

In the Supreme Court of the United States

UNITED STATES OF AMERICA,

Petitioner,

v.

ZACKEY RAHIMI,

Respondent.

**On Writ of Certiorari to the United States
Court of Appeals for the Fifth Circuit**

**BRIEF OF ILLINOIS, DISTRICT OF COLUMBIA,
ARIZONA, CALIFORNIA, COLORADO,
CONNECTICUT, DELAWARE, HAWAII, MAINE,
MARYLAND, MASSACHUSETTS, MICHIGAN,
MINNESOTA, NEVADA, NEW JERSEY, NEW MEXICO,
NEW YORK, NORTH CAROLINA, NORTHERN
MARIANA ISLANDS, OREGON, PENNSYLVANIA,
RHODE ISLAND, VERMONT, WASHINGTON, AND
WISCONSIN AS AMICI CURIAE IN
SUPPORT OF PETITIONER**

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QUESTION PRESENTED

Whether 18 U.S.C. § 922(g)(8), which prohibits the possession of firearms by persons subject to domestic-violence restraining orders, violates the Second Amendment on its face.

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INTERESTS OF AMICI CURIAE

Amici States of Illinois, the District of Columbia, Arizona, California, Colorado, Connecticut, Delaware, Hawaii, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, North Carolina, Northern Mariana Islands, Oregon, Pennsylvania, Rhode Island, Vermont, Washington, and Wisconsin (collectively, “amici States”) submit this brief in support of petitioner the United States. Amici States urge this Court to reverse the Fifth Circuit’s opinion facially invalidating 18 U.S.C. § 922(g)(8), which prohibits the possession of firearms by those subject to domestic-violence restraining orders. In doing so, the Court should reaffirm that the government may regulate the possession and carriage of firearms by those who are deemed dangerous.

Amici States have a substantial interest in the health, safety, and welfare of their communities, which includes protecting their residents from the harmful effects of violent crime and domestic abuse. *United States v. Morrison*, 529 U.S. 598, 618 (2000) (“[W]e can think of no better example of the police power, which the Founders . . . reposed in the States, than the suppression of violent crime and vindication of its victims.”). To serve that interest, States have for decades enacted and enforced laws that—like § 922(g)(8)—prohibit those whom a court has found pose a threat to family members or intimate partners from possessing firearms while under a restraining order.

Although amici States have reached different conclusions about exactly how to regulate in this area, they share an interest in protecting victims of

domestic violence and preventing dangerous persons from possessing firearms. The decision below undermines these public safety objectives, and this Court should reverse it.

SUMMARY OF ARGUMENT

I. The Fifth Circuit's opinion could call into question amici States' longstanding and commonsense efforts to protect public safety. Nearly every jurisdiction in the country has enacted a law limiting access to firearms for those subject to domestic-violence restraining orders. Some, like § 922(g)(8), prohibit possession of a firearm by anyone subject to an order that was issued after notice and a hearing and that includes a finding of dangerousness. Others vest the trial judge with discretion to restrict firearm possession or impose additional limits on the purchase or transport of firearms. Like the federal provision, these laws reflect careful policy determinations about how to ensure that vulnerable victims are protected while respecting the procedural rights of respondents. Although the details of the States' laws may differ, they reflect a widespread democratic consensus that those subject to domestic-violence restraining orders are dangerous and should not have access to firearms.

States do not rubber stamp restraining order petitions. The States' processes incorporate a variety of procedural mechanisms designed to preserve the rights of respondents, frequently resulting in the denial of restraining orders. These civil proceedings are more flexible and tailored than criminal proceedings, making them preferable for both abuse victims and those who are accused of abuse. There is no reason to believe that these civil proceedings are

subject to manipulation, and nothing about this commonplace civil process should call the constitutionality of § 922(g)(8) into doubt.

II. A decision invalidating § 922(g)(8) would interfere with the ability of state and federal governments to utilize a key tool for protecting the victims of domestic abuse. Section 922(g)(8) and its state analogues were passed to address a significant public safety risk: the threat posed to victims of domestic violence by the dangerous individuals who abused them and who are likely to reoffend in the absence of protective measures. These efforts have succeeded; studies show that statutes like § 922(g)(8) reduce homicide of both intimate partners and law enforcement officers called to intervene, serving the interests of public safety more broadly. The court of appeals’ opinion undermines efforts by the federal government and the States alike to protect their communities, and this Court should reverse it.

ARGUMENT

As the United States explains, U.S. Br. 36-45, the decision below is badly flawed. The court of appeals held that a federal statute prohibiting persons under domestic-violence restraining orders from possessing firearms is facially unconstitutional. Pet. App. 28a. In doing so, it rejected the United States’s showing of a lengthy historical tradition of disarming dangerous individuals on the ground that the historical measures were not sufficiently similar to § 922(g)(8). Pet. App. 17a-27a. As the United States explains, though, the standard this Court set out in *Bruen* requires only a “historical *analogue*, not a historical *twin*.” *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 142 S. Ct. 2111, 2133 (2022) (emphasis in

original). The federal law at issue here is constitutional under that standard.

If affirmed, the decision below will have serious repercussions. Statutes similar to § 922(g)(8) have been enacted by nearly every State, the District of Columbia, and multiple territories. Those laws are fully consistent with the Second Amendment, but the court of appeals' opinion could raise questions about their constitutionality. The opinion also needlessly imperils public safety in amici States by removing an important federal safeguard on which domestic violence victims—and, indeed, all members of amici States' communities—rely. The Court should reverse and reaffirm the government's ability to preclude dangerous persons from possessing firearms.

I. Laws That Limit Those Subject To Domestic-Violence Restraining Orders From Accessing Firearms Are Constitutional.

The Fifth Circuit's conclusion that § 922(g)(8) is facially unconstitutional disregarded both the long history of English and American laws disarming dangerous individuals and this Court's assurance that "nothing in [its] analysis should be interpreted to suggest the unconstitutionality" of provisions "designed to ensure only that those bearing arms . . . are, in fact, 'law-abiding, responsible citizens.'" *Bruen*, 142 S. Ct. at 2138 n.9. Since the Founding, States and the federal government have enacted restrictions designed to keep firearms out of the hands of those who pose a danger to themselves or others. *See id.* at 2145. Section 922(g)(8) is one in a long line of restrictions designed to make gun

possession and use safer for the public, and it does not violate the Second Amendment.

Indeed, measures similar to the federal law at issue here have been enacted by nearly every State, the District of Columbia, and multiple territories. Although States remain free to tailor their firearms provisions to “suit local needs and values,” *McDonald v. City of Chicago*, 561 U.S. 742, 785 (2010), governments have been remarkably consistent in adopting such measures. That consistency suggests widespread agreement among the States that dangerous individuals with a documented history of domestic abuse should not have access to firearms.

Like § 922(g)(8), most state laws allow or require the temporary removal of firearms from those subject to restraining orders issued after civil proceedings, not only those who have been criminally convicted. Unlike criminal proceedings, civil proceedings offer victims of abuse tailored protections that do not require incarcerating their abusers. Like the criminal system, however, the civil system has mechanisms to protect the rights of the accused. Civil relief can be difficult to obtain, and it is generally time-limited—as is the corresponding bar on possessing firearms. These individualized and rigorous proceedings are more than adequate to identify individuals who pose a danger to their victims and others. Consistent with historical tradition, those dangerous persons may be disarmed while they threaten ongoing harm.

A. Nearly Every State Has Enacted Restrictions On Access To Firearms For Those Subject To Domestic-Violence Restraining Orders.

Affirmance of the decision below would undermine not only the federal government's efforts to keep firearms out of the hands of dangerous individuals, but the States' efforts as well. Nearly every State requires or permits courts to impose limits on the ability of individuals subject to a domestic-violence restraining order to purchase, possess, or transport firearms.¹ These commonsense measures protect public safety and reduce the risk of gun violence by temporarily removing firearms from the hands of those deemed by a court to pose a risk to those around them. The measures are fully permissible under the Second Amendment.

