



# **A Brief History and Framework of Federal Firearms Laws Addressing Intimate Partner Violence**

**The National Resource Center on Domestic Violence and Firearms**

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# **BWJP**

# The Background Check System

In 1993, the Brady Handgun Violence Prevention Act of 1993 was signed into law. This law required firearms and ammunition sellers who were Federal Firearms Licensees<sup>1</sup> to ask the federal government to conduct a background check on persons seeking to buy firearms and ammunition. This was the beginning of the National Instant Criminal Background Check System (NICS), which today is run by the U.S. Department of Justice.

When conducting a background check, NICS looks at whether potential firearms buyers are prohibited under federal law from purchasing or possessing a firearm.

Congress created a list of statuses that would invoke the federal prohibition against purchasing or possessing firearms or ammunition<sup>2</sup>:

- A felony conviction
- Illegal drug use or addiction
- Has been found by a court to have a mental disability
- Not being a U.S. citizen and not in the U.S. legally; not having permanent resident status in the U.S.
- A fugitive from justice
- Dishonorably discharged from the military
- Has renounced their U.S. citizenship
- **Is subject to a domestic violence protection order (DVPO)**
- **Has been convicted of a misdemeanor crime of domestic violence (MCDV), including against a person in a dating relationship (MCDV(DR))**

These statuses are called “prohibitors.” As long as the person trying to purchase or possess a firearm has one or more of these statuses, they are not allowed to have access to firearms or ammunition under federal law.

If any of these statuses change—if, for example, someone who was dishonorably discharged from the military has the discharge changed to an honorable discharge—then the firearms prohibition may no longer apply.

## How the National Instant Criminal Background Check System (NICS) Works

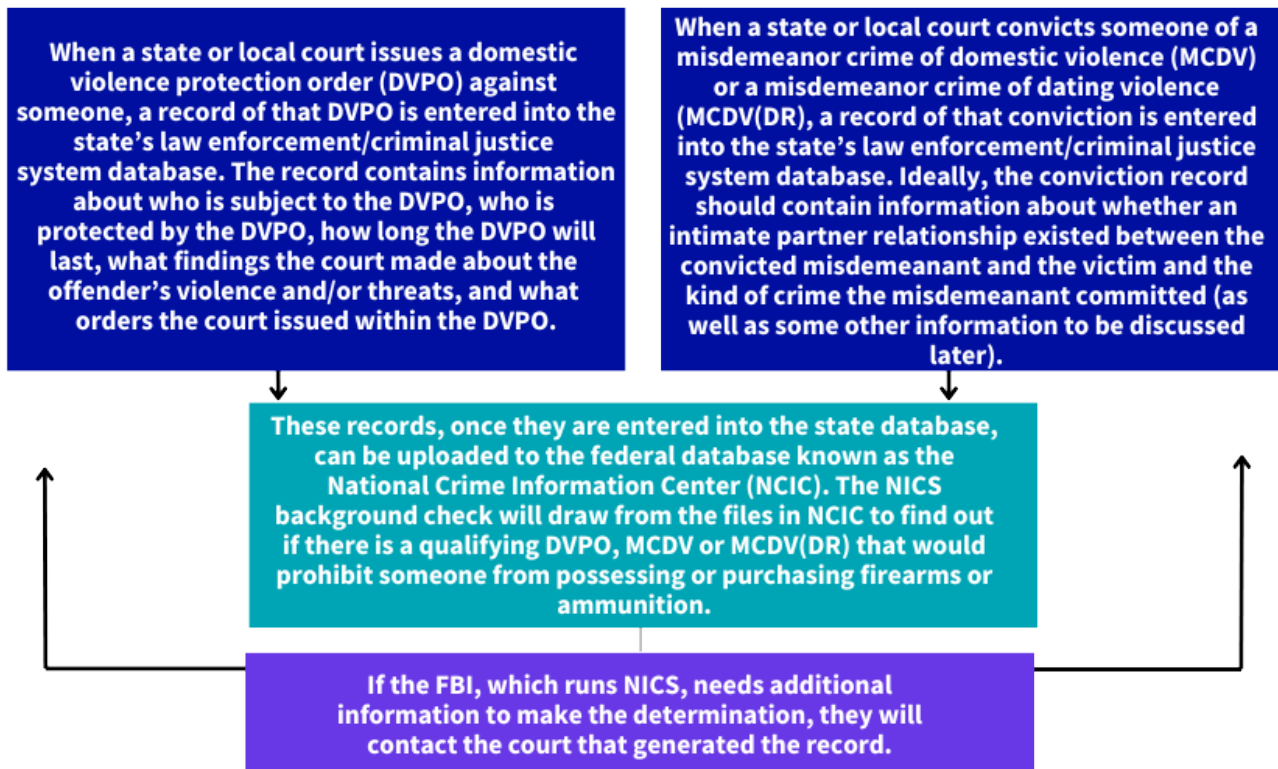
Whenever someone tries to buy firearms or ammunition from a federally licensed firearm dealer, that dealer contacts NICS at the FBI to find out if the sale would violate federal firearms laws.

