the firearm and who is not a member of the prohibited person’s household.²⁰⁷ However, this law does not require proof of compliance.

Pennsylvania provides much clearer and more enforceable requirements for relinquishment in the domestic violence protective order context. Pennsylvania law authorizes a court issuing a domestic violence protective order to also order the abuser to relinquish his or her firearms.²⁰⁸ If the court issues such an order, the respondent must generally transfer his or her firearms to the county sheriff, a licensed firearms dealer, or a third party who has received a “safekeeping permit” from law enforcement within 24 hours of receiving service of the order, unless the court specifies an alternate time period.²⁰⁹ A copy of the court’s order will also be transmitted to both the local chief of police and to the sheriff of the county where the respondent resides. The sheriff, dealer, or private party who receives the respondent’s firearms must provide the defendant with a written receipt describing the firearm and verifying that the respondent relinquished the firearm as required.²¹⁰ If the respondent relinquished his or her firearms to a dealer or private party, he or she must also provide this receipt to the county sheriff within the relinquishment period.²¹¹ If the respondent fails to relinquish his or her firearms to the sheriff and does not provide receipts verifying compliance with this requirement within the relinquishment period, Pennsylvania requires the sheriff, “at a minimum,” to immediately notify the court, the petitioner, and other law enforcement agencies.²¹²

Pennsylvania law also requires the state police to maintain a registry of temporary and final protection orders, court-approved consent agreements, and foreign protection orders.²¹³ This registry indicates whether firearms were ordered relinquished in each case. A court that has entered a protection order or consent agreement must make the information available to the Pennsylvania State Police within 24 hours of the order.²¹⁴

RHODE ISLAND

PROHIBITED PERSON CATEGORIES

Rhode Island law generally prohibits firearm possession by individuals who have been convicted of crimes of violence or of certain domestic violence offenses, in addition to certain substance abusers and certain persons with a history of mental illness.²¹⁵ Rhode Island also authorizes, but does not require, a court issuing a domestic violence protective order to prohibit the respondent from possessing firearms for the duration of the order.²¹⁶

RELINQUISHMENT

Rhode Island has enacted a clear, mandatory, and enforceable process for relinquishment of firearms by abusers convicted of certain domestic violence offenses. Rhode Island also provides a clear and enforceable relinquishment process for abusers subject to a domestic violence protective order, though courts are not mandated to order relinquishment in those cases. Rhode Island has no law requiring relinquishment of firearms by other persons who have become prohibited from possessing them.

In 2016, Rhode Island enacted a new law prohibiting individuals convicted of certain domestic violence offenses from possessing firearms; this prohibition extends to domestic violence offenses for which defendants could have received felony punishment even if they were ultimately charged and convicted of a misdemeanor. Previously the state generally prohibited abusers who were convicted of domestic violence felonies only and for a period of just two years.²¹⁷ This law also implemented a clear, mandatory, and enforceable process to ensure the abuser relinquishes his or her firearms within specified time frames after conviction. Upon conviction, the court is required to issue an order requiring that the defendant relinquish all firearms and to notify the law enforcement agency that originally arrested the defendant of the relinquishment order.²¹⁸ The law requires the defendant to sell or transfer his or her firearms to a licensed firearms dealer or law enforcement agency within 24 hours. The dealer or agency receiving the defendant's firearms is required to issue proof of relinquishment to the defendant and the defendant must then, within 48 hours of being served with the court order, either file a copy of the proof of relinquishment with the court or attest under oath that he or she did not own or possess any firearms.²¹⁹

Rhode Island law also authorizes, but does not require, a court issuing a domestic violence protective order after notice and a hearing to require the abuser to relinquish his or her firearms by transferring them to law enforcement, a federally licensed firearms dealer, or any private party who is not related to or in an intimate relationship with the respondent and who is legally eligible to possess firearms.²²⁰ If the respondent is present in court when the relinquishment order is issued, the court may order relinquishment to occur within 24

hours; if the respondent is not present in court, he or she must relinquish all firearms within 48 hours after being served with the order.²²¹ The respondent must also file a receipt with the court within 72 hours after being served with the order verifying compliance with these requirements. A respondent who fails to comply with these requirements may be found in contempt of court and charged with various criminal penalties.²²²

Rhode Island has no law requiring relinquishment of firearms by other persons who have become prohibited from possessing them.

SOUTH CAROLINA

PROHIBITED PERSON CATEGORIES

South Carolina law generally prohibits firearm possession by individuals who have been convicted of a violent felony or of a domestic violence offense for specified time periods, in addition to certain substance abusers and certain persons with a history of mental illness.²²³ South Carolina also authorizes, but does not require, a court issuing a domestic violence protective order to prohibit the respondent from possessing firearms for the duration of the order in certain circumstances.²²⁴

RELINQUISHMENT

South Carolina has a weak law requiring relinquishment by certain prohibited persons who were subsequently convicted of unlawfully possessing firearms. South Carolina has no law requiring relinquishment of firearms by other persons who have become prohibited from possessing them.

Under South Carolina law, a person who has been convicted of a violent felony offense, as defined, and who was thereafter convicted of unlawful possession of a firearm or ammunition, must transfer his or her weapons to the chief of police or sheriff of the county in which the defendant resides.²²⁵

SOUTH DAKOTA

PROHIBITED PERSON CATEGORIES

South Dakota law generally prohibits firearm possession by individuals who have been convicted of a crime of violence or of certain drug-related felonies within the past 15 years, of felony possession of a controlled substance within the past five years, or of domestic violence misdemeanors within the past year.²²⁶

RELINQUISHMENT

South Dakota has no law requiring relinquishment of firearms by persons who have become prohibited from possessing them.

TENNESSEE

PROHIBITED PERSON CATEGORIES

Tennessee law generally prohibits firearm possession by any person who is prohibited under federal law.²²⁷ Tennessee also prohibits individuals who have been convicted of stalking crimes,²²⁸ of a felony involving the use or attempted use of force, violence, or a deadly weapon, or of felony drug offenses,²²⁹ in addition to certain substance abusers and certain persons with a history of mental illness.²³⁰

RELINQUISHMENT

Tennessee has enacted a clear, mandatory, and somewhat enforceable relinquishment process for domestic abusers who become prohibited from possessing firearms in both the protective order and criminal conviction contexts. However, Tennessee has no law requiring relinquishment of firearms by other persons who have become prohibited from possessing them.