Many States' laws, like § 922(g)(8), operate as mandatory prohibitions on firearm possession for individuals subject to a domestic-violence restraining order. Several States echo the language of the federal law, prohibiting firearm possession in cases where the respondent received notice and a hearing prior to issuance of the restraining order and where the respondent poses a "credible threat" to the victim. See, *e.g.*, Kan. Stat. Ann. § 21-6301(a)(17) (defining criminal use of weapons as knowingly possessing a firearm while subject to a court order with the same criteria as § 922(g)(8)); Me. Stat. tit. 15, § 393(1)(D) (similar); Minn. Stat. § 518B.01, subd. 6(g) (requiring

¹ The lists below are illustrative, not exhaustive. For a more comprehensive review of state laws, see the Addendum to this brief.

that a final protective order include a bar on possessing firearms if the same criteria as in § 922(g)(8) are met); Or. Rev. Stat. § 166.255(1)(a) (similar); Tenn. Code Ann. § 39-13-113(a) (similar); Utah Code Ann. § 76-10-503(1)(b)(xi) (similar); Wash. Rev. Code § 9A.41.040(2)(a)(ii) (similar).

Other States have applied the restriction on firearm possession in situations beyond those addressed by § 922(g)(8). Alabama, for example, prohibits the possession of a firearm by “*anyone* who is subject to a valid protection order for domestic abuse.” Ala. Code § 13A-11-72(a) (emphasis added)²; see also, *e.g.*, Fla. Stat. § 790.233(1) (requiring that no person under a final domestic violence injunction have firearms or ammunition in their possession); Haw. Rev. Stat. § 134-7(f) (similar); Md. Code Ann., Fam. Law § 4-506(f) (similar); N.J. Stat. Ann. § 2C:25-29(b) (similar); 11 R.I. Gen. Laws § 11-47-5(b) (similar); Wis. Stat. § 813.12(4m) (similar). And Minnesota law, like provisions in several other States, encompasses a wider variety of relationships as predicates for a restraining order than does federal law. *Compare* 18 U.S.C. § 921(a)(32) (defining “intimate partner” as a person’s spouse or former spouse, the parent of the person’s child, or an individual who cohabitates with the person), *with* Minn. Stat. § 518B.01, subd. 2(b) (defining “family or household members” to mean spouses, former spouses, parents, children, persons related by blood, persons residing together or who have resided together in the past, persons with a child in common,

² Effective September 1, this provision will be codified at Ala. Code § 13A-11-72(a)(1).

“a man and woman if the woman is pregnant and the man is alleged to be the father,” or persons involved in a significant romantic or sexual relationship).

Still other States place additional restrictions on access to firearms by those subject to domestic-violence restraining orders. Arizona, Nebraska, New Hampshire, and Virginia, among other States, go beyond restricting possession to include potential prohibitions on the purchase of firearms. See Ariz. Rev. Stat. Ann. § 13-3602(G)(4) (permitting restrictions on purchase of firearms by those subject to domestic-violence restraining orders); Neb. Rev. Stat. § 42-924(1)(a)(vii) (similar); N.H. Rev. Stat. Ann. §§ 173-B:4(II), 173-B:5(II) (similar); Va. Code Ann. § 18.2-308.1:4 (similar). Similarly, Delaware, Iowa, Rhode Island, and South Carolina prohibit the transport of weapons by those subject to protective orders. Del. Code Ann. tit. 10 § 1045(a)(8) (requiring that the court inform the respondent that he or she is prohibited from transporting firearms while the protective order is in effect); Iowa Code Ann. § 236.5(1)(b)(2) (noting that a protective order may include a provision that the defendant not knowingly transport firearms); 11 R.I. Gen. Laws § 11-47-5(b) (similar); S.C. Code Ann. § 16-25-30(A)(4) (similar). And Maine directs individuals who have been ordered to relinquish their firearms to follow a detailed procedure, requiring that they turn them over within 24 hours and authorizing a search warrant if there is probable cause to believe that any firearms have not been relinquished. Me. Stat. tit. 19-A, § 4110(4); see also, *e.g.*, Conn. Gen. Stat. § 29-36k(b) (requiring surrender of firearms within 24 hours to either a federally licensed firearms dealer or the police); Nev. Rev. Stat. § 33.033 (similar); 23 Pa. Cons. Stat.

§ 6108(a)(7) (similar); Wis. Stat. § 813.12(4m) (similar).

Some States have adopted provisions similar to § 922(g)(8) but leave to the trial court the decision whether to impose restrictions on firearms as part of a domestic-violence restraining order, based on an evaluation of the unique circumstances of each case. North Dakota allows courts to require individuals to surrender their firearms as part of an *ex parte* temporary protection order “if the court has probable cause to believe that the respondent is likely to use, display, or threaten to use the firearm or other dangerous weapon in any further acts of violence.” N.D. Cent. Code § 14-07.1-03. In Indiana, a court may prohibit a respondent from possessing firearms or ammunition after notice and a hearing. Ind. Code § 34-26-5-9(d)(4); see also, *e.g.*, Iowa Code § 236.5(b)(2) (listing firearm restrictions as possible provisions for a final protective order); Tex. Fam. Code Ann. § 85.022(b)(6) (similar). Still other States allow courts to grant any “other relief that the court considers equitable and fair.” Ohio Rev. Code Ann. § 3113.31(E)(1)(h); see also, *e.g.*, Idaho Code § 39-6306 (authorizing other relief “as the court deems necessary for the protection of a family or household member”); S.D. Codified Laws § 25-10-5 (authorizing “other relief as the court deems necessary for the protection of the person to whom relief is being granted”). In some of these States, restrictions on firearm possession are among the standard checkboxes on Order of Protection forms. See Supreme Court of Ohio, Form 10.01-H: Domestic

Violence Civil Protection Order (Dvcpo) Ex Parte³;
South Dakota Unified Judicial System, UJS-091C -
Domestic Temporary Order.⁴

Finally, even those few jurisdictions without laws prohibiting firearm possession by those subject to domestic-violence restraining orders often incorporate federal law to ensure that victims of domestic violence remain safe. Arkansas, for example, requires that any order of protection include a notice to the respondent that “[i]t is unlawful for an individual who is subject to an order of protection or convicted of a misdemeanor of domestic violence to ship, transport, or possess a firearm or ammunition under 18 U.S.C. § 922(g)(8) and (9) as it existed on January 1, 2019.” Ark. Code Ann. § 9-15-207(b)(3). Kentucky has similarly crafted its legislation to account for federal law, providing notice to the individual who obtained the domestic-violence restraining order when a respondent who is barred from purchasing a firearm by § 922(g)(8) attempts to do so. Ky. Rev. Stat. Ann. § 237.100(1).

All told, 46 States, the District of Columbia, and multiple territories have laws that require or permit limitations on the ability of those under a domestic-violence restraining order to access firearms, or that reference the federal law’s prohibition. Though these measures vary in their details, they reflect the common understanding that perpetrators of domestic abuse can be uniquely dangerous when armed with guns.

³ <https://bit.ly/3Md2WYI>.

⁴ <https://bit.ly/3Mj0fVT>.

B. State Domestic Violence Restraining Order Procedures Are Well Calibrated To Protect The Safety Of Victims And The Rights Of Respondents.

Although state domestic-violence restraining order provisions are designed to offer protection to victims in dangerous situations, they also incorporate mechanisms to protect the due process rights of respondents. These provisions do not impose a blanket bar on firearm possession for anyone merely accused of domestic violence; instead, States have established processes that require an individualized assessment of the risk of harm and the needs of the parties, and that disarm individuals only when necessary to preserve public safety.