If there is a record in the federal system that shows that the would-be purchaser is subject to a prohibitor, such as a qualifying DVPO (18 U.S.C. 922(g)(8)) or that the would-be purchaser has been convicted of a qualifying MCDV (18 U.S.C. 922(g)(9)), then NICS will stop the sale.

NICS has three days to search federal databases and confirm if any prohibitions exist. The sale cannot go forward during those three days. If NICS has not completed their search at the end of three days, the sale goes forward.

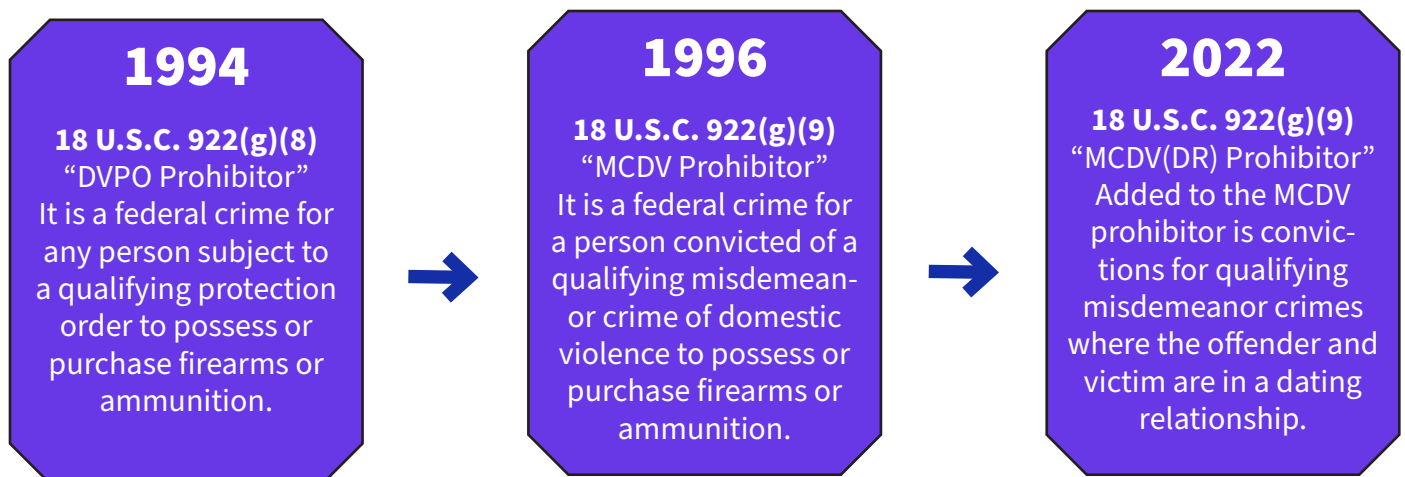
Sometimes it takes NICS more than three days to complete the search. If the result of a search completed later than three days indicates that a purchaser was indeed prohibited from purchasing a firearm or ammunition under federal law, federal authorities will work to retrieve the prohibited firearms and ammunition from the purchaser, often in coordination with state or local authorities.

# How information about a person’s status gets into the National Instant Criminal Background Check System (NICS)



Following the passage of the Violence Against Women Act of 2022, federal authorities are required to let local law enforcement know when someone from their community has failed a background check while attempting to purchase a firearm<sup>3</sup>.