Tennessee law provides a clear and mandatory relinquishment process in the domestic violence context, with provisions requiring testimony from the prohibited person that he or she complied, but not other proof of compliance. A law passed in 2009 requires courts issuing a domestic violence protective order that triggers federal law's firearm prohibition to also order the respondent to relinquish his or her firearms within 48 hours of issuance of the order.²³¹ Tennessee requires courts to issue the same relinquishment order upon convicting a defendant of a domestic violence misdemeanor that triggers federal law's firearm prohibition.²³² In both contexts, the abuser must transfer his or her firearms to any private party who is not prohibited from possessing firearms, and must then complete and return to the court a standard relinquishment form averring, under penalty of perjury, that he or she complied with the relinquishment requirement.²³³ Tennessee also makes it a separate offense to knowingly fail to comply with this requirement.²³⁴

Tennessee law also states that any illegally possessed weapon is subject to seizure by a law enforcement officer and shall be declared contraband by a court of record exercising criminal jurisdiction.²³⁵

TEXAS

PROHIBITED PERSON CATEGORIES

Texas law generally prohibits individuals who have been convicted of a felony from possessing firearms outside their home, although they may possess firearms within their home after five years have elapsed following their release from confinement or supervision.²³⁶ Texas also prohibits individuals who have been convicted of certain domestic violence offenses from possessing firearms for five years following their release from confinement or supervision.²³⁷ Texas authorizes courts to direct domestic violence protective order respondents to refrain from specific acts, but state law does not expressly state that courts may prohibit a respondent from possessing firearms unless the respondent has violated a protective order.²³⁸

RELINQUISHMENT

Texas has no law requiring relinquishment of firearms by persons who have become prohibited from possessing them.

In 2013, Texas enacted a law authorizing a peace officer who takes certain mentally ill persons into custody because they pose a substantial risk of serious harm to self or others to immediately seize any firearm found in the person's possession.²³⁹ If the clerk of the court informs the law enforcement agency that the person taken into custody was ordered to receive inpatient mental health services, the law enforcement agency must retain the firearm and provide written notice to the person that he or she is prohibited from possessing a firearm under federal law.²⁴⁰ However, Texas has no law requiring relinquishment by prohibited individuals.

UTAH

PROHIBITED PERSON CATEGORIES

Utah law generally prohibits firearm possession by any person who has been convicted of a felony or certain “gang-related” offenses, or who is on probation or parole for any felony, as well as certain substance abusers and certain persons with a history of mental illness.²⁴¹ Utah also authorizes, but does not require, a court issuing a domestic violence protective order to prohibit the respondent from possessing firearms for the duration of the order in certain circumstances.²⁴²

RELINQUISHMENT

Utah has no law requiring relinquishment of firearms by persons who have become prohibited from possessing them.

Utah did enact a law in 2012, implicitly allowing individuals who are prohibited from possessing firearms to lawfully transfer firearms within 10 days after they have become prohibited.²⁴³

VERMONT

PROHIBITED PERSON CATEGORIES

Vermont law generally prohibits firearm possession by any person who has been convicted of a violent crime, which includes certain domestic violence offenses.²⁴⁴ Vermont courts are authorized to require, as a condition of probation, that an offender refrain from possessing firearms without written permission from the court or probation officer.²⁴⁵ Vermont courts are also authorized, but not required, to prohibit domestic violence protective order respondents from possessing firearms for the duration of the order.²⁴⁶

RELINQUISHMENT

Vermont has a clear process for relinquishment of firearms by certain individuals subject to court orders, but courts are not mandated to order relinquishment in such cases. Vermont has no law requiring relinquishment of firearms by other persons who have become prohibited from possessing them.

Under Vermont law, a person ordered to relinquish firearms as a condition of probation or pursuant to a domestic violence protective order must, upon service of the order, immediately relinquish his or her firearms to a law enforcement agency or federally licensed firearms dealer, unless the court authorizes a private party to receive the firearm instead.²⁴⁷ A law enforcement agency or federally licensed firearms dealer that takes possession of the person's firearm is required to photograph, catalogue, and store the weapon in accordance with standards and guidelines established by the Department of Public Safety, and may charge a reasonable storage fee for doing so.²⁴⁸ If the court authorizes the person to relinquish his or her firearms to a private party, then that transferee must execute an affidavit on a standard court form attesting that he or she is not prohibited from possessing firearms and verifying receipt of the prohibited person's firearms.²⁴⁹ The firearms will be returned upon the expiration of the court order, unless sold to the private party.²⁵⁰

VIRGINIA

PROHIBITED PERSON CATEGORIES

Virginia law generally prohibits firearm possession by any person who has been convicted of a felony,²⁵¹ in addition to certain persons with a history of mental illness²⁵² and domestic violence protective order respondents.²⁵³

RELINQUISHMENT

Virginia has no law requiring relinquishment of firearms by persons who have become prohibited from possessing them.

WASHINGTON

PROHIBITED PERSON CATEGORIES

Washington law generally prohibits firearm possession by any person who has been convicted of, or who is pending trial or sentencing for, a “serious offense,” including any crime of violence, certain felony drug crimes, certain sex offenses, and vehicular assault or homicide.²⁵⁴ Washington also prohibits firearm possession by certain persons with a history of mental illness,²⁵⁵ individuals convicted of certain domestic violence crimes,²⁵⁶ and domestic violence protective order respondents.²⁵⁷

RELINQUISHMENT

Washington provides a clear, mandatory, and enforceable relinquishment process for domestic abusers subject to a protective order. Washington also authorizes courts to order the forfeiture of firearms proven to be in the possession of a prohibited person, although this law does not provide a clear process for doing so.