1. Petitioners seeking a domestic-violence restraining order must satisfy a number of procedural requirements. In almost every State, the first step to receiving a temporary or long-term domestic-violence restraining order is filing an affidavit, sworn under oath, detailing the violence or threats that the petitioner experienced. See Jane K. Stoeber, *Enjoining Abuse: The Case for Indefinite Domestic Violence Protection Orders*, 67 Vand. L. Rev. 1015, 1073 (2014); see also, e.g., Fla. Stat. Ann. § 741.30(3)(a), Tex. Fam. Code Ann. § 82.009(a). Petitioners seeking temporary *ex parte* orders must generally demonstrate to the court that they face imminent harm. See Del. Code Ann. tit. 10, § 1043(a) (requiring a petitioner seeking an *ex parte* protective order to allege that there is an immediate and present danger of domestic violence); La. Stat. Ann. § 46:2135(A) (similar). If such an order is granted, it is in effect for only a brief period, often lasting just a

few days. See Helen Eigenberg et al., *Protective Order Legislation: Trends in State Statutes*, 31 J. Crim. Just. 411, 416 (2003) (noting that on average, States allow 17 days from the time of an *ex parte* hearing to the hearing for the final order); see also, *e.g.*, D.C. Code § 16-1004(e)(1) (limiting the duration of temporary protection orders to 14 days). Before a final domestic-violence restraining order can issue, the respondent must receive notice of the allegations and an opportunity to be heard. See Stoevers, *Enjoining Abuse*, *supra*, at 1073; see also, *e.g.*, Me. Stat. tit. 19-A, § 4110(1) (noting that the court may issue a final protection order after a hearing or opportunity for a hearing); Nev. Rev. Stat § 33.020(4) (“An extended order may only be granted after notice to the adverse party and a hearing on the application.”).

Final domestic-violence restraining orders are almost always time-limited. See Stoevers, *Enjoining Abuse*, *supra*, at 1033-35. States vary in the duration they set for restraining orders, but the most common length for a final order is about one year. See *id.* at 1046; see also Alaska Stat. Ann. § 18.66.100(b) (stating that most elements of the protective order, including the limitation on possession of a deadly weapon, are effective for only one year); Conn. Gen. Stat. Ann. § 46b-15(g) (restricting the length of domestic-violence restraining orders to one year); Idaho Code Ann. § 39-6306(5) (similar); Neb. Rev. Stat. Ann. § 42-924(3)(a) (similar). And while many States allow extensions of domestic-violence restraining orders, such extensions are generally not automatic, and some States require that the petitioner show that extended protection is necessary for his or her safety. See Minn. Stat. § 518B.01, subd.

6a(b) (allowing extension of a protective order upon a showing that the respondent violated the previous order, has engaged in harassment, or was recently released from incarceration, or where the petitioner demonstrates reasonable fear of physical harm from the respondent); see also Del. Code Ann. tit. 10, § 1045(c) (similar).

For these reasons, among others, petitioners do not invariably obtain domestic-violence restraining orders. *Contra* Pet. App. 36a (“civil protective orders are too often misused . . . and issued without any actual threat of danger”) (Ho, J., concurring). In fact, many petitions for domestic-violence restraining orders are denied. For example, in 2022, Kentucky courts granted only 5,014 of the 21,085 domestic-violence restraining orders sought by petitioners. Criminal Justice Statistical Analysis Center, Kentucky Justice & Public Safety Cabinet, *Domestic Violence Data Report*, at 94-99 (June 27, 2023).⁵ Similarly, a study found that, in 2018, only 42% of those who sought domestic-violence restraining orders in Montgomery County, Maryland ended up with a final order. Sarah Stephens & Laurie Duker, *An Update on Denied and Dismissed Protective Orders in Montgomery County, Maryland*, at 2 (July 10, 2019)⁶; see also New Hampshire Coalition Against Domestic and Sexual Violence, *NHCADSV Statement Regarding Attempted Domestic Violence Murder-Suicide in Salem, Mass.* (Nov. 17, 2021) (noting that 43% of final protective orders are denied in New

⁵ <https://bit.ly/44TLuPL>.

⁶ <https://bit.ly/3qi74OM>.

Hampshire).⁷ Those numbers may well include situations in which protective orders are not granted *despite* real risk to the victim. Indeed, given the emotionally and logistically difficult nature of the process, false negatives are all too prevalent. See Carol E. Jordan et al., *The Denial of Emergency Protection: Factors Associated with Court Decision Making*, 23 *Violence & Victims* 603, 604 (2008) (“[S]tudies suggest that a minority of women . . . access orders of protection in response to intimate partner violence.”).

State court procedures that determine whether an individual is sufficiently dangerous to warrant entry of a restraining order are not, in other words, rubber stamps; they include real protections for respondents as well as victims, and, as a result, victims’ applications are frequently denied. In this respect, these proceedings are not unlike other state-law proceedings in which the exercise of constitutional rights may be circumscribed. For example, many States provide for civil commitment proceedings in which individuals’ liberty may be restricted if they are found to be a danger to themselves or others due to mental illness. See generally Treatment Advocacy Center, *State Standards for Civil Commitment* (Sept. 2020).⁸ Termination of parental rights also takes place through a civil proceeding. See generally Child Welfare Information Gateway, *Grounds for Involuntary Termination of Parental Rights* (July 2021).⁹ In both situations, it has long been

⁷ <https://bit.ly/3QuUBlp>.

⁸ <https://bit.ly/3OWuoeB>.

⁹ <https://bit.ly/44YCEQK>.

understood that the civil system provides sufficient protective mechanisms to ensure that the process is fair. Our nation's historical tradition has never required criminal proceedings before important rights can be affected, and state courts have long been entrusted with these weighty proceedings.

What's more, by providing robust procedural protections for the accused when adjudicating petitions for domestic-violence restraining orders, the States help ensure that the orders granted are more effective overall. Studies have shown that respondents who believe they were treated fairly, including by being provided procedural protections like those described above, are more likely to comply with the outcomes of restraining order proceedings even if they believe that those outcomes are incorrect or unjust. See Kevin Burke & Steve Leben, *Procedural Fairness: A Key Ingredient in Public Satisfaction*, 44 Ct. Rev. 4, 7 (2008) (explaining that a respondent's perception of fairness both reduces recidivism rates and increases compliance with restraining orders); Raymond Paternoster et al., *Do Fair Procedures Matter? The Effect of Procedural Justice on Spouse Assault*, 31 Law & Soc'y Rev. 163, 192 (1997) (noting that "perceptions of procedural justice and fair treatment by the police are important determinants of the propensity for future conduct").

2. The success of civil adjudicatory systems in this context helps explain why essentially all States have chosen to "protect citizens against domestic violence" by enacting civil protections rather than solely "detain[ing], prosecut[ing], and incarcerating" the perpetrators of domestic violence. Pet. App. 41a (Ho, J., concurring). Indeed, States have generally chosen

to establish civil systems for deciding whether to disarm domestic abusers because civil proceedings better allow victims to collaborate in the process and courts to tailor remedies. In the civil context, courts can craft restraining orders that are fitted to victims' specific needs, see Judith A. Smith, *Battered Non-Wives and Unequal Protection-Order Coverage: A Call for Reform*, 23 Yale L. & Pol'y Rev. 93, 100 (2005), whereas a criminal restraining order is "typically a boilerplate form" that might not address the issues actually faced by the victim, Stoever, *Enjoining Abuse*, *supra*, at 1069; see also Catherine F. Klein & Leslye E. Orloff, *Providing Legal Protection for Battered Women: An Analysis of State Statutes and Case Law*, 21 Hofstra L. Rev. 801, 910 (1993) ("Each victim of domestic violence faces different dangers, and must be protected by the court in accordance with her individual needs.").

Indeed, the civil systems the States have established to handle domestic-violence cases generally work better for all parties than a system that depends exclusively on criminal penalties. Victims often prefer to petition for a civil restraining order rather than seek relief through the criminal justice system because the civil system better takes their interests into account. See Jane K. Stoever, *Freedom from Violence: Using the Stages of Change Model to Realize the Promise of Civil Protection Orders*, 72 Ohio St. L.J. 303, 320 (2011) (noting that in the civil system, "[t]he survivor defines the nature of the problem and chooses when to bring the case, which events to allege, and what relief to pursue in an attempt to meet her particular safety needs"). And respondents and victims alike often prefer that the civil system does not rely on imprisonment. See Nina

W. Tarr, *Civil Orders for Protection: Freedom or Entrapment?*, 11 Wash. U. J.L. & Pol'y 157, 191 (2003) (“Women may want violence to stop . . . but they do not necessarily want the perpetrator to be incarcerated.”); Tamara L. Kuennen, *Private Relationships and Public Problems: Applying Principles of Relational Contract Theory to Domestic Violence*, 2010 B.Y.U. L. Rev. 515, 529 (similar). After all, if the abuser financially supports the petitioner or their children, incarceration may impose significant economic harm. See U.S. Comm’n on Civil Rights, *Under the Rule of Thumb: Battered Women and the Administration of Justice* 41-43 (1982) (noting that loss of income might deter a victim from seeking criminal remedies).¹⁰

Ultimately, the flexibility the civil system provides to courts and victims makes them uniquely effective at reducing further abuse. As one study has observed, civil restraining orders have been shown “to be one of the few widely available interventions for victims . . . that has demonstrated effectiveness.” Victoria Holt et al., *Do Protection Orders Affect the Likelihood of Future Partner Violence and Injury?*, 24 Am. J. Preventive Med. 16, 21 (2003). This Court should decline to call this widely followed and commonsense approach into question and instead acknowledge that such measures are part of a longstanding tradition of providing for the proper disarmament of dangerous persons.

