No. 22-915

IN THE

Supreme Court of the United States

UNITED STATES OF AMERICA,
Petitioner,

v.

ZACKEY RAHIMI,
Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

BRIEF OF THE BRONX DEFENDERS UNION AND NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS AS *AMICI CURIAE* IN SUPPORT OF RESPONDENT

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INTEREST OF *AMICI CURIAE*[1]

The Bronx Defenders Union, UAW Local 2325 ("BxD Union"), founded in 2020, is a group of over 250 employees at The Bronx Defenders. The BxD Union consists of lawyers, social workers, legal advocates, investigators, and administrative staff who provide innovative, holistic, client-centered criminal defense, family defense, immigration defense, civil legal services, and social work and investigative support to indigent people in the Bronx.

The National Association of Criminal Defense Lawyers ("NACDL") is a nonprofit voluntary professional bar association that works on behalf of criminal defense attorneys to ensure justice and due process for those accused of crime or misconduct. NACDL was founded in 1958. It has a nationwide membership of many thousands of direct members, and up to 40,000 with affiliates. NACDL's members include private criminal defense lawyers, public defenders, military defense counsel, law professors, and judges. NACDL is the only nationwide professional bar association for public defenders and private criminal defense lawyers. NACDL is dedicated to advancing the proper, efficient, and just administration of justice. NACDL files numerous amicus briefs each year in the U.S. Supreme Court and other federal and state courts, seeking to provide

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[1] Pursuant to Supreme Court Rule 37.6, counsel for *amici curiae* certifies that no counsel for a party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than *amicus* made such a monetary contribution.

amicus assistance in cases that present issues of broad importance to criminal defendants, criminal defense lawyers, and the criminal justice system as a whole.

This case presents a question of great importance to The Bronx Defenders Union, NACDL, and the clients their attorneys represent because this case presents the first opportunity for the Court to consider how *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 142 S. Ct. 2111 (2022), applies to a criminal law, with potentially far-reaching consequences for future challenges. *Amici* have a strong interest in protecting the right of citizens to keep and bear arms and to ensure the reliability of any process that takes that right away. They therefore file this brief in support of petitioner.

INTRODUCTION AND SUMMARY OF ARGUMENT

Amicus The Bronx Defenders Union are New York City public defenders who have seen hundreds of orders of protection issued in criminal and family court every day over decades. From all our collective experience, we have witnessed that, at least in New York City, judges issue orders of protection without any finding of dangerousness or violence and without affording the accused any due process. The central argument of the Government is that orders of protection are proxies for dangerousness. This premise is false, given the reality that these orders of protection are issued without any meaningful opportunity to contest the underlying allegations.

The process for issuing an order of protection is superficial and swift, and the consequences to the target are immediate and brutal. Courts regularly

issue full stay-away orders within seconds of appearances being entered on the record. The issuance of that order triggers significant consequences to the accused. They are barred from their homes, often without a viable alternative, leaving them homeless. Many lose their jobs. They immediately lose access to their families. The orders are so broad that they frequently target and restrict the rights of the very people they are purportedly designed to protect, the "victim" in an abusive relationship. There is limited, if any, opportunity for review or substantive hearings that accord with due process requirements. Nothing that actually transpires in the courts complies with due process. Moreover, nothing that happens in the actual courts that issue the orders of protection upon which 18 U.S.C. § 922(g)(8) relies provides sufficient notice and opportunity to be heard to permit the denial of the fundamental right to keep and bear arms.

The central premise underlying the Government's position, that Section 922(g)(8) is constitutional, is that states afford the accused sufficient due process when issuing orders of protection to justify denying people their Second Amendment rights and that said orders only restrict those who are not law-abiding citizens. As public defenders who see the process every day, we can tell this Court unequivocally: the Government's position is false. The true breadth of these orders of protection extend far further, denying individuals, even those who are still presumed innocent, their fundamental constitutional rights. We write to share with this Court the horrific reality that thousands of protection orders are issued every day in New York city and state and throughout the country

without a semblance of the due process that the government claims satisfies the Constitution.

In short, as *amicus* The Bronx Defenders Union's experience shows, it is far from inevitable that state domestic violence protective orders will be issued after a reliable fact-finding process. And a survey of state law shows that when these orders do issue, they may persist for years, indefinitely, or permanently. Furthermore, not all states restrict protective orders to violent forms of abuse, and some do not even require that the petitioner prove abuse by a preponderance of the evidence. Section 922(g)(8) ratchets up the consequences of these state orders far beyond what most states would choose if left to their own devices. Though most states include some mechanism for disarmament via protective order, only 17 states mandate disarmament in conditions as broad as or broader than § 922(g)(8). The remainder either do not allow disarmament, make disarmament discretionary, or restrict mandatory disarmament to conditions narrower than § 922(g)(8)'s. And no state subjects violators to § 922(g)(8)'s harsh penalties: a 15-year potential sentence and lifetime disarmament under § 922(g)(1).

Throughout its briefs the Government tries to assure this Court that states are foolproof in issuing orders of protection. The Government alleges repeatedly that "[i]ndividuals subject to domestic violence protective orders pose an obvious danger to their intimate partners." Petr.Br. 7. This could not be further from the truth. In our experience, the net of orders of protection is so big that it frequently entangles those in cases where there have been no such findings and even those who are the actual victims in the relationships. The Government does not address the

reality that states frequently get it wrong: arresting the wrong partner, failing to provide sufficient process, and ultimately not affording due process when these orders of protection are issued. Nothing about this is consistent with due process or meets Bruen's historical analogue test. *Bruen*, 142 S. Ct. at 2131.

Given these realities, this Court should affirm the decision below, which faithfully applied this Court's holdings in *District of Columbia v. Heller*, 554 U.S. 570 (2008) and *New York State Rifle & Pistol Ass'n v. Bruen,* 142 S. Ct. 2111 (2022). *Bruen*'s holding makes clear that (1) the lower court here correctly decided that Section 922(g)(8) is facially unconstitutional, and (2) state decisions issued in the aftermath of *Bruen* that continue to render Second Amendment rights nonexistent are unconstitutional.

ARGUMENT

I. IN NEW YORK, ORDERS OF PROTECTION ARE ISSUED AS A MATTER OF COURSE IN EVERY CASE, UPON MERE HEARSAY ALLEGATIONS, WITHOUT ANY FINDINGS OF VIOLENCE, AND WITHOUT ANY ADMISSIBLE EVIDENCE OF ABUSE.

To convince this Court to reverse the lower court's ruling, the Government must shoulder its burden of proving the statute under which Mr. Zackey Rahimi was prosecuted is constitutional. The government must prove that disarming an entire class of individuals solely because they are subject to a domestic violence order of protection accords with "the historical tradition that delimits the outer bounds of the right to keep and bear arms." *Bruen*, 142 S. Ct. at 2127. The Government must prove that the underlying

orders of protection that form an element of the § 922(g)(8) offense are issued constitutionally, with due process. They cannot. In New York, orders of protection are issued upon unproven hearsay allegations. They are issued without any findings of violence and without any evidence being presented. They are issued without providing the accused with a meaningful opportunity to be heard and contest the issuance of the order of protection. The consequences of these orders of protection are brutal, resulting in immediate deprivations of liberty and fundamental rights for the accused and their families. The Government's claim that the orders of protection target solely dangerous abusers is completely contradicted by the daily reality in New York's courts.

The undersigned *amici* represent clients in family, criminal, immigration, and other civil courts in New York and nationwide. Among our members, we have decades of experience representing hundreds of thousands of clients in these proceedings, many of whom are the targets of orders of protection.

Many of our members represent people charged with crimes at the local level in New York City. The process of charging a person with a crime and then issuing orders of protection in domestic violence cases does not protect our client's due process rights.

We represent clients who are accused of committing crimes against intimate partners, children, or other family members. Sometimes the alleged crimes are assaults; other times, the sole crime charged is petit larceny or criminal mischief. In every such case, judges issue orders of protection against our clients that, at a minimum, direct them to refrain from committing crimes against the complaining witness and to

surrender their firearms, denying them their rights under the Second Amendment and subjecting them to possible federal prosecution under § 922(g)(8). For public defenders, our clients are overwhelmingly low-income, people of color, because our criminal legal system targets those with the fewest resources to defend against government prosecution. The same discriminatory patterns exist in the child welfare system.[2]

New York state law requires police officers to arrest people accused of domestic violence. N.Y. Criminal Procedure Law § 140.10 (4). In our experience, despite the statute's "reasonable cause" requirement, this happens regardless of the viability of the prosecution or the officer's own assessment of the facts. Once being arrested, our clients are held in custody typically for 24 to 48 hours, until the initial arraignment. Not uncommonly, people are held in custody for even longer periods to be brought to our arraignment courts.

In New York City, attorneys are assigned at arraignment and are available to represent these clients, sometimes handling 20 or more cases per shift. However, in other parts of New York, especially the more rural counties, counsel is not guaranteed at the

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[2] Orders of protection were intended to protect victims of crimes. However, people prosecuted for endangering the welfare of a child are "disproportionately poor, female, and [B]lack. It is a bitter irony that a tool designed to liberate women from abusive circumstances is routinely used to deny women of color the intrinsic rights that the Fourteenth Amendment was designed to secure." David Michael Jaros, *Unfettered Discretion: Criminal Orders of Protection and Their Impact on Parent Defendants*, 85 Ind. L.J. 1445, 1449 (2010).

arraignment. "[Q]uality representation" mandates that counsel "prepare arguments and advice regarding Orders of Protection" at the initial appearance."[3] Nevertheless, despite the mandated representation required by the United States and New York Constitutions as well as N. Y. Penal Law §§ 170.10 and 180.10, New York does not uniformly provide counsel, let alone "quality representation" at the first appearance, as shown by N.Y. Executive Law's 832, which requires the Office of Indigent Legal Services to develop a plan to provide such quality representation at all arraignments. The Office's 2022 Report concludes that "[a]lmost all counties (48 out of 52; 92.3%) indicate that they have legal representation at all custodial arraignments, followed by 4 counties (7.7%) with representation at most custodial arraignments."[4] Thus, many people who are being arraigned and subject to orders of protection have no counsel present to advise them of the consequences or make any arguments on their behalf.

