



Thank you for joining us today!

The Patchwork of State Laws on Firearm Prohibitions for Domestic Violence Protective Orders

August 25, 2017
2-3:30pm Central Time

April Zeoli, Michigan State University

This project was supported by Grant No. 2013-TA-AX-K037 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this (document/program/exhibit) are those of the authors and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.



The materials are available on our website: <http://www.bwjp.org/training/webinar-state-laws-firearms-prohibitions-dv-protection-orders.html>

AUDIO OPTIONS

The audio component can be heard by VoiceoverIP (VoIP) or telephone:

VoIP: Select "**connect**" to internet audio on the Start tab to get your audio streaming through your computer.

Telephone: Select "**I am dialed in**" on the Start tab and dial in from you telephone. Your standard long distance charges will apply .

Dial-in: 641-715-3670
Passcode: 732746

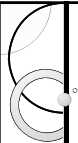
AUDIO TROUBLESHOOTING for VoIP

•Verify you selected "**connect**" to the internet audio

•If your computer & speaker volume are turned all the way up, & volume is too low, **run the audio wizard** under "Tools" at the top of your screen.

•If still low volume, try a headset (which is recommended).

•Lastly, if all your troubleshooting attempts have failed please dial in from a telephone. Your computer &/or network don't have the requirements (bandwidth, memory, etc) for VoIP on this webinar.



The patchwork of state laws on firearm prohibitions for domestic violence


April M. Zeoli, PhD, MPH
School of Criminal Justice
Michigan State University



Presentation Outline

- Domestic violence and guns
- Types of firearm restrictions
- Research into impact of firearm restrictions
- Differing provisions in state laws


*I will take questions throughout the presentation.



Guns are the weapon of choice in intimate partner homicide

There is a five-fold increase in risk of homicide when a violent intimate has access to a gun.

Weapon Type	Percentage
Guns	~45%
Knife	24%
Other/Unk. nown	11%
Personal weapon	6%
Blunt Object	5%



Sources: Campbell et al. 2003; FBI SHR 2014

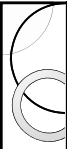
Firearms are also used in nonlethal ways

- To intimidate
- To threaten
- To pistol whip
- To shoot at

- Guns are used to intimidate or threaten an intimate partner into obeying the abuser.



Sources: Lynch & Logan, 2015; Rothman et al., 2005; Sorenson & Wiebe, 2004; Sorenson & Schut, 2016

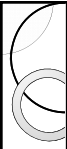


Intimate partner violence offenders are known to the criminal justice system

- ~ 56% of non-fatal intimate partner violence victimizations were reported to the police from 2006-2015
 - 39% of those resulted in arrest or charges filed
 - However, in 89% of cases with serious victim injury and a signed criminal complaint, offender was arrested or charged

Source: Bureau of Justice Statistics, 2017



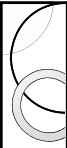


Intimate partner homicide offenders are known to the criminal justice system

- Roughly half of women killed by their intimate partners had contact with the criminal justice system in the year preceding their murders
 - Domestic violence/stalking complaints
 - Petitions for criminal charges against their batterers
 - Petitions for domestic violence restraining orders (DVROs)

Sources: McFarlane et al., 2001; Moracco et al., 1998

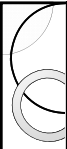




Federal Gun Control Act

- Explicitly prohibits two groups of batterers from purchasing or possessing firearms
 - Those convicted of misdemeanor domestic violence crimes (Section 922(g)(9))
 - Those currently under domestic violence restraining orders (Section 922(g)(8))
- Versions of these two laws are present in many states

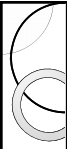




USC 922(g)(8) Restrictions

- Protection Order will qualify for firearm prohibition if it meets these requirements:
 - Hearing with actual notice and an opportunity to participate;
 - Relationship requirement: current or former spouse or cohabitant; had a child together
 - Finding that the defendant poses a credible threat to the physical safety of an intimate partner; OR
 - Explicit prohibition of the use, attempted use, or threatened use of physical force that would reasonably be expected to cause bodily injury.