¹⁰ <http://bitly.ws/RmgF>.

II. Invalidating § 922(g)(8) Would Undermine A Critical Tool For Protecting The Victims Of Domestic Abuse.

Invalidating § 922(g)(8) would imperil public safety by eliminating an important measure that protects victims of domestic violence and members of the communities in which they live. There is ample evidence that § 922(g)(8) and its state analogues save lives, aiding States in reducing violence by disarming dangerous individuals.

1. Section 922(g)(8) is a critical tool for protecting public safety. As the United States explains, there is a longstanding historical tradition of disarming individuals who are not law-abiding, responsible citizens. U.S. Br. 13-27. Consistent with that tradition, Congress passed § 922(g)(8) in 1994 as a key component of omnibus public safety legislation aimed at protecting groups vulnerable to firearm violence, including victims of domestic abuse. See Pub. L. No. 103-322, tit. XI, § 110401, 108 Stat. 1796, 2014 (1994). At the time the section was enacted, violent crime was a significant concern, and the Department of Justice estimated that three out of every four women would become “the victim of a violent crime sometime during their life.” Majority Staff of S. Comm. on the Judiciary, *Violence Against Women: A Week in the Life of America*, S. Rep. 102-118, at 3 (1992) (emphasis omitted). The legislation was therefore intended to limit access to firearms by potentially dangerous groups of individuals. See James B. Jacobs & Kimberly A. Potter, *Keeping Guns out of the Wrong Hands: The Brady Law and the Limits of Regulation*, 86 J. Crim. L. & Crim. 93, 94-95 (1995).

Among the groups Congress deemed dangerous enough to warrant disarmament was domestic abusers. At the time the legislation was enacted, gun violence in the home was a serious and growing issue. Domestic abuse accounted for as many as 35% of emergency room visits for trauma injuries by women in the United States. Teri Randall, *Domestic Violence Intervention Calls for More Than Treating Injuries*, 264 J. Am. Med. Ass'n 939, 939 (1990). And guns were frequently involved in domestic abuse: More than two thirds “of domestic violence homicides [we]re from firearms.” Constance Emerson Crooker, *Gun Control and Gun Rights* 2 (2003). In enacting § 922(g)(8), Congress aimed to address the violence by curbing access to firearms by domestic abusers, protecting their victims and others from potentially deadly attacks.

The legislative history of § 922(g)(8) illustrates the widely held view that the provision was necessary to protect public safety and disarm dangerous individuals. Legislators from both political parties urged Congress to end the “insanity” of permitting perpetrators of domestic violence to retain firearms even after “a court agrees” that a victim “is in imminent danger of being harmed, attacked or killed.” 139 Cong. Rec. 30,579 (1993) (statement of Sen. Chafee). Senator Paul Wellstone, a Democrat who sponsored the measure that became § 922(g)(8), observed that “[o]ver 4,000 women are killed each year at the hands of their spouse or a relative or a friend, and each year an estimated 150,000 incidents of domestic violence involve use of a weapon.” 139 Cong. Rec. 28,360 (1993) (statement of Sen. Wellstone). And Senator Lincoln Chafee, the measure’s Republican co-sponsor, argued on the

Senate floor that there was simply “no rational reason whatsoever” to allow persons with a domestic-violence restraining order access to firearms. 139 Cong. Rec. 30,579 (1993) (statement of Sen. Chafee).

The legislation received bipartisan support. Noting that “domestic violence is the leading cause of injury to women in the United States between the ages of 15 and 44” and that “firearms are used by the abuser in 7 percent of domestic violence incidents,” H.R. Conf. Rep. No. 103-711, at 391 (1994), Congress passed § 922(g)(8) with backing from both parties. Since the provision’s passage, courts have repeatedly upheld § 922(g)(8)’s validity. See, *e.g.*, Pet. 14-15 & n.2; U.S. Br. 29.

And the many States that have enacted analogues to § 922(g)(8) since its passage, *supra* pp. 6-10, have echoed Congress’s concern about the dangers posed by domestic abusers. For instance, when North Dakota amended its domestic violence laws in 1995, legislators cited data showing that weapons were used in over a quarter of domestic violence incidents. See 1995 N.D. Laws 483-84 (amending N.D. Cent. Code § 14-07.1-13 (1995)); Hearing on S.B. 2397 Before the H.R. Comm. On Human Servs., 1995 Leg., 54th Sess. 33 (N.D. 1995).¹¹ The Alaska legislature heard similar testimony during the process of amending its law, with a domestic violence expert explaining that “more than 25 percent of Alaskan wom[e]n have been physically or emotionally abused by a spouse or live-in partner” and that more than 10% of them reported that their abusers “used a gun or knife against them.” S. Judiciary Comm. Hearing,

¹¹ <https://bit.ly/40cxI7n>.

19th Leg. (Alaska 1996) (statement of Jayne Andreen, Executive Director of the Council on Domestic Violence and Sexual Assault).¹² When South Carolina amended its domestic violence laws to permit the disarmament of persons subject to protective orders, one senator explained that the legislation would “alleviate” domestic violence by “tak[ing] guns away from people” who “have shown that they are going to use [them] to hurt people and whose actions have a negative effect on families for the rest of their lives.” S.B. 3, 2015 Gen. Assemb., 121st Sess. (S.C. 2015) (remarks of Sen. Johnson).¹³ That reasoning was reiterated by the chief sponsor of Virginia’s bill, who noted that “[i]f you are subject to a permanent protective order, you are a threat to someone else” and made clear that the State’s intent was to “protect those who have been the victims of domestic and sexual violence.” *January 29, 2020 – Regular Session*, Virginia House of Delegates 2:48:13-2:50:36 PM (Jan. 29, 2020).¹⁴

2. The problem addressed by § 922(g)(8) and its state analogues—access to firearms by domestic abusers—remains a critical one. “[D]omestic abuse is a serious problem in the United States.” *Georgia v. Randolph*, 547 U.S. 103, 117 (2006). And studies have shown that domestic violence precipitates gun violence. An abuser is five times more likely to murder his or her intimate partner if a firearm is in the home. See Jacquelyn C. Campbell et al., *Risk Factors for Femicide in Abusive Relationships*:

¹² <https://bit.ly/3ZwUJSk>.

¹³ <https://bit.ly/417KHJ4>.

¹⁴ <https://bit.ly/3ZDTKja>.

Results from a Multisite Case Control Study, 93 Am. J. Pub. Health 1089, 1090 (2003). Firearms are the leading cause of intimate partner homicides—more so than all other weapons combined. April M. Zeoli & Shannon Frattaroli, *Evidence for Optimism: Policies to Limit Batterers’ Access to Guns*, in *Reducing Gun Violence in America: Informing Policy with Evidence and Analysis* 53 (2013). In fact, approximately half of the 1,800 people killed by their partners each year are killed by firearms. Stacie J. Osborn, *Preventing Intimate Partner Homicide: A Call for Cooperative Federalism for Common Sense Gun Safety Policies*, 66 Loy. L. Rev. 235, 237 (2020).

