

**FEDERAL FIREARMS PROHIBITIONS – OREGON BENCHSHEET**  
**Qualifying “Misdemeanor Crime of Domestic Violence” (MCDV)**  
**18 USC § 922(g)(9) and 18 USC § 921(a)(33)**

**In General:** Persons who have been convicted in any court of a qualifying misdemeanor crime of domestic violence generally are prohibited under federal law from **purchasing or possessing** any firearm or ammunition. **This is a lifetime prohibition.**

**NO Official Use Exception:** Federal, state and local governmental employees are subject to this prohibition in **both their personal and official capacities.** 18 USC 925(a)(1).

**Required Elements:** If the conviction meets all of the following requirements, it will generally be considered a “qualifying MCDV” and will subject an offending defendant to federal prosecution for firearm possession.

**Violation:** Violation of this prohibition is a federal offense punishable by a fine and/or up to ten years imprisonment. 18 USC 924(a)(2).

**A QUALIFYING OFFENSE IS ONE THAT:**

- ◆ Is a **misdemeanor** under federal, state, or local law;
- ◆ Has, as an element, the **use or attempted use of physical force**, or the **threatened use of a deadly weapon**; and
- ◆ **Relationship Requirement** - at the time the crime was committed, the defendant was one of the following:
  - ◆ a current or former **spouse, parent or guardian** of the victim;
  - ◆ a person with whom the victim shared a **child in common**;
  - ◆ a person who **was cohabiting** with or **had cohabited** with the victim as a spouse, parent or guardian; or
  - ◆ a person who was or had been **similarly situated** to a **spouse, parent, or guardian of the victim**.

**ADDITIONAL REQUIREMENTS:**

For purposes of the firearms prohibition, a person has **NOT** been convicted of a qualifying misdemeanor crime of domestic violence:

- ◆ **Unless** the person was **represented by counsel** or **knowingly and intelligently waived the right to counsel**;
- ◆ **Unless**, if the crime was one for which the person was **entitled to a jury trial**, the case was **tried to a jury** or the person **knowingly and intelligently waived the right to jury trial**; or
- ◆ **If** the conviction was **set aside or expunged**, the person was **pardoned**, or the person’s **civil rights were restored** – the right to vote, sit on a jury, and hold elected office. (Currently, no Oregon misdemeanor provides for the loss of civil rights.)

**OREGON MCDVs:**

The FBI has designated six Oregon misdemeanors that may meet MCDV requirements\*\*\* if a qualifying relationship exists and the charge includes, as an element, the use or attempted use of physical force or threatened use of a deadly weapon:

- ◆ **ORS 163.160** – Assault in the Fourth Degree
- ◆ **ORS 163.187** – Strangulation
- ◆ **ORS 163.435** – Contributing to the Sexual Delinquency of a Minor
- ◆ **ORS 166.025** – Disorderly Conduct
- ◆ **ORS 166.190** – Pointing Firearm at Another
- ◆ **ORS 163.445** – Sexual Misconduct

\*\*\*The U.S. Attorney in Oregon, however, will prosecute a firearms violation after an Oregon MCDV conviction only if the defendant was convicted of **Assault in the Fourth Degree** or **Strangulation**.