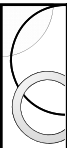




Domestic violence restraining order firearm restrictions

- Are particularly important because DVROs are initiated by the victim, and are not dependent on decisions to charge offenders under a qualifying criminal statute, or upon offender's guilty plea or guilty verdict





Evidence – domestic violence restraining order gun restrictions

- Three longitudinal studies of state-level DVRO gun prohibitions are consistent in finding that these laws are associated with reductions in intimate partner homicide committed with guns, and total intimate partner homicide

No discernable substitution effect


Sources: Vigdor & Mercy, 2003, 2006; Zeoli & Webster, 2010

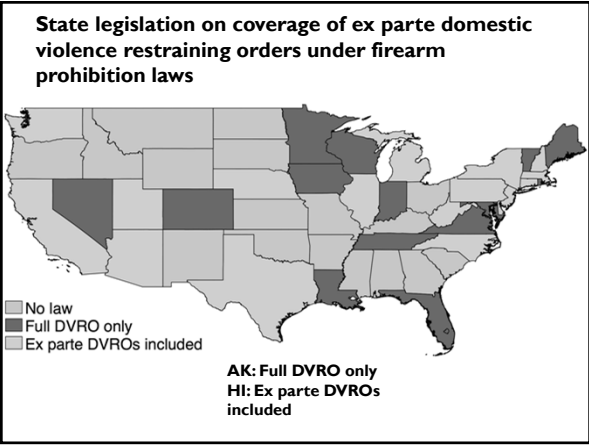


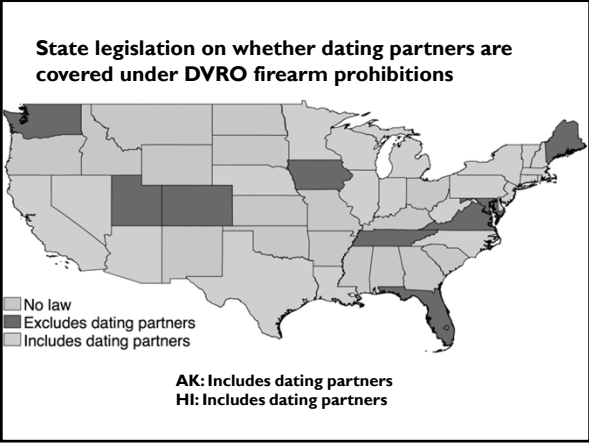
Estimated reductions in IPH in association with state-level DVRO firearm prohibitions

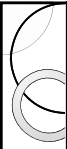
- 19% reduction in total IPH and 25% reduction in IPH committed with firearms in large cities
- 8% reduction in total IPH and 9% reduction in IPH committed with firearms in states

Sources: Vigdor & Mercy, 2006; Zeoli & Webster, 2010









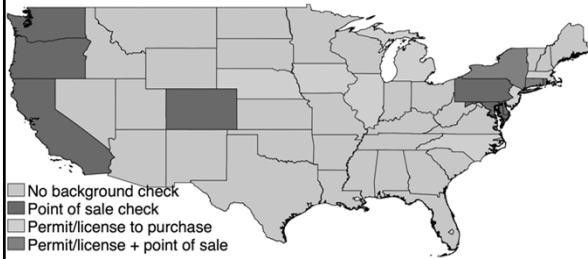
Implementation of DVRO firearm restrictions

- Some suggestion that judges often do not impose firearm restrictions even when doing so is in accordance with the law
- Purchase prohibition
 - DVRO entered into background check system
 - Private sales provide loop-hole to purchase without a background check in many states

Sources: Everytown, 2015; Webster et al., 2010

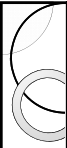


States that require background checks, permits or licenses prior to a private sale of a firearm



AK: No background check
HI: Permit/license to purchase

*Federal law requires a background check prior to firearm purchase from a licensed dealer

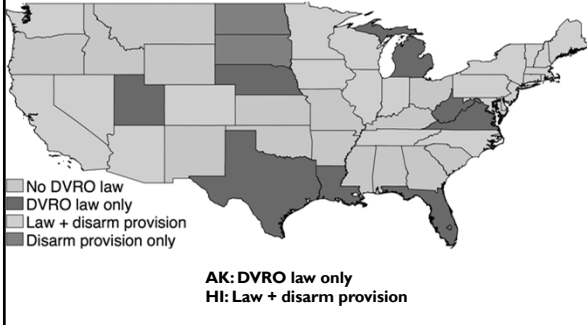


Implementation of DVRO firearm restrictions

- Possession prohibition
 - When a prohibited person already possesses a firearm, they are in violation of the law if they continue to possess the firearm.
 - However, many states and jurisdictions do not have protocols or processes for requiring dispossession of firearms by prohibited persons.