## Timeline of federal firearms laws specifically addressing intimate partner violence:



# Protection Orders and Federal Firearms Prohibitions (DVPO Prohibitor)

## (18 U.S.C. 922(g)(8))

In 1994, Congress created the federal domestic violence protection order (DVPO) prohibitor (18 U.S.C. 922(g)(8)) as part of the Violent Crime Control and Law Enforcement Act of 1994<sup>4</sup>.

**This prohibits any person who is currently subject to a qualifying DVPO from accessing firearms or ammunition for the duration of the order, if the order meets the following requirements:**

- There was due process: The DVPO must have been issued after a hearing of which the person subject to the order had notice and at which the person had an opportunity to participate; it must also have been served on the respondent<sup>5</sup>;
- The DVPO restrains the person subject to the order from certain actions (i.e., harassing, stalking, or threatening an intimate partner, the petitioner or respondent's child or placing an intimate partner in reasonable fear of bodily injury to the partner or child<sup>6</sup>;
- The court made a finding of a credible threat to the physical safety of an intimate partner or the child of either party or the DVPO expressly prohibits the use of physical force against an intimate partner or child of either party that would reasonably be expected to cause bodily injury<sup>7</sup>;

**Within the context of the DVPO prohibitor, an “intimate partner” of the person subject to the DVPO (i.e., the respondent) includes:**

- someone they are currently, or were formerly, married to;
- a person with whom they share a child; or
- a person with whom they currently or formerly lived.<sup>8</sup>

A DVPO issued in a “default” order, or when the respondent did not participate in the full hearing, can also trigger the federal DVPO prohibitor so long as the respondent had notice of the hearing and therefore an opportunity to be heard.

A mutual DVPO occurs where the court issues DVPOs for and against both parties, meaning the petitioner who initiated the hearing is granted their requested order against the respondent and the original respondent is also granted a DVPO against the original petitioner. It is possible, however, that both orders may not trigger the DVPO prohibitor. In particular, if the original petitioner did not have notice of a hearing for a DVPO against them or an opportunity to participate in that hearing, that mutual protection order violates the petitioner's due process<sup>9</sup> and therefore does not trigger the federal DVPO prohibitor against the petitioner.

## What is the impact of being prohibited under the federal DVPO firearms prohibition?

First, if a person prohibited under the DVPO firearms prohibition is in possession of a firearm or ammunition or receives or tries to purchase a firearm or ammunition, they can be prosecuted for a federal crime, which could result in a felony conviction<sup>12</sup>.

Second, information about the qualifying DVPO will be entered into certain federal databases that provide information to the National Instant Criminal Background Check System (NICS)<sup>13</sup>. That way, when a federally licensed firearm dealer contacts the FBI to conduct a background check prior to selling firearms or ammunition to any person, the FBI can identify the records that may indicate that the potential purchaser is subject to any of the federal firearms prohibitions, including the DVPO prohibition.

Federal law creates a special exemption from the federal DVPO prohibitor (and most of the other prohibitors) for military and law enforcement personnel, commonly known as an “official use exemption,” while they are on duty<sup>10</sup>. If the person subject to a qualifying DVPO is active military or active federal, state, or local law enforcement and their position requires them to possess or receive a firearm to perform their duties then the person will be exempted from the prohibition while on duty. However, these personnel may not have firearms or ammunition when they are off duty. This may require the person subject to the DVPO prohibitor with an official use exemption to turn in their service weapon at the end of their shift and receive it at the start of their next shift.

The DVPO prohibition ends when the protection order expires or is terminated, or if the DVPO is modified in a way that means the order no longer qualifies for the prohibition under federal law<sup>11</sup>.

It is important to note that many states have similar DVPO prohibitors in their state laws which may operate differently than the federal prohibitor. The above information applies to the way the federal DVPO prohibitor operates.

# Misdemeanor Crimes of Domestic and Dating Violence and Federal Firearms Laws

## (18 U.S.C. 922(g)(9) and 18 U.S.C. 921(a)(33))

In 1996 the Gun Control Act of 1968 was amended with what is referred to as the Lautenberg Amendment<sup>14</sup> to establish the second firearm prohibitor related to intimate partner violence by prohibiting persons convicted of a misdemeanor crime of domestic violence (MCDV), later expanded to include dating violence, from being able to access firearms and ammunition<sup>15</sup>. 18 U.S.C. 922(g)(9) establishes the prohibition, while 18 U.S.C. 921(a)(33) defines the terms used in the prohibition; both must be read together to understand the requirements and framework of the MCDV.

