

Gun Ownership and Misdemeanor Crimes of Violence



For some, the right to bear arms is tantamount to life liberty and the pursuit of happiness. There are hundreds, if not thousands of ways in which firearm possession can be deemed illegal at either the state or Federal level; however, this article focuses on possession after a conviction of a misdemeanor crime of domestic violence. ***(For those of you who are trolling the internet looking for free legal advice, this is not a substitute for consulting an attorney, nor is it an endorsement to acquiring a firearm because you believe that you fit within some permitted category of persons).***

Saving debate of the rationale behind the [Violence Against Women Act](#), and firearm possession, Federal statute enacted in 1996 states:

It shall be unlawful for any person . . . who has been convicted in any court of a misdemeanor crime of domestic violence, to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce. ([18 USC 922\(g\)\(9\)](#))
A literal reading makes the statute pretty clear. Misdemeanor domestic battery conviction means no guns. However, in its application, Don Meredith sums up the interpretation of 18 USC 922(g) best when he said, "If 'ifs' and 'buts' were candy and nuts, wouldn't it be a Merry Christmas?" Primarily, the phrase, "convicted . . . of a misdemeanor crime of domestic violence" has led us down a seemingly endless road of statutory interpretation mired by confusion, akin to Churchill's description of the Soviet Union: "a riddle wrapped in a mystery, inside an enigma."

What is a Misdemeanor Crime of Domestic Violence?

Any crime that is listed as a misdemeanor under Federal, State or Tribal law which, "has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim." ([18 USC 921\(a\)\(33\)\(A\)\(i-ii\)](#)).

What if My charge was reduced?

In view of the lack of congruity between how each individual State defines crimes of domestic violence, Federal law remains true to the statutory definition, meaning if there is an element of use or attempted use or threatening with a deadly weapon, the crime will meet the statutory definition. What does this mean? Disturbing the Peace (a common reduction from Domestic Battery charges) could result in defendant becoming a prohibited person.

What about Military or Law Enforcement?

There is no exception to this prohibition for any classes of persons under [18 USC 925\(a\)\(1\)](#).

For answers to common questions, the [Bureau of Alcohol, Tobacco, Firearms and Explosives](#) provides some useful information.