State legislation on disarming of those prohibited from gun possession by domestic violence restraining orders



DVRO firearm relinquishment laws

- Vary on many factors:
 - Judges discretion to order relinquishment
 - Instruction on to whom to relinquish firearms
 - Time period in which relinquishment must occur
 - Whether a warrant can be issued for firearms
 - Whether there are employment exceptions



Continuum of provisions that strengthen firearm dispossession laws

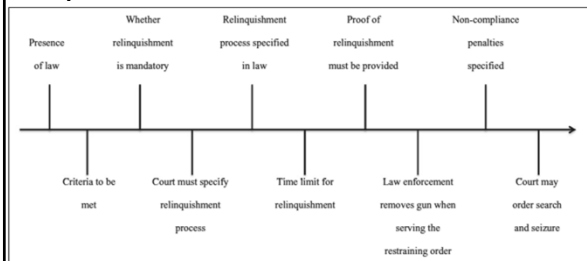
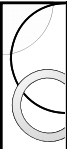


Figure 1. Continuum of provisions that strengthen firearm dispossession laws.

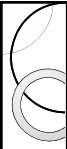
Zeoli, A. M., Frattaroli, S., Roskam, K., Herrera, A. K. (2017). Removing firearms from those prohibited from possession by domestic violence restraining orders: A survey and analysis of state laws. *Trauma, Violence, & Abuse*, online first. Doi: 10.1177/1524838017692384. Page 9.



Dispossession law provisions

- Criteria to be met for ordering dispossession
 - If respondent possessed or used guns during domestic violence (eg, Alaska)
 - If probable cause that respondent will use gun in further acts of violence (eg, ND)
 - Employment exceptions

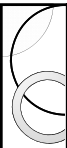




Dispossession law provisions

- Example: California
- Respondent ordered to relinquish gun to law enforcement (LE) immediately upon LE request or within 24 hrs of service with restraining order. LE may charge a storage fee.
- Respondent may instead sell gun to licensed dealer (FFL).
- Respondent must file receipt of relinquishment to LE or FFL within 48 hrs of service.

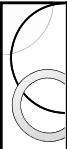




Dispossession law provisions

- Search warrants
 - If there is probable cause to believe firearms have not been surrendered, court may issue a search warrant (eg, Maine)

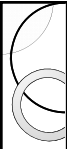




Problem of self-incrimination

- Some DVRO respondents are already prohibited from firearm possession, and currently possess firearms.
- More difficult to disarm this population because they do not want to admit to breaking the law
- California's solution:
- CA Fam Code 6389 (d): If the respondent declines to relinquish possession of any firearm based on the assertion of the right against self-incrimination, as provided by the Fifth Amendment to the United States Constitution and Section 15 of Article I of the California Constitution, the court may grant use immunity for the act of relinquishing the firearm required under this section.





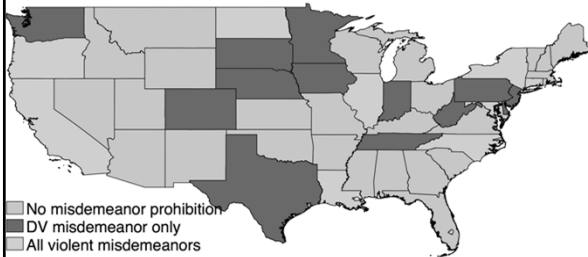
DVRO firearm restrictions

- Even in states without these statutes:

Judges have implicit authority to order any firearm restrictions if they feel it necessary to safeguard victims



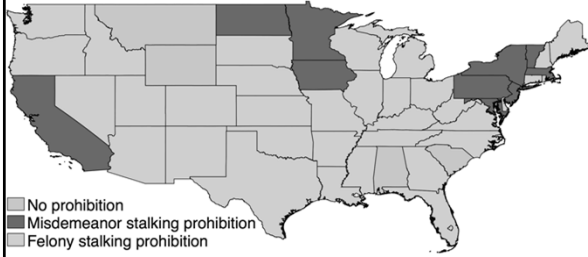
State legislation on firearm prohibitions for those convicted of violent misdemeanor crimes



■ No misdemeanor prohibition
 ■ DV misdemeanor only
 ■ All violent misdemeanors

AK: No misdemeanor prohibition
HI: All violent misdemeanors

State legislation on firearm prohibitions for stalking convictions



■ No prohibition
■ Misdemeanor stalking prohibition
■ Felony stalking prohibition

AK: No prohibition
HI: Misdemeanor stalking prohibition

*States with misdemeanor prohibition also have felony prohibition with exception of HI and MD which do not have felony stalking crimes

THANK YOU!!!

QUESTIONS?



Safer Families.
Safer Communities.
Strengthening Families. Building Safer Communities.