## What is the impact of being prohibited under the federal MCDV prohibition?

First, if a person prohibited under the MCDV firearms prohibitor is in possession of a firearm or ammunition or receives or tries to purchase a firearm or ammunition, they can be prosecuted for a federal crime, which can result in a felony conviction<sup>16</sup>.

Second, in order to enforce the MCDV prohibitor, the records of the state, tribal or local MCDV conviction are entered into certain federal criminal databases<sup>17</sup> that provide information to the National Instant Criminal Background Check System (NICS). That way, when a federally licensed firearm dealer contacts the FBI to conduct a background check prior to selling firearms or ammunition to any person, the FBI can identify the records that may indicate that the potential purchaser is subject to any of the federal firearms' prohibitions, including the MCDV prohibition.

In other words, a qualifying MCDV conviction can limit the convicted person's ability to purchase firearms and ammunition; and if the convicted person obtains firearms and ammunition in violation of the prohibition, they may face criminal penalties under federal law.

## What convictions invoke the MCDV prohibitor?

The MCDV prohibitor addresses misdemeanor crimes of domestic violence and dating violence. Both are forms of intimate partner violence. When the MCDV prohibitor was first created by Congress in 1996 it addressed domestic violence in specific types of intimate relationships, which not include dating violence. That gap was finally closed by Congress in 2022. However, the way in which the MCDV prohibitor operates for convictions related to dating violence differs in a few significant ways from the way the MCDV prohibitor operates for convictions related to domestic violence as those relationships were originally defined.

## For a conviction to qualify for the MCDV prohibitor it must satisfy the following requirements:

- The crime is a misdemeanor under federal, state, tribal or local law;<sup>18</sup>
- The misdemeanor has, as an element, the use or attempted use of physical force or threatened use of a deadly weapon;<sup>19</sup>
- The offense was committed against someone with whom the convicted person had a qualifying relationship;<sup>20</sup>
- The convicted person was represented by an attorney or knowingly and intelligently waived their right to counsel;<sup>21</sup>
- If the convicted person had the right to a jury trial, the conviction must have been after a trial by jury or the convicted person knowingly and intelligently waived their right to have the case tried by a jury, by guilty plea or otherwise.<sup>22</sup>
- The conviction has not been expunged or set aside, not been pardoned, and the convicted person's civil rights have not been restored.<sup>23</sup>

## What is a qualifying relationship to invoke the MCDV?

Under the original MCDV in 1996, a qualifying conviction is one which involved conduct committed by someone who has one of the following relationships to the victim of the crime:

- Is a **current or former spouse**;
- Is a **current or former parent or guardian**;
- Shares a **child in common**;
- Is currently or formerly **cohabitated** as a spouse, parent or guardian of the victim;
- Is **similarly situated** to spouse, parent or guardian of the victim.

In the Bipartisan Safer Communities Act in 2022, another qualifying relationship was added: someone who has a current or recent former **dating relationship** with the victim (MCDV(DR)).<sup>24</sup>

The law then defined “dating relationship” as one that:<sup>25</sup>

- Currently exists or existed recently;
- Is continuing and serious;
- Is of a romantic or intimate nature<sup>26</sup>

In determining whether the dating relationship qualifies under federal law to invoke the MCDV(DR) prohibition, the factors described above depend on the following:

- The length of the relationship;
- The nature of the relationship;
- The frequency and type of interaction between the individuals in the relationship<sup>27</sup>

Note that the addition of dating relationships to federal firearms prohibitors only applies to the MCDV prohibitor. In the case of the DVPO prohibitor, dating relationships do not trigger a federal firearms prohibition

## Covered Relationships Under the MCDV and MCDV(DR) Prohibitor

Misdemeanor Convictions before 2022	Misdemeanor Convictions After June 25, 2022	Relationships expressly <b>excluded</b> from the prohibitor
Current or former spouse	Current or former spouse	Casual acquaintanceship
Current or former parent or guardian of the victim	Current or former parent or guardian of the victim	Ordinary fraternization in a business or social context
Person with whom the victim shares a child in common	Person with whom the victim shares a child in common	
Person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian	Person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian	
Person similarly situated to a spouse, parent, or guardian of the victim	Person similarly situated to a spouse, parent, or guardian of the victim	
	A person who has a current or recent former dating relationship with the victim, which means a relationship between individuals who have or have recently had a continuing serious relationship of a romantic or intimate nature determined by: the length of the relationship, the nature of the relationship, and the frequency and type of interaction between the individuals involved in the relationship.	



