

Domestic Violence and Guns: A Guide to the Law New Jersey

6 Steps on How the Law Can Help Keep You Safe:

It is the responsibility of the judges and police to enforce the law, protect your safety, and stop anyone who is causing you harm from buying or having guns.

Step 1: Develop a Safety Plan and seek assistance if necessary:

Your safety is the most important concern. A court order prohibiting the person causing harm from having a gun does not always guarantee your safety and could create new dangers for you and your family. Before you take action, it may be a good idea to speak with an attorney or local domestic violence service provider to help you decide whether a gun prohibition is in your best interest and to create a safety plan. **Contact a local domestic violence program by calling the New Jersey Domestic Violence Hotline at 1-800-572-SAFE (7233) or contact the National Domestic Violence Hotline: 1-800-799-SAFE (7233) or 1-800-787-3223 (TTY for the deaf)**

Step 2: Seeking a Restraining Order may help ensure your safety:

A Restraining Order is an order from a court that places restrictions on what the defendant can do and the kind of contact the defendant can have with you. In the state of New Jersey, defendants in restraining order cases are barred from having a gun.

Step 3: Applying for a Domestic Violence Restraining Order:

In order to get a restraining order, you must file a domestic violence complaint with the court. This process does not require an attorney, however it can be tricky and you may want to get information and support from a lawyer or local domestic violence organization before beginning the restraining order process.

There are two types of restraining orders: Temporary and Final. Temporary or “emergency” is an order that will be effective immediately but will only last a short period, or until you get the final order. A Final or “permanent” restraining order will last indefinitely in the state of New Jersey and will require a hearing before the court. The defendant will also have the opportunity to appear and participate at the hearing. The judge will determine at this hearing if you will receive a final restraining order.

Step 4: The court has the discretion to order a defendant not to have a gun:

If including a gun prohibition in the restraining order would make you safer, include that the defendant has a gun(s) in the temporary restraining order so the judge is aware. The judge can order for the defendant not to have a gun during the hearing for the final restraining order.

Step 5: The court will explain what happens to the gun(s):

If a judge orders a defendant not to have guns, they will explain what will happen to the guns. The court may require the defendant to turn the guns into the police or require law enforcement officers to go get the guns. If the court orders the guns to be seized, you should contact local law enforcement or the county prosecutor regarding the status of the weapons.

Step 6: If your rights are not enforced you can seek assistance:

In addition to state law, federal law states that it is illegal for most defendants to have a gun or ammunition if: (1) a "final" restraining order is in force against the defendant, (2) the defendant has been convicted of certain domestic violence misdemeanors or any felony in the past. There is an exception in that law enforcement and military personnel may be allowed to possess their service weapon while on duty.

If your rights are not being enforced, you can seek assistance and information from a local domestic violence organization. To find your local organization, call the New Jersey Domestic Violence Hotline at 1-800-572-SAFE (7233) or contact the National Domestic Violence Hotline: 1-800-799-SAFE (7233) or 1-800-787-3224 TTY for the deaf.