

# *Green Means Go: How the Supreme Court's Holding in United States v. Rahimi Has Given Kansas the Greenlight to Better Protect Victims of Intimate Partner Violence*

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## I. INTRODUCTION

“I’ll never forget him standing over me and watching his finger twitch on the trigger as he decided whether he was going to let me live or die.”<sup>1</sup> This is the chilling testimony of Janet Federico, a survivor of firearm-related Intimate Partner Violence (IPV), and a resident of Wichita, Kansas, who submitted testimony to the Kansas State Senate in 2022.<sup>2</sup> Federico testified at length regarding the abuse she suffered at the hands of her former partner.<sup>3</sup> “I am intimately familiar with the barrel end of my ex-partner's Heckler and Koch .45 semiautomatic pistol,” she said, as she described the pattern of gun-related abuse in her previous relationship.<sup>4</sup> Unfortunately, Federico's experience is not unique. That day, other victims, advocates, and legislators submitted testimony alongside her, hoping to convince Kansas State Senators to mandate the statewide removal of firearms from subjects of domestic violence restraining orders (DVROs).<sup>5</sup> Despite the testimony, SB 192 was never voted on and ultimately died in committee.<sup>6</sup> However, the June 2024 decision by the United States Supreme Court in *United States v. Rahimi*, which upheld the constitutionality of removing firearms from individuals subject to DVROs, has renewed hope for similar legislation nationwide.<sup>7</sup>

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\* J.D. Candidate, May 2026, University of Kansas School of Law. Thank you to the wonderful staff of the Kansas Journal of Law and Public Policy for their meticulous work editing this article. As a native Kansan, I am committed to making this state safer for victims of intimate partner violence. I hope this article inspires readers to advocate for gun laws that will protect the most vulnerable amongst us.

<sup>1</sup> Tim Carpenter, *Kansas House Member: Lawmakers Should Compel Domestic Abusers to Relinquish Firearms*, KAN. REFLECTOR (Mar. 7, 2022), <https://kansasreflector.com/2022/03/07/kansas-house-member-lawmakers-should-compel-domestic-abusers-to-relinquish-firearms> [https://perma.cc/GET8-VPDH].

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*; Janet Federico, *Testimony in Support of Kansas Senate Bill 192 House Committee on Federal and State Affairs*, KSLEGISLATURE.GOV (Feb. 28, 2022), [https://www.kslegislature.gov/li\\_2022/b2021\\_22/committees/ctte\\_s\\_fed\\_st\\_1/documents/testimony/20220302\\_05.pdf](https://www.kslegislature.gov/li_2022/b2021_22/committees/ctte_s_fed_st_1/documents/testimony/20220302_05.pdf) [https://perma.cc/K8JR-NCTV].

<sup>5</sup> Dinah H. Sykes, *Sykes SB 192 Written Testimony*, KSLEGISLATURE.GOV (Mar. 2, 2022), [https://kslegislature.gov/li\\_2022/b2021\\_22/committees/ctte\\_s\\_fed\\_st\\_1/documents/testimony/20220302\\_17.pdf](https://kslegislature.gov/li_2022/b2021_22/committees/ctte_s_fed_st_1/documents/testimony/20220302_17.pdf) [https://perma.cc/M5BH-YUKE]; 2021-2022 Legislative Sessions, *Minutes for SB192 – Committee on Federal and State Affairs*, KSLEGISLATURE.GOV (Mar. 2, 2022), [https://kslegislature.gov/li\\_2022/b2021\\_22/measures/minutes/agenda\\_item\\_2022022208291464821](https://kslegislature.gov/li_2022/b2021_22/measures/minutes/agenda_item_2022022208291464821) [https://perma.cc/M43J-7UJQ].

<sup>6</sup> 2021-2022 Legislative Sessions, *SB 192*, KSLEGISLATURE.GOV (May 23, 2022) [https://kslegislature.gov/li\\_2022/b2021\\_22/measures/SB192/](https://kslegislature.gov/li_2022/b2021_22/measures/SB192/) [https://perma.cc/LW8J-8EWR].

<sup>7</sup> *Indiana Legal Services Applauds Supreme Court Ruling in USA vs. Rahimi*, IND. LEGAL SERVS. (Jun. 21, 2024), <https://www.indianalegalservices.org/indiana-legal-services-applauds-supreme-court-ruling-in-usa-vs-rahimi> [https://perma.cc/MA9L-LYWT].

Since the *Rahimi* ruling, multiple states have already begun the process of augmenting safety measures for firearm-related IPV victims.<sup>8</sup> In the first quarter of 2025, both Indiana and Tennessee introduced new legislation targeting existing DVRO firearm relinquishment laws.<sup>9</sup> The Indiana House of Representatives began reviewing a bill that would confiscate a DVRO subject's firearms within 72 hours of the issuance of an order and make the failure to comply a chargeable offense.<sup>10</sup> Tennessee lawmakers introduced a new bill that would require the subjects of DVROs to name the third parties responsible for their relinquished firearms, a move advocates say will revolutionize the state's approach to reducing domestic violence.<sup>11</sup> In Illinois, Governor JB Pritzker signed into law a bipartisan bill, known as Karina's Law, that had been delayed in the state senate since the fall of 2023, pending the *Rahimi* outcome.<sup>12</sup> Karina's law closes a significant loophole in Illinois state law by establishing a clearly defined process for removing firearms from individuals subject to DVROs.<sup>13</sup> Lawmakers are calling this a significant victory that should bring comfort to victims of firearm-related IPV across the state.<sup>14</sup> This wave of new legislation supports the contention that the *Rahimi* ruling has given Kansas and other states across the country the green light to move forward with laws that could better protect victims like Federico in the future.

Intimate partner violence affects more than 12 million American citizens each year.<sup>15</sup> Approximately 4.5 million women in the United States have been threatened with a gun by an intimate partner, and nearly 1 million American women have been shot during an IPV incident.<sup>16</sup> Between 2018 and 2022, on average, 2 people were shot and killed each day at the hands of their current or former partner.<sup>17</sup> During that same 4-year time period, the number of incidents where an IPV abuser murdered their current or former domestic partner with a firearm increased by 21.8%.<sup>18</sup> This expanding crisis correlates to a decade-long uptick in the sale and

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<sup>8</sup> H.R. 1317, 124th Gen. Assemb., Reg. Sess. (Ind. 2025); Stephanie Wade & Leah Hope, *Gov. Pritzker Signs 'Karina's Bill' to Remove Guns from Domestic Violence Situations*, EYEWITNESS NEWS (Feb. 10, 2025), <https://abc7chicago.com/post/illinois-governor-jb-pritzker-sign-karinas-bill-remove-guns-domestic-violence-situations-little-village-mom/15888858> [<https://perma.cc/5VV5-36PP>].

<sup>9</sup> H.R. 1317, 124th Gen. Assemb., Reg. Sess. (Ind. 2025); Paige Pflieger, *Tennessee Lawmakers Push to Change How the State Disarms Dangerous People to Better Protect Domestic Violence Victims*, PROPUBLICA (Feb. 12, 2025), <https://www.propublica.org/article/tennessee-guns-dispossession-domestic-violence> [<https://perma.cc/J3FR-B5C4>].

<sup>10</sup> H.R. 1317, 124th Gen. Assemb., Reg. Sess. (Ind. 2025)

<sup>11</sup> Pflieger, *supra* note 8.

<sup>12</sup> Wade & Hope, *supra* note 8.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Domestic Violence Statistics*, NAT'L DOMESTIC VIOLENCE HOTLINE (last visited Feb. 19, 2025), <https://www.thehotline.org/stakeholders/domestic-violence-statistics> [<https://perma.cc/YB8H-TSUR>].