## How does the MCDV prohibitor operate?

It depends on which of the qualifying relationships exists between the parties.

### Misdemeanor crimes of domestic violence in dating relationships (MCDV(DR))

For the misdemeanor convictions related to dating violence the MCDV(DR) prohibitor only applies to qualifying convictions that occur after June 25, 2022, the date of the enactment of the Bipartisan Safer Communities Act which added dating relationships to the MCDV prohibitor.

**Under the new MCDV(DR) prohibitor addressing dating violence misdemeanors, the prohibition will be lifted in two ways:**

1. The MCDV(DR) prohibition will end in 5 years if the respondent has not had more than one dating violence conviction and the respondent has not been subsequently convicted of another such offense, or a misdemeanor under federal, state, tribal, or local law which has as an element the use or attempted use of physical force or the threatened use of a deadly weapon, or any other offense that would disqualify the person under section 922(g); *or*
2. The prohibition will be lifted if the conviction is expunged or set aside under state, tribal or local law, or if the convicted person is pardoned or has their full civil rights restored (unless they are expressly prohibited from accessing firearms).

### Misdemeanor crimes of domestic violence (MCDV) that is not dating violence

Under the MCDV, the qualifying misdemeanor conviction can have occurred at any time (even before passage of the Lautenberg Amendment). The MCDV prohibitor is permanent in that it remains in effect as long as the conviction remains in place. The MCDV prohibition can only be lifted if the MCDV conviction is expunged or set aside, or if the offense has been pardoned, or if the misdemeanant has their civil rights restored.<sup>28</sup> Unlike the DVPO prohibitor, the MCDV (including MCDV(DR)) prohibitor does not provide an exemption for military and law enforcement personnel whose duties require carrying firearms.

## In these ways, the original MCDV prohibitor is more stringent than the new MCDV(DR) provisions:

	MCDV Prohibition	MCDV(DR) Prohibition
<b>Date when conviction applies</b>	Anytime before or after 1996	Only after June 25, 2022
<b>Prohibition lifted when conviction expunged, set aside, pardoned or civil rights restored (including firearm rights)</b>	Yes	Yes
<b>Prohibition lifted in 5 years if only 1 conviction with no subsequent convictions</b>	No-Prohibition may be lifetime	Yes—The prohibition will be lifted after 5 years unless the person has a subsequent misdemeanor conviction under federal, state, tribal, or local law which has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon; or conviction for any other offense that would otherwise invoke a prohibitor under 18 U.S.C. 922(g).

In cases involving dangerous offenders, it is worth closely examining the nature of the relationship between the parties in order to ensure the strongest firearms prohibitions apply to protect the victim and the community. If the evidence shows the nature of the dating relationship could more appropriately be characterized as being similarly situated to a spouse or to cohabiting, or another of the original MCDV qualifying relationships, then treating the conviction as an MCDV rather than an MCDV(DR) may offer greater protections.<sup>29</sup>

**It is important to note that many states have similar MCDV and MCDV(DR) prohibitors in their state laws which may operate differently than the federal prohibitor. The above information applies to the way the federal MCDV/MCDV(DR) prohibitor operates.**

# Elements of The Misdemeanor Convictions for Domestic Violence and Dating Violence Federal Firearms Prohibitions

## Original MCDV

### Covered Relationships

Current/former spouse  
current/former parent or guardian  
current/former cohabitant, share a child in common, person similarly situated to a spouse

### Effective Date

Prohibition is triggered by any qualifying conviction for a misdemeanor crime of domestic violence, no matter how far back

### No time limit on prohibition

Firearms prohibition last for lifetime unless removed for enumerated reasons

## Shared Provisions

### Misdemeanor crime

under federal, state tribal or local law

### Use of force

Use or attempted use of physical force or threatened use of a deadly weapon

### Qualifying conviction

Defendant represented by counsel or knowingly and intelligently waived counsel; if entitled to jury trial, case tried by jury or defendant knowingly and intelligently waived right to jury (e.g. guilty plea)

### Prohibition removed if

conviction is expunged, pardoned, set aside or full civil rights restored (incl. firearms)

## MCDV Dating Relationships

### Covered Relationships

A current or recent former continuing serious relationship of a romantic or intimate nature.

