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Federal and New York State Domestic Violence Firearm Laws

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Both New York state and the federal government have laws to protect victims of domestic violence. Several of these laws limit who can have a gun. The different state and federal laws can be confusing. This article should help you understand the rules about guns and domestic violence.

New York State Laws

New York state laws can protect you through an order of protection. There are some cases where the court must order your abuser to give up his or her guns. The court must take away his or her guns if you got an order of protection because:

- Your abuser seriously injured you; or
- Your abuser used or threatened to use weapons against you; or
- Your abuser did anything that is a violent felony offense.

The court can take his or her guns away if it thinks your abuser will use a gun against you.

Federal Laws

Federal law says that a person cannot have a gun if there is a court order that meets all of these conditions:

- The person the order is taken against had a chance to participate at the hearing (They were properly served with notice, even if the person did not come to court.)
- The order tells the person to not stalk, harass, or threaten you or your child.
- The order explicitly prohibits the use of force that would be expected to cause injury or includes

a finding that the person is a credible threat to the safety of an intimate partner or child.

What do these laws mean?

Your abuser should have to give up his or her guns while the order is in effect if:

- You get an order of protection; and
- He or she had a chance to participate at the hearing; and
- Your order says that he or she cannot use force against you or your child

OR, the state court order specifically orders the firearms to be surrendered

If the abuser is convicted by criminal court for assault against their partner or former partner, Federal law will permanently bar that person from possessing a firearm, even after any order of protection expires.

For more information, call the domestic violence hotline at 1-800-942-6906.

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This article provides general information about this subject. Laws affecting this subject may have changed since this article was written. For specific legal advice about a problem you are having, get the advice of a lawyer. Receiving this information does not make you a client of our office.

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