<sup>16</sup> Alexandria Goodyear, Michael Rodriguez & Deborah Glik, *The Role of Firearms in Intimate Partner Violence: Policy and Research Considerations*, 41 J. PUB. HEALTH POL'Y. 185, 186 (2020).

<sup>17</sup> *Firearm Intimate Partner Homicides*, BRADY UNITED, <https://www.bradyunited.org/resources/research/analysis-firearm-intimate-partner-homicides> (last visited Nov. 9, 2025).

<sup>18</sup> *Id.*

possession of firearms nationwide.<sup>19</sup> As gun ownership has increased across the country, communities in nearly every state have seen an escalation of firearm-related IPV incidents and homicides.<sup>20</sup>

In recent years, the crisis has been compounded by a significant shift in the United States Supreme Court's treatment of the Second Amendment.<sup>21</sup> In 2008, the Supreme Court recognized the individual right to possess firearms in the home in *District of Columbia v. Heller*.<sup>22</sup> In 2022, the Court removed most remaining Second Amendment guardrails in *New York State Rifle & Pistol Association v. Bruen*, holding that any regulation affecting the right to bear arms must be rooted in the "historical tradition of firearm regulation."<sup>23</sup> This shift upended decades of precedent regarding the constitutional interpretation of the Second Amendment and signaled to state legislatures and federal courts alike that a range of gun restrictions might be in jeopardy.<sup>24</sup> As a result, ways to legally protect victims of firearm-related IPV became increasingly less clear amidst the worsening crisis.<sup>25</sup> In fact, the Fifth Circuit interpreted the Supreme Court's shift as a directive to reconsider the constitutionality of federal and state IPV-related firearm laws, leaving advocates in limbo and IPV victims in potentially increasing peril.<sup>26</sup>

Then came the Court's decision on *Rahimi*.<sup>27</sup> The Court found that 18 U.S.C. § 922(g), a federal law prohibiting the subject of a DVRO from possessing a firearm for the duration of the order, is consistent with both the history and text of the Second Amendment.<sup>28</sup> The Court held that when an individual poses a credible threat to another's physical safety, that individual may be temporarily disarmed, consistent with the Second Amendment.<sup>29</sup> The Court's ruling conclusively rejected the Fifth Circuit's holding and upheld a critical protection for IPV victims.<sup>30</sup> As such, the *Rahimi* decision gave states, such as Kansas, the green light to enhance existing restrictions and expand the breadth and depth of gun-related IPV laws. Doing so will close current loopholes and create better systems to keep guns out of abusers' hands. *Rahimi* clearly delineated the starting line for courts, state legislatures, and advocates alike to help victims of gun-related IPV across the country, leaving the path to greater protections murky no more.

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<sup>19</sup> *Id.*

<sup>20</sup> Everytown Rsch. and Pol'y, *Guns and Violence Against Women*, EVERYTOWN FOR GUN SAFETY SUPPORT FUND (Nov. 20, 2024), <https://everytownresearch.org/report/guns-and-violence-against-women> [perma.cc/29HN-NBS5].

<sup>21</sup> Chip Brownlee, *How the Supreme Court Broadened the Second Amendment*, THE TRACE (Sep. 12, 2024), <https://www.thetrace.org/2024/09/bruens-ruling-scotus-second-amendment-gun> [https://perma.cc/8SEF-YZXD].

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> Elizabeth Tobin-Tyler, *Intimate Partner Violence Firearm Injuries and Homicides: A Health Justice Approach to Two Intersecting Public Health Crises*, 51 J.L. MED. & ETHICS 64, 65 (2023).

<sup>25</sup> *Id.* at 70.

<sup>26</sup> *Id.*

<sup>27</sup> See *United States v. Rahimi*, 602 U.S. 680 (2024).

<sup>28</sup> *Id.* at 693.

<sup>29</sup> *Id.* at 702.

<sup>30</sup> *Id.* at 701.

Section II of this article begins by outlining the body of research around the connection between IPV and firearm possession. It presents evidence of the firearm-related public health crisis that currently exists in America. Then, in Section III, this article situates the *Rahimi* decision against the backdrop of both current Federal Law and the Supreme Court's contemporary approach to Second Amendment cases. In Section IV, this article analyzes the challenges posed by existing Federal and Kansas gun-related IPV laws and procedures and compares Kansas with other states that have successfully implemented effective enforcement. Section V offers a framework for both improving and expanding current Kansas law to better protect its citizens from firearm-related IPV. Finally, Section VI provides a brief conclusion to this article.

## II. IPV AND FIREARMS: A PUBLIC HEALTH CRISIS ON THE RISE

### A. Understanding IPV

The World Health Organization defines IPV as “behavior within an intimate relationship that causes physical, sexual or psychological harm, including acts of physical aggression, sexual coercion, psychological abuse, and controlling behaviors.”<sup>31</sup> IPV is most often used to gain and then maintain an uneven power dynamic in a relationship and does not generally represent an isolated incident; it is a pattern of behavior that escalates over time.<sup>32</sup> This escalation tends to reach its zenith when the relationship finally comes to an end, with IPV victims facing the most danger as they attempt to leave their abuser.<sup>33</sup> According to the Department of Justice, most IPV incidents take place after a couple formally separates.<sup>34</sup> In fact, the majority of domestic violence homicides and most serious injuries in abusive relationships occur when the survivor ends the relationship.<sup>35</sup> Unfortunately, this danger does not dissipate quickly.<sup>36</sup> While 77% of domestic violence-related homicides occur upon separation, there remains a 75% increased risk of violence for the two-year period following separations.<sup>37</sup>

Women who are younger, lower income, members of racial/ethnic minority groups, and/or live with disabilities are disproportionately at risk for IPV.<sup>38</sup> The lifetime prevalence of IPV among lesbian, gay, bisexual, and transgender people is as high or higher than the US general population, pointing to inequities in access

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<sup>31</sup> *Intimate Partner Violence*, WORLD HEALTH ORG., <https://apps.who.int/violence-info/intimate-partner-violence> (last visited Nov. 2, 2024) [<https://perma.cc/9AA3-UUAV>].

<sup>32</sup> *From Bad to Worse: The Escalation of Violence*, SOS VIOLENCE CONJUGALE (last visited Jan. 30, 2025), <https://sosviolenceconjugale.ca/en/articles/from-bad-to-worse-the-escalation-of-violence> [<https://perma.cc/RHB4-K9HL>].

<sup>33</sup> Jerry Mitchell, *Most Dangerous Time for Battered Women? When They Leave*, CLARION LEDGER (Jan. 28, 2017, 7:01 PM CT), <https://www.clarionledger.com/story/news/2017/01/28/most-dangerous-time-for-battered-women-is-when-they-leave-jerry-mitchell/9695552> [<https://perma.cc/UWE7-JEJL>].

<sup>34</sup> *Id.*

<sup>35</sup> *First 18 Months after Leaving an Abusive Partner Are the Most Dangerous*, JBWS (last visited Feb. 19, 2025), <https://jbws.org/news/the-first-18-months-after-leaving-an-abusive-partner-are-the-most-dangerous> [<https://perma.cc/P85V-U9QF>].

<sup>36</sup> *Eighteen Months After Leaving Domestic Violence is Still the Most Dangerous Time*, BATTERED WOMEN SUPPORT SERVS. (June 11, 2020), <https://www.bwss.org/eighteen-months-after-leaving-domestic-violence-is-still-the-most-dangerous-time> [<https://perma.cc/CLX2-EM56>].

