



STATE FIREARM POSSESSION PROHIBITIONS

This technical assistance packet includes information on Minnesota state firearm laws which determine who is allowed to possess a firearm. Certain people are prohibited from possessing firearms or certain types of firearms based on whether they were convicted of a “crime of violence.” Furthermore, if a person is convicted for violating an order for protection (OFP) and a firearm was used during the violation, the court can prohibit him/her from possessing any firearms. It is important to be aware that Minnesota state law regarding firearms is not in compliance with federal law. The following information will assist advocates in understanding the various state laws that apply to domestic abuse defendants possessing guns. Minnesota state law regarding firearms is extremely confusing and if you have any further questions or need a copy of any statute that is not attached, please feel free to contact the Battered Women’s Legal Advocacy Project.

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Attached: Minn. Stat. §§ 518B.01 subd. 2, 14; 609.224 subd. 3; 609.2242; and 609.749 subd. 8.

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DEFINITIONS

FORFEITURE: The gun is turned over to the authorities and is not returned; the authorities can sell or destroy the gun.

PROHIBITED FROM POSSESSING: Person is prohibited from possessing a gun and cannot have a gun under their control including in their house, or their car. They can own a gun, but cannot have it in their control. It can be turned over to the sheriff or turned over to anyone that does not live with the person prohibited from possessing the gun.

PISTOL: Pistols are designed to be used in one hand (e.g. handgun). There are specifications as to the overall length of the gun and the length of the barrel. There are specifications around the measure of the shot it can fire and what type of action it has. Minn. Stat. § 624.712, subd. 2.

ANTIQUÉ FIREARM: Firearms made before 1899 or a replica made in the same fashion as a pre-1899 firearm. Minn. Stat. § 624.712, subd. 3.

SATURDAY NIGHT SPECIAL PISTOL: Pistols made of certain types of material. For example “any powdered metal having a density of less than 7.5 grams per cubic centimeter”. Minn. Stat. § 624.712, subd. 4.

CRIMES OF VIOLENCE: Includes felony convictions of the following offenses: sections murder in the first-third degrees; manslaughter in the first and second degrees; aiding suicide and aiding attempted suicide; assault in the first-fourth degrees); crimes committed for the benefit of a gang; use of drugs to injure or facilitate crime; simple robbery; aggravated robbery; kidnapping; false imprisonment; criminal sexual conduct in the first-fourth degrees; malicious punishment of a child; neglect or endangerment of a child; commission of crime while wearing or possessing a bullet-resistant vest; 609.52 (involving theft of a firearm, theft involving the intentional taking or driving of a motor vehicle without the consent of the owner or authorized agent of the owner, theft involving the taking of property from a burning, abandoned, or vacant building, or from an area of destruction caused by civil disaster, riot, bombing, or the proximity of battle, and theft involving the theft of a controlled substance, an explosive, or an incendiary device); arson in the first and second degrees; burglary in the first through third degrees; drive-by shooting; unlawfully owning, possessing, operating a machine gun or short-barreled shotgun; riot; terroristic threats; harassment and stalking; shooting at a public transit vehicle or facility; and chapter 152 (drugs, controlled substances); and an attempt to commit any of these offenses. Minn. Stat. § 624.712, subd. 5.

SEMI-AUTOMATIC MILITARY-STYLE ASSAULT WEAPON: Yearly the Bureau of Criminal Apprehension (BCA) releases a list of weapons that are considered semiautomatic military-style assault weapons. An initial list is included in the statute. Minn. Stat. § 624.712, subd. 7

STUN GUN: “Electronic incapacitation device” means a portable device which is designed or intended by the manufacturer to be used, offensively or defensively, to temporarily immobilize or incapacitate persons by means of electronic pulse or current, including devices operating by means of carbon dioxide propellant. “Electronic incapacitation device” does not include cattle prods, electric fences, or other electric devices when used in agricultural, animal husbandry, or food production activities. Minn. Stat. § 624.731, subd.1(b).

CONVICTED: Plea of guilty or a verdict of guilty by a jury/judge that is accepted and recorded by the court. Minn. Stat. § 609.02, subd. 5.

I. IF A PERSON IS CONVICTED UNDER THE FOLLOWING STATE LAWS, THEY CAN BE PROHIBITED FROM POSSESSING FIREARMS OR PISTOLS, OR HAVE TO FORFEIT THEIR GUNS.