The Bronx Defenders Union members practice in the Bronx, where the criminal arraignment court is open for two shifts every day, from 8:00 a.m. until generally 2:00 a.m. the following day. At any moment when these courtrooms are open, approximately 70 to 130 people are in custody waiting for arraignment during a shift.

Once brought to court, court staff processes their paperwork and a defense attorney is assigned. Defense

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[3] New York State Office of Indigent Legal Services, *Statewide Plan for Implementing Counsel at Arraignment: Year Four Report*, at 10, *available at* https://www.ils.ny.gov/files/Statewide%20CAFA%20Report%202022.pdf (last accessed October 2, 2023).

[4] *Id.* at 16.

attorneys then conduct initial interviews with their new clients and often operate under tight time constraints. Depending on the severity of the charges, attorneys may have just ten minutes to conduct these interviews, explain to our clients the charges and allegations against them, and learn as much as we can about our client's lives so that we can try to provide them with sufficient representation at that initial appearance.

Many of these clients are charged with domestic violence: even though the allegations against them, often brought by people with whom they had or had intimate or familial relationships, may include acts that are *not* violent. Regardless of the presence or absence of violence, we must explain to our clients in those first, hurried interviews that they will shortly be the target of an order of protection. In those interviews, we, who are essentially still complete strangers to our clients, explain how the judge we will soon appear in front of will almost certainly issue a "full stay away order of protection." These orders of protection require our clients to "stay away from the home, school, place of business or employment" of the complaining witness. They require the accused to have no contact with them. *Every* order of protection requires the accused to not assault, harass, or commit any crimes against the complainant. Additionally, every order of protection immediately prohibits the accused from exercising their Second Amendment rights by requiring them to "surrender any and all handguns, pistols, revolvers, rifles, shotguns and other firearms owned or possessed" and to not possess "any further guns or firearms."

After those interviews, our clients appear for their arraignment in front of the judge. This judge is tasked

with hearing dozens of cases in a seven-hour window, even during the "night shift" that starts at 5:00 p.m. and ends around 2:00 a.m. This judge, in almost every case, has no information beyond the charging document. And to the extent this judge is inclined to challenge any of the prosecution's assertions, the judge must to inquire of the prosecutor covering the appearance–who is generally not the prosecutor most familiar with the case. "I don't have that information, Your Honor" is an all-too-common response from prosecutors in arraignments (and in the subsequent courtroom appearances, where the assigned prosecutor generally also does not appear, tasking whoever is staffing the courtroom that day to make the necessary records with whatever information is on the status sheet).

At the point of arraignment, the accusatory instrument is frequently a criminal complaint comprised solely of hearsay. Thus, the complainant has not be required to verify the truthfulness of the allegations under penalty of perjury. And the accused has had no opportunity to contest the allegations. Quite simply, there is no adversarial component to this process.

Within mere seconds of the arraignment appearance commencing, five steps take place. Step one: the prosecution requests a "full, stay away" order of protection. Step two: the judge issues the "full, stay-away" order of protection. Step three: the judge immediately directs the accused to comply with the terms of the order. Step four: the judge then inquires of defense counsel and the prosecution about whether the accused has access to firearms–even if the defense objects. Step five: the judge then orders the accused to surrender any firearms immediately. The appearance

is generally complete in less than five minutes.[5] Without so much as holding the prosecution to a standard of proof, our clients' lives are thrust into turmoil and they have been stripped of their Second Amendment rights.

The logistical turmoil hits first. Clients who live with the complainant are immediately rendered homeless, as they are directed to "stay away from the home" of the complainant. Every day, dozens of people are sent from the courthouse to live on the streets of New York City, with whatever clothing they happened to be wearing at the time of their arrest. They are released regardless of the heat or cold or other weather conditions, without appropriate clothing, medication, work uniforms, or important documents. They do not even have their cell phones. If they work with the complainant or live where they work (e.g., they are the superintendent or maintenance worker of the building), they will soon lose their employment–if they even still have a job after being missing-in-action while in custody for the past two days. Undersigned *amici* represent countless clients who are elderly, infirm, sick, pregnant, or physically vulnerable in other ways who become homeless merely upon the unproven allegations in the orders of protection.

At the arraignment, defense counsel may be able to convince the presiding judge to modify the standard "full-stay away" order of protection. The defense can request that the order of protection be "subject to family court modification" if the accused and the complainant have a child-in-common. The accused can then petition a family court judge for visitation or

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[5] Felony arraignments or arraignments where the prosecution requests bail be imposed take more time.

custody of the child; however, these petitions take weeks or months to be heard. Otherwise, the accused may not see or speak to their children for weeks or months. The defense can request an "access order," which permits the accused to return to the home one time with a law enforcement officer escort to retrieve personal belongings. However, these orders are permitted only during regular business hours; thus, depending on what time the accused is released from court, they may need to wait many hours before they can return to the home. The judge may make the order of protection "subject to incidental contact" with the complainant so long as the accused does not commit any assaults, stalking, or other crimes against the complainant. Or, the judge may make the order of protection "limited" instead of "full," permitting all contact but maintaining the directive to "refrain from" harassing, stalking, threatening, or committing any crimes against the complainant.

In these cases, when the judge issues the order of protection, there is no finding of dangerousness, threats, or violence.

Importantly, in every case, the orders of protection include the prohibition against committing crimes such as "harassing, stalking, or threatening" against the complainant and thus come within the purview of 18 U.S.C. § 922(g)(8). In every case, these orders of protection are in effect during the pendency of the case. Cases can linger for months or years.

In our members' experience, judges routinely uphold onerous orders of protection despite the fact that it causes our clients to be homeless, to lose their jobs, to lose their families, and even their lives. Many of our clients who are confronted with this system share the

sentiment that the system is stacked against them—and they are right. "Statutes authorizing protective orders were designed without procedural protections for defendants in a conscious effort to encourage reluctant judges to intervene and protect battered women." Jaros, *Unfettered Discretion*, 85 Ind. L.J. at 1448-1449.

Therefore, although the Government asserts that disarming "law-abiding citizens" is constitutional, its definition of "law-abiding" does not comport with the reality of criminal court proceedings on the ground. In New York City and New York State, protection orders are issued at arraignments, with no findings of threats, violence, or dangerousness, with no due process, and frequently without counsel being present. At the moment of the arraignment, every person accused in criminal court is presumed innocent. Yet the Government argues that they are deemed to be "not law-abiding" by virtue of their arrest and order of protection. According to the government, the issuance of an order of protection is a proxy for "not law-abiding." This could not be further from the truth.

II. ORDERS OF PROTECTION ISSUED IN FAMILY COURT SUFFER FROM SIMILAR PROCEDURAL INADEQUACIES

The near-automatic issuance of orders of protection is prevalent in family court as well, and the cascade of consequences can be even more devastating and disruptive not just to the adults affected but to children. Our members regularly appear in family court as well, where domestic violence orders of protection are also issued on a regular basis. Once a case is filed in court, a judge will determine whether a temporary order of protection is appropriate. The

Administration for Children's Services ("ACS") requests a full stay away order in the vast majority of cases. Although the parents in family court are entitled to a hearing, court congestion typically means the hearing (1) will be protracted over a period of days, weeks, or sometimes months, and (2) generally consists of an ACS caseworker giving snippets of testimony in the fifteen-minute calendar slot designated for the appearance before the matter is repeatedly adjourned. Judges are permitted to consider hearsay and typically accept and rely on documents with multiple layers of hearsay in them. Our members report that as long as a person is requesting a restraining order, the courts typically grant the request at the end of the hearing.

Parents who challenge the government in family court risk losing their children. "Failure to cooperate with the state in family regulation cases with domestic violence allegations can lead to permanent family separation." S. Lisa Washington, Survived & Coerced: Epistemic Injustice in the Family Regulation System, 122 COLUM. L. REV. 1097, 1106 (2022).

III. IN NEW YORK, THERE ARE FEW IF ANY AVENUES TO CHALLENGE DOMESTIC VIOLENCE ORDERS OF PROTECTION ISSUED IN CRIMINAL COURT.

The constitutionality of Mr. Rahimi's conviction and § 922(g)(8) in general hinges on there being sufficient process in the underlying proceeding where the order of protection was issued to comport with due process and the Constitution. Again, this position is contradicted by the record of proceedings in thousands of cases throughout New York, where orders of protection are maintained throughout the pendency of

the criminal case, even without findings of violence, and where there is no mechanism to appeal the issuance of the order.

The Government alleges, "When trial courts do err, moreover, appellate courts stand ready to correct their mistakes. Judge Ho cited two anecdotal examples of improper protective orders, but as he acknowledged, each of those orders was soon rescinded or reversed on appeal." Petr.Br.44. Again, this is not the reality of the many thousands of people receiving these orders of protection in New York's criminal courts. In New York, the defense's right to interlocutory appeal is proscribed by statute. *See* N.Y. Criminal Procedure Law Sections 450.10 and 245.70(6). The statutes do not permit interlocutory appeal of the issuance of an order. Thus, because the orders of protection are in effect for the pendency of the criminal case, which can last from a few days to years, the order of protection can and will remain without the scrutiny of a higher court, sometimes for extended periods.