Domestic violence reports are also among the most dangerous encounters for police officers. Nick Bruel & Mike Keith, *Deadly Calls and Fatal Encounters: Analysis of U.S. Law Enforcement Line of Duty Deaths When Officers Responded to Dispatched Calls for Service and Conducted Enforcement, 2010-2014*, at 15 (2016). The risks posed by such encounters are almost always due to firearms: Ninety-five percent of officer deaths from domestic violence calls are from fatal firearm wounds. See *id.* at 15. As a result, the Justice Department has deemed it “crucial” that local law enforcement disarm domestic abusers. Andrew R. Klein, U.S. Dep’t of Justice, *Practical Implications of Current Domestic Violence Research: For Law Enforcement Prosecutors and Judges* 27 (2009).¹⁵ Laws like § 922(g)(8) and its state analogues make it possible to keep law enforcement officers safe.

The combination of domestic abuse and firearms puts already-vulnerable individuals at even greater

¹⁵ <https://bit.ly/40kqAqz>.

risk. In the United States, 80% of intimate partner firearm homicide victims are women. Emily F. Seeburger, Ortner Ctr. On Violence & Abuse, Univ. of Pa., *Firearms and Intimate Partner Violence (IPV): Scope & Policy Implications* (Nov. 2020).¹⁶ Every year, “more than 600 women are shot and killed by an intimate partner,” which averages to one homicide every 14 hours. Deirdre A. Quinn et al., Nat’l Council on Fam. Rels., *A Family Health Impact Analysis of Current United States Gun Policy* 1 (2021).¹⁷ Pregnant women and women of color are disproportionately targets of both intimate partner violence and intimate partner homicide by firearm. Jaqmila K. Stockman et al., *Intimate Partner Violence and Its Health Impact on Ethnic Minority Women*, 24 J. Women’s Health 62, 62 (2015).

Domestic violence is also correlated with high rates of recidivism, which is why it is important to protect people who have already suffered abuse from future threats. See *United States v. Castleman*, 572 U.S. 157, 160 (2014) (“Domestic violence often escalates in severity over time . . .”). In one study, more than 65% of women who reported being physically assaulted by a partner reported multiple abuses by that partner; indeed, the average respondent reported having been assaulted almost seven times. Nat’l Inst. Just., *Extent, Nature, and Consequences of Intimate Partner Violence: Findings from the National Violence Against Women Survey* 39 (2000).¹⁸ Another study found that three-fifths of

¹⁶ <https://bit.ly/3lNj1cR>.

¹⁷ <https://bit.ly/3TJE8JN>.

¹⁸ <https://bit.ly/3FP9ybU>.

those convicted of domestic violence are rearrested within two years—and two-thirds of *those* are rearrested for yet another domestic violence offense. Viet Nguyen & Mia Bird, Pub. Pol’y Inst. Cal., *Tailoring Domestic Violence Programs to Reduce Recidivism* (June 12, 2018).¹⁹ And the period directly following the issuance of a restraining order is one of the most dangerous for victims. Among those subject to restraining orders, one-third of domestic violence homicides occur within one month of a restraining order being issued, and one-fifth occur within *two days*. K.A. Vittes & S.B. Sorenson, *Restraining Orders Among Victims of Intimate Partner Homicide*, 14 Inj. Prevention 191, 191 (2008). In other words, the decision that Congress and most state jurisdictions have made to treat domestic abusers as dangerous individuals who should be disarmed is well supported by data.

3. Section 922(g)(8) and its state analogues play a key role in reducing these risks for victims of domestic violence and others who reside in their communities, including law enforcement officers. Multiple studies conducted over the last two decades have established that laws prohibiting individuals who are subject to domestic-violence restraining orders from possessing firearms (or, in some States, expressly requiring relinquishment of firearms) work. See, e.g., April M. Zeoli et al., *Analysis of the Strength of Legal Firearms Restrictions for Perpetrators of Domestic Violence and Their Associations with Intimate Partner Homicide*, 187 Am. J. Epidemiology 2365, 2365 (2018) (finding 10% reduction in intimate partner homicide in States

¹⁹ <https://bit.ly/3ZhbcK6>.

with relinquishment laws); Carolina Díez et al., *State Intimate Partner Violence-Related Firearm Laws and Intimate Partner Homicide Rates in the United States, 1991 to 2015*, 167 *Annals Internal Med.* 536, 541 (2017) (finding 14% reduction in States with such laws); April M. Zeoli & Daniel W. Webster, *Effects of Domestic Violence Policies, Alcohol Taxes and Police Staffing Levels on Intimate Partner Homicide in Large U.S. Cities*, 16 *Inj. Prevention* 90, 90 (2010) (finding 19% reduction in large cities located in States with laws prohibiting possession). In other words, § 922(g)(8) and its state analogues have had measurable success protecting public safety.

The decision below, if affirmed, would undermine these important protections. For 30 years, § 922(g)(8) has prevented individuals who pose an imminent threat to their family members from perpetrating violence with firearms. *Supra* p. 18. Similarly, those States that have enacted state-law analogues to § 922(g)(8) have relied on those laws to protect the victims of domestic violence. The court of appeals’ decision raises questions about the legality of those statutes. As a result, it puts at risk domestic violence victims who may be harmed or killed by their abusers, and it hamstringing both the federal government and amici States in their efforts to protect their residents’ safety.

The court of appeals acknowledged these “salutary policy goals,” Pet. App. 27a, but reasoned that the Second Amendment left the federal government unable to effectuate them. As this Court has emphasized, however, the Second Amendment—interpreted in light of text and history—does not create a “regulatory straightjacket” for state and

federal governments in attempting to protect their residents. *Bruen*, 142 S. Ct. at 2133. Yet the decision below did exactly that. The Court should correct the court of appeals' errant reading of *Bruen* and reaffirm Congress's, and the States', ability to protect some of their most vulnerable residents from individuals who have rightly been deemed dangerous.

CONCLUSION

The judgment of the court of appeals should be reversed.

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ADDENDUM

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**State Laws Regarding Domestic Violence
Restraining Orders And Firearms**

State / Statute(s)	Excerpts
Alabama Ala. Code §§ 13A-11-72(a), 30-5-7(b)(9), 38-9F-8(c)(4)	“No person who . . . is subject to a valid protection order for domestic abuse . . . shall own a firearm or have one in his or her possession or under his or her control.”
Alaska Alaska Stat. §§ 18.66.100(c)(6)-(7), 18.66.110(a)	“A protective order under this section may . . . 6) prohibit the respondent from using or possessing a deadly weapon if the court finds the respondent was in the actual possession of or used a weapon during the commission of domestic violence; (7) direct the respondent to surrender any firearm owned or possessed by the respondent if the court finds that the respondent was in the actual possession of or used a firearm during the commission of the domestic violence”
American Samoa Am. Samoa Code Ann.	“A court may grant the following relief without notice and hearing in an order for protection or a modification issued ex parte:

Add. 2

§§ 47.0204(b)(5), (c)(1)	. . . (5) Prohibit the respondent from using or possessing a firearm or other weapon specified by the court” “A court may grant the following relief in an order for protection or a modification of an order after notice and hearing, whether or not the respondent appears: (1) Grant the relief [listed above]”
Arizona Ariz. Rev. Stat. Ann. § 13-3602(G)(4)	“If a court issues an order of protection, the court may do any of the following: . . . 4. If the court finds that the defendant is a credible threat to the physical safety of the plaintiff or other specifically designated persons, prohibit the defendant from possessing or purchasing a firearm for the duration of the order. If the court prohibits the defendant from possessing a firearm, the court shall also order the defendant to transfer any firearm owned or possessed by the defendant immediately after service of the order to the appropriate law enforcement agency for

Add. 3

	the duration of the order. If the defendant does not immediately transfer the firearm, the defendant shall transfer the firearm within twenty-four hours after service of the order”
Arkansas Ark. Code Ann. §§ 9-15-207(b)(3), 9-15-206(b)(F)(i)	“An order of protection shall include a notice to the respondent or party restrained that: . . . (3) It is unlawful for an individual who is subject to an order of protection or convicted of a misdemeanor of domestic violence to ship, transport, or possess a firearm or ammunition under 18 U.S.C. § 922(g)(8) and (9) as it existed on January 1, 2019”
California Cal. Fam. Code §§ 6218, 6389(a)	“A person subject to a protective order, as defined in Section 6218, shall not own, possess, purchase, or receive a firearm or ammunition while that protective order is in effect. A person who owns, possesses, purchases, or receives, or attempts to purchase or receive a firearm or ammunition while the protective order is in effect is punishable pursuant to

