

FEDERAL AND STATE FIREARMS PROHIBITIONS
OREGON BENCHSHEET
Qualifying Orders of Protection/Restraint

In General: Persons subject to a *qualifying* protection order (examples could include: FAPA, EPPDAPA, stalking, pre-trial or probation no-contact orders, juvenile) are generally prohibited from purchasing or possessing any firearms or ammunition under federal and state law.

Duration: The ban lasts for the **duration of the protective order**.

Official Use Exception: Federal, state, and local governmental employees in their official capacities are exempt from this prohibition, but remain subject to it in their personal capacities. 18 USC 925(a)(1); ORS 166.255(2)

Required Elements: If the order of protection or restraint includes one element (**indicated by the “◆”**) from each of the four sections listed below, it will generally be considered to be a “qualifying order” which could subject an offending respondent¹ to federal and/or state prosecution for firearm purchase or possession.

Violation: Violation of this prohibition while the order is in effect is a federal and state offense punishable by a fine and/or imprisonment. 18 USC 924(a)(2); ORS 166.250(5)

A QUALIFYING PROTECTION OR RESTRAINING ORDER INCLUDES AT LEAST ONE ELEMENT FROM EACH OF THE FOLLOWING:

FEDERAL (18 USC 922(g)(8))	STATE (ORS 166.250, 166.255)
<p style="text-align: center;">I. HEARING</p> <p>Respondent received actual notice of the hearing, and either:</p> <ul style="list-style-type: none"> ◆ participated in the hearing, or ◆ had an opportunity to participate in the hearing. <p style="text-align: center;">II. RELATIONSHIP</p> <p>The person protected by the order is:</p> <ul style="list-style-type: none"> ◆ A spouse or former spouse of the respondent; ◆ The parent of a child of respondent; ◆ A person who does or did cohabit (live in a sexually intimate relationship) with respondent; ◆ Respondent’s child; or 	<p style="text-align: center;">I. HEARING</p> <p>Respondent received actual notice of the hearing, and either:</p> <ul style="list-style-type: none"> ◆ participated in the hearing, or ◆ had an opportunity to participate in the hearing. <p style="text-align: center;">II. RELATIONSHIP</p> <p>The person protected by the order is:</p> <ul style="list-style-type: none"> ◆ A spouse or former spouse of the respondent; ◆ The parent of a child of respondent; ◆ A person who does or did cohabit with respondent in a relationship akin to a spouse; ◆ Respondent’s child;

¹ Note: references to “respondent” encompass defendants in pre-trial or probation no-contact orders; references to “petitioner” encompass victims in pre-trial or probation no-contact order.

◆ A child of an intimate partner of respondent (Intimate partner is the spouse/former spouse, cohabitant/former cohabitant, or parent of respondent's child.)

III. RESTRAINS FUTURE CONDUCT

◆ The order restrains respondent from harassing, stalking, or threatening the intimate partner, child of the respondent, or child of the respondent's intimate partner; or

◆ The order restrains respondent from engaging in other conduct that would place the intimate partner in reasonable fear of bodily injury to the intimate partner.

IV. CREDIBLE THREAT OR PHYSICAL FORCE

◆ The order includes a finding that respondent is a credible threat to the physical safety of the intimate partner or child of the intimate partner or of the respondent; or

◆ The order, by its terms, explicitly prohibits the use, attempted use, or threatened use of physical force against the intimate partner or child that would reasonable be expected to cause bodily injury.

◆ A child of an intimate partner of respondent.

(Intimate partner is the spouse/former spouse, cohabitant/former cohabitant, or a parent of respondent's child.)

III. RESTRAINS FUTURE CONDUCT

◆ The order restrains respondent from stalking, intimidating, molesting, or menacing an intimate partner, a child of an intimate partner, or a child of the respondent;

IV. CREDIBLE THREAT

◆ The order includes a finding that the person represents a credible threat to the physical safety of an intimate partner, a child of an intimate partner, or a child of the respondent.