Under a law enacted in 2014, Washington generally requires courts issuing a domestic violence protective order to also order the respondent to relinquish his or her firearms for the duration of the protective order.²⁵⁸ The court may require the respondent to transfer his or her firearms to the sheriff of the county or the chief of police of the municipality having jurisdiction over the proceeding, to the respondent’s legal counsel, or to any other person designated by the court.²⁵⁹ Washington requires the respondent to file a written receipt with the clerk of the court within five judicial days of the entry of the order verifying that he or she complied with this requirement.²⁶⁰ If the respondent does not possess firearms, he or she is required to file a “declaration of nonsurrender” form within five judicial days of the entry of the order.²⁶¹

A law enacted in 2015 also provides that a respondent’s family or household member may request to be notified when a law enforcement agency returns a respondent’s firearm after the expiration of a prohibiting court order.²⁶²

Washington also authorizes certain state courts to order forfeiture of firearms from other persons, including a firearm proven to be in the possession of a prohibited person.²⁶³ State and local law enforcement officers may enforce this order by seizing any such firearm.²⁶⁴ However, this law does not provide clear and enforceable mechanisms for relinquishment in such circumstances.

WEST VIRGINIA

PROHIBITED PERSON CATEGORIES

West Virginia law generally prohibits firearm possession by any person who has been convicted of a crime punishable by imprisonment for a term exceeding one year or of certain domestic violence offenses, as well as certain substance abusers, certain persons with a history of mental illness, and domestic violence protective order respondents.²⁶⁵

RELINQUISHMENT

West Virginia provides clear but minimal relinquishment requirements in the mental health context. However, West Virginia has no law requiring relinquishment of firearms by other persons who have become prohibited from possessing them.

West Virginia law requires a person who has been adjudicated to be mentally incompetent or involuntarily committed to a mental institution to “be duly notified” that he or she must immediately relinquish his or her firearms to a public or private individual or entity designated by the mental hygiene commissioner or circuit judge to act as conservator for the relinquished firearm.²⁶⁶

West Virginia law also authorizes an arresting officer to seize all weapons that are possessed in violation of a valid protective order,²⁶⁷ but does not require abusers subject to a protective order to relinquish their firearms at the time they become prohibited from possessing them.

WISCONSIN

PROHIBITED PERSON CATEGORIES

Wisconsin law generally prohibits firearm possession by any person who has been convicted of a felony, as well as certain substance abusers, certain persons with a history of mental illness, domestic violence protective order respondents, and certain other restraining order respondents.²⁶⁸

RELINQUISHMENT

Wisconsin provides a clear, mandatory, and enforceable relinquishment process for individuals subject to domestic violence protective orders and certain other protective orders. Wisconsin also provides a limited mechanism to remove firearms from individuals who become prohibited as a result of an involuntary commitment order for mental health or substance abuse treatment. However, Wisconsin has no law requiring relinquishment of firearms by other persons who have become prohibited from possessing them.

Wisconsin requires that when state courts issue an order to involuntarily commit a person for mental health treatment, the court must order the person not to possess firearms and order law enforcement to seize any firearm owned by the individual, if the court determines that the person is prohibited by federal law from possessing a firearm.²⁶⁹ In lieu of seizing the person's firearms, the court may designate another person to store the firearm until the commitment order has expired.²⁷⁰ Wisconsin law imposes the same requirement when a state court (1) appoints a guardian for an individual; (2) orders protective services for or protective placement of an individual; or (3) orders treatment and services, including involuntary commitment, for an individual incapacitated by alcohol or suffering from alcoholism, if the court determines that the person is prohibited from possessing a firearm under federal law.²⁷¹

In 2014, Wisconsin also enacted a new, detailed law providing a clear, mandatory, and enforceable process for the relinquishment of firearms by individuals subject to domestic violence and other protective orders.²⁷² If the respondent is present when the protective order is issued, he or she is required to provide the court with a completed "firearm possession form" regarding any firearms in his or her possession. If the form indicates that the respondent does possess a firearm, or if the court is not satisfied that he or she does not possess a firearm, the court must issue a "surrender and extend order" requiring the respondent to surrender any firearms. The court will stay the injunction against firearm possession for 48 hours so the respondent may surrender his or her firearms to the sheriff or a court-approved third party.

If the respondent is not present when the protective order is issued, the court must provide the protective order petitioner with an opportunity to inform the court about any firearms in the respondent's possession. If the petitioner indicates that the respondent possesses a firearm, the court must issue a "surrender and extend order" requiring the respondent to surrender any firearm that he or she owns or possesses within one week. The court will then schedule a "hearing to surrender firearms" to occur within one week and stay the firearm injunction until that time.

The sheriff who receives the respondent's firearms is required to prepare a receipt for each firearm at the time of relinquishment. The sheriff must keep the original receipt and provide two copies of the receipt to the respondent. The respondent must then provide one copy of the receipt to the clerk of courts within 48 hours of the order to surrender firearms as proof of compliance. If the respondent has not provided to the court with 48 hours a receipt that shows he or she surrendered to the sheriff all of the firearms that were subject to the order, the court must presume the respondent is violating the order.

The court may cancel the "hearing to surrender firearms" and lift the stay if (1) the respondent surrenders his or her firearm to a sheriff within 48 hours of the surrender order and provides a copy of the receipt from the sheriff as proof to the clerk of courts or if (2) the respondent surrenders the firearm to a designated third party who appeared with the respondent at the protective order hearing and testified under oath that he or she received the firearms listed on the respondent's firearm possession form. The court must first determine whether the third party transferee is prohibited from possessing a firearm and whether to permit the respondent to transfer his or her firearms to that person. (3) The respondent may also remove the need for a "hearing to surrender firearms" by properly surrendering his or her firearms to a sheriff within 48 hours and then subsequently gaining court approval for the sheriff to transfer the firearm to a third-party transferee, provided that the sheriff determines that the transferee is not a prohibited person.

If the court has not canceled the hearing to surrender firearms, the respondent must attend the hearing; the court is required to issue an arrest warrant if the respondent fails to appear. At the hearing, the court is required to verify that the respondent complied with the relinquishment requirement.²⁷³

WYOMING

PROHIBITED PERSON CATEGORIES

Wyoming law generally prohibits firearm possession by any person who has been convicted of a violent felony or any felony causing bodily injury to a peace officer, as well as certain persons with a history of mental illness.²⁷⁴

RELINQUISHMENT

Wyoming has no law requiring relinquishment of firearms by persons who have become prohibited from possessing them.