<sup>37</sup> *Id.*

<sup>38</sup> *Intimate Partner Violence and Firearms*, BULLET POINTS, <https://www.bulletpointsproject.org/intimate-partner-violence> [<https://perma.cc/T9U9-SZNA>].

to safety among different groups.<sup>39</sup> Although anyone can be the victim of IPV, overwhelmingly, the victims of IPV and IPV-related homicides are disproportionately female, and women are more likely to experience a higher frequency and severity of IPV.<sup>40</sup> Nearly 1 in 3 women have been subjected to IPV in their lifetime.<sup>41</sup>

According to the Educational Fund to Stop Gun Violence, over half of all women killed in the United States are murdered by a current or former intimate partner.<sup>42</sup> Firearms are the most commonly used weapon by abusers to murder an intimate partner, and over half of intimate partner homicides are committed with a gun.<sup>43</sup> Perhaps the most critical and jarring statistic is that a woman is five times more likely to be murdered when her abuser has access to a gun.<sup>44</sup> Not only is an IPV victim more likely to be abused with a firearm when it is accessible to an abuser, but they are also significantly more likely to be murdered because that gun was accessible.

There is no question that the IPV crisis is “inextricably linked to the widespread and growing use of guns.”<sup>45</sup> The nationwide increase in IPV homicides has been directly correlated to an increase in gun sales across the country.<sup>46</sup> Gun sales have increased from 2015 to 2024, with a sharp incline in numbers in 2020, directly coinciding with the COVID-19 pandemic.<sup>47</sup> Firearms sales during the pandemic rose to “unprecedented levels with an estimated one in five U.S. households purchasing a firearm from March 2020 to March 2022.”<sup>48</sup> From March to July 2020 alone, 4.3 million firearms were purchased in America.<sup>49</sup> These numbers represent an 85% increase over the expected number of sales based on calculations from previous years.<sup>50</sup> Unsurprisingly, research indicates firearm-related IPV homicides increased nearly 28% during that same time period.<sup>51</sup>

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<sup>39</sup> *Id.*

<sup>40</sup> *Violence Against Women*, WORLD HEALTH ORG. (Mar. 25, 2024), <https://www.who.int/news-room/fact-sheets/detail/violence-against-women> [<https://perma.cc/4Y92-MENB>].

<sup>41</sup> *Id.*

<sup>42</sup> *Domestic Violence and Firearms*, EDUC. FUND TO STOP GUN VIOLENCE (July, 2020), <https://efsgv.org/learn/type-of-gun-violence/domestic-violence-and-firearms/> [<https://perma.cc/VZU3-4U57>].

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> Everytown Rsch. and Pol’y, *supra* note 20.

<sup>46</sup> *Id.*

<sup>47</sup> Everytown Rsch. and Pol’y, *Gun Sales Surged During the Covid-19 Pandemic*, EVERYTOWN FOR GUN SAFETY SUPPORT FUND, <https://everytownresearch.org/graph/gun-sales-surged-during-the-covid-19-pandemic> (last visited Nov. 10, 2025) [<https://perma.cc/RAM5-U9B7>].

<sup>48</sup> *Firearm Violence in the United States*, JOHNS HOPKINS BLOOMBERG SCHOOL OF PUBLIC HEALTH: CTR. FOR GUN VIOLENCE SOLS., <https://publichealth.jhu.edu/center-for-gun-violence-solutions/research-reports/firearm-violence-in-the-united-states> [<https://perma.cc/2FUQ-4SFM>].

<sup>49</sup> Jonathan Shipley, Megan Donnelly, Catherine Kuza, Areg Grigorian, Lourdes Swentek, Theresa Chin, Nolan Brown, Ninh Nguyen, & Jeffrey Nahmias, *Domestic Firearm Violence Against Women (2018-2021)*, 17 SURGERY OPEN SCI. 75, 76 (2024).

<sup>50</sup> *Id.*

<sup>51</sup> BRADY UNITED, *supra* note 17.

Elizabeth Tobin-Tyler, in her article, *Intimate Partner Violence, Firearm Injuries and Homicides, A Health Justice Approach to Two Intersecting Public Health Crises*, points out that not all IPV-related gun violence is fatal.<sup>52</sup> Guns are often used to threaten, intimidate, or even wound.<sup>53</sup> As many as 4.5 million women have been threatened, and one million have been shot or shot at by a firearm during an IPV incident.<sup>54</sup> Firearms are a useful source of intimidation for abusers, leading victims to fear for their lives and, in doing so, coercing victims into remaining in the abusive relationship.<sup>55</sup> Studies have found that in gun-related IPV incidents, 69.1% of the time guns are used as a means to threaten the victim, whether actually brandished (42.4%) or threatened but not displayed (26.7%).<sup>56</sup>

Women in domestic violence shelters are more than twice as likely to report that there was a gun in the home.<sup>57</sup> Unsurprisingly, IPV victims who seek out agency support (shelters, courts) report more severe non-fatal experiences of firearm-related IPV.<sup>58</sup> One study looking at IPV shelter residents found that 37% of the study's sample reported that an abuser used a firearm to hurt them, and 65% reported that their partner had used a gun to threaten or scare them.<sup>59</sup> A woman who is threatened or assaulted with a gun is 20 times more likely to be murdered than a woman who is not threatened or assaulted with a deadly weapon.<sup>60</sup> Taken together, these numbers make it clear that the use of a firearm in any IPV incident is a harbinger for escalating violence, as “abusers’ previous threats with a weapon and threats to kill their partners are both predictors of intimate partner homicide.”<sup>61</sup>

The IPV statistics in Kansas mirror those nationwide. The Kansas Bureau of Investigation Incident Based Reporting Unit’s 2022 report found that domestic violence-related homicides more than doubled between 2003 and 2022.<sup>62</sup> Of those domestic violence-related homicides, 60% resulted from the use of a firearm. Also, in Kansas, Protections from Abuse Orders (also called DVROs) reached an all-time high in 2022 with nearly 8,600 filings.<sup>63</sup> Although data on a corresponding increase in gun ownership in Kansas are not included in that specific report, other studies

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<sup>52</sup> Tobin-Tyler, *supra* note 24, at 65.

<sup>53</sup> *Id.* at 66.

<sup>54</sup> *Id.* at 65.

<sup>55</sup> *Id.* at 66.

<sup>56</sup> Susan B. Sorenson, *Guns in Intimate Partner Violence: Comparing Incidents by Type of Weapon*, 26 J. WOMEN’S HEALTH 249, 251 (2017).

<sup>57</sup> Susan B. Sorenson & Rebecca A. Schut, *Nonfatal Gun Use in Intimate Partner Violence: A Systematic Review of the Literature*, 19 TRAUMA, VIOLENCE AND ABUSE 431, 435 (2018).

<sup>58</sup> Kellie R. Lynch, Denise Paquette Boots, Dylan B. Jackson & Claire M Renzetti, *Firearm-related Abuse and Protective Order Requests Among Intimate Partner Violence Victims*, 37 J. OF INTERPERSONAL VIOLENCE 12973, 12974 (2022).

<sup>59</sup> *Id.*

<sup>60</sup> EDUC. FUND TO STOP GUN VIOLENCE, *supra* note 42.

<sup>61</sup> *Id.*

<sup>62</sup> *Domestic Violence, Stalking, and Sexual Assault in Kansas as Reported by Law Enforcement Agencies*, KANSAS BUREAU INVESTIGATION INCIDENT BASED REPORTING UNIT, 9 (2022) (Showing an increase of DV-Homicides from 15 in 2003 to 35 in 2022).