In New York's criminal courts, for decades there was no meaningful opportunity for the accused to challenge these orders of protection. Two years ago, an intermediate appellate court issued a decision requiring judges to conduct a hearing soon after the order of protection is issued—if the defense can successfully persuade the judge of the need for the hearing. *Matter of Crawford v. Ally*, 197 A.D.3d 27 (N.Y. App. Div. 2021). The lower courts, that is the courts where the orders are actually issued and the hearings are conducted, have resisted the directive from the appellate court. The result is a continued absence of any meaningful notice and opportunity to be heard from the accused. The status quo as of this writing is that there is limited opportunity to review

the issuance of an order of protection. Furthermore, even if the defense can successfully challenge the issuance of an order of protection, the standard remedy is the issuance of a "limited" order of protection, which permits contact between the accused and the complaining witness but prohibits the accused from committing crimes against the complainant. Thus, even when a judge agrees with the defense and limits the order, the accused is still subject to prosecution under § 922(g)(8).

In December 2019, Mr. Rahimi was charged in the alleged domestic violence prosecution underlying his initial § 922(g)(8) prosecution. At that time in New York City, orders of protection were always issued in criminal cases charging allegations of domestic violence, and the accused had no opportunity to have a hearing or meaningfully contest the allegations underlying the issuance of the order of protection, short of the criminal trial, as explained in *Crawford*, 197 A.D.3d 27 (N.Y. App. Div. 2021).

At that same time, in November 2019, Ms. Shameka Crawford was arrested for allegedly committing domestic violence: she was charged with assault, petit larceny, obstruction of breathing, and related charges against her male partner. *See id.* at 29-30. Her partner had actually signed the written complaint listing the charges, verifying under penalty of perjury that the allegations were, according to him, true. *Id.* at 30. At her arraignment, the presiding judge issued a "full, stay away" order of protection subject to family court modification, over Ms. Crawford's objection and specific request that the order be limited. *Id.* Even after her attorney explained the full order of protection would result in Ms. Crawford and her two children being removed from the home, the judge refused to

limit the order of protection without "consent" from the prosecution. *Id.* at 30.[6]

Despite vigorous objection and the request for a hearing on "due process" grounds, the judge who presided over Ms. Crawford subsequent appearances refused to provide Ms. Crawford with an actual hearing to challenge the issuance of the order of protection and continued to rubber-stamp the prosecution's request for the full order of protection without inquiring as to the actual need for the order. *Id.* at 31. The procedures and outcome in Ms. Crawford's case was not an outlier: *this was the standard practice*. There was no avenue available for Ms. Crawford, or anyone else subject to a criminal court order of protection, to challenge the issuance of the order of protection. After additional weeks of the order being in effect and the judge once again rebuffing Ms. Crawford's request to limit the order of protection, Ms. Crawford pursued the extraordinary remedy of a writ of mandamus to require the presiding judge to conduct a hearing into the issuance of the order of protection. *Id.* at 29.

At that proceeding, additional facts came to light, including that "while no order of protection had been

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[6] It should be noted that despite the flaws in the initial arraignment, it likely would have been enough to trigger prosecution under § 922(g)(8) because the trial attorney objected, and the judge listened. *See United States v. Young*, 458 F.3d 998 (9th Cir. 2006)(holding that "the "opportunity to participate" requirement is a minimal one.") *see also United States v. Wilson*, 159 F.3d 280, 290 (7th Cir. 1998) ("[a]n opportunity to respond is afforded when a party has 'the opportunity to present reasons, either in person or in writing, why proposed action should not be taken.'") (quoting *Cleveland Bd. Of Educ. v. Loudermill*, 470 U.S. 545, 546 (1985)).

issued against petitioner [the accused, Ms. Crawford], there had been many prior incidents of abuse against petitioner by [the complainant]." *Id.* at 31. Disturbingly, "The Assistant District Attorney also represented to the court that Mr. Mayers [the complainant] claim[ed]" to live in the apartment, and referred to an "extensive DIR [Domestic Incident Report] history.' 'I believe [there are] about 17 prior DIRs,' the prosecutor stated. However, the prosecutor did not give copies of the DIRs to the court or defense counsel, and failed to mention that all of the prior DIRs identified Mr. Mayers as the abuser and Ms. Crawford as his victim.'" Crawford Brief for Petitioner-Appellant at 9-10.

While the writ was pending, another judge modified the order of protection to permit Ms. Crawford to return to her home but maintained the prohibition to "refrain from" committing crimes or family offenses against the complainant. *Id.* at 32. Despite all the evidence showing that Ms. Crawford did not and had not abused the complainant or committed the alleged crimes in question, Ms. Crawford was still subject to an order of protection that could have exposed her to a § 922(g)(8) prosecution. The prosecution soon thereafter dismissed the criminal court case against Ms. Crawford.

Ms. Crawford had no avenue to appeal the issuance of the order of protection. She then commenced an onerous writ of mandamus proceeding.[7] In *Matter of Crawford*, the Appellate Division heard an appeal

[7] Many people accused in criminal court do not have the resources to file a writ. It does not appear that a writ of mandamus had ever been used before or subsequently to challenge a criminal court order of protection.

from the denial of the writ on mootness grounds. The court concluded that, "pretrial temporary orders of protection [...] result in no opportunity to mitigate a challenge to any one such order while it is in effect." *Id.* at 32 (internal citations omitted). An "evidentiary hearing" is required now, not when the order of protection is issued, or when there is an objection, but only if the accused can persuade the judge issuing the order that there "may be an immediate and significant deprivation of a substantial personal or property interest." *Id.* at 34.

This decision was a watershed moment for the thousands of people subject to domestic violence orders of protection. It appeared that, finally, there would be a meaningful opportunity for the accused to contest the issuance of orders of protection. Finally, the government would have to make an actual showing of need for an order of protection to be maintained. The decision "was widely seen as a game changer" and "a long-needed change to a status quo in which judges routinely issue orders of protection at prosecutors' request, without fully considering negative consequences for defendants." *New York Judges Lock the Accused Out of Their Homes, Skirting Review Required by Landmark Ruling, Critics Charge*, New York Focus (Jul. 23, 2021).

However, the response from the courts was swift. In New York, the Office of Court Administration ("OCA") is the administrative body of the court system, under the direction of the Chief Administrative judge. OCA routinely issues directives to New York courts on procedural and legal issues in cases. In the wake of *Crawford*, OCA issued a secret memo to New York's judges, instructing judges to curtail the hearings granted in these cases. Specifically, the OCA memo

said, "Courts should resist—unless absolutely necessary and appropriate—anything approaching a full testimonial hearing." The government still has no burden of proving any need, dangerousness, threat, or violence before requesting orders of protection. Rather, the burden to contest the order of protection lies with the accused, and "a defendant who does not live with a partner or who is not in danger of actually losing whatever property interest may exist in a shared dwelling, may well fail to meet this threshold burden." OCA Memo at 4. Importantly, the removal of the right to keep and bear arms by the orders of protection, which is removed by the orders of protection, is not recognized as sufficient to warrant a hearing. The memo directs the lower courts who actually issue the orders of protection to not "require live witnesses and/or non-hearsay testimony as a matter of law."

Judges have followed suit. In practice, *Crawford* hearings feature no testimony, and the hearing is resolved based on hearsay, offered through arguments by prosecutors. Rarely is actual evidence presented and actually admitted with proper foundation. To the extent that the court reviews evidence, it continues to rely upon hearsay, such as police reports.

Importantly, even if the judge does rule in favor of the accused and issue a "limited" order, the order still includes the prohibition against committing crimes against the complainant and also from possessing firearms. Thus, the only remedy, which, occurs if at all only after a hearing that cannot be called a hearing, still subjects the accused to possible prosecution under § 922(g)(8).

IV. THUS, IN NEW YORK, IN PRACTICE, EVEN IN NEW YORK CITY COURTS WHERE THE ACCUSED HAS COUNSEL AND AN OPPORTUNITY TO BE HEARD, ORDERS OF PROTECTION ARE ISSUED TOO BROADLY AND THUS ARE A POOR PROXY FOR DANGEROUSNESS.

It is inappropriate to use a domestic violence order of protection to determine dangerousness in a world where orders of protection are routinely granted in nearly every criminal and family court domestic violence case, multiple layers of hearsay are allowed during the barebones "hearings," and courts are constrained to issue limited orders. Orders of protection are not limited only to people who are not "law-abiding" yet they still subject people to § 922(g)(8) prosecution.

Orders of protection are issued far more broadly than needed or than the Government admits. The Government argues that "the overwhelming majority of States forbid or restrict mutual protective orders." Petr.Br.45. However, in New York City and state, undersigned *amici* represent thousands of people facing this exact issue. In New York, we call these cases, where both partners are arrested and charged with committing crimes against each other, "cross-complaints." In these cases, our judges issue full, stay orders of protection on behalf of each partner as a matter of course. There is again no finding of violence, threat, or dangerousness. The process for cross-complaints is the same as for single-party complaints, even when both defense attorneys emphasize that their clients will not cooperate and do not want the orders of protection.

