

FEDERAL FIREARMS PROHIBITIONS – OREGON BENCHSHEET

Qualifying Order of Protection/Restraint

18 U.S.C. § 922(g)(8)

In General: Persons subject to a qualifying protection order (e.g., FAPA, EPPDAPA, stalking, pre-trial or probation no-contact orders,* juvenile) are generally prohibited from **purchasing or possessing** any firearms or ammunition under federal law.

Duration: The ban lasts for the **duration of the protective order**.

Official Use Exception: Federal, state, and local governmental employees **in their official capacities are exempt** from this prohibition, but **remain subject** to it in their **personal capacities**. 18 USC 925(a)(1).

Required Elements: If the order of protection or restraint includes one element (indicated by the “◆”) from each of the four sections listed below, it will generally be considered to be a “qualifying order” which would subject an offending respondent to federal prosecution for firearm purchase or possession.

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

A QUALIFYING PROTECTION OR RESTRAINT ORDER INCLUDES AT LEAST ONE ELEMENT FROM EACH OF THE FOLLOWING:

I. HEARING

Respondent received **actual notice** of the hearing, and either:

- ◆ **participated** in the **hearing**, or
- ◆ had an **opportunity to participate** in the hearing.

II. RELATIONSHIP

The person protected by the order is:

- ◆ A **spouse** or **former spouse** of the respondent;
- ◆ The **parent** of a child of respondent;
- ◆ A person who **does or did cohabit** (live in a sexually intimate relationship) with respondent;
- ◆ Respondent's **child**; or
- ◆ A **child of an intimate partner**** of respondent [**intimate partner is spouse/former spouse, cohabitant/former cohabitant, or parent of respondent's child – definition of intimate partner at 18 USC §921(a)(32)]

III. RESTRAINS FUTURE CONDUCT

- ◆ The order **restrains** respondent from **harassing, stalking, or threatening** the intimate partner, child of the respondent, or child of the respondent's intimate partner; or
- ◆ The order **restrains** respondent from engaging in other conduct that would place the intimate partner in **reasonable fear of bodily injury** to the intimate partner or child.

IV. CREDIBLE THREAT OR PHYSICAL FORCE

- ◆ The order includes a finding that respondent is a **credible threat** to the physical safety of the intimate partner or child; or
- ◆ The order, by its terms, explicitly prohibits the use, attempted use, or threatened use of **physical force** against the intimate partner or child that would reasonably be expected to cause bodily injury.

*Note: references to “respondent” encompass defendants in pre-trial or probation no-contact orders; references to “petitioner” encompass victims in pre-trial or probation no-contact orders.