<sup>63</sup> *Id.* at 45.

indicate that Kansas firearm ownership increased by 44% from 2014 to 2023, outpacing the nationwide increase of 33%.<sup>64</sup>

#### B. Domestic Violence as a Public Health Crisis

Given what this research shows, America has a public health crisis on its hands. In her article, *Why Domestic Violence is a Public Health Crisis*, Amanda Kippert defined a public health crisis as any urgent situation in which the health of a population is negatively affected.<sup>65</sup> Other experts, like Georges Benjamin, the Chief Executive Director of the American Public Health Association, have concluded that “domestic violence is indeed of significant prevalence and impact that it is at public health crisis levels.”<sup>66</sup> Similarly, Alicia Nichols, the Deputy Director of the National Center on Gun Violence in Relationships, contends that IPV has “long-lasting, far-reaching and often devastating consequences for individuals, their families and entire communities.”<sup>67</sup>

Victims and their children who do survive firearm-related IPV incidents suffer from a “multiplicity of negative health consequences.”<sup>68</sup> These include “higher rates of chronic stress which can lead to chronic mental health conditions, diseases, chemical dependency, substance abuse issues, [and] complications with pregnancies, ” all of which have both generational and systemic effects on communities at large.<sup>69</sup> Beyond the human cost, there is also a significant financial burden wrought by the pervasiveness of IPV.<sup>70</sup> Based upon research by the CDC, the “lifetime economic cost associated with medical services for IPV-related injuries, lost productivity from paid work, criminal justice, and other costs, is \$3.6 trillion.”<sup>71</sup> Over an IPV victim’s lifetime, the personal financial burden is nearly \$103,767 for women and \$23,414 for men.<sup>72</sup>

The data is clear. Firearm-related IPV represents a significant part of an ongoing public health crisis that is unlikely to resolve itself without intervention. Because firearms have never been more universally accessible and Second Amendment protections have never been stronger, it has never been more critical than it is at this moment that courts, legislators, and advocates in Kansas—and states

<sup>64</sup> *Kansas Gun Laws*, GIFFORDS LAW CTR. TO PREVENT GUN VIOLENCE, <https://giffords.org/lawcenter/gun-laws/states/kansas/> [<https://perma.cc/H5MZ-4Q7S>] (giving Kansas an F rating for its gun laws).

<sup>65</sup> Amanda Kippert, *Why Domestic Violence is a Public Health Crisis*, DOMESTICSHELTERS.ORG (Apr. 3, 2023), <https://www.domesticshelters.org/articles/ending-domestic-violence/why-domestic-violence-is-a-public-health-crisis> [<https://perma.cc/U2PV-23EX>].

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> Kellie R. Lynch & Dylan B. Jackson, *Ready to Pull the Trigger? Adapting the Health Belief Model to Assess the Implementation of Domestic Violence Gun Policy at the Community Level*, 9 PSYCH. OF VIOLENCE 67, 67 (2019).

<sup>69</sup> Kippert, *supra* note 65.

<sup>70</sup> WORLD HEALTH ORG., *supra* note 40.

<sup>71</sup> *About Intimate Partner Violence Prevention*, CTR. FOR DISEASE CONTROL (May 16, 2025), <https://www.cdc.gov/intimate-partner-violence/about/index.html> [<https://perma.cc/4BZ3-8WLQ>].

<sup>72</sup> *Id.*

across the country—work to strengthen federal and state protections for these victims.<sup>73</sup>

### III. SITUATING THE RAHIMI DECISION

#### A. Background on Federal IPV Firearm-Related Prohibitions

In 1968, Congress enacted the first law to prohibit firearm possession by those convicted of felony offenses.<sup>74</sup> The Gun Control Act of 1968 was a comprehensive statute regulating the manufacture, sale, distribution, and possession of firearms in the United States.<sup>75</sup> It imposed both a regulatory licensing scheme and criminal prohibitions on specified firearms transactions, implementing for the first time a lifetime ban on firearm possession for felons with an IPV-related conviction.<sup>76</sup>

However, it was not until the Violence Against Women Act (VAWA) was passed in 1994 “that federal lawmakers fully recognized and sought to address the added danger of firearm possession by IPV perpetrators.”<sup>77</sup> The VAWA expanded firearm prohibitions to include the subjects of domestic violence restraining orders.<sup>78</sup> Under this new law, 18 U.S.C. § 922(g), Congress made it unlawful for any person who is subject to an IPV-related court order and was deemed a credible threat by the court to possess or own a gun for the pendency of the order.<sup>79</sup> Additionally, 18 U.S.C. § 922(g) requires that the subject must have been given notice of a hearing and must have had the opportunity to participate in said hearing.<sup>80</sup> State adoption and implementation of this law varies and, as such, gives rise to gaps in legal protections nationwide.<sup>81</sup>

#### B. The Supreme Court and the Second Amendment

As noted above, in 2008, the Supreme Court began to move towards a broader interpretation of the Second Amendment.<sup>82</sup> The Court's decision in *District of Columbia v. Heller* struck down a ban on handguns as a violation of the Second Amendment and, in doing so, elevated the right to keep and bear arms to a place commensurate with other constitutionally granted individual rights.<sup>83</sup> However, the holding of *Heller* was “expressly noncommittal about how its new articulation of the Second Amendment should be applied in other circumstances.”<sup>84</sup> And in the dictum of the holding, the Court clarified that “‘nothing in [the] opinion should be taken to cast doubt’ on laws restricting gun possession and ownership by certain people such as those with felonies or those with mental illness or laws prohibiting gun possession in certain sensitive places.”<sup>85</sup> Thus, despite a seismic shift in the

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<sup>73</sup> EDUC. FUND TO STOP GUN VIOLENCE, *supra* note 42.

<sup>74</sup> 18 U.S.C. §§ 922(f)-922(g) (making unlawful the possession of a firearm for an any person who has been convicted of a crime punishable by imprisonment for a term exceeding one year).

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> Tobin-Tyler, *supra* note 24, at 67.

<sup>78</sup> 18 U.S.C. § 922(g).

<sup>79</sup> *Id.* § 922(g)(8).

<sup>80</sup> *Id.* § 922(g)(8)(A).

<sup>81</sup> EDUC. FUND TO STOP GUN VIOLENCE, *supra* note 42.

<sup>82</sup> See *District of Columbia v. Heller*, 554 U.S. 570 (2008).

<sup>83</sup> *Id.* at 635.

<sup>84</sup> Jacob D. Charles, *The Dead Hand of a Silent Past: Bruen, Gun Rights, and The Shackles of History*, 73 DUKE L.J. 67, 81 (2023).

<sup>85</sup> Tobin-Tyler, *supra* note 24, at 69.

Second Amendment protections it provided, *Heller* created a continued constitutional safe haven for state and federal IPV-related firearm restrictions.<sup>86</sup>

Then, in 2022, the Supreme Court issued its ruling in *N.Y. State Rifle & Pistol Ass'n v. Bruen*, which overhauled the Court's treatment of Second Amendment cases entirely and threatened to destroy the safe haven created in *Heller*.<sup>87</sup> In *Bruen*, Petitioners Brandon Koch and Robert Nash sued "state officials who oversee the processing of licensing applications—for declaratory and injunctive relief, alleging that respondents violated their Second and Fourteenth Amendment rights by denying their unrestricted-license applications for failure to demonstrate a unique need for self-defense."<sup>88</sup> In New York, an individual wanting to carry a firearm outside their home may obtain a "have and carry" unrestricted license if they can show "proper cause" to obtain the license.<sup>89</sup> The "proper cause" requirement is satisfied only when an applicant can "demonstrate a special need for self-protection distinguishable from that of the general community."<sup>90</sup>

The Court ruled that New York's proper-cause requirement violates the Fourteenth Amendment by preventing law-abiding citizens with ordinary self-defense needs from exercising their Second Amendment right to keep and bear arms in public for self-defense.<sup>91</sup> Further, the Court held that for governmental regulation of firearms to be constitutional, "the government must demonstrate that the regulation is consistent with this Nation's historical tradition of firearm regulation."<sup>92</sup> Essentially, this means that the government must show that any current regulation on firearms is consistent with prior regulations for it to be considered constitutionally valid.<sup>93</sup>

The Court clarified that the government need not point to a "historical twin," but instead must present support that history and tradition combine to justify firearm regulation.<sup>94</sup> While much has been made of this seismic transformation to Second Amendment scrutiny and its far-reaching implications, for the purpose of this analysis, it is enough to merely note that this pivotal ruling provided the backdrop for the Court's review of the *Rahimi* case.<sup>95</sup>

#### *C. Rahimi, Bruen, and a Green Light*

In December of 2019, Zackey Rahimi argued with his girlfriend, C.M., and threatened her during a heated argument in a parking lot.<sup>96</sup> A physical altercation

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<sup>86</sup> *Id.*; See also Brownlee, *supra* note 21.