Defense attorneys also routinely represent the victims, who are charged with allegedly committing crimes against their abusive partners. Countless attorneys report having clients who showed visible injuries during the arraignment, yet then were issued orders of protection against them and in favor of the person who had caused the injury. We have represented countless clients who were still at the stage of breastfeeding their infants but nonetheless separated from their children because of these orders of protection. Countless clients, isolated from their families because of their partners' abuse, were forced into New York's streets while pregnant because of their abusers' allegations against them and the inability to have any true mechanism for review of the orders of protection.

V. BECAUSE OF WIDE VARIATIONS IN STATE RESTRAINING ORDER REGIMES, § 922(G)(8) CREATES UNEVEN AND SOMETIMES SEVERE BURDENS ON SECOND AMENDMENT RIGHTS—BURDENS THAT MANY STATES WOULD NOT THEMSELVES CHOOSE TO IMPOSE.

As *amicus* The Bronx Defenders Union's experiences illustrate, § 922(g)(8) does not sweep in only "the most dangerous domestic abusers and guard against the risk of inadvertently disarming law-abiding, responsible citizens." Petr.Br.32. When judges are charged with making quick decisions, using a relatively low standard of proof (if any), and with a strong incentive to err on the side of caution, it is easy to understand how orders enjoining physical abuse—and triggering § 922(g)(8)—proliferate.

The particularities of state law can exacerbate the problem. A review of state statutes shows that § 922(g)(8) can trigger lengthy, indefinite, or permanent bans even for nonviolent conduct. Most states would not disarm as broadly if left to their own devices, and none would punish violations as harshly. Thus, far from representing a "legislative consensus," Petr.Br.35, § 922(g)(8) overrides state policy choices to impose a one-size-fits-all federal solution—one that burdens Second Amendment rights more severely than any state.

A. IN CONJUNCTION WITH § 922(G)(8), SOME STATE PROTECTIVE ORDERS TRIGGER LENGTHY, INDEFINITE, OR LIFETIME POSSESSION BANS, EVEN FOR NONVIOLENT CONDUCT.

State protective order regimes vary widely, with corresponding differences in how § 922(g)(8) operates nationwide. The more broadly defined the triggering behavior, the less robust the evidentiary hurdles to obtaining an order, and the longer the order's duration, the greater the burden that § 922(g)(8) will impose.

First, in many states, the abuse in question need not involve actual or threatened violence, sexual abuse, or even an offense like false imprisonment. For example, at least 21 states predicate domestic violence protective orders on one or more of the following: (1) damage to or destruction of property,[8] (2) verbal

[8] Ariz. Stat. § 13-3601(A); Cal. Fam. Code §§ 6203(4), 6320(a); Colo. Rev. Stat. § 18-6-800.3(1); Del. Code tit. 10 § 1041(1)(c); Ga. Code Ann. § 19-13-1(2); Haw. Rev. Stat. Ann. § 586-1; N.Y. Fam. Ct. Act § 821(1)(A), N.Y. Pen. Code § 145.00; Nev. Rev. Stat. Ann.

harassment, other than threats of physical harm,[9] (3) criminal trespass,[10] and (4) financial abuse.[11]

Second, in some states, the petitioner need not prove allegations of domestic violence even by a preponderance of the evidence—and they may not have to prove that domestic violence has actually occurred at all. For instance, in Arizona and Michigan, courts must issue an order if there is "*reasonable cause* to believe . . . the defendant *may* commit an act of domestic violence." Ariz. Stat. § 13-3602(E)(1) (emphases added); *see also* Mich. Comp. Laws Ann. § 600.2950(4) (same). In Nevada, an order may issue "if it *appears to the satisfaction of the court* from specific facts shown by a verified application that . . . there exists a *threat* of domestic violence." Nev. Rev. Stat. Ann. § 33.020(1) (emphases added). And Florida courts may issue orders so long as they have "*reasonable cause to believe* [the petitioner] is in *imminent danger* of becoming a victim of domestic

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§ 33.018(1)(e)(5); Tenn. Code Ann. § 36-3-601(1)(C); Wash. Rev. Code Ann. § 7.105.010(4)(a)(i)(A), (9); Wis. Stat. Ann. § 813.12(1)(am)(5).

[9] Alaska Stat. § 18.66.990(3)(H); Cal. Fam. Code §§ 6203(4), 6320(a); Haw. Rev. Stat. Ann. § 586-1; 750 Ill. Comp. Stat. 60/103(1), (3), (7)(ii); N.M. Stat. Ann. § 40-13-2(D)(2)(h); N.C. Gen. Stat. Ann. § 50B-1(a)(2); 8 R.I. Gen. Laws Ann. § 8-8.1-1(4)-(6); S.D. Codified Laws §§ 25-10-1(1), 22-19A-1(3), 22-19A-4.

[10] Ala. Code. § 30-5-2(1)(f); Alaska Stat. § 18.66.990(3)(C); Ariz. Stat. 13-3601(A); Del. Code tit. 10 § 1041(1)(e); Ga. Code Ann. § 19-13-1(2); Mich. Comp. Laws Ann. § 600.2950(1)(a), (4); Nev. Rev. Stat. Ann. § 33.018(1)(e)(3); N.J. Stat. Ann. § 2C:25-19(a)(12); N.M. Stat. Ann. § 40-13-2(D)(2)(e).

[11] Conn. Gen. Stat. 46b-1(b)(C); Haw. Rev. Stat. Ann. § 586-1; Tenn. Code Ann. § 36-3-601(1)(D); Wash. Rev. Code Ann. § 7.105.010(4)(a)(iv), (9).

violence." Fla. Stat. Ann. § 741.30(6)(a) (emphases added).

Finally, in many states, domestic violence protective orders can last for lengthy periods or for life. In Alabama, for instance, orders are permanent unless the court orders otherwise. Ala. Code § 30-5-7(d)(2). In four other states, orders remain in effect until the court takes additional action.[12] For example, in Florida, a protective order "remain[s] in effect" indefinitely, "until modified or dissolved." Fla. Stat. § 741.30(6)(c). And two states—Alaska and Louisiana—mandate or allow a prohibition on domestic violence (a term that triggers § 922(g)(8)) to persist indefinitely, even when other terms expire.[13] In addition to states that provide for permanent and indefinite orders, at least six states give judges unlimited discretion to set the order's duration.[14] In Mississippi, for example, protective orders are "effective for such time period as the court deems appropriate." Mississippi Code § 93-21-15(2)(b).

The remaining states cap initial protective orders at some definite term[15]— 180[16] days, one year,[17] two

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[12] N.J. Stat. Ann. § 2C:25-29(b), (d); N.M. Stat. Ann. § 40-13-6(C) (excepting custody and support terms); N.D. Cent. Code Ann. § 14-07.1-02(4), (6), (10).

[13] Alaska Stat. § 18.66.100(b); La. Stat. Ann. § 46:2136(F).

[14] Haw. Rev. Stat. § 586-5.5(a)-(b); Ind. Code § 34-26-5-9(f); Minn. Stat. Ann. § 518B.01(6)(b); Mont. Code Ann. § 40-15-204(5); Vt. Stat. Ann. tit. 15, § 1103(e); Wash. Rev. Code Ann. § 7.105.310(5).

[15] Depending on the state, the cap may be higher or may not apply in certain aggravating circumstances. *E.g.*, Mo. Rev. Stat. § 455.040(1)(1).

[16] W. Va. Code Ann. § 48-27-505(a).

[17] Conn. Gen. Stat. § 46b-15(g); Del. Code tit. 10 § 1045(b); Ga. Stat. § 19-13-4(c); Idaho Code § 39-6306(5); Iowa Code § 236.5(3);

years,[18] three years,[19] four years,[20] five years,[21] or 10 years,[22] depending on the state. But most allow for extensions. In Massachusetts, for example, an initial order is capped at one year, but at a petitioner's request, a court must "determine whether or not to extend the order for any additional time reasonably necessary to protect the plaintiff or to enter a permanent order." Mass. Gen. Laws Ann. ch. 209A, § 3. Likewise, while California caps the initial order at five years, the order "may be renewed, upon the request of a party, either for five or more years, or permanently, at the discretion of the court, without a showing of further abuse since the issuance of the original order." Cal. Fam. Code § 6345(a).

In short, depending on the particularities of state law, a state court may issue a lengthy, definite, or permanent protective order, sometimes without a showing of violence. If that order includes a prohibition on future actual or threatened physical

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Md. Code Ann., Fam. Law §§ 4-506(j)(1); Mass. Gen. Laws Ann. ch. 209A, § 3; Mo. Rev. Stat. § 455.040(1)(1); Neb. Rev. Stat. Ann. § 42-924(3)(a); N.H. Rev. Stat. Ann. § 173-B:5(VI); N.C. Gen. Stat. Ann. § 50B-3(b); S.C. Code Ann. § 20-4-70(A); Tenn. Code Ann. § 36-3-605(b).

[18] Ariz. Stat. § 13-3602(N); 750 Ill. Comp. Stat. 60/220(b)(0.05); Kan. Stat. § 60-3107(e); Me. Rev. Stat. tit. 19-A, § 4110(5)(A); Nev. Rev. Stat. Ann. § 33.080(3); N.Y. Fam. Ct. Act § 842; 2023 Oregon Laws Ch. 140 (S.B. 816), § 1; Tex. Fam. Code Ann. § 85.025(a); Va. Code Ann. § 16.1-279.1(B)(1).

[19] Ky. Rev. Stat. § 403.740(4); 23 Pa. Stat. and Cons. Stat. Ann. § 6108(d); 8 R.I. Gen. Laws Ann. § 8-8.1-3(n); Utah Code Ann. § 78B-7-606(1)(a); Wyo. Stat. Ann. § 35-21-106(b).