ENDNOTES

1. Based on 2014 fatal and non-fatal firearm injury data collected by the Centers for Disease Control and Prevention. In 2014, 33,599 Americans were killed by guns and an additional 81,034 Americans were hospitalized or seen in hospital emergency rooms for non-fatal gunshot injuries. "Injury Prevention & Control: Data and Statistics," Centers for Disease Control and Prevention, accessed Apr. 22, 2016, <https://www.cdc.gov/injury/wisqars>.
2. Based on 2005-14 fatal and non-fatal firearm injury data collected by the Centers for Disease Control and Prevention. Between 2005 and 2014, 320,575 Americans were killed by guns and an additional 750,571 Americans were hospitalized or treated in emergency rooms for non-fatal gunshot injuries. "Injury Prevention & Control: Data and Statistics," Centers for Disease Control and Prevention, accessed Apr. 22, 2016, <https://www.cdc.gov/injury/wisqars>.
3. *Id.*
4. Based on fatal firearm injury data collected by the Centers for Disease Control and Prevention. "WISQARS: Fatal Injury Reports 1981-1998," Centers for Disease Control and Prevention, accessed Aug. 31, 2016, <http://webappa.cdc.gov/sasweb/ncipc/mortrate9.html>.
5. *Id.*
6. Based on fatal firearm injury data collected by the Centers for Disease Control and Prevention. The 1993 age-adjusted rate is 17.48 per 100,000 residents; the 2013 age-adjusted rate is 7.65 per 100,000. "Injury Prevention and Control: Data and Statistics (WISQARS), Fatal Injury Reports," Centers for Disease Control and Prevention, accessed Aug. 31, 2016, http://www.cdc.gov/injury/wisqars/fatal_injury_reports.html.
7. *Id.*
8. Based on fatal firearm injury data collected by the Centers for Disease Control and Prevention. "Injury Prevention & Control: Data and Statistics (WISQARS), Fatal Injury Reports 1999-2004, for National, Regional, and States (RESTRICTED)," Centers for Disease Control and Prevention, accessed Apr. 22, 2016, http://www.cdc.gov/injury/wisqars/fatal_injury_reports.html.
9. Based on firearm injury data collected by the California Department of Public Health. From 2006-14, 30,425 Californians were hospitalized for non-fatal gunshot wounds, and an additional 38,787 were treated in emergency departments for non-fatal gunshot injuries. "EpiCenter: California Injury Data Online, Overall Injury Surveillance," California Department of Public Health, accessed Apr. 22, 2016, <http://epicenter.cdph.ca.gov/ReportMenus/CustomTables.aspx>.
10. Jennifer C. Karberg et al., "Background Checks for Firearm Transfers, 2012 — Statistical Tables," U.S. Department of Justice: Bureau of Justice Statistics, Dec. 2014, Table 3, <http://www.bjs.gov/content/pub/pdf/bcft12st.pdf>.
11. See Winnie Stachelberg et al., "Preventing Domestic Abusers and Stalkers from Accessing Guns," Center for American Progress, May 9, 2013, 12, <http://www.americanprogress.org/wp-content/uploads/2013/05/GunsStalkersBrief-3.pdf>.
12. 1999 Cal. S.B. 218, http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=199920000SB218.
13. "Crime in California: 2014," Office of the Attorney General: California Department of Justice, Table 47, <https://oag.ca.gov/sites/all/files/agweb/pdfs/cjsc/publications/candd/cd14/cd14.pdf>.
14. "SB 140 Supplemental Report of the 2015-16 Budget Package: Armed Prohibited Persons System" Office of the Attorney General: California Department of Justice, Jan. 1, 2016, 14-18, <http://oag.ca.gov/sites/all/files/agweb/pdfs/publications/sb-140-supp-budget-report.pdf>.
15. *Id.* at 14, 18.
16. Garen J. Wintemute et al., "Subsequent criminal activity among violent misdemeanants who seek to purchase handguns: risk factors and effectiveness of denying handgun purchase," *The Journal of the American Medical Association (JAMA)* 285, no. 8 (2001) 1019-1026, <http://www.ncbi.nlm.nih.gov/pubmed/11209172>.

17. See Katherine A. Vittes, Jon S. Vernick, and Daniel W. Webster, “Legal status and source of offenders’ firearms in states with the least stringent criteria for gun ownership,” *Injury Prevention* 19, no. 1 (2013): 26–31, <http://www.parentsagainstgunviolence.com/wp-content/uploads/2012/12/Inj-Prev-2013-Vittes-26-31.pdf>.
18. Leonard A. Marowitz, “Special Report to the Legislature on Senate Bill 1608: Arrests and Court Dispositions of Felons and Others Arrested for Firearms Possession in California’s 58 Counties,” Office of the Attorney General: California Department of Justice, Jul. 2002, 5, <https://oag.ca.gov/sites/all/files/agweb/pdfs/cjsc/publications/misc/net1608/1report.pdf>.
19. *Id.*
20. Jay Atkinson et al., “Characteristics of Felon New Admissions and Parole Violators Returned with a New Term: Calendar Year 2013,” California Department of Corrections and Rehabilitation, May 2014, Tables 2, 7, 12, http://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/Annual/ACHAR1/ACHAR1d2013.pdf.
21. Jay Atkinson, et al., “Prison Census Data as of December 31, 2013,” California Department of Corrections and Rehabilitation, May 2014, Table 2, http://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/Annual/Census/CENSUSd1312.pdf.
22. The California Dept. of Finance estimated that it in 2013–14, it cost an average of \$60,032 per year to incarcerate an inmate in prison in California. Multiplying that number by 4,742 generates an estimated annual cost of \$284.67 million to incarcerate this population. “Budget Brief: A Mixed Picture: State Corrections Spending After the 2011 Realignment,” California Budget & Policy Center, June 2013, Table 2 (citing data from the California Dept. of Finance), http://calbudgetcenter.org/wp-content/uploads/130625_A_Mixed_Picture_Corrections.pdf.
23. “Prison Census Data as of December 31, 2008,” California Department of Corrections and Rehabilitation, Feb. 2009, Table 2, http://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/Annual/Census/CENSUSd0812.pdf.
24. See note 18, Marowitz, “Special Report,” 5; See note 21, Atkinson, “Prison Census Data,” Tables 2, 7, 12.
25. The three-year return rate among this population was 60.1% for Fiscal Year 2009–10 and 49.1% in Fiscal Year 2010–11. Scott Kernan et al., “2015 Outcome Evaluation Report: An Examination of Offenders Released in Fiscal Year 2010–11,” California Department of Corrections and Rehabilitation, Aug. 2016, Appendix C, http://www.cdcr.ca.gov/Adult_Research_Branch/Research_Documents/2015_Outcome_Evaluation_Report_8-25-2016.pdf.
26. See note 14, California Department of Justice, “SB 140 Supplemental Report,” 22.
27. See 50-State Analysis below for more information and statutory citations for each state.
28. Rhode Island’s law was enacted in 2016 and will become effective January 2017. See R.I. Gen. Laws § 11-47-5.3, enacted by R.I. SB 2492 and R.I. HB 7283.
29. In 2016, the New Jersey Legislature passed legislation to implement a clear, mandatory, and enforceable relinquishment process for individuals convicted of *domestic violence offenses*. This legislation required abusers to relinquish their firearms to law enforcement or a licensed dealer within specified time frames and provide proof of compliance to the prosecutor in their criminal case. New Jersey’s governor vetoed this legislation in May 2016, therefore the state has not, as of this writing, adopted these firearm relinquishment procedures into law.
30. In 2016, the New Jersey Legislature passed legislation that would implement a clear, mandatory, and enforceable relinquishment process for individuals subject to *prohibiting domestic violence protective orders*. This legislation required abusers to relinquish their firearms to law enforcement or a licensed dealer within specified time frames and provide proof of compliance to the court. New Jersey’s governor vetoed this legislation in May 2016, therefore the state has not, as of this writing, adopted these firearm relinquishment procedures into law.
31. “Firearm Removal/Retrieval in Cases of Domestic Violence,” Prosecutors Against Gun Violence and the Consortium for Risk-Based Firearm Policy, Feb. 2016, <http://freepdfhosting.com/dd20d34ca8.pdf>.