<sup>87</sup> Tobin-Tyler, *supra* note 24, at 69.

<sup>88</sup> *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 1 (2022).

<sup>89</sup> *Id.*

<sup>90</sup> *Id.*

<sup>91</sup> *Id.* at 7.

<sup>92</sup> *Id.* at 17.

<sup>93</sup> *Id.* ("Only if a firearm regulation is consistent with this Nation's historical tradition may a court conclude that the individual's conduct falls outside the Second Amendment's 'unqualified command.'").

<sup>94</sup> *Id.* at 30 ("On the other hand, analogical reasoning requires only that the government identify a well-established and representative historical *analogue*, not a historical *twin*.").

<sup>95</sup> *Id.* at 22.

<sup>96</sup> *United States v. Rahimi*, 602 U.S. 680, 686 (2024).

ensued, and when Rahimi realized that a bystander had witnessed the altercation, he retrieved a gun from his car and, although the record is unclear, may have fired at the witness.<sup>97</sup> In the melee, C.M. managed to escape, but Rahimi later called her and threatened to shoot her if she told anyone about the incident.<sup>98</sup> C.M. was granted a protective order against Rahimi in February of 2020 because the court found that Rahimi had committed family violence and that the violence was likely to occur again in the future.<sup>99</sup> The order “suspended Rahimi's handgun license, prohibited him from possessing a firearm, and warned him that his possession of a firearm while the order remained in effect would be a federal felony.”<sup>100</sup> Rahimi signed the order, which was good for two years, yet he proceeded to violate it on multiple occasions.<sup>101</sup>

Apart from the order, law enforcement suspected Rahimi of firing a gun on five different occasions and secured a warrant to search his residence.<sup>102</sup> During the warrant's execution, officers found multiple firearms, ammunition, and a copy of the protective order.<sup>103</sup> Rahimi was then indicted for violation of 18 U.S.C. § 922(g), which, as noted above, prohibited his knowing possession of a firearm during the pendency of the restraining order.<sup>104</sup> Rahimi moved to dismiss the indictment on the grounds that 18 U.S.C. § 922(g) violated his Second Amendment rights.<sup>105</sup> The district court denied the motion, and Rahimi was convicted.<sup>106</sup>

The Fifth Circuit affirmed the district court's decision, but then later withdrew and amended the opinion, reversing the decision after the Supreme Court's review of *Bruen*.<sup>107</sup> The government then appealed, and the Supreme Court granted certiorari.<sup>108</sup> On appeal, the government argued, even within the framework created by *Bruen*, that both “history and tradition support the government's ability to disarm persons who are not law-abiding, responsible citizens.”<sup>109</sup> With regard to history, the government “claim[ed] that English law allowed the government to disarm individuals who were ‘dangerous’ or not ‘peaceable,’” and that “‘Second Amendment precursors proposed during the Founding Era’ limited the right to keep and bear arms only to ‘honest and lawful’ citizens or those who posed no ‘danger of public injury.’”<sup>110</sup> As to tradition, “the government assert[ed] that ‘American legislatures have long disarmed individuals whom they have found to be dangerous, irresponsible, or otherwise unfit to possess arms,’ including loyalists (during the Revolutionary War), ‘minors, intoxicated persons, and various vagrants’ (during the 19th century), and ‘felons and persons with mental illnesses’ (during the 20th

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<sup>97</sup> *Id.*

<sup>98</sup> *Id.*

<sup>99</sup> *Id.* at 686–87.

<sup>100</sup> Steven D. Schwinn, *Can the Government Prohibit a Person Subject to a Domestic Violence Protective Order from Possessing a Firearm?*, 51 ABA PREVIEW OF UNITED STATES SUP. CT. CASES 21 (2023).

<sup>101</sup> *Id.*; *Rahimi*, 602 U.S. at 687.

<sup>102</sup> *Rahimi*, 602 U.S. at 687–88.

<sup>103</sup> *Id.* at 688.

<sup>104</sup> *Id.*

<sup>105</sup> *Id.* at 689.

<sup>106</sup> *Id.*

<sup>107</sup> *Id.* at 680.

<sup>108</sup> *Id.* at 690.

<sup>109</sup> Schwinn, *supra* note 100.

<sup>110</sup> *Id.*

century).<sup>111</sup> Accordingly, the government argued that 922(g)(8) fell squarely within this history and tradition.

The Supreme Court was inclined to agree. In its opinion, the Court found that, “[s]ince the founding, our Nation’s firearm laws have included provisions preventing individuals who threaten physical harm to others from misusing firearms.”<sup>112</sup> As such, the Court held that “[a]s applied to the facts of this case, Section 922(g)(8) fits comfortably within this tradition.”<sup>113</sup> Thus, despite the upheaval wrought by the *Bruen* decision, the Supreme Court left no question regarding the constitutionality of laws disarming individuals subject to DVROs who have been deemed a credible threat by the court. In doing so, the Supreme Court gave a green light to the lower courts and state legislatures alike to proceed with the enhancement and expansion of such protections for firearm-related IPV victims.

#### IV. IPV FIREARM LAWS: THE CURRENT STATE OF THINGS

##### A. IPV-Related Firearm Law: What Federal Law Does and Doesn’t Do

To fully understand the argument for expanding current IPV laws post-*Rahimi*, it is necessary first to examine existing federal law and the range of IPV firearm-related state laws across the country. As noted above, 18 U.S.C. § 922(g) makes it a violation of federal law for the subject of a DVRO to possess a firearm, so long as that subject is deemed a credible threat by the court and has had notice of a hearing and the opportunity to participate in that hearing.<sup>114</sup> However, while DVRO subjects are prohibited from owning or possessing guns for the pendency of the order, there is no federal system in place to guide or process that relinquishment.<sup>115</sup> In fact, 18 U.S.C. § 922(g) does not require “the removal of guns that abusers already possess when they become prohibited.”<sup>116</sup> Nor does the federal statute provide a scheme for the removal of firearms or a provision for the relinquishment of prohibited firearms to law enforcement or court officers.<sup>117</sup>

Additionally, 18 U.S.C. § 922(g) does not require that courts provide law enforcement or other regulatory databases with notice that a DVRO subject’s gun license has been revoked.<sup>118</sup> It also does not require nor does it provide a scheme for the DVRO subject to be notified of that revocation.<sup>119</sup> In summary, while it is illegal for subjects of DVROs to possess firearms, there is no requirement that law enforcement, gun registries, IPV victims, or even the DVRO subject themselves be notified of the firearm license revocation. Finally, 18 U.S.C. § 922(g) does not provide for a prohibition of firearm possession after the issuance of *ex parte* orders.<sup>120</sup> An *ex parte* IPV order is a temporary, emergency restraining order issued

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<sup>111</sup> *Id.*

<sup>112</sup> *Rahimi*, 602 U.S. at 690.

<sup>113</sup> *Id.*

<sup>114</sup> 18 U.S.C. § 922(g).

<sup>115</sup> EDUC. FUND TO STOP GUN VIOLENCE, *supra* note 42.

