

## MISDEMEANOR DV CONVICTION & FIREARMS

Is my client a prohibited possessor because he was convicted of a misdemeanor crime of domestic violence? 18 USC 922(g)(9)

	Intentional Assault, ARS 13-1203(a)(1)	All other simple assaults	Contributing to Delinquency	Disorderly Conduct	Criminal Damage
Is it Domestic?	<p>1. Federal “domestic relationship” definition is <b>narrower</b> than Arizona definition: crimes committed by current and former spouses, parents, and guardians and those “similarly situated.”  <input type="checkbox"/> <i>Left out?</i> E.g., non-spouse sexual partners with no children in common, siblings, children, in-laws, non-guardian grandparents</p> <p>2. Federal Court Is <b>Not Limited</b> to the State Record of Conviction – May be convicted without state DV designation with facts proved at trial</p>				
Is It a Crime of Violence?	<p>1. <b>Limited</b> to State Record of Conviction – are the <u>elements</u> of the state crime a categorical fit? If the statute is too broad, do the plea agreement or other judicially noticeable documents show that the crime fits?</p> <p>2. Intentional use of force only. Reckless or lesser <i>mens rea</i> insufficient. <i>U.S. v. Nobriga</i>, 474 F.3d 561 (9<sup>th</sup> Cir. 2006).</p> <p>3. Violent use of force against the body of another. <i>U.S. v. Belless</i>, 338 F.3d 1063 (9thCir. 2003).</p>				
<i>Mens Rea?</i>  (Intentional?)	yes	(a)(1) Knowing – possible (a)(1) Reckless – no (a)(2) intentional – yes (a)(3) knowing touch - unclear	Probably No -  “Specific Intent” to cause delinquency not required.	Possible -  “intent/knowledge to disturb” and “fighting, violent behavior	No - reckless
<i>Violence?</i> (Violent use of force against body of another?)	yes	(a)(1) – yes (a)(2) – apprehension of physical injury: perhaps  (A)(3) rude touch - no	Possible, but improbable.  Omission sufficient to convict Record of conviction show assault?	Possible  - against body of other? - provocation sufficient to convict	No