32. Ala. Code § 13A-11-72(a).
33. Ala. Code § 13A-11-72(l).
34. Ala. Code § 13A-11-72(m).
35. Ala. Code § 13A-11-72(b).
36. Ala. Code § 13A-11-72(o).
37. Ala. Code § 13A-11-84(b).
38. Alaska Stat. § 11.61.200(a)(1). However, this prohibition does not apply if the felony was not an offense against a person and a period of 10 years or more has elapsed between the date of the person's unconditional discharge and the date of the violation. Alaska Stat. § 11.61.200(b)(1)(C).
39. Ariz. Rev. Stat. §§ 13-3102(A)(4), 13-3101(A)(7).
40. Ariz. Rev. Stat. § 13-3602(G)(4).
41. Ark. Code Ann. § 5-73-103(a), (b); Ark. Code Ann. § 16-93-303(c)(1). Arkansas law also authorizes criminal courts to include a prohibition against firearms possession when issuing a no-contact order to a defendant in a criminal proceeding if it appears that a danger exists that the defendant will commit a serious crime, seek to intimidate a witness, or otherwise unlawfully interfere with the orderly administration of justice. However, the law does not expressly require such defendants to verify that they relinquished firearms as required. Ark. Code Ann. § 16-85-714.
42. Cal. Penal Code § 29800(a).
43. Cal. Penal Code §§ 23515, 29800(a), 29805, 29900-29905.
44. Cal. Penal Code § 29825(a), (b) (referencing Cal. Civ. Proc. Code §§ 527.6, 527.8, 527.85, Cal. Fam. Code § 6218, Cal. Penal Code §§ 136.2 or 646.91, and Cal. Welf. & Inst. Code § 15657.03).
45. Cal. Pen. Code § 18120.
46. See Cal. Penal Code § 29800(a), Cal. Welf. & Inst. Code § 8103(e).
47. See Cal. Welf. & Inst. Code §§ 8100, 8103, 8105(c), and 5200-5213.
48. Cal. Pen. Code § 29810.
49. BOF Form 110 is available at: <http://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/forms/poafirearmsdecl.pdf>.
50. Cal. Pen. Code § 27880.
51. Cal. Fam. Code § 6389.
52. Cal. Pen. Code § 18120
53. Cal. Pen. Code § 1524(a)(11)
54. Cal. Code Civ. Proc. § 527.9.
55. Cal. Rules of Court, Rule 4.700. See *also*, Cal. Code Civ. Proc. § 527.9.
56. Colo. Rev. Stat. § 18-12-108(1), (3).
57. Colo. Rev. Stat. § 18-6-801(8).
58. Colo. Rev. Stat. § 24-33.5-424(3)(a), (b).
59. Colo. Rev. Stat. § 13-14-105.5(1)(a).
60. Colo. Rev. Stat. § 18-6-801(8).
61. Colo. Rev. Stat. § 13-14-105.5(1)(b).
62. Colo. Rev. Stat. §§ 13-14-105.5, 18-1-1001(9), 18-6-801(8).
63. *Id.*
64. Colo. Rev. Stat. § 13-14-105.5(9)(a).
65. Colo. Rev. Stat. § 18-12-108.