<sup>116</sup> *Id.*

<sup>117</sup> *Id.*

<sup>118</sup> 18 U.S.C. § 922(g).

<sup>119</sup> *Id.*

<sup>120</sup> *Id.*

where the court deems a perpetrator to be a credible threat to prevent further IPV incidents by the abuser between the time of the incident and the official court hearing. Because 18 U.S.C. § 922(g) requires both notice of a hearing and the opportunity to participate in a hearing, *ex parte* IPV-related orders fall outside the scope of this federal law.<sup>121</sup> In other words, the subjects of these temporary orders are not prohibited by federal law from owning or possessing firearms.

#### B. A Review of State Law Across the Country

Because of the gaps created by 18 U.S.C. § 922(g), separate state laws are “important to ensure the law is enforced properly.”<sup>122</sup> Thirty-two states across the country have implemented state laws that prohibit the subjects of DRVOs from possessing firearms.<sup>123</sup> However, the enactment and enforcement of this legislation varies widely from state to state.<sup>124</sup> This, unfortunately, has created a significant disparity in victim protections across the nation.<sup>125</sup> The good news, however, is that when state IPV firearm-related laws are written and enforced effectively, lives are not just changed, they are saved.<sup>126</sup> The GIFFORDS Law Center, a national advocacy group focused on gun violence, rates gun safety laws and their enforcement in each state.<sup>127</sup> GIFFORDS has awarded an A rating to California and an A- rating to Colorado, in part, for their gun-related IPV laws. These states are considered the gold standard for enactment and enforcement in this area and for good reason, as the rates of IPV-related homicides in both states are measurably lower than the national average.<sup>128</sup>

To achieve such a measurable impact, these states have not only enacted laws prohibiting DVRO subjects from possessing firearms but also expanded legal coverage in various ways. Both California and Colorado widened the scope of state law to prohibit firearm possession for the subjects of *ex parte* orders.<sup>129</sup> Additionally, both states require the relinquishment of firearms by DVRO subjects, even without

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<sup>121</sup> *Id.*

<sup>122</sup> Everytown Rsch. and Pol’y, *Which States Prohibit Domestic Abusers Under Restraining Orders From Having Guns?*, EVERYTOWN FOR GUN SAFETY SUPPORT FUND, <https://everytownresearch.org/rankings/law/prohibition-for-domestic-abusers-under-restraining-orders/> [<https://perma.cc/D27U-QJZB>].

<sup>123</sup> *Id.*

<sup>124</sup> *Domestic Violence and Firearms*, GIFFORDS L. CTR. TO PREVENT GUN VIOLENCE, <https://giffords.org/lawcenter/gun-laws/policy-areas/who-can-have-a-gun/domestic-violence-firearms/> [<https://perma.cc/M5WU-SP7K>].

<sup>125</sup> EDUC. FUND TO STOP GUN VIOLENCE, *supra* note 42.

<sup>126</sup> Carolina Diez, Rachel P. Kurland, Emily F. Rothman, Megan Bair-Merritt, Eric Fleegler, Ziming Xuan, Sandro Galea, Craig S. Ross, Bindu Kalesan, Kristin A. Goss & Michael Siegel, *State Intimate Partner Violence-Related Firearm Laws and Intimate Partner Homicide Rates in the United States, 1991 to 2015*, 167 ANNALS OF INTERNAL MED. 536 (2017).

<sup>127</sup> *About Giffords*, GIFFORDS L. CTR. TO PREVENT GUN VIOLENCE, <https://giffords.org/about/> [<https://perma.cc/XAD7-6QCD>].

<sup>128</sup> *California Gun Laws*, GIFFORDS L. CTR. TO PREVENT GUN VIOLENCE, <https://giffords.org/lawcenter/gun-laws/states/california/> [<https://perma.cc/6H7J-VZQB>]; *Colorado Gun Laws*, GIFFORDS L. CTR. TO PREVENT GUN VIOLENCE, <https://giffords.org/lawcenter/gun-laws/states/colorado/> [<https://perma.cc/YXU4-TCBV>].

<sup>129</sup> COLO. REV. STAT. § 13-14-104.5(4) (2021); *see also* CAL. FAM. CODE §§ 6218, 6389 (2023); *see also Id.* § 6304 (2024) (requiring notice of the firearm prohibition if both parties are in court).

a request by law enforcement officers, within 24 hours of a DVRO issuance.<sup>130</sup> California now also requires that a DVRO petitioner provide judges with the number, types, and locations of known firearms possessed by the DVRO subject on the DVRO application.<sup>131</sup> Standing in stark contrast to Colorado and California, Kansas was awarded an F rating by GIFFORDS for its overall gun safety laws. According to GIFFORDS, “Kansas lawmakers have failed their communities, refusing to pass even the most basic gun safety laws or close deadly loopholes that enable gun violence.”<sup>132</sup>

Kansas is among the 32 states that have adopted statutes similar to 18 U.S.C. § 922(g).<sup>133</sup> K.S.A. § 21-6301(a)(17), the Kansas statute governing DVRO firearm possession, is nearly identical to its federal counterpart.<sup>134</sup> It prohibits firearm possession by Kansas citizens who are the subject of domestic violence orders, so long as the subject has received actual notice of and an opportunity to participate in a hearing.<sup>135</sup> Like federal law, *ex parte* orders do not fall under this statute.<sup>136</sup> Kansas has passed no additional laws to require the removal of firearms from the scene of a domestic violence incident.<sup>137</sup> There are also no statewide laws governing how or when DVRO subjects are notified that their license has been revoked or a process in place for subjects of restraining orders to relinquish their weapons.<sup>138</sup> The development and enforcement of such processes are left to the discretion of local judges and law enforcement.<sup>139</sup>

## V. POLICY RECOMMENDATIONS AND CHALLENGES

### A. Policy Recommendations for Kansas

As demonstrated by the statistics and public health assessments, there is an ever-growing need for effective enforcement and expansion of IPV firearm-related

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<sup>130</sup> COLO. REV. STAT. §§ 13-14-105.5, 18-1-1001(9), 18-6-801(8)(b); *see also* CAL. FAM. CODE § 6389(c)(2) (2023) (“Alternatively, if a request is not made by a law enforcement officer, the relinquishment shall occur within 24 hours of being served with the order, by either surrendering the firearm or ammunition in a safe manner to the control of local law enforcement officials, or by selling, transferring, or relinquishing for storage pursuant to Section 29830 of the Penal Code, the firearm or ammunition to a licensed gun dealer.”).

<sup>131</sup> CAL. FAM. CODE § 6389(c)(3) (2023).

<sup>132</sup> *Kansas Gun Laws*, *supra* note 64.

<sup>133</sup> *Which States Prohibit Domestic Abusers Under Restraining Orders from Having Guns?*, *supra* note 121.

<sup>134</sup> KAN. STAT. ANN. § 21-6301(a)(17) (2012).

<sup>135</sup> *Id.*

<sup>136</sup> *Id.*

<sup>137</sup> *Domestic Violence & Firearms in Kansas*, GIFFORDS L. CTR. TO PREVENT GUN VIOLENCE (Dec. 31, 2023), <https://giffords.org/lawcenter/state-laws/domestic-violence-and-firearms-in-kansas/> [https://perma.cc/WZ28-VDP7].

