

HB21-1255

# Protection Order Issued Against Domestic Abuser

Concerning procedures for a domestic abuser upon the issuance of a protection order, and, in connection therewith, making an appropriation.

SESSION:

2021 Regular Session

SUBJECTS:

Courts & Judicial

Crimes, Corrections, & Enforcement

BILL SUMMARY

The act modifies the required procedures relating to a person's firearms or ammunition following the issuance of a protection order that includes an act of domestic violence when it involved the threat, use, or attempted use of physical force.

The act requires a person to complete an affidavit, which must be filed in the court record within 7 business days after a protection order is issued against the person, stating the number of firearms, the make and model of each firearm, any reason the person is still in immediate possession or control of such firearm, and the location of all firearms in the person's immediate possession or control. If the person does not possess a firearm at the time the order is issued, the person shall indicate such nonpossession in the affidavit.

The act requires the court to conduct a compliance hearing not less than 8 but not more than 12 business days after the issuance of a protection order to ensure the person has completed the affidavit. For criminal cases, the court may consider the issue in other proceedings before the court and the hearing is considered a court action involving a bond reduction or modification. Information compelled or any information directly or indirectly derived from testimony, the affidavit, or other information shall not be used against a defendant in any criminal case, except for prosecution of perjury.

The act excludes legal holidays and weekends from the current time frame a person has to relinquish a firearm. The act allows a court to grant a person an additional 24 hours to relinquish a firearm if the person is unable to comply with the required time frame of relinquishment.

The act requires a federally licensed firearms dealer, law enforcement agency, or private party to issue a signed declaration memorializing the sale or transfer of the firearm.

The act allows a law enforcement agency to enter into an agreement with any other law enforcement agency or storage facility for the storage of transferred firearms or ammunition. The act requires a law enforcement agency that elects to store a firearm or ammunition to obtain a search warrant to examine or test the firearm or ammunition or facilitate any criminal investigation if the law enforcement agency has probable cause to believe the firearm or ammunition has been used in the commission of a crime, is stolen, or is contraband.

The act prohibits the person from transferring the firearm to a private party living in the same residence as the person at the time of transfer. The act prohibits a private party from returning a firearm to the person until the private party receives a written statement of the results of the background check conducted by the Colorado bureau of investigation authorizing the return of the firearm to the person.

Current law requires a copy of the written receipt and the written statement of the criminal background check to be filed with the court as proof of relinquishment at the same time the person files the signed affidavit. The act requires the signed declaration to be filed with the court instead of the receipt. Both the signed declaration and written statement are only available for inspection by the court and the parties to the proceeding.

A federally licensed firearms dealer, law enforcement agency, storage facility, or private party that elects to store a firearm is not civilly liable for any resulting damages to the firearm, as long as such damage did not result from the willful and wrongful act or gross negligence of the person or agency storing the firearm.

The act appropriates \$101,050 to the judicial department to implement the act.

*(Note: This summary applies to this bill as enacted.)*