Based on:

- Length
- Nature
- Frequency

(does not include casual acquaintance or ordinary fraternization in business or social context).

### Effective Date

Conviction on or after June 25, 2022

### 5-year limit on prohibition

If defendant has not more than 1 misdemeanor crime of dating violence, and is not otherwise prohibited, prohibition ends after 5 years if defendant is not subsequently convicted of a misdemeanor under state, federal, tribal, or local law which has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon.

# When is a Dating Relationship Not a Dating Relationship?

## Determining Relationship Status for a Misdemeanor Crime of Domestic Violence (MCDV)

In 1996, Congress created a federal law that prohibits persons who have been convicted of a misdemeanor crime of domestic violence (MCDV) in a state, tribal or local court from purchasing or possessing firearms.<sup>30</sup> At that time, and until 2022, the only misdemeanor crimes that invoked this prohibitor were those in which the convicted person’s relationship to the victim was: currently or formerly married, share a child in common, currently or formerly cohabitating as a spouse, parent or guardian of the victim, or similarly situated to a spouse, parent or guardian of the victim.

In 2022, Congress added “a person in a current or recent former dating relationship with the victim” (MCDV(DR)) to the list of persons protected under the MCDV prohibitor.<sup>31</sup>

### Covered Relationships Under 18 U.S.C. 922(g)(9)

Misdemeanor Convictions before 2022	Misdemeanor Convictions After June 25, 2022	Relationships expressly <b>excluded</b> from the prohibitor
Current or former spouse	Current or former spouse	Casual acquaintanceship
Current or former parent or guardian of the victim	Current or former parent or guardian of the victim	Ordinary fraternization in a business or social context
Person with whom the victim shares a child in common	Person with whom the victim shares a child in common	
Person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian	Person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian	
Person similarly situated to a spouse, parent, or guardian of the victim	Person similarly situated to a spouse, parent, or guardian of the victim	
	A person who has a current or recent former dating relationship with the victim, which means a relationship between individuals who have or have recently had a continuing serious relationship of a romantic or intimate nature determined by: the length of the relationship, the nature of the relationship, and the frequency and type of interaction between the individuals involved in the relationship.	

While dating relationships were finally covered by the 2022 BSCA amendments, the conditions governing (1) when the MCDV prohibition takes effect for dating relationships and (2) how long the MCDV prohibition lasts for offenders in dating relationships are different from the MCDV prohibition as applied in other relationship categories.

### Misdemeanor Crime of Domestic Violence MCDV Prohibitor

(1) The prohibition against possession or purchase of firearms and ammunition applies when any qualifying misdemeanor conviction for domestic violence occurred, whether the conviction took place **before or after** the passage of the MCDV law in 1996.

(2) The MCDV prohibitor lasts as long as the convictions remains undisturbed. The MCDV prohibition can end only if the convicted person's record is: expunged or set aside; or if the convicted person is pardoned or has their civil rights restored.

### Misdemeanor Crime in a Dating Relationship MCDV(DR) Prohibitor

(1) The prohibition against possession or purchase of firearms and ammunition applies to qualifying misdemeanor conviction for violence in a dating relationship, **only if** the conviction took place **after** the passage of the MCDV(DR) law in June 25, 2022.

(2) The MCDV(DR) prohibitor can end 5 years after the conviction: if the convicted person only has one conviction; and if the convicted person has not committed any further such crime; a misdemeanor under state, federal, tribal, or local law which has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon; or any other offense that would disqualify the person under 18 U.S.C. 922(g) in the 5 years after the original conviction. Otherwise, the MCDV(DR) prohibition will end if the misdemeanant's record is: expunged or set aside; or if the convicted person is pardoned or has their civil rights restored.

As the chart demonstrates, perpetrators of misdemeanor crimes in a dating relationship face potentially less stringent firearms prohibitions than perpetrators of misdemeanor crimes of domestic violence. MCDV(DR) misdemeanants may face only a 5-year prohibition, while MCDV misdemeanants may face lifetime prohibitions.