<sup>138</sup> *Id.*

<sup>139</sup> KAN. STAT. ANN. § 21-6301(a)(17) (2012).

laws here in Kansas.<sup>140</sup> As such, it is critical for Kansas to enact laws to protect the most vulnerable victims among us. Luckily, this movement has gained widespread support among gun owners and non-gun owners alike.<sup>141</sup> With the Supreme Court's recent decision in *Rahimi* upholding the constitutionality of this movement, Kansas has been given a green light to meaningfully engage and to substantially improve outcomes for IPV victims across the state. Kansas laws governing domestic violence related to firearm possession will benefit greatly from an overhaul. As noted above, Kansas law, which largely mirrors 18 U.S.C. § 922(g), leaves significant gaps in coverage for victims and loopholes that allow the subjects of DVROs to continue possessing firearms despite prohibitions. The good news is that there are many ways in which these laws can effectively be improved, especially if Kansas follows the roadmap provided by the leaders in the clubhouse, namely, states like California and Colorado.

One significant and highly impactful change Kansas should make is to amend K.S.A. § 21-6301(a)(17) to remove the notice and hearing requirements. This would automatically expand coverage to include the subjects of ex parte orders, under K.S.A. § 60-31a05, the state law governing such orders, if a judge believes there is “good cause” to do so, they can grant an immediate ex parte temporary order.<sup>142</sup> Temporary orders may be issued and good cause found “on presentation of a verified petition by the victim supporting a prima facie case of stalking, sexual assault or human trafficking.”<sup>143</sup> This order will stay in effect until a full hearing can be held, which is usually within 21 days of filing the petition.<sup>144</sup> As noted previously, the most dangerous time for an IPV victim is when they sever ties with their abuser.<sup>145</sup> An emergency order of protection is often the first step towards leaving an abusive relationship, and it creates a significant risk when an abuser realizes that they are losing control over their partner.<sup>146</sup> IPV victims who seek orders often suffer the most severe abuse and, as a result, are at a higher risk for firearm-related IPV if their abusers have continued access to firearms.<sup>147</sup> Because victims are at greater risk for homicide or serious injury during this time, it is imperative that judges and law enforcement be able to require and enforce the removal of firearms.<sup>148</sup> State laws

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<sup>140</sup> See Kelly Roskam, Chiara Cooper, Phillip Stallworth & April M. Zeoli, *The Case for Domestic Violence Protective Order Firearm Prohibitions Under Bruen*, 51 *FORDHAM URB. L. J.* 222, 227 (2023).

<sup>141</sup> Goodyear et al., *supra* note 15, at 190 (A national survey of U.S. adults in 2017 found that 81% of respondents, including both gun owners and non-gun owners, strongly support firearm prohibitions for individuals subject to a DVRO.”).

<sup>142</sup> *Legal Information: Kansas, Restraining Orders*, WOMENSLAW.ORG, <https://www.womenslaw.org/laws/ks/restraining-orders/protection-stalking-or-sexual-assault-orders/steps-getting-protection-2> (last visited Oct. 30, 2025) [<https://perma.cc/HQB3-86F7>].

<sup>143</sup> KAN. STAT. ANN. § 60-31a05 (2012).

<sup>144</sup> *Id.*

<sup>145</sup> Wade & Hope, *supra* note 8.

<sup>146</sup> *Id.*

<sup>147</sup> Lynch et al., *supra* note 58, at 12975.

<sup>148</sup> Everytown Rsch. and Pol’y, *Ensuring effective Implementation of Law That Disarm Domestic Abusers*, EVERYTOWN FOR GUN SAFETY SUPPORT FUND, <https://everytownresearch.org/report/laws-that-disarm-domestic-abusers/> [<https://perma.cc/U9Y3-WCBK>]

that fail to do so for the pendency of ex parte orders leave victims at profound risk.<sup>149</sup> Conversely, state laws, like those in California, that expand their protections of victims during this critical period see a 16% reduction in IPV firearm-related homicides.<sup>150</sup>

Gun rights activists will likely argue that a “good cause” finding for an ex parte order is not the due process equivalent of finding a credible threat where the subject of a DRVO has the opportunity to present evidence in their defense. However, because the *Rahimi* decision is predicated on a seemingly generalized finding that a “threat of physical harm” exists, this argument is likely to fall flat. Courts across the country have increasingly upheld extreme risk protection orders (ERPOs), also known as red-flag laws, which are similar to ex parte orders in that they permit the denial of firearms to individuals whom a judge has determined to present an imminent risk of harm to themselves or others, without notice or hearing.<sup>151</sup> Although the threshold, or standard, for the deprivation of firearms is different and arguably far more lenient in ERPOs and ex parte orders than a standard DRVO, their basic structure, a finding by a neutral a judge that the perpetrator is a credible threat to the victim or themselves, still “satisfies the requirements of due process.”<sup>152</sup> This aligns directly with the new *Rahimi* precedent.<sup>153</sup> Ultimately, this alignment, combined with the brief duration of ex parte orders and the significant documentation of the extreme dangers faced by IPV victims who seek such orders, makes it unlikely that a due process claim against prohibiting firearms during the ex parte period would succeed.<sup>154</sup>

Beyond the proposed amendment above, Kansas legislators should consider drafting new legislation to address the broader coverage gaps left by current statutes. One way to fill the gap would be to codify the delivery process when a gun license has been revoked, to notify subjects of domestic violence-related ex parte and post-hearing restraining orders, DVRO petitioners, and law enforcement. In California, state law requires that all forms that give notice to the abuser that a protective order has been granted must include language that orders the respondent to give up (relinquish) possession or control of any firearms and ammunition and not to purchase or receive or attempt to purchase or receive any firearms or ammunition while the restraining order is in effect.<sup>155</sup> Additionally, the state requires that all “Request for Order” forms provide the petitioner with the opportunity to disclose whether or not an abuser has a gun, and whether a petitioner has been threatened by the abuser with that weapon, so that a judge is on notice of a

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<sup>149</sup> Tobin-Tyler, *supra* note 24, at 68.

<sup>150</sup> *Domestic Violence and Firearms*, *supra* note 124.

<sup>151</sup> Joseph Blocher & Jacob D. Charles, *Firearms, Extreme Risk and Legal Design: “Red Flag” Laws and Due Process*, 106 VA L. REV. 1285, 1286 (2020).

<sup>152</sup> *Id.* at 1292.

<sup>153</sup> See *United States v. Rahimi*, 602 U.S. 680, 698 (2023) (holding “[w]hen an individual poses a clear threat of physical violence to another, the threatening individual may be disarmed.”).

<sup>154</sup> Tobin-Tyler, *supra* note 24, at 68.

<sup>155</sup> CAL. FAM. CODE § 6389(b) (2025).

subject's possible weapon possession.<sup>156</sup> This delivery system helps relieve some of the pressure placed on both law enforcement and the judiciary to independently fulfill service requirements.

Service of DVRO subjects by law enforcement officers or third parties is notoriously challenging.<sup>157</sup> In many cases, judges fail to even order these restrictions, and/or law enforcement personnel do not follow up to ensure the subjects' understanding of the restrictions on their firearms.<sup>158</sup> One study found that only 26% of abusers nationwide were ordered to surrender their firearms after IPV victims reported to the judge that their abusers owned a gun.<sup>159</sup> This gap in enforcement led to the murder of over 100 IPV victims by subjects with DVRO-related firearm restrictions between 2017 and 2020.<sup>160</sup> It is clear that judicial discretion can have a significant impact on the enforcement of existing laws when standard operating procedures or other statutory mechanisms for enforcement, such as standardized forms, are not present.<sup>161</sup> Conversely, when firearm relinquishment protocols are introduced and followed, studies suggest enforcement is possible.<sup>162</sup> If Kansas implemented a wide notification process like California's, it would greatly reduce the negative impact of unevenly enforced requirements.

