

PROTOCOL 13-6

Under Federal Law [18 U.S.C. Section 922(g)(9)], an order for relinquishment of firearms is required when the conviction is for a qualifying misdemeanor crime of domestic violence. A qualifying misdemeanor crime of domestic violence is one which has, as an element, the use or attempted use of physical force, or the use of a deadly weapon, and is committed by:

- a. A current or former spouse, parent or guardian of the victim;
- b. A person with whom the victim shares a child in common;
- c. One who is or has cohabited with the victim as a spouse, parent or guardian; or
- d. Someone "similarly situated" to a spouse, parent or guardian of the victim.

NOTE: Under federal law, persons convicted of domestic violence related misdemeanors may be permanently prohibited from possessing a firearm. Under federal law the relationship standard is more limited than under state law. *See* Chapter 14 for more detail on firearms and deadly weapons relinquishment.

C. SCHEDULING

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Complaints alleging assault, criminal trespass, criminal mischief, stalking and other crimes that are domestic violence related should be carefully monitored by the clerk's office to ensure that they are properly docketed and scheduled for trial. Consideration should be given to putting such cases on a priority schedule. Such an accelerated schedule should be coordinated by the clerk of court with the local prosecutor and defense counsel.

D. ACKNOWLEDGMENT OF RIGHTS/RECORDING

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If a defendant is charged with a class A misdemeanor and chooses to enter a plea of guilty, a class A misdemeanor acknowledgment of rights form must be used irrespective of the nature of the sentence.

COMMENT

Judges should be aware that if the defendant is charged with a class A misdemeanor, but enters a plea which does not include any period of incarceration (including suspended or deferred sentence) or a fine which exceeds \$1,000, the conviction will be recorded as a B misdemeanor. RSA 625:9, VIII.