VIOLATION OF ORDER FOR PROTECTION (OFP)

No Firearm Used in the Commission of the Crime

Under Minn. Stat. § 518B.01, subd. 14(k), a person convicted of a violation of an OFP (without the use of a firearm) is prohibited from possessing any pistol for three years from the date of the conviction. The ban applies even if the court does not notify the convicted person of the ban.

Firearm Used in the Commission of the Crime

A person convicted of an OFP violation in which a firearm was involved MAY be prohibited from possessing any firearm for a period of three years to life. Minn. Stat. § 518B.01, subd.14(j). If the court finds that a firearm was used in any way during the violation, the court MUST order the firearm that was *used* in the commission of the crime to be forfeited. Minn. Stat. § 518B.01, subd. 14(m).

DOMESTIC ASSAULT

Under Minn. Stat. § 609.2242, subd. 3(a), when a person is convicted of domestic assault, assault in the first, second, third or fifth degrees or domestic assault by strangulation; the court shall make written findings as to the following three things:

1. Whether the assault was committed against a family or household member¹;
2. Whether the defendant owns or possesses any firearms; and
3. Whether a firearm was used in any way during the commission of the assault.

No Firearm Used in the Commission of the Assault Against a Family/Household Member

A person convicted of domestic assault or fifth degree assault against a victim who is a family/household member is prohibited from possessing a pistol for three years from the date of conviction. The prohibition on possession of a pistol applies even if the court fails to notify the person of the prohibition. Minn. Stat. § 609.2242, subd. 3(d).

If a person convicted of domestic assault or fifth degree assault against a victim who is a family/household member is convicted of another domestic assault or a fifth degree assault against any person during the three years from the conviction date, then he/she is not entitled to possess a pistol. The period of time the person is not entitled to possess a pistol after a subsequent assault conviction depends on the statute that he/she is convicted under. However, if a person who was convicted of domestic assault or fifth degree

¹ Family or household members are: spouses or former spouses, persons related by blood, persons residing together or who have resided together in the past, co-parents, and persons involved in a significant romantic or sexual relationship. Minn. Stat. § 518B.01, subd. 2(b).

assault against a victim who is family/household member is not convicted of another domestic assault or a fifth degree assault against any person during three years from the conviction date, the person's right to possess a pistol is no longer restricted.

Firearm Used in the Commission of the Assault Against a Family/Household Member

A person convicted of assault against a victim who is a family/household member and he/she used a firearm in the commission of the assault is prohibited from possessing any firearm for three years to life. The prohibition on possession of any firearm applies even if the court fails to inform the person of the prohibition. Minn. Stat. § 609.2242, subd. 3(c). The court shall order that the firearm *used* in the commission of the assault be forfeited. Minn. Stat. §609.2242, subd. 3(b).

Crimes of Violence

A person with a felony conviction of assault in the first, second, third or fourth degree, strangulation or harassment/stalking, or any other crime of violence is prohibited from possessing any firearm for life. Crimes of violence include crimes committed in other states that would have been considered a crime of violence as defined if they had been committed in Minnesota. Minn. Stat. § 624.713, subd. 1(b).

HARASSMENT or STALKING

It is important to note that felony harassment or stalking is considered a “crime of violence” and that the rules about firearm possession include this crime and prohibit possession for the person's lifetime. However, violation of a Harassment Restraining Order under Minn. Stat. §609.748 does *not* include any firearm prohibitions. It is important that advocates are familiar with the statute specific to harassment or stalking.

Firearm Used in the Commission of the Crime

A person convicted of harassment or stalking and he/she used a firearm in the commission of the crime is prohibited from possessing any firearm for three years to life. Minn. Stat. § 609.749, subd. 8(a). If the court finds that a firearm was used in any way during the crime of harassment or stalking, the court **MUST** order that the firearm *used* be forfeited. Minn. Stat. § 609.749, subd. 8(d). This ban applies even if the court does not notify the person of the ban. Minn. Stat. § 609.749, subd. 8(b).

No Firearm Used in the Commission of the Crime

A person convicted of harassment or stalking under Minn. Stat. § 609.749 is prohibited from possessing any pistols for three years from the conviction. This ban applies even if the court does not notify the person of the ban. Minn. Stat. § 609.749, subd. 8(b). If a person who had been convicted of harassment or stalking has not been convicted of any other stalking or harassment for the three years after the conviction, the person's right to possess a pistol is no longer restricted. Minn. Stat. § 609.749, subd. 8(c).

