

DOMESTIC VIOLENCE WAIVER

The information obtained from this questionnaire will be used to determine whether you are barred under Title 18 U.S.C. § 922 (g)(9) from possessing a firearm. Reassignment or other administrative action(s) may be necessary based on the information provided in this questionnaire.

You must complete this Domestic Violence Waiver and provide it to your immediate supervisor within ten (10) working days of receipt. Your refusal or failure to respond, or incomplete or untrue response, may be grounds for disciplinary action against you, up to and including removal from your position.

Neither your answers, nor any information or evidence obtained by reason of your answers, can be used against you in any criminal prosecution for violation of Title 18 U.S.C. § 922 (g)(9). However, the answers you furnish and any information or evidence resulting therefrom, may be used against you in a criminal prosecution for knowingly and willfully providing false statements or information and may be a basis for agency disciplinary action.

Title 18 U.S.C. § 922 (g)(9) makes it a felony for anyone who has been convicted under Federal or state law of a misdemeanor crime of domestic violence to possess any firearm or ammunition. A “misdemeanor crime of domestic violence” is defined generally as any offense, whether or not explicitly described in a statute as a crime of domestic violence, which has as its factual basis the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by the victim’s current or former domestic partner, parent or guardian. The law further provides:

- (B)(i) A person shall not be considered to have been convicted of such an offense for purposes of this chapter unless-
 - (I) the person was represented by counsel in the case, or knowing and intelligently waived the right to counsel in the case; and
 - (II) In the case of a prosecution for an offense described in the paragraph for which a person was entitled to a jury trial in the jurisdiction in which the case was tried, either:
 - (aa) the case was tried by a jury, or
 - (bb) the person knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea or otherwise.
- (ii) A person shall not be considered to have been convicted of such an offense for purposes of this chapter if the conviction has been expunged or set aside, or is an offense for which the person has been pardoned or has had civil rights restored...unless the pardon, expungement or restoration of civil rights expressly provides that the person may not ship, transport, possess or receive firearms.

Certification: To resolve any question whether you are affected by the statute, that is, whether you ever have been convicted of a misdemeanor crime of domestic violence within the meaning of the statute, you should contact your immediate supervisor, your agency ethics officer, a union representative or a private attorney (*a conviction, within the meaning of the statute, means a conviction that has not been expunged or set aside, or for which the individual has not received a pardon*).

1. Have you ever been convicted of a misdemeanor crime of domestic violence within the meaning of the statute?

Initial and date: Yes _____ No _____ I am not certain _____

2. If you answered “yes” to Question 1, please provide the following information with respect to the conviction:

Court/Jurisdiction: _____

Docket/Case Number: _____

Statute/Charge: _____

Date Sentenced: _____

3. If you answered “Yes” to Question 1, was that conviction expunged or set aside or have you been pardoned for the offense or otherwise had your civil rights restored without a continuing prohibition of the use or possession of firearms or ammunition?

Initial and date: Yes _____ No _____

If you answered “Yes” to Question 3, please provide documentation of the expungement, set aside order or pardon.

If you answered “Yes” or “I am not certain” to Question 1, until you provide documentation of any expungement, set aside order or pardon, you must immediately turn over any government-issued firearms or ammunition to your immediate supervisor. Additionally, your authorization to carry a government-owned or personally-owned firearm and ammunition is rescinded.

I hereby certify that, to the best of my information and belief, all of the information provided by me is true, correct and complete. I understand that false or fraudulent information provided herein may be grounds for adverse personnel action, up to and including removal, and also is criminally punishable pursuant to Federal law, including Title 18 U.S.C. § 1001.

Print Name: _____

Signature: _____ Date: _____

TITLE 18 >PART I >CHAPTER 44 >§ 922

§ 922. Unlawful acts

(g) It shall be unlawful for any person-

- (1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;
- (2) who is a fugitive from justice;
- (3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));
- (4) who has been adjudicated as a mental defective or who has been committed to a mental institution;
- (5) who, being an alien—
 - (A) is illegally or unlawfully in the United States; or
 - (B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101 (a)(26)));
- (6) who has been discharged from the Armed Forces under dishonorable conditions;
- (7) who, having been a citizen of the United States, has renounced his citizenship;
- (8) who is subject to a court order that—
 - (A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;
 - (B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and
 - (C)
 - (i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or
 - (ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or
- (9) who has been convicted in any court of a misdemeanor crime of domestic violence,

to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.