Add. 4

	Section 29825 of the Penal Code”
Colorado Colo. Rev. Stat. §§ 13-14- 101(2.4)(b), 13-14- 105.5(1)(a)(I)-(II)	In entering a domestic violence protection order, the court “[s]hall order the respondent to: (I) Refrain from possessing or purchasing any firearm or ammunition for the duration of the order; and (II) Relinquish, for the duration of the order, any firearm or ammunition in the respondent's immediate possession or control or subject to the respondent's immediate possession or control”
Connecticut Conn. Gen. Stat. §§ 29-28(b)(6), 29- 36f(b)(6), 29-36k, 46b-15, 53a-217, 53a-217c, 53a-223	“Immediately, but in no event more than twenty-four hours after notice has been provided to a person subject to a restraining or protective order or a foreign order of protection, such person shall (1) transfer any pistol, revolver or other firearm or ammunition which such person then possesses to a federally licensed firearms dealer pursuant to the sale of the pistol, revolver or other firearm or ammunition to the federally licensed firearms dealer, or (2) deliver or

Add. 5

	surrender such pistols and revolvers and other firearms and ammunition to the Commissioner of Emergency Services and Public Protection”
Delaware Del. Code Ann. tit. 10, §§ 1043, 1045(a)(8)	“After consideration of a petition for a protective order, the Court may grant relief as follows: . . . (8) Order the respondent to temporarily relinquish to a police officer or a federally-licensed firearms dealer located in Delaware the respondent's firearms and to refrain from purchasing or receiving additional firearms for the duration of the order. The Court shall inform the respondent that he or she is prohibited from receiving, transporting, or possessing firearms for so long as the protective order is in effect”
District of Columbia D.C. Code Ann. §§ 16-1004(h)(2), 16-1005(c)(10), 7- 2502.03(a)(12), 7- 2502.09(a)(1), 22- 4503(a)(5)	“If, after a hearing, the judicial officer finds that there is good cause to believe the respondent has committed or threatened to commit a criminal offense against the petitioner or an animal the petitioner owns, possesses, or controls, or with the consent

Add. 6

	of both parties, the judicial officer may issue a civil protection order that: ... (10) Directs the respondent to relinquish possession of any firearms or ammunition and prohibits the respondent from having possession or control of, purchasing, or receiving any firearm or ammunition while the protection order is in effect” “A temporary protection order issued under this section . . . [s]hall require that the respondent relinquish possession of any firearms or ammunition and prohibit the respondent from having possession or control of, purchasing, or receiving any firearm or ammunition while the protection order is in effect”
Florida Fla. Stat. §§ 741.30(6)(g), 741.31(4)(b), 790.233(1)	“A person may not have in his or her care, custody, possession, or control any firearm or ammunition if the person has been issued a final injunction that is currently in force and effect, restraining that person from committing

Add. 7

	acts of domestic violence, as issued under s. 741.30”
Guam MR 2.1.8, 7 Guam Code Ann. § 40105	“The court shall be empowered to grant protection by appropriate order or approve any consent agreement to bring about a cessation of abuse of the plaintiff or minor children”
Hawaii Haw. Rev. Stat. § 134-7(f)	“No person who has been restrained pursuant to an order of any court . . . from contacting, threatening, or physically abusing any person, shall possess, control, or transfer ownership of any firearm or ammunition therefor, so long as the protective order, restraining order, or any extension is in effect, unless the order, for good cause shown, specifically permits the possession of a firearm and ammunition”
Idaho Idaho Code §§ 39- 6306, 39-6308	A court may enter “[o]ther relief be ordered as the court deems necessary for the protection of a family or household member, including orders or directives to a peace officer”
Illinois 750 Ill. Comp. Stat.	A judge may “[p]rohibit a respondent against whom an order of protection was issued from possessing any firearms

Add. 8

60/214(b)(14.5)(a), 720 Ill. Comp. Stat. 5/12-3.4, 430 Ill. Comp. Stat. 65/8.2, 66/70(b)	during the duration of the order if the order: (1) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate; (2) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and (3)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or (ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury”
Indiana Ind. Code §§ 34-26-5-9(c)(8), (d)(4)	“A court may grant the following relief after notice and a hearing, whether or not a respondent appears, in an order for protection or in a

Add. 9

	modification of an order for protection: ... (4) Prohibit a respondent from using or possessing a firearm, ammunition, or a deadly weapon specified by the court, and direct the respondent to surrender to a specified law enforcement agency the firearm, ammunition, or deadly weapon for the duration of the order for protection unless another date is ordered by the court”
Iowa Iowa Code §§ 236.4(2), 236.5(b)(2), 724.26(2)	“The court may grant a protective order which may contain but is not limited to any of the following provisions: ... (2) That the defendant not knowingly possess, ship, transport, or receive firearms, offensive weapons, and ammunition in violation of section 724.26, subsection 2”
Kansas Kan. Stat. Ann. § 21-6301(a)(17)	“Criminal use of weapons is knowingly: ... (17) possessing any firearm by a person while such person is subject to a court order that: (A) Was issued after a hearing, of which such person

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	received actual notice, and at which such person had an opportunity to participate; (B) restrains such person from harassing, stalking or threatening an intimate partner of such person or a child of such person or such intimate partner, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or the child; and (C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or (ii) by its terms explicitly prohibits the use, attempted use or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury”
Kentucky Ky. Rev. Stat. Ann. §§ 237.100(1), 403.740(1)(c)	“Upon receipt of notice that a person barred from purchasing a firearm under 18 U.S.C. sec. 922(g)(8) has purchased or attempted to purchase a firearm, the Justice and Public Safety Cabinet shall make a reasonable effort to provide

Add. 11

	notice to the petitioner who obtained the domestic violence order issued under KRS 403.740 that the respondent to the order has attempted to purchase a firearm. The Justice and Public Safety Cabinet may contract with a private entity in order to provide notification”
Louisiana La. Stat. Ann. §§ 46:2135, 46:2136.3(A)	“Any person against whom the court has issued a permanent injunction or a protective order . . . shall be prohibited from possessing a firearm or carrying a concealed weapon for the duration of the injunction or protective order if both of the following occur: (1) The permanent injunction or protective order includes a finding that the person subject to the permanent injunction or protective order represents a credible threat to the physical safety of a family member, household member, or dating partner. (2) The permanent injunction or protective order informs the person subject to the permanent injunction or protective order that the person is prohibited from possessing a firearm pursuant

Add. 12

	to the provisions of 18 U.S.C. 922(g)(8) and this Section”
Maine Me. Stat. tit. 15, § 393(1)(D), tit. 19-A, §§ 4108(3), 4110(3)(B), (4)	“Relief granted under this section may include: . . . B. Directing the defendant not to possess a firearm, muzzle-loading firearm, bow, crossbow or other dangerous weapon for the duration of the order”
Maryland Md. Code Ann., Fam. Law §§ 4-505(2)(viii), 4-506(f), 4-506.1, Md. Code Ann., Pub. Safety § 5-133(b)(12)(i)	“The final protective order shall order the respondent to surrender to law enforcement authorities any firearm in the respondent's possession, and to refrain from possession of any firearm, for the duration of the protective order”
Massachusetts Mass. Gen. Laws ch. 140, §§ 129B(1)(vii), 131(d)(vi), ch. 209A, §§ 3B, 3C	“Upon issuance of a temporary or emergency order under section four or five of this chapter, the court shall, if the plaintiff demonstrates a substantial likelihood of immediate danger of abuse, order the immediate suspension and surrender of any license to carry firearms and or firearms identification card which the defendant may hold and order the defendant to surrender all firearms, rifles, shotguns, machine guns