ASSAULT IN THE FIFTH DEGREE (NOT DOMESTIC IN NATURE)

A person convicted of assault in the fifth degree [against any person] within three years of a previous conviction of first, second, third, or fifth degree assault [against any person] is not entitled to possess a pistol unless three years have lapsed from the date of conviction and the person has not been convicted of any other fifth degree assault [against any person] in those three years. If during those three years after the fifth degree conviction, the person has been convicted of any other fifth degree assault [against any person], then he/she is not entitled to possess a pistol. Minn. Stat. § 609.224, subd. 3(b).

II. THE FOLLOWING ARE MINNESOTA LAWS THAT MAY HELP DETERMINE WHETHER AN ABUSER IS ALLOWED TO POSSESS CERTAIN FIREARMS.

PEOPLE PROHIBITED FROM POSSESSING PISTOLS

Under MN § 624.713, it is illegal for the following people to possess a pistol or semiautomatic military style assault weapon or any other firearm:

1. A person under the age of 18 years, except that a person under 18 may carry or possess a pistol or semiautomatic military style assault weapon in the actual presence or under the direct supervision of the person's parent or guardian; for the purpose of military drill under the auspices of a legally recognized military organization and under competent supervision; for the purpose of instruction, competition or target practice on an approved firing range; or if the person has successfully completed a course designed to teach marksmanship and safety with a pistol or semi-automatic military style assault weapon and approved by the commissioner of natural resources.
2. A person who has been convicted of a "crime of violence." Possession is prohibited for the person's lifetime. (See the definition of "crimes of violence" on preceding page);
3. A person who has been confined to treatment facilities as "mentally ill," "developmentally disabled," or "mentally ill and dangerous to the public" if the person has been found incompetent to stand trial or not guilty by reason of mental illness. The person may possess these firearms if they can provide proof that they are no longer suffering from the "disability." (This also applies to individuals who have been confined as a result of a judicial commitment);
4. A person convicted in Minnesota or elsewhere of drug offenses or a person who is or has ever been hospitalized or committed for treatment for the habitual use of a controlled substance or marijuana. The person may possess these firearms if they can provide proof that they have not abused drugs for the past two years;
5. A person who has been confined or committed to a treatment facility for chemical dependency unless the person has completed treatment;

6. A person convicted in other states of crimes similar to Minnesota fifth degree assault (Minn. Stat. § 609.224 subd. 3) against a family or household member or domestic violence (Minn. Stat. § 609.2242, subd. 3) law are prohibited from possessing these firearms for three years from the date of conviction. They cannot have been convicted for the same type of crime during that three-year period;
7. A person who has been convicted in this state or elsewhere of assaulting a family or household member and who was found by the court to have used a firearm in any way during the commission of the assault is prohibited from possessing any type of firearm for the period determined by the sentencing court;
8. People convicted of a crime punishable by imprisonment for a term of more than one year;
9. A person who is a fugitive on criminal matters;
10. A person who is an unlawful user of controlled substances;
11. A person who has been judicially committed to a treatment facility in Minnesota or elsewhere as a person who is mentally ill, developmentally disabled, or mentally ill and dangerous to the public;
12. A person who is an illegal or unlawful alien;
13. A person who has been discharged from the military under dishonorable conditions;
14. A person who has renounced his/her citizenship; or
15. A person who has been convicted of the following offenses at the gross misdemeanor level, unless three years have elapsed since the date of conviction and, during that time, the person has not been convicted of any crime of violence as defined in Minn. Stat. § 624.712.
 - crimes committed for the benefit of a gang;
 - assaults motivated by bias;
 - false imprisonment;
 - neglect or endangerment of a child;
 - burglary in the fourth degree;
 - setting a spring gun;
 - riot; or
 - harassment and stalking.

For purposes of this paragraph, the specified gross misdemeanor convictions include crimes committed in other states or jurisdictions which would have been gross misdemeanors if conviction occurred in this state.