[20] Wis. Stat. Ann. § 813.12(4)(c).

[21] Cal. Fam. Code § 6345(a); Ohio Rev. Code Ann. § 3113.31(E)(3)(a); Okla. Stat. Ann. tit. 22, § 60.4(G)(1)(a); S.D. Codified Laws § 25-10-5.

[22] Ark. Code Ann. § 9-15-205(b).

violence, § 922(g)(8) will impose a corresponding, complete deprivation of Second Amendment rights for the order's term.

B. SECTION 922(G)(8) IMPOSES A COMPLETE POSSESSION BAN MORE READILY THAN MOST STATES, AND IT PUNISHES VIOLATIONS MUCH MORE HARSHLY.

Subject to certain notice-and-hearing requirements, § 922(g)(8) prohibits gun possession for anyone under a state protective order that (1) restrains harassing, stalking, threatening, or engaging in conduct creating a reasonable fear of bodily injury, and (2) *either* (a) includes a finding that the respondent represents a credible threat to physical safety, *or* (b) explicitly prohibits the "use, attempted use, or threatened use of physical force" reasonably expected to cause bodily injury. 18 U.S.C. § 922(g)(8). As Petitioner and their *amici* point out, many states also have their own provisions disarming persons subject to domestic violence protective orders. *See* Petr.Br.34-35 (citing Illinois Cert. Amicus Br. 4-9). But most states' disarmament laws differ from § 922(g)(8) in two critical respects: First, they disarm permissively or in a narrower range of circumstances (or both), and second, they punish violations much less harshly. *See* Appendix A.

At one end of the spectrum, some states have no apparent mechanism for disarmament via protective order. Five states appear to fall in this category.[23]

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[23] *See* Petr.Br.34-35 (not listing Georgia, Mississippi, Missouri, Oklahoma, or Wyoming in cataloging state disarmament provisions).

Twenty states allow judges to include disarmament terms at their discretion. Of these, four states permit disarmament only in certain conditions, which are narrower than those in § 922(g)(8).[24] For example, North Dakota permits judges to disarm, but only with "probable cause to believe that the respondent is likely to use, display, or threaten to use the firearm or other dangerous weapon in any further acts of violence." N.D. Cent. Code § 14-07.1-02(4)(g). Fifteen states give judges unconditional discretion to decide on an individualized basis whether the person should be disarmed,[25] or else include a catch-all provision that appears to permit discretionary disarmament.[26]

The remaining states mandate disarmament in at least some circumstances. But nine states require disarmament in conditions narrower than those encompassed in § 922(g)(8).[27] In Colorado, for

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[24] Alaska Stat. 18.66.100(c)(7); Ariz. Rev. Stat. § 13-3602(G)(4); Mont. Code §§ 40-15-201(2)(f), 40-15-204(3); N.D. Cent. Code § 14-07.1-02(4)(g).

[25] Del. Code tit. 10 § 1045(a)(8); 750 Ill. Comp. Stat. 60/214(b)(l4.5), (c); Ind. Code § 34-26-5-9(d)(4); Me. Rev. Stat. tit. 19-A, § 4110(3)(B); Mich. Comp. Laws Ann. § 600.2950(1)(e); Neb. Rev. St. Ann. § 42-924(1)(a)(vii); Nev. Rev. Stat. § 33.031(1)-(2); S.D. Codified Laws § 25-10-24; Tex. Fam. Code Ann. § 85.022(b)(6), (d); Vt. Stat. tit. 15, § 1104(a)(1)(E), (b); S.C. Code § 16-25-30(A)(4).

[26] Ark. Code Ann. § 9-15-205(a)(8)(A); Idaho Code § 39- 6306(e); Ky. Rev. Stat. Ann. § 403.740(c); Ohio Rev. Code Ann. § 3113.31(E)(1)(h).

[27] Colo. Rev. Stat. Ann. § 13-14-105.5(1)(a)(I)-(II); Conn. Gen. Stat. § 29-36k(b); La. Stat. Ann. § 46:2136.3(A); Mass. Gen. Laws Ann. ch. 209A, §§ 3B, 3C; N.C. Gen. Stat. Ann. § 50B-3.1(a); N.M. Stat. Ann. § 40-13-5(A)(2); N.Y. Fam. Ct. Act § 842-a(2); Or. Rev. Stat. Ann. § 166.255(1); Wash. Rev. Code § 9.41.800(2), (5). Note that Washington requires disarmament in line with § 922(g)(8),

instance, disarmament is mandatory only if "the act of domestic violence involved the threat of use, use of, or attempted use of physical force." Colo. Rev. Stat. Ann. § 13-14-105.5(1). Only 17 states mandate disarmament in circumstances as broad as or broader than those enumerated in § 922(g)(8).[28]

No matter where states fall on this spectrum, they invariably punish violations much less harshly than § 922(g)(8). Not only does § 922(g)(8) provide for a 15-year maximum sentence, 18 U.S.C. § 924(a)(7), but conviction under that provision is also a felony, triggering 18 U.S.C. § 922(g)(1) and resulting in lifetime disarmament.

In contrast, absent multiple violations or aggravating factors, convictions for violating a firearms possession ban in a state protective order will not trigger § 922(g)(1) except in nine states.[29] *See* 18

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but at courts' discretion, that term may last "for a period of time less than the duration of the order." Wash. Rev. Code § 9.41.800(5).

[28] Ala. Code § 13A-11-72(a)(1); Cal. Fam. Code § 6389(a); Fla. Stat. § 790.233(1); Haw. Rev. Stat. § 134-7(f); Iowa Code §§ 236.5(b)(2), 724.269(2)(a); Kan. Stat. § 21-6301(a)(17); Md. Code Ann., Fam. Law § 4-506(f); Minn. Stat. Ann. § 518B.01(6)(g); N.H. Rev. Stat. Ann. § 173-B:5(II); N.J. Stat. Ann. § 2C:25-29(b); 23 Pa. Stat. and Cons. Stat. Ann. § 6108(a.1)(1); 11 R.I. Gen. Laws § 11-47-5(b); Tenn. Code Ann. § 39-17-1307(f)(1)(B); Utah Code § 76-10-503(1)(b)(xi), (3)(a); Va. Code Ann. § 18.2-308.1:4(B); W. Va. Code § 48-27-502(b); Wis. Stat. Ann. § 813.12(4m)(2).

[29] Cal. Penal Code §§ 17(b), 29825(a); Conn. Gen. Stat. §§ 53a-35a(8), 53a-223(c); Iowa Code Ann. §§ 724.26(2)(a), 902.9(e); Mass. Gen. Laws Ann. ch. 209A, § 7; Minn. Stat. Ann. § 518B.01(14)(d)(2); Nev. Rev. Stat. Ann. §§ 33.0305(2), 33.031(4); N.C. Gen. Stat. Ann. § 14-269.8(b); Utah Code §§ 76-10-503(1)(b)(xi), (3)(a), 76-3-203(3); Va. Code Ann. §§ 16.1-253.2(B), 18.2-10(f).

U.S.C. § 921(a)(2) (excluding from § 922(g)(1) offenses that states classify as misdemeanors punishable by up to two-year prison terms). The vast majority of states punish such violations as misdemeanors, the maximum sentence for which is usually a year or less. *See* Appendix. And no state permits a maximum sentence of 15 years or more. *See id.*

Thus, § 922(g)(8) departs—often radically—from the kinds of prohibitions or punishments states would otherwise impose. Alaska provides a case in point. Alaska issues domestic violence protective orders even for nonviolent behavior, like criminal trespass or verbal harassment. Alaska Stat. § 18.66.990(3)(C), (H). Judges have discretion to set the order's terms. *Id.* § 18.66.100(b). They may "direct the respondent to surrender any firearm owned or possessed," but only upon "find[ing] that the respondent was in the actual possession of or used a firearm during the commission of the domestic violence." *Id.* § 18.66.100(c)(7). That firearm-related protective-order term expires after one year. *Id.* § 18.66.100(b)(2). Violations are punishable as Class A misdemeanors, with a maximum one-year sentence. *Id.* §§ 11.56.740(b), 12.55.135(a).

The judge need not make any findings, however, before including a term that prohibits future domestic violence. *Id.* § 18.66.100(c)(1). That term stays in effect indefinitely, "until further order of the court." *Id.* § 18.66.100(b)(1). And that term triggers § 922(g)(8). *See United States v. Soud*, 2021 WL 3476606, at *2 (D. Alaska Aug. 6, 2021).

Thus, Alaska law itself provides for discretionary disarmament only if the defendant used or possessed a gun while committing domestic violence, and only for a year. But under § 922(g)(8), an Alaskan with no

history of violence or domestic-violence-related firearms misuse might be indefinitely disarmed, even if the state court deems disarmament unnecessary. The Court should consider these kinds of interactions between state and federal law when considering "how" § 922(g)(8) burdens Second Amendment rights. *Bruen*, 142 S. Ct. at 2133.

VI. STATE COURTS CONTINUE TO DENY INDIVIDUALS THE RIGHT TO KEEP AND BEAR ARMS IN DEFIANCE OF THIS COURT'S CLEAR HOLDINGS.

Despite the clear holdings of *Bruen*, *Heller*, and *McDonald*, states across the country, including New York, continue to treat the right to keep and bear arms as anything but fundamental. New York courts continue to ignore this Court's clear rulings.

