

FIREARM INELIGIBILITY BENCHCARD

RCW 9.41.040 prohibits a person from owning, possessing or having in their control a firearm as listed below, unless their firearm right is restored by a superior court pursuant to RCW 9.41.040(4).

RCW 9.41.010(15) defines a “firearm” as a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder, and lists some exceptions.

1. Any Felony Offense Conviction Or NG By Reason Of Insanity

- **RCW 9.41.040(1)(a)**. Any serious felony offense (see definition in ¶2 below).
- **RCW 9.41.040(2)(a)(i)**. Any felony offense not listed in .040(1)(a) above.
- **“Conviction” Definition**. RCW 9.41.040(3).

2. Serious Felony Offense Pending

- **RCW 9.41.040(2)(a)(viii)**. If the person is free on bond or personal recognizance pending trial, appeal, or sentencing for a serious offense as defined in RCW 9.41.010.
- **Serious Offense Definition**. RCW 9.41.010(33) defines a serious offense as any of the following felonies or attempt to commit any of the following felonies –
 - Arson 2° *
 - Assault 2° * and Assault Of A Child 2° *
 - Burglary 2° * and Residential Burglary *
 - Child Molestation 2°
 - Class A Felony (Or Attempt, Or Criminal Solicitation, Or Criminal Conspiracy) *
 - Controlled Substances (RCW 69.50) – Class B Or Maximum Term At Least 10 Years
 - Deadly Weapon Enhancement Verdict
 - Drive-By Shooting
 - Extortion 1° *
 - Incest (Child Under Age 14)
 - Indecent Liberties and Indecent Liberties (If By Forcible Compulsion) *
 - Kidnapping 2° *
 - Leading Organized Crime
 - Manslaughter 1° Or 2° *
 - Promoting Prostitution 1°
 - Rape 3°
 - Robbery 2° *
 - Sexual Exploitation
 - Sexual Motivation Enhancement Verdict – Class B Felony
 - Vehicular Homicide Or Assault (DUI Or Reckless Manner)
 - Unlawful Firearms Sale Or Transfer
 - ***Crime Of Violence**. RCW 9.41.010(33) includes “crimes of violence” within the definition of a serious offense. RCW 9.41.010(5) defines a crime of violence as any of the * listed above.

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3. Conviction Or Not Guilty By Reason Of Insanity – Some DV Offenses

- **RCW 9.41.040(2)(a)(i), (ii), (iii)**. Any of the following crimes when committed by (1) one family or household member against another; or (2) by one intimate partner against another –
 - Assault 4°
 - Coercion
 - Criminal trespass in the first degree
 - Harassment
 - Reckless endangerment
 - Stalking
 - Violation of the provisions of a protection order or no-contact order –
 - (1) Restraining the person, or
 - (2) Excluding the person from a residence
 - .040(2)(a)(ii) – PO or NCO issued under RCW 10.99.040 or any of the former RCW 26.50.060, 26.50.070, and 26.50.130
 - .040(2)(a)(iii) – PO or NCO issued under chapter 7.105 RCW
- **“Conviction” Definition**. RCW 9.41.040(3).

4. Active Protection Order Or No Contact Order – Some Circumstances

- **RCW 9.41.040(2)(a)(iv)** – During any period of time that the person is subject to a court order issued under chapter 7.105, 9A.46, 10.99, 26.09, 26.26A, or 26.26B RCW or any of the former chapters 7.90, 7.92, 10.14, and 26.50 RCW that –
 - **(1) Actual Notice**. Was issued after a hearing for which the person received actual notice; and
 - **(2) Opportunity To Participate**. At which the person had an opportunity to participate, whether the court then issues a full order or reissues a temporary order; and
 - **(3) Restrains Person’s Conduct Or Reasonable Fear**. Restrains the person from harassing, stalking, or threatening the person protected under the order or child of the person or protected person, or engaging in other conduct that would place the protected person in reasonable fear of bodily injury to the protected person or child; and
 - **(4) The PO Or NCO Either –**
 - **(a) Credible Threat**. Includes a finding that the person represents a credible threat to the physical safety of the protected person or child; or
 - **(b) “No Harm Provision**. By its terms explicitly prohibits the use, attempted use, or threatened use of physical force against the protected person or child that would reasonably be expected to cause bodily injury; or
 - **(c) Weapons Order**. Includes an order under RCW 9.41.800 requiring the person to surrender all firearms and prohibiting the person from accessing, having in his or her custody or control, possessing, purchasing, receiving, or attempting to purchase or receive, firearms.

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5. Involuntarily Committed Based On A Mental Disorder

- **RCW 9.41.040(2)(a)(v)** – After having previously been involuntarily committed based on a mental disorder under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, chapter 10.77 RCW, or equivalent statutes of another jurisdiction, unless his or her right to possess a firearm has been restored as provided in RCW 9.41.047.

6. Incompetency To Stand Trial Dismissal – History Of Violent Act(s) Finding

- **RCW 9.41.040(2)(a)(vi)** – After dismissal of criminal charges based on incompetency to stand trial under RCW 10.77.088 when the court has made a finding indicating that the defendant has a history of one or more violent acts, unless his or her right to possess a firearm has been restored as provided in RCW 9.41.047.

7. Under Age 18 – Some Exceptions

- **RCW 9.41.040(2)(a)(vii)** – If the person is under 18 years of age, except as provided in RCW 9.41.042.

8. Determining Firearm Ineligibility – DOL Shall Make Information Available

- **RCW 9.41.815** – For the purpose of assisting courts in ensuring compliance with an order to surrender and prohibit weapons or an extreme risk protection order, the department of licensing, or the agency with responsibility for maintaining that information should it be an agency other than the department of licensing, shall make the following information available to prosecuting attorneys' offices, city attorneys' offices, public defender agency staff, probation services personnel, and judicial officers and staff of municipal, district, and superior courts for the following law enforcement purposes:
 - **(1) Ineligibility**. Determining whether a person is ineligible to possess firearms;
 - **(2) Purchase History**. Determining a person's firearms purchase history; and
 - **(3) CPL**. Determining whether a person has or previously had a concealed pistol license, or has applied for a concealed pistol license.