66. See Conn. Gen. Stat. § 29-38c. Connecticut authorizes a state's attorney or any two police officers to petition a judge for issuance of a firearm seizure order when they have probable cause to believe that a person poses a risk of imminent personal injury to self or others. The judge may then issue a warrant commanding a law enforcement officer to search for and remove the person's firearms into police custody. The court must hold a hearing no later than 14 days after execution of the warrant to determine whether the seized firearms should be returned to the person. If the court finds by clear and convincing evidence that the person poses a risk of imminent personal injury to himself or herself or others, it may order the state to continue to hold the firearms for up to one year.
67. Conn. Gen. Stat. § 53a-217(a).
68. Conn. Gen. Stat. § 29-36k(a).
69. *Id.* See also, Regs. Conn. State Agencies § 29-36m-16.
70. *Id.* See also, 2011 Conn. H.B. 6629, Pub. Act No. 11-152.
71. Conn. Gen. Stat. § 29-36k(a).
72. Conn. Gen. Stat. § 29-36k(n).
73. Conn. Gen. Stat. § 29-36k(b).
74. *Id.*
75. See Del. Code Ann. tit. 16, chap. 47.
76. Del. Code Ann. tit. 10, § 1045(a)(8). The provision allowing a person to relinquish his or her firearms to a federally licensed firearms dealer takes effect on January 1, 2017.
77. 2015 SB 83, to be codified as Del. Code Ann. tit. 10, § 1045(g).
78. Del. Code Ann. tit. 10, § 1045(a)(11).
79. Fla. Stat. § 790.23.
80. Fla. Stat. § 790.233(1).
81. Fla. Stat. § 790.235.
82. Fla. Stat. § 790.065(2).
83. Fla. Stat. §§ 741.30(6)(g), 784.0485(6)(e).
84. Fla. Stat. § 741.31(4)(a)(8).
85. Ga. Code Ann. § 16-11-131(b), (b.1).
86. Ga. Code Ann. § 17-5-51.
87. Ga. Code Ann. §§ 17-5-52, 17-5-54.
88. Haw. Rev. Stat. Ann. § 134-7.
89. Haw. Rev. Stat. Ann. § 134-7.3(b)-(d).
90. *Id.*
91. Haw. Rev. Stat. Ann. § 134-7.3(d).
92. Haw. Rev. Stat. Ann. § 134-7.3(c) as amended by HB 2632.
93. *Id.*
94. Haw. Rev. Stat. Ann. § 134-7(f).
95. *Id.*
96. *Id.*
97. Idaho Code Ann. § 18-3316(1).
98. Idaho Const. Art. I, § 11.
99. 430 Ill. Comp. Stat. 65/8; 730 Ill. Comp. Stat. 5/5-6-3(a)(3).

100. 430 Ill. Comp. Stat. 65/8.
101. 430 Ill. Comp. Stat. 65/8.2.
102. 730 Ill. Comp. Stat. 5/5-6-3(a)(9).
103. 725 Ill. Comp. Stat. 5/110-10(a)(5).
104. *Id.*
105. 750 Ill. Comp. Stat. 60/214(b)(14)(a).
106. 725 Ill. Comp. Stat. 5/112A-14(b)(14.5)(B).
107. 720 Ill. Comp. Stat. 5/24-6(c).
108. 720 Ill. Comp. Stat. 5/24-6(c).
109. Ind. Code Ann. §§ 35-47-2-7(b), 35-47-4-5.
110. Ind. Code Ann. § 34-26-5-9(c)(4), (f).
111. Ind. Code Ann. § 34-26-5-9(c)(4), (f).
112. Indiana also provides procedures for law enforcement to petition courts for issuance of a warrant to search for and seize firearms in the possession of a “dangerous individual” who presents an imminent risk of personal injury to self or others or exhibits other serious warnings signs of violence or emotionally unstable conduct. Ind. Code Ann. §§ 35-47-14-2, 35-47-14-1(a).
113. Iowa Code § 724.26(1).
114. Iowa Code §§ 236.2(2), (4), 236.5(1)(b), 724.26(2).
115. Iowa Code § 724.26(4).
116. *Id.*
117. Kan. Stat. Ann. §§ 21-6304(a)(1), 21-6304(a)(3)(B), 21-6304(a)(2), (3)(A), 21-6301(a)(13), (j).
118. Kan. Stat. Ann. § 21-6301(a)(13), (j).
119. Ky. Rev. Stat. Ann. § 527.040. Kentucky prohibits possession of any firearm by anyone convicted of a felony after July 15, 1994, and prohibits possession of a handgun by anyone convicted of a felony after January 1, 1975.
120. Ky. Rev. Stat. Ann. § 431.064.
121. La. Rev. Stat. § 14:95.1(A), (C); La. Rev. Stat. § 14:95.10.
122. La. Rev. Stat. § 46:2136.3.
123. La. Rev. Stat. § 14:35.3(C), (D).
124. Me. Stat., 15 § 393(1).
125. Me. Stat., 15 § 393(1)(D).
126. Me. Stat., 15 § 393(1)(F-J), as enacted by 2015 Me. H.B. 413.
127. Me. Stat., 15 § 393(1)(E).
128. Me. Stat., 15 § 393(1-B) (as enacted by 2015 Me. H.B. 413).
129. Md. Code Ann., Pub. Safety §§ 5-101(g), 5-134(b).
130. See Md. Code Ann., Fam. Law §§ 4-506, 4-508.1.
131. Md. Code Ann., Pub. Safety §§ 5-133(b), (c)(1), 5-205(b), 5-206.
132. Md. Code Ann., Fam. Law § 4-506(f).
133. Md. Code Ann., Fam. Law § 4-511(b), (c).
134. Mass. Gen. Laws ch. 140, §§ 129B, 131, 131F; ch. 123 § 35.
135. Mass. Gen. Laws ch. 140, § 129B.
136. *Id.*

