

ARE YOU CONCERNED ABOUT YOUR SAFETY?

IF SO, ASK YOURSELF THESE QUESTIONS:

Are you being physically or emotionally abused by your partner?

Does your intimate partner have a gun? Has he threatened to get one?

Has he ever threatened to hurt or kill you or your family members, friends or pets with a gun?

Would you feel safer if there was an order from the court forbidding him to have a gun?

If you answered “Yes” to any of these questions, please call the Virginia Hotline for assistance and consider taking the six steps outlined in this brochure.



KNOW YOUR RIGHTS in VIRGINIA

PROTECTIVE ORDERS

If it will make you safer, you can ask a judge to prevent your intimate partner from buying or transporting a gun or carrying a concealed firearm.

In Virginia, anyone subject to *any* order of protection—even emergency orders—may not lawfully *buy* or *transport* a gun,ⁱ and those who have permits to carry concealed firearms are required to surrender their permits to the court.ⁱⁱ

While Virginia state law does not specifically prohibit possession of firearms, the court *may* (after notice to the respondent and a formal hearing), order “*any relief necessary*” to protect the health and safety of you and your family.ⁱⁱⁱ This means in your petition you should tell the court if your partner has a gun or has threatened you with one, and ask the court to use its authority under state law to remove his guns.

In addition, federal law says that anyone under a “final” order may not possess a firearm.^{iv} You can request that the court remind your partner about the federal prohibition and include the federal language in the order.

AFTER A CONVICTION

Federal law says that if your partner is *convicted* of any felony or a misdemeanor crime of domestic violence, it is illegal for him to possess or obtain a gun.^v

(ⁱ VA Stat. § 18.2-308.1:4 and VA Stat. § 16.1-279.1 // ⁱⁱ VA Stat. § 18.2-308.1:4 // ⁱⁱⁱ VA Stat. § 16.1-279.1 // ^{iv} 18 U.S.C. § 922(g)(8) // ^v 18 U.S.C. § 921(a)(33)(A) and 18 U.S.C. § 922(g)(9). The crime need not specifically fall under a domestic violence statute—any assault or battery against a domestic partner is enough. See *U.S. v. Ball*, 7 Fed. Appx. 210 (4th Cir. Apr. 4, 2001), cert. denied 122 S. Ct. 226(2002)).

Information accurate as of June 2003.

For additional brochures please call: 804.377.0335

DOMESTIC VIOLENCE & GUNS

A Guide to the Laws That Can Remove Guns from a Dangerous Partner

VIRGINIA

Sponsored by the Americans for Gun Safety Foundation

HOW THE LAW CAN HELP YOU BE SAFER

IN 6 STEPS

STEP ONE

SAFETY PLANNING & ASSISTANCE

Your safety is the most important thing. Asking the courts to take away your intimate partner's gun can be dangerous. Before you do anything, contact the domestic violence program number on this brochure for safety planning assistance and more information on the laws about guns and protective orders.

STEP TWO

IF YOU BELIEVE YOU WILL BE SAFER, SEEK A PROTECTIVE ORDER

A Protective Order (this may be called something else, like a restraining order, a stay-away order, or an injunction) is an order from a court that can place restrictions on what the person who is hurting or threatening you can do and what kind of contact he can have with you.

Limits on his access to a gun can be included in a protective order. Guns are not always part of an order—but you can request that the court use the order to take his gun away.

It is the responsibility of judges and police to enforce the law, protect your safety and stop anyone who is hurting you from buying or having guns.

STEP THREE

FILL OUT A PETITION

To get a protective order you need to file a *protective order petition* with the courts. While you do NOT need a lawyer to do this, it is a good idea to seek information and support from your local domestic violence organization before beginning the protective order process. To find your local organization, call the number on this brochure or the national hotline at: 800.799.SAFE (7223).

There may be petitions for two types of protective orders. One is a “*temporary*” or “*emergency*” order that will be effective immediately but will last only a short time or until you get a final order. The other is a “*final*” or “*permanent*” order that will last longer but may require that you attend a hearing before a judge. Your partner will also have the opportunity to attend the hearing.

STEP FOUR

REQUEST TO TAKE HIS GUN AWAY

It is important to tell court officials that your partner has a gun and you would be safer if it were taken away. Be sure to *write down* in your petition that you want the court to take the gun away—do not wait until you are standing before the judge.

STEP FIVE

YOU MAY ASK THE COURT TO EXPLAIN WHAT HAPPENS TO THE GUN

If you get a protective order that stops your partner from having a gun, you may want to ask the court to explain what should happen to the gun. It may be best to ask the court to require your partner to turn his gun in to the police or require the police to go to his home and get it.

STEP SIX

WHAT TO DO IF YOUR RIGHTS ARE NOT ENFORCED

If you have a final protective order, it is *illegal* for your partner to have a gun. If he still has a gun, he is breaking federal law.

You should also know that federal law says that if he has been convicted of a domestic violence misdemeanor in the past, it is illegal for him to have a gun or ammunition. If he has ever been convicted of a felony, it is also illegal for him to have a gun.

Unfortunately, laws are not always enforced the way they should be. If your rights are not being enforced, **Get Help**. You can seek assistance and advice from your local domestic violence center or the national hotline at: 800.799.SAFE (7223).

(If you are an immigrant or if your partner is military personnel or in law enforcement, the laws for protective orders may differ, and you should seek assistance from a domestic violence organization.)

The process and language of protective orders differ state by state. Look on the back of this brochure for information on the laws in this state.