



Florida, Firearms, and Domestic Violence

A Quick Reference Guide to Firearm Laws in Florida

Definition of Firearm

“Firearm” means any weapon (including a starter gun) which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; any destructive device; or any machine gun. The term “firearm” does not include an antique firearm unless the antique firearm is used in the commission of a crime. Fla. Stat. § 790.001(6); 18 U.S.C. 921(a)(3).

Surrender

Upon service of the injunction, if so ordered, the respondent must surrender all firearms and ammunition to the police, obtain a receipt of surrender, and file the receipt with the court. Fla. Stat. § 790.233(1); 18 U.S.C. 922(g)(8).

Surrender of firearms is **mandatory** in domestic violence injunction cases; however, the court may order surrender of firearms in repeat, sexual, or dating violence injunction cases where the issue was presented or discussed during the hearing. Blaylock v. Zeller, 932 So. 2d 479 (Fla. 5th DCA, 1996).

Note: There are procedures for the return of firearms after a valid injunction has expired. These procedures may vary from circuit to circuit; please contact your circuit for more information regarding return of firearm procedures.

Surrender Exemption

Surrender of firearms shall not apply to a state or local law enforcement officer holding an active certification, who receives or possesses a firearm or ammunition for use in performing official duties on behalf of the officer’s employing agency, unless otherwise prohibited by the employing agency. Fla. Stat. § 790.233(3).

Per federal law, a surrender exemption exists for law enforcement officers and active military who are the subject of a protection order; said exemption has been interpreted by the Bureau of Alcohol, Tobacco and Firearm (ATF) to only allow “on-duty” possession of service weapons. 18 U.S.C. 925.

Prohibition Against Possessing Firearms Under Current Injunction

A person subject to a current final injunction Against Domestic Violence under §741.30 is prohibited from possessing firearms or ammunition. Fla. Stat. § 790.233(1).

Records Check

Florida Department of Law Enforcement (FDLE) is required to perform a records check for federal and state disqualifiers such as **injunctions** and **domestic violence convictions** prior to authorizing the purchase of a firearm. Fla. Stat. § 790.065(2).

Prohibition Against Issuance of Concealed Carry Permits

The Department of Agriculture and Consumer Services is **prohibited from issuing** a license to carry concealed weapons or firearms where the applicant has had adjudication of guilt withheld or imposition of sentence suspended on any felony or misdemeanor crime of domestic violence unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled, or the record has been sealed or expunged. Fla. Stat. § 790.06(2)(k).

A license to carry a concealed weapon or firearm **may not be issued** to a person subject to a current injunction for protection against domestic or repeat violence. Fla. Stat. § 790.06(2)(l).

Punishment for Violations

All violations of federal law regarding firearms prohibitions due to domestic violence are punishable by up to 10 years imprisonment and/or a \$250,000 fine. 18 U.S.C. 924(a)(2).

A person who has possession of firearms or ammunition in prohibition of an injunction commits a **misdemeanor of the first degree**, punishable as provided in § 775.082 or § 775.083. Fla. Stat. § 790.233(2).

Lautenberg Amendment

A person convicted of a “qualifying” (right to counsel, jury trial, and conviction not expunged) misdemeanor crime of domestic violence is **permanently disqualified** from possessing a firearm or ammunition. Defendant must be spouse, former spouse, co-parent, parent or guardian of victim, person who cohabits or has cohabited as spouse, parent or guardian, or a person similarly situated. No “official use” exemption is applicable. 18 U.S.C. 922(g)(9).

Retention of Firearm Prohibition after Expungement

The court may retain the prohibition against firearm possession in any order for the expungement of a conviction. 18 U.S.C. 921(a)(33)(B)(ii).

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