This Court is familiar with New York's penal law regime, which criminalizes unlicensed possession of a firearm outside the home so severely that it carries a mandatory minimum of 3.5 to 15 years in prison and, at its most severe, a life sentence. Nevertheless, all New York appellate courts that have heard challenges to this infringement of the right via the Penal Law have held that this Court's most recent decision has no impact on their case law upholding these punitive consequences. Incredibly, according to New York courts, "[t]he ruling in *Bruen* had no impact on the constitutionality of New York State's criminal possession of a weapon statutes." *People v. Joyce*, 194 N.Y.S.3d 303, 304 (2023). The *Joyce* court, and others in New York, have not grappled with the holding of *Bruen* that the only way an infringement on the right to keep and bear arms can be constitutional is if it is consistent with the "historic tradition" of the right.

More recently, New York's highest court heard numerous challenges under *Bruen* by people who were convicted of felonies and sentenced to prison for merely possessing–not using–firearms. Every sign indicates that the Court of Appeals will continue to ignore this Court's binding precedent and ensure that New York remains a state where the rights protected under the Second Amendment of our federal Constitution do not exist, especially for the people of color our criminal legal system almost exclusively prosecutes for gun possession.

This Court should issue a decision in *Rahimi* that requires lower courts to recognize that the rights protected under the Second Amendment are "fundamental"—not "second-class." Although this Court could not have been clearer than it was in *Bruen* by stating the appropriate test and upon whom the burden lies, state courts persist in refusing to follow the law.

CONCLUSION

For all these reasons, this Court should affirm.

Respectfully submitted,

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ADDENDUM

TABLE OF CONTENTS

State laws about disarmament and domestic violence protective orders, compared to § 922(g)(8)[30]

Alabama	*Required – conditions at least as broad as § 922(g)(8).* [A]nyone who is subject to a valid protection order for domestic abuse . . . shall [not] own a firearm or have one in his or her possession or under his or her control. Ala. Code § 13A-11-72(a)
	Violation does not trigger (g)(1). Class A misdemeanor, maximum of 1 year. Ala. Code § 13A-6-142(b), 13A-5-7(a)(1).
Alaska	*Permitted – conditions narrower than § 922(g)(8).* A protective order under this section may: . . . direct the respondent to surrender any firearm owned or possessed by the respondent if the court finds that the respondent was in the actual possession of or used a firearm during the

[30] Unless otherwise noted, disarmament provisions apply to "full" (as opposed to temporary or ex parte) protective orders, and penalties apply to first-time violations without aggravating factors.

	commission of the domestic violence." Alaska Stat. § 18.66.100(c)(7)
	Violation does not trigger (g)(1). Class A misdemeanor, maximum of 1 year. Alaska Stat. § 11.56.740(b), 12.55.135(a).
Arizona	*Permitted – conditions narrower than § 922(g)(8).* If a court issues an order of protection, the court may do any of the following: . . . 4. If the court finds that the defendant is a credible threat to the physical safety of the plaintiff or other specifically designated persons, prohibit the defendant from possessing or purchasing a firearm for the duration of the order. If the court prohibits the defendant from possessing a firearm, the court shall also order the defendant to transfer any firearm owned or possessed by the defendant immediately after service of the order to the appropriate law enforcement agency for the duration of the order. Ariz. Rev. Stat. § 13-3602(G)(4)

	Violation does not trigger (g)(1). Class 1 misdemeanor, maximum of 6 months. Ariz. Rev. Stat. Ann. §§ 13-2810(A)(2), 13-707(A)(1).
Arkansas	*Permitted – at court's discretion.* [T]he court may provide the following relief: . . . Order other relief as the court deems necessary or appropriate for the protection of a family or household member. Ark. Code Ann. § 9-15-205(a)(8)(A).
	Violation does not trigger (g)(1). Class A misdemeanor, maximum of 1 year. Ark. Stat. Ann. §§ 5-53-134(b)(1), 5-4-401(b)(1).
California	*Required – conditions at least as broad as § 922(g)(8).* A person subject to a protective order, as defined in Section 6218, shall not own, possess, purchase, or receive a firearm or ammunition while that protective order is in effect. Cal. Fam. Code § 6389(a)

	Violation triggers (g)(1) (at least in some cases). Public offense, maximum of 1 year in county jail Cal. Penal Code §§ 17(b), 29825(a)
Colorado	*Required – conditions narrower than § 922(g)(8).* If . . . the act of domestic violence involved the threat of use, use of, or attempted use of physical force, the court, as part of such order: Shall order the respondent to: (I) Refrain from possessing or purchasing any firearm or ammunition for the duration of the order; and (II) Relinquish, for the duration of the order, any firearm or ammunition in the respondent's immediate possession or control or subject to the respondent's immediate possession or control[.] Colo. Rev. Stat. § 13-14-105.5(1)(a)(I)-(II)
	Violation does not trigger (g)(1). Class 1 (364 days maximum), for some protective orders, or Class 2 (120 days maximum) misdemeanor, for others.

	Colo. Rev. Stat. §§ 18-6-803.5(2)(a), 18-1.3-501(a.5)
Connecticut	*Required – conditions narrower than § 922(g)(8).* "[A] person subject to a restraining or protective order . . . shall (1) transfer any pistol, revolver or other firearm or ammunition which such person then possesses to a . . . firearms dealer, or (2) deliver or surrender such pistols and revolvers and other firearms and ammunition to [law enforcement]. For the purposes of this section, a "person subject to a restraining or protective order . . ." means a person who knows that such person is subject to (A) a restraining or protective order of a court of this state that has been issued against such person, after notice has been provided to such person, in a case involving the use, attempted use or threatened use of physical force against another person[.] Conn. Gen. Stat. § 29-36k(b)
	Violation triggers (g)(1). Class D felony, maximum of 5 years.

	Conn. Gen. Stat. §§ 53a-35a(8), 53a-223(c).
Delaware	*Permitted – at court's discretion.* After consideration of a petition for a protective order, the Court may grant relief as follows: . . . (8) Order the respondent to temporarily relinquish to a police officer or a federally-licensed firearms dealer located in Delaware the respondent's firearms and to refrain from purchasing or receiving additional firearms for the duration of the order. The Court shall inform the respondent that he or she is prohibited from receiving, transporting, or possessing firearms for so long as the protective order is in effect." Del. Code tit. 10 § 1045(a)(8)
	Violation does not trigger (g)(1). Class A misdemeanor, maximum of 1 year. Del. Code tit. 10 § 1046(i), tit. 11 § 4206(a)
Florida	*Required – conditions at least as broad as § 922(g)(8).* A person may not have in his or her care, custody, possession, or control any firearm or

	ammunition if the person has been issued a final injunction that is currently in force and effect, restraining that person from committing acts of domestic violence. Fla. Stat. § 790.233(1)
	Violation does not trigger (g)(1). Misdemeanor in the first degree, maximum of 1 year. Fla. Stat. §§ 741.31(4)(b), 775.082(4)(a)
Georgia	*No apparent mechanism for disarmament.* *See* Petr.Br.34–35.
	Violation does not trigger (g)(1). Misdemeanor, maximum of 1 year. Ga. Code Ann. §§ 16-5-95(c), 17-10-3(a)
Hawaii	*Required – conditions at least as broad as § 922(g)(8).* No person who has been restrained pursuant to an order of any court, including a gun violence protective order issued pursuant to part IV, from contacting, threatening, or physically abusing any person, shall possess, control, or transfer ownership of any firearm or

	ammunition, so long as the protective order, restraining order, or any extension is in effect. Haw. Rev. Stat. § 134-7(f)
	Violation triggers (g)(1). Misdemeanor, maximum of 1 year Haw. Rev. Stat. §§ 134-7(f), (i), 706-663.
Idaho	*Permitted – at court's discretion.* [T]he court may, if requested, order . . . Other relief be ordered as the court deems necessary for the protection of a family or household member[.] Idaho Code Ann. § 39-6306(1)(e)
	Violation does not trigger (g)(1). Misdemeanor, maximum of 1 year. Idaho Code § 39-6312(1).
Illinois	*Permitted – conditions at least as broad as § 922(g)(8).* The court determines the appropriate remedy, which may include "[p]rohibit[ing] a respondent against whom an order of protection was issued from possessing any firearms during the duration of the order if

	the order [meets the criteria in 922(g)(8)]." 750 Ill. Comp. Stat. 60/214(b)(l4.5), (c)
	Violation does not trigger (g)(1). Class A misdemeanor, maximum of 364 days 720 Ill. Comp. Stat. 5/12-3.4(d), 5/5-4.5-45(a), 5/5-4.5-55(a)
Indiana	*Permitted – at court's discretion.* A court may grant the following relief after notice and a hearing . . . Prohibit a respondent from using or possessing a firearm, ammunition, or a deadly weapon specified by the court, and direct the respondent to surrender to a specified law enforcement agency the firearm, ammunition, or deadly weapon for the duration of the order for protection unless another date is ordered by the court. Ind. Code § 34-26-5-9(d)(4)
	Violation does not trigger (g)(1). Class A misdemeanor, maximum of 1 year Ind. Code 34-6-1-15.1(a), 35-50-3-2, 35-50-2-7(7)(b).

