



GUN PERMIT APPLICATIONS

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QUESTION

What limits does the law place on the information the Department of Emergency Services and Public Protection (DESPP) may request on the gun permit application form, and why does the application form ask whether the applicant has ever been the subject of a restraining or protective order when the disqualifying criterion specified in the law is whether the applicant is currently the subject of such an order.

SUMMARY

The law authorizes anyone seeking a gun permit to apply on "a form as may be prescribed" by the DESPP commissioner. The statute does not specify or explicitly limit the information the commissioner may request and we found no case law on point. But, implicitly, any information requested on the application must have some bearing on the applicant's eligibility to get a gun permit.

An applicant may be ineligible for a permit on any of several grounds specified in law, such as when he or she is under a court restraining or protective order. In addition to the specific grounds, an applicant may be disqualified on grounds that he or she is not a "suitable" person to get a permit. Courts have acknowledged that permit-issuing officials have discretion in determining suitability. In asking an applicant to indicate whether he or she has ever been under a restraining or protective order, DESPP would seem to be exercising this discretion. DESPP could conceivably conclude, for example, that a person who was the subject of a restraining order 10 or 20 years ago may be a suitable person. But it could also conclude that one who has been the subject of multiple orders in recent years shows a propensity for violence and, though not under an order at the time of an application, may not be a suitable person.

PERMIT-ISSUING CRITERIA

With minor exceptions, anyone intending to carry handguns in Connecticut must successfully complete handgun safety and use training approved by the DESPP commissioner and get a gun permit. Illegal aliens and anyone under age 21 are ineligible for a permit, as is anyone:

1. discharged from custody in the preceding 20 years after a finding of not guilty of a crime by reason of mental disease or defect;
2. confined by the probate court to a mental hospital in the 60 months before applying for a permit;
3. voluntarily admitted on or after October 1, 2013 to a hospital for people with psychiatric disabilities within the past six months and not solely for being an alcohol- or drug-dependent person;
4. convicted as a delinquent for a serious juvenile offense;
5. subject to a gun seizure order issued after notice and a hearing;
6. prohibited by federal law from possessing or shipping firearms because he or she was adjudicated as a "mental defective" or committed to a mental institution (except in cases where the U.S. Treasury Department grants relief from this disability);
7. subject to a protective or restraining order for using, attempting, or threatening to use force; or
8. convicted of a felony or, on or after October 1, 1994, of specified misdemeanors (CGS § [29-28\(b\)](#), as amended by PA [13-3 § 57](#) and PA [13-220 § 14](#))).

The disqualifying misdemeanors are:

1. criminally negligent homicide (excluding deaths caused by motor vehicles) (CGS § [53a-58](#));
2. third-degree assault (CGS § [53a-61](#));
3. third-degree assault of a blind, elderly, disabled, pregnant, or intellectually disabled person (CGS § [53a-61a](#));
4. second-degree threatening (CGS § [53a-62](#));
5. first-degree reckless endangerment (CGS § [53a-63](#));
6. second-degree unlawful restraint (CGS § [53a-96](#));
7. first-degree riot (CGS § [53a-175](#));
8. second-degree riot (CGS § [53a-176](#));
9. inciting to riot (CGS § [53a-178](#));

10. second-degree stalking (CGS § [53a-181d](#)); and
11. a first offense of possessing (a) between 0.5 ounce but less than four ounces of marijuana or (b) a controlled substance other than a narcotic or hallucinogen (CGS § [21a-279\(c\)](#)).

In addition to the above disqualifiers, the law prohibits issuing a gun permit to an applicant unless the issuing official finds that he or she (1) is a suitable person to receive the permit and (2) does not intend to use the firearm unlawfully (CGS § [29-28\(b\)](#) as amended by [PA 13-3](#) § 57 and [PA 13-220](#) § 14).

PERMIT APPLICATION

Anyone seeking a gun permit must complete an application, which must be in a form prescribed by the DESPP commissioner (CGS § [29-28a](#)). Applicants must give the permit-issuing official full information on their criminal record, and the official must investigate their suitability (CGS § [29-29](#)).

The [current application](#) form (copy attached) contains questions on the applicant's employment, gun permit, medical, criminal, and military history, among other things. It includes the following question: "Have you ever been the subject of a Protective Order or Restraining Order issued by a court in a case involving the use, attempted use or threatened use of physical force against another person, regardless of the outcome or result of any related criminal case?"

While the law explicitly bars someone under a restraining or protective order from getting a gun permit, it does not explicitly bar someone who was under such an order in the past. Nonetheless, the law gives officials discretion to determine if such an applicant is a suitable person to get a gun permit. Thus, one could conceivably conclude that an applicant who has been the subject of multiple restraining or protective orders is potentially violent and not a suitable person to have a firearm, irrespective of the fact that he or she is not under such an order at the time of the application for a permit.

CASE LAW ON SUITABILITY

In a 1998 Superior Court case about liquor licenses, the court quoted an 1882 Connecticut Supreme Court opinion stating that suitability "is not defined by the law so that its application can be determined as mere matter of eye-sight, but it is left necessarily to be determined solely by the judgment of the commissioners based upon inquiry and information. And that the particular manner of exercising such judgment cannot be controlled by any court is too obvious to require the citation of any authorities" (*Lepri v. Board of Firearms Permit Examiners*, No. CV 96-0055714, Sept. 29, 1998, citing *Batters v. Dunning*, 49 Conn. 479 (1882)).

Many court opinions dealing with suitability for gun permits cite an 1894 Connecticut Supreme Court decision which involved liquor licenses for the definition of suitability.

The word "suitable," as descriptive of an applicant for license under the statute, is unsusceptible of any legal definition that wholly excludes the personal views of the tribunal authorized to determine the suitability of the applicant. A person is "suitable" who, by reason of his character, – his reputation in the community, his previous conduct as a licensee – is shown to be suited or adapted to the orderly conduct of [an activity] which the law regards as so dangerous to public welfare that its transaction by any other than a carefully selected person, duly licensed, is made a criminal offense. It is patent that the adaptability of any person to such [an activity] depends upon facts and circumstances that may be indicated but cannot be fully defined by law, whose probative force will differ in different cases, and must in each case depend largely upon the sound judgment of the selecting tribunal (*Smith's Appeal from County Commissioners*, 65 Conn. 135, 138 (1894)).

One court dealing with suitability stated that the government's interest "is to protect the safety of the general public from individuals whose conduct has shown them to be lacking the essential character or temperament necessary to be entrusted with a weapon" (*Rabbit v. Leonard*, 36 Conn. Sup. 108, 115 (1979)). Another court stated that the "personal views of the agency members are necessarily a factor in the decision, and similar facts and circumstances will have varying 'probative force' in different cases," but the facts found by the board should "provide a logical inference that the person poses some danger to the public if allowed to carry a weapon outside the home or business" (*Nicholson v. Board of Firearms Permit Examiners*, No. CV 940541048, Sept. 28, 1995).

Also, in a 1992 case upholding a police chief's failure to issue a permit within certain deadlines, the court said that its conclusion was consistent with the tenor of the law requiring a police chief to find an applicant suitable to receive a gun permit. "That requirement," the court said, "conveys the intention on the part of the legislature to have the chief of police utilize discretion in evaluating an applicant. Obviously, this discretion is not unbridled and cannot be utilized against an applicant without a reasonable basis" (*Ambrogio v. Board of Firearms Permit Examiners*, 42 Conn. Sup 157, 163, 164 (1992)).

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