PERMITS TO CARRY PISTOLS

Under Minn. Stat. § 624.714, a person must have a permit to carry a pistol unless:

1. He/she is a law enforcement officer;
2. He/she carries/keeps a pistol about the person's place of business, dwelling house, premises or on land possessed by the person
3. He/she carries a pistol from a place of purchase to the person's dwelling or house or place of business, or from the person's dwelling or house or place of business to or from a place where repairing is done, to have the pistol repaired;
4. He/she carries a pistol between his/her house and place of business;
5. He/she carries a pistol in the woods or fields or upon the waters of this state for the purpose of hunting or of target shooting in a safe area; or
6. He/she transports a pistol in a motor vehicle, snowmobile or boat if the pistol is unloaded, contained in a closed and fastened case, gunbox or securely tied package.

Minnesota residents must apply for permits to carry to the county sheriff where the applicant resides. Nonresidents may apply to any sheriff. In order to receive a permit to carry a pistol, the person must be at least 21 years old, trained in the safe use of a pistol, complete an application for a permit, not be prohibited from possessing a firearm and not be listed in the criminal gang investigative data system. A permit to carry a pistol is issued for five years and is a state permit, effective throughout the state.

RIFLES & SHOTGUNS IN PUBLIC

Under Minn.Stat. § 624.7181, it is a gross misdemeanor to have a BB gun, rifle, or shotgun in a public place. There are a number of exceptions to this that concern having guns in public for shows, exhibits, historical reasons or if the person has a permit to carry firearms [not just a pistol]. If the gun is unloaded and fully enclosed in a proper firearm case, it is not a violation of this law. This law does not apply to law enforcement officials acting in the scope of their official duties.

NONRESIDENT ALIEN

Under Minn.Stat. § 624.719, a person classified as a "nonresident alien" cannot possess firearms except to hunt as provided by law.

PEPPER SPRAY and STUN GUNS

Under Minn. Stat. § 624.731, subd. 2(a), a person can possess and use pepper spray to defend himself/herself or his/her property only if the spray is in an aerosol container, labeled with or came with written instructions as to its use and the dangers involved in its use, and labeled with an expiration date. Pepper spray is called an "authorized tear gas compound."

Under Minn.Stat. § 624.731, subd. 2(b), a person can possess and use a stun gun to defend himself/herself or his/her property only if the stun gun is labeled with or came

with written instructions as to its use and the dangers involved in its use. Stun guns are called “electronic incapacitation devices”.

The following people are prohibited from possessing stun guns and pepper spray under Minn. Stat. §624.731, subd. 3:

1. People under the age of 18;
2. People convicted of a “crime of violence”; and
3. People prohibited from possessing pistols due to mental illness, developmental disability, drug convictions, or confinement to treatment facilities due to chemical use unless proof can be provided that person is no longer suffering from disability and/or has not abused controlled substance in previous two years.

It is considered a felony for people convicted of a “crime of violence” to possess a stun gun or pepper spray. Minn. Stat. § 624.731, subd. 8(a)(1). It is a misdemeanor for the people mentioned in numbers 1 and 3 above to possess a stun gun or pepper spray. Minn. Stat. § 624.731, subd. 8(c)(2).

RELEVANT STATUTES

Minn. Stat. § 518B.01 Subd. 2, 14

Subd. 2. Definitions. As used in this section, the following terms shall have the meanings given them:

(a) "Domestic abuse" means the following, if committed against a family or household member by a family or household member:(1) physical harm, bodily injury, or assault; (2) the infliction of fear of imminent physical harm, bodily injury, or assault; or (3) terroristic threats, within the meaning of section [609.713, subdivision 1](#); criminal sexual conduct, within the meaning of section [609.342](#), [609.343](#), [609.344](#), [609.345](#), or [609.3451](#); or interference with an emergency call within the meaning of section (2)

(b) "Family or household members" means:(1) spouses and former spouses; (2) parents and children; (3) persons related by blood; (4) persons who are presently residing together or who have resided together in the past; (5) persons who have a child in common regardless of whether they have been married or have lived together at any time; (6) a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; and (7) persons involved in a significant romantic or sexual relationship. Issuance of an order for protection on the ground in clause (6) does not affect a determination of paternity under sections [257.51](#) to [257.74](#). In determining whether persons are or have been involved in a significant romantic or sexual relationship under clause (7), the court shall consider the length of time of the relationship; type of relationship; frequency of interaction between the parties; and, if the relationship has terminated, length of time since the termination.

(c) "Qualified domestic violence-related offense" has the meaning given in section 609.02, subdivision 16 .

Subd. 14. Violation of an order for protection.