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	and ammunition which he then controls, owns or possesses” “Upon the continuation or modification of an order issued pursuant to section 4 or upon petition for review as described in section 3B, the court shall also order or continue to order the immediate suspension and surrender of a defendant's license to carry firearms and firearms identification card and the surrender of all firearms, rifles, shotguns, machine guns or ammunition which such defendant then controls, owns or possesses if the court makes a determination that the return of such license to carry firearms and firearm identification card or firearms, rifles, shotguns, machine guns or ammunition presents a likelihood of abuse to the plaintiff”
Michigan Mich. Comp. Laws §§ 600.2950(1)(e), 764.15b(b)(vi)	“[A]n individual may petition the family division of circuit court to enter a personal protection order to restrain or enjoin a spouse, a former spouse, an individual with

Add. 14

	whom he or she has had a child in common, an individual with whom he or she has or has had a dating relationship, or an individual residing or having resided in the same household as the petitioner from doing 1 or more of the following: ... (e) Purchasing or possessing a firearm”
Minnesota Minn. Stat. §§ 518B.01, subd. 6(g), 7(e), 624.713, subd. 1(13)	“An order granting relief shall prohibit the abusing party from possessing firearms for the length the order is in effect if the order (1) restrains the abusing party from harassing, stalking, or threatening the petitioner or restrains the abusing party from engaging in other conduct that would place the petitioner in reasonable fear of bodily injury, and (2) includes a finding that the abusing party represents a credible threat to the physical safety of the petitioner or prohibits the abusing party from using, attempting to use, or threatening to use physical force against the petitioner”

Add. 15

Montana Mont. Code Ann. §§ 40-15-201(2)(f), 40-15-204(3)	“The temporary order of protection may include any or all of the following orders . . . (f) prohibiting the respondent from possessing or using the firearm used in the assault” “An order of protection may include all of the relief listed in 40-15-201, when appropriate”
Nebraska Neb. Rev. Stat. §§ 28-1206(1)(a)(iii), 42-924(1)(a)(vii), 42-925(1)	“Upon the filing of such a petition and affidavit in support thereof, the court may issue a protection order without bond granting the following relief: . . . (vii) Enjoining the respondent from possessing or purchasing a firearm as defined in section 28-1201”
Nevada Nev. Rev. Stat. §§ 33.0305, 33.031, 33.033	“If a court issues an extended order pursuant to NRS 33.030, the adverse party shall not subsequently purchase or otherwise acquire any firearm during the period that the extended order is in effect” “A court may include in an extended order issued pursuant to NRS 33.030:

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	(a) A requirement that the adverse party surrender, sell or transfer any firearm in the adverse party's possession or under the adverse party's custody or control in the manner set forth in NRS 33.033”
New Hampshire N.H. Rev. Stat. Ann. §§ 173-B:4, 173-B:5, 173-B:9	“Upon a showing of abuse of the plaintiff by a preponderance of the evidence, the court shall grant such relief as is necessary to bring about a cessation of abuse. Such relief shall direct the defendant to relinquish to the peace officer any and all firearms and ammunition in the control, ownership, or possession of the defendant, or any other person on behalf of the defendant for the duration of the protective order. ... The defendant shall be prohibited from purchasing, receiving, or possessing any deadly weapons and any and all firearms and ammunition for the duration of the order. The court may subsequently issue a search warrant authorizing a peace officer to seize any deadly weapons specified in the protective

	order and any and all firearms and ammunition, if there is probable cause to believe such firearms and ammunition and specified deadly weapons are kept on the premises or curtilage of the defendant”
New Jersey N.J. Stat. Ann. §§ 2C:25-28(j), 2C:25-29(b), 2C:58-3(c)(6)	“In addition to any other provisions, any restraining order issued by the court shall bar the defendant from purchasing, owning, possessing or controlling a firearm and from receiving or retaining a firearms purchaser identification card or permit to purchase a handgun pursuant to N.J.S.2C:58-3 during the period in which the restraining order is in effect or two years, whichever is greater. The order shall require the immediate surrender of any firearm or other weapon belonging to the defendant”
New Mexico N.M. Stat. Ann. §§ 40-13-5(A)(2), 30-7-16(D)	“Upon finding that domestic abuse has occurred or upon stipulation of the parties, the court shall enter an order of protection ordering the restrained party to: . . .

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	(2) if the order is issued pursuant to this section and if the court also determines that the restrained party presents a credible threat to the physical safety of the household member after the restrained party has received notice and had an opportunity to be heard or by stipulation of the parties, to: (a) deliver any firearm in the restrained party's possession, care, custody or control to a law enforcement agency, law enforcement officer or federal firearms licensee while the order of protection is in effect; and (b) refrain from purchasing, receiving, or possessing or attempting to purchase, receive or possess any firearm while the order of protection is in effect”
New York N.Y. Fam. Ct. Act § 842-a, N.Y. Crim. Proc. Law § 530.14, N.Y. Penal Law § 400.00	For either a temporary or a final order, the court shall suspend the respondent's existing license, order him ineligible for such a license, and order the immediate surrender of “any or all firearms, rifles, and shotguns owned or possessed”

North Carolina N.C. Gen. Stat. §§ 14-269.8, 50B- 3(a)(11), 50B-3.1	“A protective order may include any of the following types of relief: . . . (11) Prohibit a party from purchasing a firearm for a time fixed in the order” “Upon issuance of an emergency or ex parte order pursuant to this Chapter, the court shall order the defendant to surrender to the sheriff all firearms, machine guns, ammunition, permits to purchase firearms, and permits to carry concealed firearms that are in the care, custody, possession, ownership, or control of the defendant if the court finds any of the following factors: (1) The use or threatened use of a deadly weapon by the defendant or a pattern of prior conduct involving the use or threatened use of violence with a firearm against persons. (2) Threats to seriously injure or kill the aggrieved party or minor child by the defendant. (3) Threats to commit suicide by the defendant.
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	(4) Serious injuries inflicted upon the aggrieved party or minor child by the defendant”
North Dakota N.D. Cent. Code §§ 14-07.1-02(4)(g), 14-07.1-03(2)(d), 14-07.1-06	“The relief provided by the court may include any or all of the following: . . . (g) Requiring the respondent to surrender for safekeeping any firearm or other specified dangerous weapon, as defined in section 12.1-01-04, in the respondent's immediate possession or control or subject to the respondent's immediate control, if the court has probable cause to believe that the respondent is likely to use, display, or threaten to use the firearm or other dangerous weapon in any further acts of violence”
Northern Mariana Islands 6 N. Mar. I. Code §§ 10601(d)(3)(xv), 10610(a)(17), 8 N. Mar. I. Code §§ 1916(b)(5), (c)(1)	“A court may grant the following relief without notice and hearing in an order for protection or a modification issued ex parte: . . . (5) Prohibit the respondent from [sic] using or possessing a firearm or other weapon specified by the court”
Ohio	“After an ex parte or full hearing, the court may grant any protection order, with or

Add. 21

Ohio Rev. Code Ann. § 3113.31(E)(1)(h)	without bond, or approve any consent agreement to bring about a cessation of domestic violence against the family or household members or persons with whom the respondent is or was in a dating relationship. The order or agreement may: ... (h) Grant other relief that the court considers equitable and fair”
Oregon Or. Rev. Stat. §§ 166.255(1)(a), 107.718(1)(h)	“It is unlawful for a person to knowingly possess a firearm or ammunition if: (a) The person is the subject of a court order that: (A)(i) Was issued or continued after a hearing for which the person had actual notice and during the course of which the person had an opportunity to be heard; or (ii) Was issued, continued or remains in effect, by order or operation of law, after the person received notice of the opportunity to request a hearing in which to be heard on the order, and either requested a hearing but did not attend the hearing or withdrew the request before the hearing occurred, or did

	not request a hearing during the time period in which the opportunity was available; (B) Restrains the person from stalking, intimidating, molesting or menacing a family or household member of the person, a child of a family or household member of the person or a child of the person; and (C) Includes a finding that the person represents a credible threat to the physical safety of a family or household member of the person, a child of a family or household member of the person or a child of the person”
Pennsylvania 18 Pa. Cons. Stat. § 6105(a.1)(2), 23 Pa. Cons. Stat. §§ 6107(b)(3), 6108(a.1)(1), 6105(a)(2)(iv)	A protection order may include: “Prohibiting the defendant from acquiring or possessing any firearm for the duration of the order, ordering the defendant to temporarily relinquish to the sheriff or the appropriate law enforcement agency any firearms under the defendant's possession or control, and requiring the defendant to relinquish to the sheriff or the appropriate law enforcement agency any firearm license”