137. Mass. Gen. Laws ch. 140, § 129D. See *also*, Mass. Gen. Laws ch. 209A, § 3B.
138. *Id.*
139. Mich. Comp. Laws Serv. § 750.224f.
140. Mich. Comp. Laws Serv. §§ 600.2950(1)(e), 600.2950a(2), (3)(c), (26).
141. See Mich. Comp. Laws Serv. § 28.422(3).
142. See Minn. Stat. § 624.713
143. 2013 Minn. H.B. 3238, amending Minn. Stat. § 260C.201, subd. 3(d); Minn. Stat. § 518B.01, subd. 6(g).
144. Minn. Stat. § 260C.201, subd. 3(d); Minn. Stat. § 518B.01, subd. 6(g).
145. Minn. Stat. §260C.201, subd. 3(d); Minn. Stat. 518B.01, subd. 6(i).
146. Minn. Stat. § 260C.201, subd. 3(d); Minn. Stat. § 518B.01, subd. 6(g).
147. *Id.*
148. Minn. Stat. §260C.201, subd. 3(f); Minn. Stat. 518B.01, subd. 6(i). If the transfer is made to a third party, the third party must sign an affidavit under oath before a notary public either acknowledging that the abusing party permanently transferred the abusing party's firearms to the third party or agreeing to temporarily store the abusing party's firearms until such time as the abusing party is legally permitted to possess firearms. The affidavit shall indicate the serial number, make, and model of all firearms transferred by the abusing party to the third party. The third party shall acknowledge in the affidavit that the third party may be held criminally and civilly responsible if the abusing party gains access to a transferred firearm while the firearm is in the custody of the third party.
149. *Id.*
150. *Id.*
151. Minn. Stat. §§ 609.749, subd. 8(e)-(g), 609.2242, subd. 3(f)-(h).
152. Minn. Stat. § 629.715, subd. 2.
153. Miss. Code Ann. § 97-37-5(1).
154. Mo. Rev. Stat. § 571.070. This does not apply to the possession of an "antique firearm."
155. Mo. Rev. Stat. § 571.095. The proceeds of any sale or gains from trade shall be the property of the police department or sheriff's department responsible for the defendant's arrest or the confiscation of the firearms and ammunition. *Id.* If the firearms or ammunition are not the property of the convicted felon, they shall be returned to their rightful owner if he or she is known and was not a participant in the crime. *Id.*
156. Mont. Code Ann. § 45-8-313. See *also*, Montana Code Ann. § 46-18-221.
157. Mont. Code Ann. § 45-5-206(7); Mont. Code Ann. § 40-15-201(1), (2)(f).
158. Neb. Rev. Stat. § 28-1206(1).
159. Neb. Rev. Stat. § 42-924(1)(g).
160. Neb. Rev. Stat. §§ 29-2291; 29-2291; 42-925.
161. Nev. Rev. Stat. Ann. § 202.360.
162. Nev. Rev. Stat. Ann. § 33.031(1)(b). An extended order may be issued when a court is satisfied that specific facts demonstrate that an act of domestic violence occurred or a threat of domestic violence exists, and after the court provides notice to the adverse party and holds a hearing on the application for an order of protection. Nev. Rev. Stat. Ann. § 33.020(1), (3).
163. Nev. Rev. Stat. Ann. § 33.033(1).
164. Nev. Rev. Stat. Ann. § 33.033.
165. Nev. Rev. Stat. Ann. § 33.033(5).
166. N.H. Rev. Stat. Ann. § 159:3.

167. N.H. Rev. Stat. Ann. § 173-B:5(II).
168. N.H. Rev. Stat. Ann. § 173-B:5(I).
169. N.H. Rev. Stat. Ann. § 173-B:5(X).
170. *Id.*
171. N.J. Stat. §§ 2C:1-4; 2C:25-28f, j; 2C:25-29b. An offense under New Jersey law only constitutes a “crime” if a sentence of imprisonment in excess of 6 months is authorized. *See also*, N.J. Stat. Ann. § 2C:39-7.
172. N.J. Stat. Ann. §§ 2C:25-28f, j; 2C:25-29b.
173. N.J. Stat. § 2C:25-29(16).
174. *See* 2016 N.J. SB 805.
175. *Id.*
176. N.J. Stat. Ann. § 2C:58-3f.
177. N.M. Stat. Ann. § 30-7-16(A), (C)(2).
178. N.Y. Penal Law §§ 265.00(17); 265.01; 400.00(1).
179. N.Y. Penal Law § 265.20a(f).
180. N.Y. Crim. Proc. Law § 380.96.
181. N.Y. Crim. Proc. Law § 330.20(2-a).
182. N.Y. Fam. Ct. Act § 842-a(1)(a)-(b); N.Y. Crim. Proc. Law § 530.14(1)(b). N.Y. Fam. Ct. Act § 842-a(2)(a)-(b); N.Y. Crim. Proc. Law § 530.14(2)(b).
183. N.Y. CLS CPL § 530.14(5); N.Y. Fam. Ct. Act § 842-a(5)(a), (6)(a).
184. N.Y. Crim. Proc. Law § 530.14(5)(b); N.Y. Fam. Ct. Act § 842-a(5)(b); N.Y. Penal Law § 400.05(6).
185. N.C. Gen. Stat. §§ 15A-1343(b)(5); 15A-1368.4; 15A-1374.
186. *See* N.C. Gen. Stat. §§ 14-404; 122C-54.1
187. N.C. Gen. Stat. § 50B-3.1(a).
188. N.C. Gen. Stat. § 50B-3.1(b), (c).
189. N.C. Gen. Stat. § 50B-3.1(d). A third-party owner of firearms, ammunition, or permits who is otherwise eligible to possess such items may file a motion requesting the return of any such items seized as a result of the domestic violence protective order. N.C. Gen. Stat. § 50B-3.1(g).
190. N.C. Gen. Stat. § 50B-3.1(d).
191. N.C. Gen. Stat. § 50B-3.1(e).
192. N.D. Cent. Code § 62.1-02-01
193. N.D. Cent. Code § 14-07.1-02(4)(g).
194. *Id.*; N.D. Cent. Code § 14-07.1-03(2)(d). When an individual who is charged with or arrested for a crime of violence or threat of violence, stalking, harassment, or a sex offense, and who is the subject of an order prohibiting contact, is released from custody before arraignment or trial, the court must require the individual to relinquish any firearm in or subject to the individual’s immediate possession or control to the sheriff of the county or chief of police of the city where the individual resides, if the court has probable cause to believe that the individual charged or arrested is likely to use, display, or threaten to use a firearm in any further act of violence. N.D. Cent. Code §12.1-31.2-02(2).
195. *Id.*
196. Ohio Rev. Code § 2923.13(A).
197. Ohio Rev. Code §§ 2151.34(F)(2); 2903.214(F)(2); 3113.31(F)(2).
198. Okla. Stat. Ann. tit. 21, § 1283(A), (C).