(a) A person who violates an order for protection issued by a judge or referee is subject to the penalties provided in paragraphs (b) to (d).

(b) Except as otherwise provided in paragraphs (c) and (d), whenever an order for protection is granted by a judge or referee or pursuant to a similar law of another state, the United States, the District of Columbia, tribal lands, or United States territories, and the respondent or person to be restrained knows of the existence of the order, violation of the order for protection is a misdemeanor. Upon a misdemeanor conviction under this paragraph, the defendant must be sentenced to a minimum of three days imprisonment and must be ordered to participate in counseling or other appropriate programs selected by the court. If the court stays imposition or execution of the jail sentence and the defendant refuses or fails to comply with the court's treatment order, the court must impose and execute the stayed jail sentence. A violation of an order for protection shall also constitute contempt of court and be subject to the penalties provided in chapter 588.

(c) A person is guilty of a gross misdemeanor who knowingly violates this subdivision within ten years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency. Upon a gross misdemeanor conviction under this paragraph, the defendant must be sentenced to a minimum of ten days imprisonment and must be ordered to participate in counseling or other appropriate programs selected by the court. Notwithstanding section 609.135, the court must impose and execute the minimum sentence provided in this paragraph for gross misdemeanor convictions.

(d) A person is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the person knowingly violates this subdivision:

(1) within ten years of the first of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency; or

(2) while possessing a dangerous weapon, as defined in section 609.02, subdivision 6.

Upon a felony conviction under this paragraph in which the court stays imposition or execution of sentence, the court shall impose at least a 30-day period of incarceration as a condition of probation. The court also shall order that the defendant participate in counseling or other appropriate programs selected by the court. Notwithstanding section 609.135, the court must impose and execute the minimum sentence provided in this paragraph for felony convictions.

(e) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order granted pursuant to

this section or a similar law of another state, the United States, the District of Columbia, tribal lands, or United States territories restraining the person or excluding the person from the residence or the petitioner's place of employment, even if the violation of the order did not take place in the presence of the peace officer, if the existence of the order can be verified by the officer. The probable cause required under this paragraph includes probable cause that the person knows of the existence of the order. If the order has not been served, the officer shall immediately serve the order whenever reasonably safe and possible to do so. An order for purposes of this subdivision, includes the short form order described in subdivision 8a. When the order is first served upon the person at a location at which, under the terms of the order, the person's presence constitutes a violation, the person shall not be arrested for violation of the order without first being given a reasonable opportunity to leave the location in the presence of the peace officer. A person arrested under this paragraph shall be held in custody for at least 36 hours, excluding the day of arrest, Sundays, and holidays, unless the person is released earlier by a judge or judicial officer. A peace officer acting in good faith and exercising due care in making an arrest pursuant to this paragraph is immune from civil liability that might result from the officer's actions.

(f) If the court finds that the respondent has violated an order for protection and that there is reason to believe that the respondent will commit a further violation of the provisions of the order restraining the respondent from committing acts of domestic abuse or excluding the respondent from the petitioner's residence, the court may require the respondent to acknowledge an obligation to comply with the order on the record. The court may require a bond sufficient to deter the respondent from committing further violations of the order for protection, considering the financial resources of the respondent, and not to exceed \$10,000. If the respondent refuses to comply with an order to acknowledge the obligation or post a bond under this paragraph, the court shall commit the respondent to the county jail during the term of the order for protection or until the respondent complies with the order under this paragraph. The warrant must state the cause of commitment, with the sum and time for which any bond is required. If an order is issued under this paragraph, the court may order the costs of the contempt action, or any part of them, to be paid by the respondent. An order under this paragraph is appealable.

(g) Upon the filing of an affidavit by the petitioner, any peace officer, or an interested party designated by the court, alleging that the respondent has violated any order for protection granted pursuant to this section or a similar law of another state, the United States, the District of Columbia, tribal lands, or United States territories, the court may issue an order to the respondent, requiring the respondent to appear and show cause within 14 days why the respondent should not be found in contempt of court and punished therefor. The hearing may be held by the court in any county in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation, or in the county in which the alleged violation occurred, if the petitioner and respondent do not reside in this state. The court also shall refer the violation of the order for protection to the appropriate prosecuting authority for possible prosecution under

paragraph (b), (c), or (d).