For survivors of intimate partner violence, it can make a real difference to their long-term safety if the more stringent prohibition applies. So, it is important to carefully consider whether the intimate partner relationship is solely a dating relationship—or whether the evidence shows that it relates to some of the other MCDV relationships:

- Does the dating relationship involve cohabitation of the parties?
- Do the dating partners have a child in common?
- Could they be perceived under state law as being similarly situated to a spouse?

**If any of these three factors are part of the dating relationship, then the MCDV prohibitor may apply rather than the MCDV(DR) prohibitor.**

FACTORS IN DATING RELATIONSHIPS	IS IT AN MCDV RELATIONSHIP?	IS IT AN MCDV(DR) RELATIONSHIP?
Seeing each other regularly; engaging in social engagements; using terms like “boyfriend” or “girlfriend”		✓ Dating relationship
Using terms like “boyfriend” and “girlfriend”; living in the same residence	✓ Cohabiting	
Using terms like “boyfriend” and “girlfriend”; having a child in common	✓ Child in common	
Using terms like “fiancé”; sharing finances	✓ Similarly situated to a spouse	
Moved out from residence they previously shared and “broke up”	✓ Formerly cohabiting	
Engaging in casual sexual intimacy; seeing each other irregularly while seeing others; using terms like “hookup,” “friends with benefits,” “situation”	✗ Not an eligible relationship	✗ Not an eligible relationship

## Terms Commonly Used to Talk About Federal Firearms Laws

**DVPO.** Domestic violence protection order issued by a state, tribal or local court.

**Due process.** The steps that must be taken to ensure that a person's rights are protected as the court process takes place. For example, if the court schedules a hearing, the person called to the hearing must receive official notice from the court when, where, and why the hearing is taking place, as well as an opportunity to appear at the hearing. Due process is guaranteed under the U.S. Constitution.

**Firearms vs. Guns.** The term used in federal law is firearms, which is a term specifically defined in federal law (18 U.S.C. 921(a)(3)). To be sure we are using a word that has the same meaning as in federal law, we use the word firearm or firearms throughout.

**MCDV or MCDV(DR).** These terms mean a misdemeanor crime of domestic violence or a misdemeanor crime of domestic violence in a dating relationship. Once a person has been convicted of an MCDV or MCDV(DR), that person has the status of a misdemeanant, someone whose criminal record shows that they have been convicted of crime of violence against certain intimate partners. Unless this status is erased from state, tribal or local records by means of expungement, pardon or restoration of certain civil rights (the right to vote, the right to serve as a juror, the right to hold public office, and the right to possess a firearm), or in the case of a first-time MCDV(DR), the passage of 5 years without further convictions for similar crimes, the person continues to have the status of a domestic violence or dating violence misdemeanant.

**NICS (National Instant Criminal Background Check System).** This is the name of the system (run by the FBI) that conducts background checks when someone tries to purchase a gun from a federally licensed firearm dealer. The system looks at several files in the federal criminal justice database operated by the Criminal Justice Information Services of the FBI: POF (Protection Order Files, consisting of state records uploaded to this federal database); Triple I (Interstate Identification Index, consisting of state criminal justice records uploaded to this federal database); NICS (files generated by the National Instant Criminal Background Check System).

**Qualifying.** This term is used to describe a DVPO, MCDV or MCDV(DR) that has all the elements required under the law to trigger the federal firearms prohibition. Some DVPOs, MCDVs or MCDV(DR)s will not satisfy all the statutory requirements (for example, the convicted person may not have properly waived the right to a lawyer), and that crime therefore does not trigger the federal firearms prohibition.

**Prohibitor or prohibition.** This means a ban on the possession or purchase of firearms or ammunition under federal law. For example, a person may not have access to firearms or ammunition because they are subject to the misdemeanor crime of domestic violence prohibitor, the ban imposed because of that person's status as a misdemeanant.

**Status.** This term is used to describe the conditions that may limit a person's ability to purchase or possess a firearm. Specifically, a person is prohibited from purchasing or possessing a firearm if they are identified as any of the following: a felon, a drug user or addict, a certain type of non-citizen, a person subject to domestic restraining order, a person convicted of misdemeanor crimes of domestic and/or dating violence, a fugitive from justice, or a person dishonorably discharged from the military. As long as that person has a status from that list, they are prohibited from purchasing or possessing firearms. If any of those statuses change (for example, the person's dishonorable discharge is changed to a general discharge from the military), then the person no longer has the status and the prohibition may no longer apply.