Finally, and arguably most importantly, Kansas should adopt a clear scheme around firearm removal and relinquishment. This scheme should include a two-pronged approach to actively and safely engage both law enforcement and the courts when removing firearms from abusers.<sup>163</sup> States that do not require the subjects of DVROs to relinquish their firearms have nearly twice as many IPV homicides involving a firearm.<sup>164</sup> Conversely, the removal of guns from the DVRO subject has been shown to reduce IPV firearm-related deaths by as much as 14%.<sup>165</sup> Restrictive firearm possession policies with relinquishment requirements at the state level "may provide upstream opportunities to reduce IPV injuries by potentially disrupting the mechanism of injury."<sup>166</sup>

As such, the first prong of this new legislation should establish a clearly defined relinquishment scheme for subjects of *ex parte* and post-hearing orders to

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<sup>156</sup> *Legal Information: California*, WOMENSLAW.ORG <https://www.womenslaw.org/laws/ca/state-gun-laws/guns-and-domestic-violence-restraining-orders-dvros#node-28880> (last visited Dec. 26, 2025) [<https://perma.cc/EK2W-YRVU>].

<sup>157</sup> Nipla D. Shah, Grace Nguyen, Jennifer A. Wagman, & Deborah C. Glik, *Factors Influencing the Use of Domestic Violence Restraining Orders in Los Angeles*, 29 VIOLENCE AGAINST WOMEN 1604, 1616 (2023).

<sup>158</sup> Goodyear et al., *supra* note 15, at 190.

<sup>159</sup> Tyler-Tobin, *supra* note 24, at 68.

<sup>160</sup> *Id.*

<sup>161</sup> See Lynch et al., *supra* note 58, at 12991.

<sup>162</sup> Goodyear et al., *supra* note 16, at 189–90.

<sup>163</sup> Shannon Frattaroli, *Removing Guns from Domestic Violence Offenders: An Analysis of State Level Policies to Prevent Future Abuse*, JOHNS HOPKINS CTR. FOR GUN POL'Y, 4 (2009).

<sup>164</sup> BRADY UNITED, *supra* note 17.

<sup>165</sup> Tobin-Tyler, *supra* note 24, at 68.

<sup>166</sup> Tiara C. Willie, Trace Kershaw, Rachel Perler, Amy Caplon, Marina Katague, & Tami P. Sullivan, *Associations Between State Intimate Partner Violence-Related Firearm Policies and Injuries Among Women and Men Who Experience Intimate Partner Violence*, 8 INJURY EPIDEMIOLOGY 1, 8 (2021).

facilitate effective and equal enforcement by Kansas courts. There are 20 states and the District of Columbia that currently have court-ordered gun removal laws.<sup>167</sup> However, the trigger and mechanisms for relinquishment vary significantly from state to state.<sup>168</sup> In states such as California, Hawaii, and Maryland, this law is automatically triggered upon issuance of an ex parte or DVRO order.<sup>169</sup> In California, subjects are held in violation of the orders if relinquishment is not satisfied within 24 hours.<sup>170</sup> In Illinois, when a petitioner files for a DVRO, they may request that the court issue a search warrant that will allow local law enforcement to seize firearms from an alleged abuser.<sup>171</sup>

<sup>172</sup><sup>173</sup> Implementation and enforcement of DVRO firearm prohibitions can be challenging.<sup>174</sup> Concerns regarding the safety of law enforcement throughout the relinquishment process, the storage of relinquished firearms, the logistics of managing the relinquishment system, and the process for returning firearms after the prohibition period ends are all issues gun rights advocates and law enforcement have raised in the wake of new and proposed legislation.<sup>175</sup> States have dealt with these issues and concerns in various ways. In Illinois, legislators worked with law enforcement to develop a scheme that met the goals of both groups.<sup>176</sup> They agreed that if a victim had not reported an IPV incident in the preceding three months, law enforcement was given the discretion to review the facts supporting the DVRO and to make changes to the search warrant accordingly.<sup>177</sup>

In Pennsylvania, “[t]he respondent has the discretion to inform the court whether [they] will relinquish [their] guns to law enforcement, a licensed firearms dealer, or an eligible third party.”<sup>178</sup> If the respondent “chooses to transfer or sell [their guns] to a licensed firearm dealer, [they] must obtain an affidavit of transfer from the licensed dealer and provide that affidavit to law enforcement.”<sup>179</sup> If the respondent chooses to transfer to a third party, they must report the name of the individual to law enforcement, who will determine the third party’s eligibility to possess firearms.<sup>180</sup> If approved, the third party will be issued a “safekeeping permit” by the sheriff, following which the third party will then sign a receipt when they

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<sup>167</sup> Frattaroli, *supra* note 163, at 8.

<sup>168</sup> *Id.*

<sup>169</sup> *Id.* at 20–22.

<sup>170</sup> CAL. FAM. CODE § 6389(c)(2) (2023)

<sup>171</sup> Wade & Hope, *supra* note 8.

<sup>172</sup> Goodyear et al., *supra* note 16, at 185.

<sup>173</sup> Wade & Hope, *supra* note 8.

<sup>174</sup> Goodyear et al., *supra* note 16, at 185.

<sup>175</sup> Wade & Hope, *supra* note 8.

<sup>176</sup> *Id.*

<sup>177</sup> *Id.*

<sup>178</sup> April M. Zeoli, Shannon Frattaroli, Kelly Roskam, & Anastasia K. Herrera, *Removing Firearms From Those Prohibited From Possession by Domestic Violence Restraining Orders*, 20 *Trauma, Violence & Abuse* 114, 119 (2019).

<sup>179</sup> *Id.*

<sup>180</sup> *Id.*

receive the firearm, and the respondent will submit that signed receipt to law enforcement.<sup>181</sup>

Kansas legislators should partner with law enforcement agencies across the state to develop a relinquishment system that addresses existing safety and procedural concerns while also providing a necessary and effective layer of protection for IPV victims.

The second prong of this legislation should require the removal of both firearms and ammunition from the scene of a domestic violence incident by law enforcement officers when they have probable cause to suspect an IPV incident has taken place. There are 18 states that currently have laws on the books that provide law enforcement with the authority to remove firearms from the scene of an IPV incident, half of which mandate removal.<sup>182</sup> Nine other states have enacted laws that contain various permissive guidelines.<sup>183</sup> Kansas law currently does not require nor explicitly authorize firearm removal by law enforcement in such cases.<sup>184</sup> Generally speaking, mandatory removal laws are preferable and more effective because, like the notification laws discussed above, these laws reduce discretion and allow for universal implementation.<sup>185</sup> To maximize the law's ability to lower the risk of severe or lethal abuse, conditions of removal should not be placed on prior abuse, the arrest of the batterer, or the use of a gun in the commission of the crime.<sup>186</sup> The duration of relinquishment after a mandatory removal by law enforcement varies by state, and Kansas legislators should examine what duration policy would most complement both proposed and existing IPV policies across the state to determine which duration would be appropriate for Kansas. Taken together, this two-prong approach would serve to profoundly enhance protections for citizens across the state.

## VI. CONCLUSION

The empirical data is clear. Guns and IPV are inextricably linked, and IPV victims across the country are at an inherent and increasing danger of firearm-related abuse and homicide, given the rapidly accelerating growth of gun ownership in America. Equally clear is the Supreme Court's finding that keeping the guns out of the hands of those who would do harm is an integral part of the American government's history and tradition. As such, states like Kansas have received a green light to quell one of the largest public health crises ever faced here in the United States. Through the expansion and enforcement of laws protecting some of the nation's most vulnerable victims and prohibiting IPV offenders from perpetrating further violence, Kansas is now empowered to not just change the lives of its citizens, but to save them.

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<sup>181</sup> *Id.*

<sup>182</sup> Frattaroli, *supra* note 163, at 6.

<sup>183</sup> *Id.*

<sup>184</sup> *See Kansas Gun Laws, supra* note 63.

<sup>185</sup> Frattaroli, *supra* note 163, at 29.

<sup>186</sup> *Id.*