(h) If it is alleged that the respondent has violated an order for protection issued under subdivision 6 or a similar law of another state, the United States, the District of Columbia, tribal lands, or United States territories, and the court finds that the order has expired between the time of the alleged violation and the court's hearing on the violation, the court may grant a new order for protection under subdivision 6 based solely on the respondent's alleged violation of the prior order, to be effective until the hearing on the alleged violation of the prior order. If the court finds that the respondent has violated the prior order, the relief granted in the new order for protection shall be extended for a fixed period, not to exceed one year, except when the court determines a longer fixed period is appropriate.

(i) The admittance into petitioner's dwelling of an abusing party excluded from the dwelling under an order for protection is not a violation by the petitioner of the order for protection.

A peace officer is not liable under section 609.43, clause (1), for a failure to perform a duty required by paragraph (e).

(j) When a person is convicted under paragraph (b) or (c) of violating an order for protection and the court determines that the person used a firearm in any way during commission of the violation, the court may order that the person is prohibited from possessing any type of firearm for any period longer than three years or for the remainder of the person's life. A person who violates this paragraph is guilty of a gross misdemeanor. At the time of the conviction, the court shall inform the defendant whether and for how long the defendant is prohibited from possessing a firearm and that it is a gross misdemeanor to violate this paragraph. The failure of the court to provide this information to a defendant does not affect the applicability of the firearm possession prohibition or the gross misdemeanor penalty to that defendant.

(k) Except as otherwise provided in paragraph (j), when a person is convicted under paragraph (b) or (c) of violating an order for protection, the court shall inform the defendant that the defendant is prohibited from possessing a pistol for three years from the date of conviction and that it is a gross misdemeanor offense to violate this prohibition. The failure of the court to provide this information to a defendant does not affect the applicability of the pistol possession prohibition or the gross misdemeanor penalty to that defendant.

(l) Except as otherwise provided in paragraph (j), a person is not entitled to possess a pistol if the person has been convicted under paragraph (b) or (c) after August 1, 1996, of violating an order for protection, unless three years have elapsed from the date of conviction and, during that time, the person has not been convicted of any other violation of this section. Property rights may not be abated but access may be restricted by the courts. A person who possesses a pistol in violation of this paragraph is guilty of a gross

misdemeanor.

(m) If the court determines that a person convicted under paragraph (b) or (c) of violating an order for protection owns or possesses a firearm and used it in any way during the commission of the violation, it shall order that the firearm be summarily forfeited under section 609.5316, subdivision 3.

Minn. Stat. § 609.224 Subd. 3. Fifth Degree Violence

Subd. 3. **Firearms.** (a) When a person is convicted of a violation of this section or section [609.221](#), [609.222](#), or [609.223](#), the court shall determine and make written findings on the record as to whether:

(1) the defendant owns or possesses a firearm; and

(2) the firearm was used in any way during the commission of the assault.

(b) Except as otherwise provided in section [609.2242, subdivision 3](#), paragraph (c), a person is not entitled to possess a pistol if the person has been convicted after August 1, 1992, of assault in the fifth degree if the offense was committed within three years of a previous conviction under sections [609.221](#) to [609.224](#), unless three years have elapsed from the date of conviction and, during that time, the person has not been convicted of any other violation of section [609.224](#). Property rights may not be abated but access may be restricted by the courts. A person who possesses a pistol in violation of this paragraph is guilty of a gross misdemeanor.

Minn. Stat. § 609.2242 Domestic Violence

Subdivision 1. **Misdemeanor.** Whoever does any of the following against a family or household member as defined in section [518B.01, subdivision 2](#), commits an assault and is guilty of a misdemeanor: (1) commits an act with intent to cause fear in another of immediate bodily harm or death; or (2) intentionally inflicts or attempts to inflict bodily harm upon another.

Subd. 2. **Gross misdemeanor.** Whoever violates subdivision 1 within ten years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency against a family or household member as defined in section [518B.01, subdivision 2](#), is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

Subd. 3. Domestic assaults; firearms.

(a) When a person is convicted of a violation of this section or section [609.221](#), [609.222](#), [609.223](#), [609.224](#), or [609.2247](#), the court shall determine and make written findings on the record as to whether: (1) the assault was committed against a family or household member, as defined in section [518B.01, subdivision 2](#); (2) the defendant owns or possesses a firearm; and (3) the firearm was used in any way during the commission of the assault.