199. Okla. Stat. Ann. tit. 21, §§ 1289.10, 1289.12.
200. Okla. Stat. Ann. tit. 22, § 60.11.
201. Or. Rev. Stat. §§ 166.250(1)(c); 166.255(1)(b); 137.540(1)(m).
202. Or. Rev. Stat. § 166.300.
203. Or. Rev. Stat. § 166.250(1)(c); Or. Rev. Stat. § 426.130(1)(b)(D).
204. Or. Rev. Stat. § 166.255(1)(a).
205. 18 Pa. Cons. Stat. Ann. § 6105(b); 18 Pa. Cons. Stat. Ann. § 6105(c)(9); 35 Pa. Stat. Ann. § 780-101 *et seq.*
See *also*, 18 Pa. Cons. Stat. Ann. § 6105(e)(2).
206. 18 Pa. Cons. Stat. Ann. § 6105(c)(6); 23 Pa. Cons. Stat. Ann. § 6108(a)(7).
207. 18 Pa. Cons. Stat. Ann. § 6105(a)(1)(i).
208. 23 Pa. Cons. Stat. Ann. § 6108(a)(7).
209. *Id.*; 23 Pa. Cons. Stat. Ann. §§ 6108-6108.3.
210. 23 Pa. Cons. Stat. Ann. §§ 6108(a)(7); 6108.2(c); 6108.3.
211. 23 Pa. Cons. Stat. Ann. §§ 6108.2(c); 6108.3.
212. *Id.*; 23 Pa. Cons. Stat. Ann. § 6108(a)(7).
213. 23 Pa. Cons. Stat. Ann. § 6105(e).
214. 23 Pa. Cons. Stat. Ann. § 6105(e)(2), (4).
215. R.I. Gen. Laws §§ 11-47-5-11-47-7, 12-29-5.
216. R.I. Gen. Laws §§ 8-8.1-3(a)(4), (c); 15-15-3(a)(5)
217. See R.I. Gen. Laws § 11-47-5.3, enacted by R.I. SB 2492 and R.I. HB 7283.
218. R.I. Gen. Laws § 11-47-5.3(a).
219. *Id.*
220. R.I. Gen. Laws §§ 8-8.1-3(d); 15-15-3(d).
221. *Id.*
222. R.I. Gen. Laws §§ 8-8.1-3(g)-(k); 15-15-3(h)-(k).
223. S.C. Code Ann. §§ 16-23-500; 16-23-30(B); 16-25-30 (as amended by 2015 S.C. S.B. 3); 23-31-1040; 44-23-1080; 44-52-165(A).
224. S.C. Code § 16-25-30(A)(4), (5).
225. S.C. Code § 16-23-500(C).
226. S.D. Codified Laws §§ 22-14-15; 22-14-15.1; 22-14-15.2. “Crime of violence” is defined in S.D. Codified Laws § 22-1-2(9).
227. Tenn. Code Ann. § 39-17-1307(f)(1)(C).
228. Tenn. Code Ann. § 39-17-315.
229. Tenn. Code Ann. § 39-17-1307(b)(1)(A), (B).
230. Tenn. Code Ann. § 39-17-1316(a)(1).
231. Tenn. Code Ann. § 36-3-625(a).
232. Tenn. Code Ann. § 39-13-111(c)(6).
233. Tenn. Code Ann. § 36-3-625(b)-(e).
234. Tenn. Code Ann. § 36-3-625(h).
235. Tenn. Code Ann. § 39-13-1317.
236. Tex. Penal Code § 46.04(a).
237. Tex. Penal Code § 46.04(b).

238. Tex. Fam. Code § 83.001; Texas Pen. Code § 46.04(c).
239. Tex. Health & Safety Code § 573.001(g).
240. Tex. Code Crim. Proc. Art. 18.191(e).
241. Utah Code Ann. §§ 76-10-503(1); 76-9-804.
242. Utah Code Ann. §§ 78B-7-106(2)(d); 78B-7-107(2); 78B-7-404(3)(b), (5).
243. Utah Code Ann. § 76-10-503(7).
244. See 2015 VT S.B. 141, enacting Vt. Stat. Ann. tit. 13, §§ 4017; 5301(7).
245. Vt. Stat. Ann. tit. 28, § 252(b)(8), tit. 33, § 5262(b)(4).
246. See *Benson v. Muscari*, 769 A.2d 1291 (2001) (interpreting Vt. Stat. Ann. tit. 15, § 1103(c)).
247. Vt. Stat. Ann. tit. 20, § 2307(b)(1).
248. Vt. Stat. Ann. tit. 20, §2307(c), (d).
249. Vt. Stat. Ann. tit. 20, § 2307(b)(2).
250. Vt. Stat. Ann. tit. 20, § 2307(f).
251. Va. Code Ann. § 18.2-308.2(A), (C).
252. Va. Code Ann. § 18.2-308.1:1-5.
253. Va. Code Ann. § 18.2-308.1:4; Va. Code Ann. § 18.2-308.09.
254. Wash. Rev. Code Ann. § 9.41.040.
255. See Wash. Rev. Code Ann. § 9.41.047; Wash Admin. Code §§ 388-865-0585; 388-875-0080.
256. Wash. Rev. Code Ann. § 9.41.040(2)(a)(i).
257. Wash. Rev. Code Ann. §§ 9.41.040(2)(a); 9.41.800.
258. Wash. Rev. Code Ann. § 9.41.800.
259. Wash. Rev. Code Ann. § 9.41.800(7).
260. Wash. Rev. Code Ann. § 9.41.804.
261. *Id.*
262. See 2015 Wa. SB 5381, Sect. 1-2.
263. Wash. Rev. Code Ann. § 9.41.098(1).
264. Wash. Rev. Code Ann. § 9.41.098(7).
265. W. Va. Code §§ 61-7-7(a); 48-27-502(b).
266. W. Va. Code §§ 61-7-7(a)(4).
267. W. Va. Code § 48-27-1002(e)(3).
268. Wis. Stat. §§ 51.20 (13)(cv); 51.45(13)(i)(1); 54.10(3)(f)(1); 55.12(10)(a); 813.12; 813.122; 813.123(5m); 813.125; 941.29(1).
269. Wis. Stat. § 51.20(13)(cv)(1).
270. Wis. Stat. § 51.20(cv)(3).
271. Wis. Stat. §§ 51.45(13)(i)(1); 54.10(3)(f)(1); 55.12(10)(a).
272. Wis. Stat. § 813.1285.
273. Wis. Stat. § 813.1285.
274. Wyo. Stat. Ann. §§ 6-8-102; 6-8-404.

ABOUT THE LAW CENTER

Founded in the wake of a 1993 assault weapon massacre at a San Francisco law firm, the Law Center to Prevent Gun Violence is now the **premier resource for legal expertise and information regarding firearms policy**. We track and analyze gun laws in all 50 states, file amicus

briefs in critical Second Amendment cases, write model legislation, and offer comprehensive educational resources to the public.

In 2016, the Law Center merged with Americans for Responsible Solutions, led by former Congresswoman Gabrielle Giffords and Navy combat veteran and retired NASA astronaut Mark Kelly, to form **a powerful new force for gun safety that stretches from coast to coast**.

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