Puerto Rico P.R. Laws Ann. tit. 8, § 621	“When the court so deems or has issued a restraining or anti-stalking order, the court shall immediately order the defendant to surrender to the Puerto Rico Police for custody, any firearm belonging to the defendant for which a license to bear or own or carry firearms, or for target-shooting or hunting or of any other kind, as the case may be. The order to surrender any firearm, as well as the suspension of any kind of firearm license, shall take effect compulsorily”
Rhode Island 8 R.I. Gen. Laws §§ 8-8.1-3(a)(4), 8-8.1-4, 15 R.I. Gen. Laws §§ 15-15-3(a)(4), 15-15-4, 11 R.I. Gen. Laws § 11-47-5(b)	“No person shall purchase, carry, transport, or have in his or her possession any firearm if that person is subject to [a domestic abuse protective order], or an equivalent order in this state or elsewhere, which order was issued after the person restrained has received notice of the proceedings and had an opportunity to be heard”
South Carolina S.C. Code Ann. § 16-25-30(A)(4)	“Notwithstanding the provisions of Section 16-23-30, it is unlawful for a person to ship, transport, receive, or possess a firearm or ammunition, if the person:

	... (4) is subject to a valid order of protection issued by the family court pursuant to Chapter 4, Title 20, and the family court judge at the time of the hearing made specific findings of physical harm, bodily injury, assault, or that the person offered or attempted to cause physical harm or injury to a person's own household member with apparent and present ability under the circumstances reasonably creating fear of imminent peril and the family court judge ordered that the person is prohibited from shipping, transporting, receiving, or possessing a firearm or ammunition”
South Dakota S.D. Codified Laws §§ 25-10-5(6), 25-10-24	In issuing a domestic violence protection order, “[t]he court may require the defendant to surrender any dangerous weapon or any concealed pistol permit issued under 23-7 in the defendant's possession to local law enforcement”
Tennessee Tenn. Code Ann. §§ 36-3-604(c), 36-	“The administrative office of the courts shall revise the petition for an order of protection form to fully advise

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3-625, 39-13-113(h)(1)	the respondent of this part in language substantially similar to the following: (1) If the order of protection is granted in a manner that fully complies with 18 U.S.C. § 922(g)(8), the respondent is required to terminate physical possession by any lawful means, such as transferring possession to a third party who is not prohibited from possessing firearms, of all firearms that the respondent possesses within forty-eight (48) hours of the granting of the order; (2) It is a criminal offense for a person subject to an order of protection that fully complies with 18 U.S.C. § 922(g)(8), to possess a firearm while that order is in effect; and (3) The issuance of an order of protection may terminate or, at least, suspend the individual's right to purchase or possess a firearm”
Texas Tex. Fam. Code Ann. §§ 83.001(b), 85.022(b)(6), (d), Tex. Penal Code Ann.	“In a protective order, the court may prohibit the person found to have committed family violence from: . . . (6) possessing a firearm, unless the person is a peace

Add. 26

§§ 25.07(a)(4) 46.06(a)(6)	officer, as defined by Section 1.07, Penal Code, actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision” “In a protective order, the court shall suspend a license to carry a handgun issued under Subchapter H,1 Chapter 411, Government Code, that is held by a person found to have committed family violence”
Utah Utah Code Ann. §§ 76-10-503(1)(b)(xi), 78B-7-404(5), 78B-7-504(5), 78B-7-603(2)(f)	Identifies as a “Category II restricted person” for the purposes of firearm possession, purchase, transfer, and ownership “a respondent or defendant subject to a protective order or child protective order that is issued after a hearing for which the respondent or defendant received actual notice and at which the respondent or defendant has an opportunity to participate, that restrains the respondent or defendant from harassing, stalking, threatening, or engaging in other conduct that would place an intimate partner, as defined in 18 U.S.C. Sec. 921,

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	or a child of the intimate partner, in reasonable fear of bodily injury to the intimate partner or child of the intimate partner, and that: (A) includes a finding that the respondent or defendant represents a credible threat to the physical safety of an individual who meets the definition of an intimate partner in 18 U.S.C. Sec. 921 or the child of the individual; or (B) explicitly prohibits the use, attempted use, or threatened use of physical force that would reasonably be expected to cause bodily harm against an intimate partner or the child of an intimate partner”
Vermont Vt. Stat. Ann. tit. 15, §§ 1103(c)(1), 1104(a)(1)(E), Vt. Stat. Ann. tit. 20, § 2307, Vt. Stat. Ann. tit. 13, § 1030(a)	“Upon a finding that there is an immediate danger of further abuse, an order may be granted requiring the defendant: . . . (E) to immediately relinquish, until the expiration of the order, all firearms that are in the defendant's possession, ownership, or control and to refrain from acquiring or

	possessing any firearms while the order is in effect” “The court shall make such orders as it deems necessary to protect the plaintiff or the children, or both”
Virgin Islands V.I. Code Ann. tit. 23, § 456a(a)(8)	“The following persons are ineligible for a license to possess or carry a firearm or ammunition as provided in this chapter: . . . (8) a person who is subject to a court order that- (A) was issued after a hearing of which the person received actual notice, and at which the person had an opportunity to participate; (B) restrains the person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and (C)(i) includes a finding that the person represents a credible threat to the physical

Add. 29

	safety of such intimate partner or child; or (ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury”
Virginia Va. Code Ann. §§ 18.2-308.09(5), 18.2-308.1:4, 18.2-60.4	“It is unlawful for any person who is subject to” a domestic violence protective order “to purchase or transport any firearm while the order is in effect. Any person with a concealed handgun permit shall be prohibited from carrying any concealed firearm, and shall surrender his permit to the court entering the order, for the duration of any protective order referred to herein”
Washington Wash. Rev. Code §§ 7.105.305, 7.105.310(1)(m), 9.41.040(2)(a)(ii), 9.41.800	“During any period of time that the party is subject to [a domestic violence protective order] that: (a) Was issued after a hearing of which the party received actual notice, and at which the party had an opportunity to participate, whether the court then issues a full order or reissues a temporary order. If the court enters an agreed order by the

Add. 30

	parties without a hearing, such an order meets the requirements of this subsection; (b) Restrains the party from harassing, stalking, or threatening an intimate partner of the party, the protected person, or child of the intimate partner, party, or protected person, or engaging in other conduct that would place an intimate partner or protected person in reasonable fear of bodily injury to the intimate partner, protected person, or child; and (c)(i) Includes a finding that the party represents a credible threat to the physical safety of the intimate partner, protected person, or child; or (ii) By its terms, explicitly prohibits the use, attempted use, or threatened use of physical force against the intimate partner, protected person, or child that would reasonably be expected to cause bodily injury, the court shall: (A) Require that the party immediately surrender all firearms and other dangerous weapons;
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	(B) Require that the party immediately surrender a concealed pistol license issued under RCW 9.41.070; (C) Prohibit the party from accessing, having in his or her custody or control, possessing, purchasing, receiving, or attempting to purchase or receive, any firearms or other dangerous weapons; and (D) Prohibit the party from obtaining or possessing a concealed pistol license.”
West Virginia W. Va. Code §§ 48-27-403(a), 48-27-502(b), 61- 7-4(o), 61-7-7(a)(7)	“The protective order must prohibit the respondent from possessing any firearm or ammunition”
Wisconsin Wis. Stat. §§ 813.12(3), (4m), 941.29(1m)(f)	“An injunction issued under sub. (4) shall do all of the following: require in writing the respondent to surrender any firearms that he or she owns or has in his or her possession to the sheriff of the county in which the action under this section was commenced, to the sheriff of the county in which the respondent resides or to another person designated by the respondent and approved

Add. 32

	by the judge or circuit court commissioner”
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