(b) If the court determines that the assault was of a family or household member, and that the offender owns or possesses a firearm and used it in any way during the commission of the assault, it shall order that the firearm be summarily forfeited under section [609.5316, subdivision 3](#).

(c) When a person is convicted of assaulting a family or household member and is determined by the court to have used a firearm in any way during commission of the assault, the court may order that the person is prohibited from possessing any type of firearm for any period longer than three years or for the remainder of the person's life. A person who violates this paragraph is guilty of a gross misdemeanor. At the time of the conviction, the court shall inform the defendant whether and for how long the defendant is prohibited from possessing a firearm and that it is a gross misdemeanor to violate this paragraph. The failure of the court to provide this information to a defendant does not affect the applicability of the firearm possession prohibition or the gross misdemeanor penalty to that defendant.

(d) Except as otherwise provided in paragraph (c), when a person is convicted of a violation of this section or section [609.224](#) and the court determines that the victim was a family or household member, the court shall inform the defendant that the defendant is prohibited from possessing a pistol for three years from the date of conviction and that it is a gross misdemeanor offense to violate this prohibition. The failure of the court to provide this information to a defendant does not affect the applicability of the pistol possession prohibition or the gross misdemeanor penalty to that defendant.

(e) Except as otherwise provided in paragraph (c), a person is not entitled to possess a pistol if the person has been convicted after August 1, 1992, of domestic assault under this section or assault in the fifth degree under section [609.224](#) and the assault victim was a family or household member as defined in section [518B.01, subdivision 2](#), unless three years have elapsed from the date of conviction and, during that time, the person has not been convicted of any other violation of this section or section [609.224](#). Property rights may not be abated but access may be restricted by the courts. A person who possesses a pistol in violation of this paragraph is guilty of a gross misdemeanor.

Subd. 4. **Felony.** Whoever violates the provisions of this section or section 609.224, subdivision 1, within ten years of the first of any combination of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency is guilty of a felony and may be sentenced to imprisonment for not more than five years or payment of a fine of not more than \$10,000, or both.

Minn. Stat. § 609.749 Subd. 8.

Subd. 8. **Stalking; firearms.** (a) When a person is convicted of a harassment or stalking crime under this section and the court determines that the person used a firearm in any way during commission of the crime, the court may order that the person is prohibited from possessing any type of firearm for any period longer than three years or for the remainder of the person's life. A person who violates this paragraph is guilty of a gross

misdemeanor. At the time of the conviction, the court shall inform the defendant whether and for how long the defendant is prohibited from possessing a firearm and that it is a gross misdemeanor to violate this paragraph. The failure of the court to provide this information to a defendant does not affect the applicability of the firearm possession prohibition or the gross misdemeanor penalty to that defendant.

(b) Except as otherwise provided in paragraph (a), when a person is convicted of a stalking or harassment crime under this section, the court shall inform the defendant that the defendant is prohibited from possessing a pistol for three years from the date of conviction and that it is a gross misdemeanor offense to violate this prohibition. The failure of the court to provide this information to a defendant does not affect the applicability of the pistol possession prohibition or the gross misdemeanor penalty to that defendant.

(c) Except as otherwise provided in paragraph (a), a person is not entitled to possess a pistol if the person has been convicted after August 1, 1996, of a stalking or harassment crime under this section, unless three years have elapsed from the date of conviction and, during that time, the person has not been convicted of any other violation of this section. Property rights may not be abated but access may be restricted by the courts. A person who possesses a pistol in violation of this paragraph is guilty of a gross misdemeanor. (d) If the court determines that a person convicted of a stalking or harassment crime under this section owns or possesses a firearm and used it in any way during the commission of the crime, it shall order that the firearm be summarily forfeited under section [609.5316, subdivision 3](#).

(c) Except as otherwise provided in paragraph (a), a person is not entitled to possess a pistol if the person has been convicted after August 1, 1996, of a stalking or harassment crime under this section, unless three years have elapsed from the date of conviction and, during that time, the person has not been convicted of any other violation of this section. Property rights may not be abated but access may be restricted by the courts. A person who possesses a pistol in violation of this paragraph is guilty of a gross misdemeanor.

(d) If the court determines that a person convicted of a stalking or harassment crime under this section owns or possesses a firearm and used it in any way during the commission of the crime, it shall order that the firearm be summarily forfeited under section 609.5316, subdivision 3.