LEGAL QUICKSHEET™

Orders for Protection, Harassment Restraining Orders and Domestic Abuse No Contact Orders

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Rana S. Alexander • Standpoint • Minneapolis

Comparing OFPs, HROs and DANCOs

	Order for Protection (OFP)	Harassment Restraining Order (HRO)	Domestic Abuse No Contact Order (DANCO)
Minnesota Statute	518B.01	609.748	629.75
Type of Order	Family Court Order	Civil Order	Criminal Order
Must Allege	Domestic abuse: (1) Physical harm; (2) bodily injury or assault or infliction of fear of imminent harm; (3) injury or assault or terrorist threats; (4) criminal sexual conduct; (5) sexual extortion; or (6) interference with an emergency call	Harassment: (1) Single incident of physical or sexual assault; (2) repeated incidents (2 or more) of intrusive or unwanted acts, words, or gestures that have a substantial adverse effect or are intended to have a substantial adverse effect on the safety, security, or privacy of another; (3) a single incident of nonconsensual dissemination of private sexual images; (4) a single incident of using another's personal information, without consent, to invite, encourage, or solicit a third party to engage in a sexual act with the person; (5) targeted residential picketing; or (6) pattern of attending public events after being notified that the actor's presence at the event is harassing to another	A criminal case where criminal charges pending and/or conviction for: (1) Domestic abuse as defined; (2) harassment or stalking when committed against a family or household member as defined; (3) violation of an order for protection; or (4) violation of a prior domestic abuse no contact order
Relationship	Household or family member as defined in 518B.01, subd. 2(b)	No special relationship necessary	Household or family member as defined in 518B.01, subd. 2(b)
Relief	Broad and includes possession of property, custody, child support, spousal maintenance exclusion from house/work/daycare	Only no contact and no harassment	Only no contact
Fee	No fee for the petitioner or the respondent	No fee for the petitioner or the respondent if the petition alleges acts that constitute a violation of § 609.749, subd. 2, 3, 4, or 5, or §§ 609.342 to 609.3451	No fee
Who Can Seek Order?	Victim	Victim	Prosecutor
Hearing Timelines	Strict timelines	No timelines	Any proceeding in which pretrial release or sentencing issues are decided
Additional Notes	Even if OFP is dismissed, there still could be a DANCO	Even if HRO is dismissed, there still could be a DANCO or other criminal no contact order	Even if DANCO is dismissed, there still could be an OFP or HRO Family Court cannot modify

Continued on reverse.

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81-0901-23-10

Restraining Orders and Federal Firearm Prohibitions

The Violence Against Women Act prohibits a respondent with a qualifying domestic abuse restraining order from possessing firearms and ammunition. Under 18 U.S.C. § 922(g)(8), a qualifying order must have all of these three factors:

1. Issued after a hearing where the respondent received actual notice of the hearing and had an opportunity to participate in the hearing. The respondent does not need to attend the hearing for the ban to apply. The respondent needs to receive actual notice of the scheduled hearing and be given the opportunity to participate.

   NOTE: This factor applies to all *ex parte* orders and orders that do not require a hearing. Therefore, an individual who is the subject of an OFP issued without a hearing under Minn. Stat. § 518B.01, subd. 5 would not be prohibited from possessing firearms or ammunition.

2. Restrains the respondent from harassing, stalking, or threatening an intimate partner of the respondent or child of the intimate partner or child of the respondent, or engaging in other conduct that would place the respondent's intimate partner in reasonable fear of bodily injury to the partner or the child.

   Intimate partners include spouses, former spouses, an individual who is a parent of a child of the person, and an individual who cohabitates or has cohabited with the person. See 18 U.S.C. § 921(a)(32);

3. Includes a finding the respondent represents a credible threat to the physical safety of the intimate partner or child; or 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.

The prohibition on possession of firearms or ammunition ends when the OFP expires or is dismissed.

Under the statute 18 U.S.C. §925(a)(1), there is an exception for law enforcement and military personnel for carrying a department or government issued firearm. Therefore, if a police officer is the respondent in a qualifying OFP, the officer would still be able to possess his/her service firearm, even when off-duty, but could not possess other firearms.

A respondent does not have to be told about the ban and does not need to be specifically ordered not to possess firearms and ammunition.[1] The penalty for violation of this federal firearm statute is a maximum of ten years in prison and/or a $250,000 fine. 18 U.S.C. § 924(a)(2).

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[1] See *U.S. v. Bostic,* 168 F.3d 718, 722-723 (4th Cir. 1999) (noting that when the defendant is aware of all circumstances surrounding the conviction, Due Process does not entitle him to notice that his conduct of possessing a firearm while subject to a domestic violence protective order is illegal); *U.S. v. Kafka,* 222 F.3d 1129, 1132-133 (9th Cir. 2000) (holding that notice of restriction is not required because the restraining order itself should have put the defendant on notice that other conduct may be restricted). See also *U.S. v. Napier,* 233 F. 3d 394, 398-399 (6th Cir. 2000) (noting that status as an individual subject to a restraining order is enough to prevent the defendant from claiming a lack of "fair warning").