Iowa	*Required – conditions at least as broad as § 922(g)(8).* "[A] person who is subject to a protective order under 18 U.S.C. § 922(g)(8) . . . and who knowingly possesses, ships, transports, or receives a firearm, offensive weapon, or ammunition is guilty of a class 'D' felony." Iowa Code Ann. § 724.269(2)(a)
	Violation triggers (g)(1). Class 'D' felony, maximum of 5 years. Iowa Code Ann. §§ 724.26(2)(a), 902.9(e).
Kansas	*Required – conditions at least as broad as § 922(g)(8).* Criminal use of weapons is knowingly: . . . possessing any firearm by a person while such person is subject to a court order that [satisfied 922(g)(8)]. Kan. Stat. § 21-6301(a)(17)
	Violation does not trigger (g)(1). Class A misdemeanor, maximum of 1 year Kan. Stat. §§ 21-5924(b), 21-6602(a)(1).
Kentucky	*Permitted – at court's discretion.*

	[T]he court may issue a domestic violence order . . . Directing or prohibiting any other actions that the court believes will be of assistance in eliminating future acts of domestic violence and abuse[.] Ky. Rev. Stat. Ann. § 403.740(c)
	Violation does not trigger (g)(1). Class A misdemeanor, maximum of 1 year. Ky. Rev. Stat. § 403.763(4)(b), 532.090(1)
Louisiana	*Required – conditions narrower than § 922(g)(8).* A. Any person against whom the court has issued a permanent injunction or a protective order . . . shall be prohibited from possessing a firearm or carrying a concealed weapon for the duration of the injunction or protective order if both of the following occur: (1) The permanent injunction or protective order includes a finding that the person subject to the permanent injunction or protective order represents a credible threat to the physical safety of a family member,

	household member, or dating partner. (2) The permanent injunction or protective order informs the person subject to the permanent injunction or protective order that the person is prohibited from possessing a firearm pursuant to the provisions of 18 U.S.C. 922(g)(8) and this Section. La. Stat. Ann. § 46:2136.3(a)
	Violation does not trigger (g)(1). Maximum 6 months. La. Rev. Stat. § 46:2136.3(C), 14:79(B).
Maine	*Permitted – at court's discretion.* Relief granted under this section may include: . . . Directing the defendant not to possess a firearm, muzzle-loading firearm, bow, crossbow or other dangerous weapon for the duration of the order[.] Me. Rev. Stat. tit. 19-A, § 4110(3)(B).
	Violation does not trigger (g)(1). Class D crime, maximum of 364 days. Me. Rev. Stat. tit. 17-A, § 1604(1)(D), tit. 19-A, § 4113(1)

Maryland	*Required – conditions at least as broad as § 922(g)(8).* The final protective order shall order the respondent to surrender to law enforcement authorities any firearm in the respondent's possession, and to refrain from possession of any firearm, for the duration of the protective order. Md. Code Ann., Fam. Law § 4-506(f)
	Violation does not trigger (g)(1). Misdemeanor, maximum of 90 days. Md. Code Ann., Fam. Law § 4-509(b).
Massachusetts	*Required – conditions narrower than § 922(g)(8).* In temporary orders, "the court shall, if the plaintiff demonstrates a substantial likelihood of immediate danger of abuse, order the immediate suspension and surrender of any license to carry firearms and or firearms identification card which the defendant may hold and order the defendant to surrender all firearms, rifles, shotguns, machine guns and ammunition

	which he then controls, owns or possesses." Then, "[u]pon the continuation or modification of an order issued pursuant to [the above provision], the court shall also order or continue to order the [same relief] if the court makes a determination that the return of such license to carry firearms and firearm identification card or firearms, rifles, shotguns, machine guns or ammunition presents a likelihood of abuse to the plaintiff." Mass. Gen. Laws Ann. ch. 209A, §§ 3B, 3C
	Violation triggers (g)(1). Maximum of 2.5 years in prison. Mass. Gen. Laws Ann. ch. 209A, § 7.
Michigan	*Permitted – at court's discretion.* [A]n individual may petition the family division of circuit court to enter a personal protection order to restrain or enjoin a [respondent] from . . . Purchasing or possessing a firearm. Mich. Comp. Laws § 600.2950(1)(e)

	Violation does not trigger (g)(1). Maximum of 93 days. Mich. Comp. Laws Ann. § 600.2950(11)(a)(i)
Minnesota	*Required – conditions at least as broad as § 922(g)(8).* An order granting relief shall prohibit the abusing party from possessing firearms for the length the order is in effect if the order [satisfies 922(g)(8)]. Minn. Stat. § 518B.01(6)(g)
	Violation triggers (g)(1). Felony, maximum of 5 years. Minn. Stat. Ann. § 518B.01(14)(d)(2).
Mississippi	*No apparent mechanism for disarmament.* *See* Petr.Br.34–35.
	Violation does not trigger (g)(1). Misdemeanor, maximum of 6 months. Miss. Code. Ann. § 93-21-21(1)
Missouri	*No apparent mechanism for disarmament.* *See* Petr.Br.34–35.
	Violation does not trigger (g)(1).

	Class A misdemeanor, maximum of 1 year Mo. Ann. Stat. § 455.085(7), 558.011(1)(6)
Montana	*Permitted – conditions narrower than § 922(g)(8).* The temporary order of protection may include any or all of the following orders: . . . (f) prohibiting the respondent from possessing or using the firearm used in the assault[.] A[] [final] order of protection may include all of the relief listed in 40-15-201, when appropriate. Mont. Code §§ 40-15-201(2)(f), 40-15-204(3)
	Violation does not trigger (g)(1). Maximum of 6 months. Mont. Code Ann. § 45-5-626(3)
Nebraska	*Permitted – at court's discretion.* [T]he court may issue a protection order without bond granting the following relief: . . . (vii) Enjoining the respondent from possessing or purchasing a firearm as defined in section 28-1201[.]" Neb. Rev. St. § 42-924(1)(a)(vii)

	Violation does not trigger (g)(1). Class I misdemeanor, maximum of 1 year Neb. Rev. Stat. Ann. §§ 42-924(4), 28-106(1).
Nevada	*Permitted – at court's discretion (after considering certain factors).* A court may include in an extended order . . . A requirement that the adverse party surrender, sell or transfer any firearm in the adverse party's possession or under the adverse party's custody or control[.] . . . In determining whether to include the [a firearms transfer requirement and possession ban] in an extended order, the court must consider, without limitation, whether the adverse party: (a) Has a documented history of domestic violence; (b) Has used or threatened to use a firearm to injure or harass the applicant, a minor child or any other person; and (c) Has used a firearm in the commission or attempted commission of any crime. Nev. Rev. Stat. § 33.031(1)-(2)

	Violation triggers (g)(1). Category B felony, maximum of 6 years. Nev. Rev. Stat. Ann. § 33.0305(2).
New Hampshire	*Required – conditions at least as broad as § 922(g)(8).* Such relief shall direct the defendant to relinquish to the peace officer any and all firearms and ammunition in the control, ownership, or possession of the defendant, or any other person on behalf of the defendant for the duration of the protective order. N.H. Rev. Stat. Ann. § 173-B:5(I)
	Violation does not trigger (g)(1). Class A misdemeanor, maximum of one year. N.H. Rev. Stat. Ann. § 173-B:9(III), 651:2(II)(c)
New Jersey	*Required – conditions at least as broad as § 922(g)(8).* [A]ny restraining order issued by the court shall bar the defendant from purchasing, owning, possessing or controlling a firearm and from receiving or retaining a firearms purchaser identification card or permit to purchase a handgun pursuant to N.J.S.2C:58-3 during the period

	in which the restraining order is in effect or two years, whichever is greater. The order shall require the immediate surrender of any firearm or other weapon belonging to the defendant. N.J. Stat. § 2C:25-29(b)
	Violation does not trigger (g)(1). Disorderly persons offense maximum of 6 months. N.J. Stat. Ann. §§ 2C:25-30, 2C:29-9(b)(1), 2C:43-8.
New Mexico	*Required – conditions narrower than § 922(g)(8).* [T]he court shall enter an order of protection ordering the restrained party to: . . . (A)(2) if the order is issued pursuant to this section and if the court also determines that the restrained party presents a credible threat to the physical safety of the household member after the restrained party has received notice and had an opportunity to be heard or by stipulation of the parties, to: (a) deliver any firearm in the restrained party's possession, care, custody or control to a law enforcement agency, law enforcement officer or federal

	firearms licensee while the order of protection is in effect; and (b) refrain from purchasing, receiving, or possessing or attempting to purchase, receive or possess any firearm while the order of protection is in effect. N.M. Stat. Ann. § 40-13-5(A)(2)
	Violation does not trigger (g)(1). Misdemeanor, maximum of 364 days. N.M. Stat. Ann. § 40-13-6(E), 31-19-1(A)
New York	*Required – conditions narrower than § 922(g)(8).* Whenever an order of protection is issued . . . (a) the court shall revoke any such existing license possessed by the respondent, order the respondent ineligible for such a license, and order the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of any or all firearms, rifles and shotguns owned or possessed where the court finds that the conduct which resulted in the issuance of the order of protection involved (i) the infliction of

	physical injury, as defined in subdivision nine of section 10.00 of the penal law, (ii) the use or threatened use of a deadly weapon or dangerous instrument as those terms are defined in subdivisions twelve and thirteen of section 10.00 of the penal law, or (iii) behavior constituting any violent felony offense as defined in section 70.02 of the penal law; (b) the court shall, where the court finds a substantial risk that the respondent may use or threaten to use a firearm, rifle or shotgun unlawfully against the person or persons for whose protection the order of protection is issued, (i) revoke any such existing license possessed by the respondent, order the respondent ineligible for such a license and order the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of any or all firearms, rifles and shotguns owned or possessed or (ii) suspend or continue to suspend any such existing license possessed by the respondent, order the respondent ineligible for such a license, and order the immediate surrender pursuant to

	subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of any or all firearms, rifles and shotguns owned or possessed[.] N.Y. Fam. Ct. Act § 842-a(2)(a)-(b)
	Violation does not trigger (g)(1). Maximum of 6 months. N.Y. Fam. Ct. Act § 846-a
North Carolina	*Required – conditions narrower than § 922(g)(8).* Upon issuance of an emergency or ex parte order pursuant to this Chapter, the court shall order the defendant to surrender to the sheriff all firearms, machine guns, ammunition, permits to purchase firearms, and permits to carry concealed firearms that are in the care, custody, possession, ownership, or control of the defendant if the court finds any of the following factors: (1) The use or threatened use of a deadly weapon by the defendant or a pattern of prior conduct involving the use or threatened use of violence with a firearm against persons.