# Endnotes

- 1 An individual who is licensed to engage in the business of manufacturing, importing and/or dealing in firearms. Persons must be licensed by ATF to engage in the business of firearms. <https://www.atf.gov/resource-center/types-federal-firearms-licenses-ffls>
- 2 18 U.S.C. 922(g)(1)-(9).
- 3 P.L. 117- 103, Division W, Title XI, Sec. 1101. NICS Denial Notification Act of 2022.
- 4 P.L. 103-322.
- 5 18 U.S.C. 922(g)(8)(A).
- 6 18 U.S.C. 922(g)(8)(B).
- 7 18 U.S.C. 922(g)(8)(C).
- 8 18 U.S.C. 922(g)(8)(C).
- 9 18 U.S.C. 922(g)(8)(A).
- 10 18 U.S.C. 925.
- 11 For information about what makes a DVPO “qualifying,” see this ATF document: [atf.gov/resource-center/docs/guide/protection-orders-and-federal-firearms-prohibitions-atf-i332012/download](https://www.atf.gov/resource-center/docs/guide/protection-orders-and-federal-firearms-prohibitions-atf-i332012/download).
- 12 The average sentence for a violation of 18 U.S.C. 922(g) is 60 months. U.S. Sentencing Commission, Section 922(g) Firearms, <https://www.uscc.gov/research/quick-facts/section-922g-firearms>
- 13 The DVPO records can be entered into the National Crime Information Center (NCIC) Protection Order File, which is administered by the Federal Bureau of Investigation (FBI)’s Criminal Justice Information Services (CJIS).
- 14 18 U.S.C. 922(g)(9)
- 15 The full text of the federal firearms laws addressing intimate partner violence are included in the appendix.
- 16 The average sentence for a violation of 18 U.S.C. 922(g) is 60 months. U.S. Sentencing Commission, Section 922(g) Firearms, <https://www.uscc.gov/research/quick-facts/section-922g-firearms>
- 17 The MCDV records can be entered into the Interstate Identification Index files (Triple I) or the National Instant Criminal Background Check System (NICS) files. These database files are part of the National Crime Information Center (NCIC), which is administered by the Federal Bureau of Investigation (FBI)’s Criminal Justice Information Services (CJIS).
- 18 18 U.S.C. 921(a)(33)(A)(i).
- 19 18 U.S.C. 921(a)(33)(A)(II).
- 20 18 U.S.C. 922(a)(33)(A)(ii).
- 21 18 U.S.C. 921(a)(33)(B)((i)(I).
- 22 18 U.S.C. 921(a)(33)(B)(i)(II).
- 23 18 U.S.C. 921(a)(33)(B)(ii). “Civil rights” are the right to vote, the right to run for state office, and the right to sit on a jury.
- 24 18 U.S.C. 921(a)(33)(A)(ii). Note that the addition of dating relationships to federal firearms prohibitors only applies to the MCDV prohibitor. In the case of the DVPO prohibitor, dating relationships do not trigger a federal firearms prohibition.
- 25 18 U.S.C. 921(a)(37).
- 26 18 U.S.C. 921(a)(37)(A).
- 27 18 U.S.C. 921(a)(37)(B).
- 28 18 U.S.C. 921(a)(33)(B)(ii). “Civil rights” are the right to vote, the right to run for state office, and the right to sit on a jury.
- 29 It is important to note that many states have similar MCDV and MCDV(DR) prohibitors in their state laws which may operate differently than the federal prohibitor. The above information applies to the way the federal MCDV/MCDV(DR) prohibitor operates.
- 30 18 U.S.C. 922(g)(9). A misdemeanor crime of domestic violence (MCDV) occurs when a person uses or attempts to use physical force or threatened use of a deadly weapon against:
  - a current or former spouse
  - a parent or guardian of the victim
  - a person who shares a child in common with the perpetrator
  - a person who is cohabiting or has cohabited with the perpetrator as a spouse, parent, or guardiana person similarly situated to a spouse, parent or guardian of the victim. 18 U.S.C. 921(a)(33)(A).
- 31 18 U.S.C. 922(a)(33)(A)(ii).





[www.preventdvgunviolence.org](http://www.preventdvgunviolence.org)

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