	(2) Threats to seriously injure or kill the aggrieved party or minor child by the defendant. (3) Threats to commit suicide by the defendant. (4) Serious injuries inflicted upon the aggrieved party or minor child by the defendant. N.C. Gen. Stat. Ann. § 50B-3.1
	Violation triggers (g)(1) Class H felony, maximum varies under state guidelines. N.C. Gen. Stat. Ann. § 14-269.8(b).
North Dakota	*Permitted – conditions narrower than § 922(g)(8).* The relief provided by the court may include any or all of the following: . . . Requiring the respondent to surrender for safekeeping any firearm or other specified dangerous weapon, as defined in section 12.1-01-04, in the respondent's immediate possession or control or subject to the respondent's immediate control, if the court has probable cause to believe that the respondent is likely to use, display, or threaten to use the

	firearm or other dangerous weapon in any further acts of violence N.D. Cent. Code § 14-07.1-02(4)(g)
	Violation does not trigger (g)(1). Class A misdemeanor, maximum of 360 days. N.D. Cent. Code Ann. §§ 14-07.1-06, 12.1-32-01(5)
Ohio	*Permitted – at court's discretion.* The order or agreement may: . . . Grant other relief that the court considers equitable and fair, Ohio Rev. Code Ann. § 3113.31(E)(1)(h)
	Violation does not trigger (g)(1). Misdemeanor of the first degree, maximum of 180 days Ohio Rev. Code Ann. §§ 2919.27(B)(2), 2929.24(A)(1)
Oklahoma	*No apparent mechanism for disarmament.* *See* Petr.Br.34–35.
	Violation does not trigger (g)(1). Misdemeanor, maximum of 1 year. Okla. Stat. Ann. tit. 22, § 60.6(a)(1)

Oregon	*Required – conditions narrower than § 922(g)(8).* It is unlawful for a person to knowingly possess a firearm or ammunition if: The person is the subject of a court order that: . . . Includes a finding that the person represents a credible threat to the physical safety of a family or household member of the person, a child of a family or household member of the person or a child of the person[.] Or. Rev. Stat. Ann. § 166.255(1)(a)(C).
	Violation does not trigger (g)(1). Maximum of 6 months. Or. Rev. Stat. Ann. § 163.773(5), 33.105(1)(b).
Pennsylvania	*Required – conditions at least as broad as § 922(g)(8).* Any final order must . . . order that the defendant is subject to [] firearms, other weapons or ammunition and firearms license prohibition relinquishment provisions[.] 23 Pa. Stat. and Cons. Stat. Ann. § 6108(a.1)(1).

	Violation does not trigger (g)(1). Maximum of 6 months. 23 Pa. Stat. and Cons. Stat. Ann. § 6114(a), (b)(1).
Rhode Island	*Required – conditions at least as broad as § 922(g)(8) (but see restoration provision).* No person shall purchase, carry, transport, or have in his or her possession any firearm if that person is subject to a[] [domestic violence protective order]." 11 R.I. Gen. Laws § 11-47-5(b). *But see* 8 R.I. Gen. Laws Ann. § 8-8.1-3(j) (appearing to provide a mechanism for restoring firearms rights).
	Violation does not trigger (g)(1). Misdemeanor, maximum of 1 year. 8 R.I. Gen. Laws Ann. § 8-8.1-3(o)
South Carolina	*Permitted – at court's discretion (but see note).* It is unlawful for a person to ship, transport, receive, or possess a firearm or ammunition, if the person: . . . is subject to a valid order of protection issued by the family court pursuant to Chapter 4, Title

	20, and the family court judge at the time of the hearing made specific findings of physical harm, bodily injury, assault, or that the person offered or attempted to cause physical harm or injury to a person's own household member with apparent and present ability under the circumstances reasonably creating fear of imminent peril and the family court judge ordered that the person is prohibited from shipping, transporting, receiving, or possessing a firearm or ammunition. S.C. Code § 16-25-30(A)(4). Note: No other provision appears to authorize or require a judge to disarm in a domestic violence protective order. *See* S.C. Code Ann. § 20-4-60.
	Violation does not trigger (g)(1). Misdemeanor, maximum of 30 days. S.C. Code Ann. § 16-25-20(H)
South Dakota	*Permitted – at court's discretion.* The court may require the defendant to surrender any dangerous weapon or any concealed pistol permit issued under 23-7 in the defendant's

	possession to local law enforcement. S.D. Codified Laws § 25-10-24
	Violation does not trigger (g)(1). Class 1 misdemeanor, maximum of 1 year. S.D. Codified Laws §§ 25-10-13, 22-6-2(1)
Tennessee	*Required – conditions at least as broad as § 922(g)(8).* A person commits an offense who possesses a firearm, as defined in § 39-11-106(a), and: . . . Is, at the time of the possession, subject to an order of protection that fully complies with 18 U.S.C. § 922(g)(8). Tenn. Code Ann. § 39-17-1307(f)(1)(B)
	Violation does not trigger (g)(1). Class A misdemeanor, maximum of 11 months 29 days. Tenn. Code Ann. §§ 39-13-113(h)(3), 40-35-111(e)(1)
Texas	*Permitted – at court's discretion.* In a protective order, the court may prohibit the person found to have committed family violence from: . . .

	possessing a firearm[.] Tex. Fam. Code Ann. § 85.022(b)(6)
	Violation does not trigger (g)(1). Class A misdemeanor, maximum of one year. Tex. Penal Code Ann. §§ 25.07(g), 12.21(2)
Utah	*Required – conditions at least as broad as § 922(g)(8).* A Category II restricted person is a person who [satisfies 922(g)(8)]. . . . A Category II restricted person who intentionally or knowingly purchases, transfers, possesses, uses, or has under the person's custody or control a firearm is guilty of a third degree felony[.]" Utah Code § 76-10-503(1)(b)(xi), (3)(a)
	Violation triggers (g)(1). Third degree felony, maximum of 5 years. Utah Code Ann. §§ 76-10-503(1)(b)(xi), (3)(a), 76-3-203(3).
Vermont	*Permitted – at court's discretion.* Upon a finding that there is an immediate danger of further

	abuse, an order may be granted requiring the defendant: . . . to immediately relinquish, until the expiration of the order, all firearms that are in the defendant's possession, ownership, or control and to refrain from acquiring or possessing any firearms while the order is in effect. 15 Vt. Stat. § 1104(a)(1)(E), (b)
	Violation does not trigger (g)(1). Maximum of 6 months. Vt. Stat. Ann. tit. 15, § 1108(e)
Virginia	*Required – conditions at least as broad as § 922(g)(8).* [I]t is unlawful for any person who is subject to a protective order entered pursuant to § 16.1-279.1 or 19.2-152.10 or an order issued by a tribunal of another state, the United States or any of its territories, possessions, or commonwealths, or the District of Columbia pursuant to a statute that is substantially similar to § 16.1-279.1 or 19.2-152.10 to knowingly possess any firearm while the order is in effect[.] Va. Code Ann. § 18.2-308.1:4(B)
	Violation triggers (g)(1).

	Class 6 felony, maximum of 5 years. Va. Code Ann. §§ 16.1-253.2(B), 18.2-10(f).
Washington	*Required – conditions narrower than § 922(g)(8)* During any period of time that the party is subject to a court order [that satisfies 922(g)(8)], the court shall: (A) Require that the party immediately surrender all firearms and other dangerous weapons; (B) Require that the party immediately surrender a concealed pistol license issued under RCW 9.41.070; (C) Prohibit the party from accessing, having custody or control, possessing, purchasing, receiving, or attempting to purchase or receive, any firearms or other dangerous weapons; and (D) Prohibit the party from obtaining or possessing a concealed pistol license. . . . The requirements of [that subsection] may be for a period of time less than the duration of the order.

	Wash. Rev. Code § 9.41.800(2), (5).
	Violation does not trigger (g)(1). Maximum of 364 days. Wash. Rev. Code Ann. §§ 7.105.450 (3), 7.21.040(5).
West Virginia	*Required – conditions at least as broad as § 922(g)(8).* The protective order must prohibit the respondent from possessing any firearm or ammunition. W. Va. Code § 48-27-502(b)
	Violation does not trigger (g)(1). Misdemeanor, maximum of one year. W. Va. Code Ann. § 48-27-903(a)(1)(A).
Wisconsin	*Required – conditions at least as broad as § 922(g)(8).* An injunction issued under sub. (4) shall do all of the following: . . . [R]equire in writing the respondent to surrender any firearms that he or she owns or has in his or her possession[.] Wis. Stat. § 813.12(4m)(2)
	Violation does not trigger (g)(1). Maximum of 9 months.

	Wis. Stat. Ann. § 813.12(8)(a).
Wyoming	*No apparent mechanism for disarmament.* *See* Petr.Br.34–35.
	Violation does not trigger (g)(1). Misdemeanor, maximum of 6 months Wyo. Stat. Ann. § 6-4-404(a)