



# HOUSE COMMITTEE ON APPROPRIATIONS

## FISCAL NOTE

HOUSE BILL NO. 2060

PRINTERS NO. 3754

PRIME SPONSOR: M. Quinn

As Amended by A08933

### COST / (SAVINGS)

FUND	FY 2017/18	FY 2018/19
General Fund	\$0	See Fiscal Impact

### SUMMARY:

House Bill 2060, Printer's Number 3754 amends Title 18 (Crimes and Offenses) and Title 23 (Domestic Relations) to further provide for the relinquishment of firearms following a conviction of a misdemeanor offense for domestic violence or the court issuance of a protection from abuse order.

HB 2060 amends Sections 6105 (Person not to possess, use, manufacture, control, sell or transfer firearms) and adds new Sections 6105.2 (Relinquishment of firearms and firearm licenses by convicted persons) and 6128 (Abandonment of firearms, weapons or ammunition) to the Crimes Code. The Domestic Relations Code is further amended in Sections 6102 (Definitions), 6106 (Commencement of proceedings), 6107 (Hearings), 6108 (Relief), 6108.1 (Return of relinquished firearms, other weapons and ammunition and additional relief), 6108.2 (Relinquishment for consignment sale, lawful transfer or safekeeping), 6108.3 (Relinquishment to third party for safekeeping). In addition, HB 2060 adds new Section 6108.6 (Order to seal record from public view) to Title 23.

### ANALYSIS:

The Crimes Code, Chapter 61 (Firearms and Other Dangerous Articles) Subchapter A (Uniform Firearms Act) is further amended to provide that an individual convicted of a misdemeanor offense for domestic violence cannot possess a firearm under Pennsylvania law and will be required to surrender any firearms within 24 hours of the conviction to an appropriate law enforcement agency or licensed firearms dealer. In addition, firearm licenses will be surrendered to a sheriff or the appropriate law enforcement agency. If a person fails to surrender any firearms within the time period ordered by the court; law enforcement will provide notice to the court, the victim, the prosecutor and the sheriff. The penalty for an individual who knowingly fails to surrender a firearm commits a misdemeanor of the second degree (up to two years in prison and up to \$5,000 in fines).

Licensed dealers may charge a reasonable fee for accepting surrendered firearms and will be required to complete appropriate paperwork verifying relinquishment. If a person surrenders a firearm to an appropriate law enforcement agency, the person may request that the law

enforcement agency make one transfer to a licensed dealer within six months of relinquishment. Upon making the transfer to a licensed dealer, law enforcement may charge the person for any costs associated with making the transfer.

In the event there is no written request to the custodian from the lawful owner, owner's attorney or appointed representative to return (or dispose of) a surrendered firearm after a period of one year from the expiration of the order of relinquishment; the firearms, weapons or ammunition will be deemed abandoned. Once deemed abandoned the custodian may dispose of the items by arranging for the sale to a federally licensed firearms dealer with proceeds of the sale to be retained by the custodian, or complete destruction of the firearms, weapons or ammunition. The custodian may not dispose of firearms, weapons or ammunition deemed abandoned without first notifying the person who surrendered the items. Notification will be sent via certified mail to the last known address of the person surrendering the items. If a custodian sells or destroys a firearm, weapon or ammunition with unresolved challenges to the legality of the seizure, the custodian may be liable to the lawful owner for actual value of the seized firearms, weapons or ammunition, as well as reasonable attorney's fees.

The Domestic Relations Code, Chapter 61 (Protection from Abuse (PFA)) is further amended to provide protections to plaintiffs involved in PFA proceedings and final orders.

Section 6106 is amended to require the court to direct the Pennsylvania State Police (PSP), municipal police or the sheriff to provide certain protections to a plaintiff involved in PFA proceedings, when the plaintiff has reason to believe the plaintiff's safety is at risk. Section 6107 is amended to provide that upon notice of a PFA hearing, the defendant is given notice that Federal or State law may prohibit the possession of firearms.

Section 6108 is amended to further clarify that a final order will direct the defendant to stop the abuse of the plaintiff or minor children and the order will require the prohibition of possessing and the surrendering of firearms for the duration of the order. A final agreement may direct the defendant to stop the abuse of the plaintiff or minor children and the agreement may order the prohibition of possessing and the surrendering of firearms for the duration of the agreement. Section 6108 is further amended to provide that any final order or agreement must direct the defendant to refrain from abusing, harassing, stalking, threatening or attempting or threatening to use physical force against the plaintiff or minor children and requires the relinquishment of firearms and firearms licenses. Section 6108 is amended by adding a subsection (i) to allow third parties to file affidavits with the court claiming lawful ownership of a firearm surrendered by the defendant.

Section 6108.1 is amended to provide that the sheriff's office will maintain a "weapons return" form that the defendant must complete and return once the temporary or final PFA has been dismissed or expires. The following conditions must be satisfied prior to reuniting the firearm with the defendant; (1) firearms, weapons or ammunition may not be evidence of a crime, (2) the defendant or owner must not be prohibited by any State or Federal law to possess a firearm, other weapon or ammunition; and (3) the person must have been given clearance from the PSP instant check system unit or the National Instant Criminal Background Check System (NICS). In

addition, subsection (a.2) is added to require that notice is given to the plaintiff in the PFA that the defendant has requested the return of the firearms, other weapons or ammunition.

Section 6108.3 is amended to provide further clarification for who may qualify as a third party for the purpose of safekeeping a surrendered firearm. The legislation requires that prior to the transfer of a surrendered firearm from a defendant subject to a PFA; to a third party, the third party must meet requirements set forth in Section 6108.3 (b)(3)(ii). HB 2060 amends this subsection by requiring that there is an acknowledgement that the third party and the defendant are not family or household members and an acknowledgement that the third party is an attorney at law and that the attorney is in an attorney-client relationship with the defendant or a commercial armory as defined by law.

New Section 6108.6 is added to the Domestic Relations Code to establish provisions that will allow for individuals that have entered into a consent agreement to petition the court for an order to seal the record of the individual from public view.

This legislation would take effect in 180 days, applying to PFA orders issued on or after the effective date.

**FISCAL IMPACT:**

Enactment of this legislation will have an unknown fiscal impact on Commonwealth and local government funds.

HB 2060 may increase the number of firearms surrendered to law enforcement, resulting in increases in storage and administrative costs to law enforcement. However, current law requires the surrender of firearms, other weapons and ammunition to law enforcement or licensed firearms dealers upon the conviction of certain criminal offenses (including domestic violence) within a 60 day period. It can be assumed that decreasing the reporting period to 24 hours for domestic violence convictions and PFA orders will have minimal impact on law enforcement operations. HB 2060 allows the custodian of the surrendered firearms to dispose of or sell abandoned firearms, other weapons or ammunition with the proceeds of the sale to be retained by the custodian; therefore revenue from the sale or the destruction of abandoned surrendered firearm inventory will reduce the need for increased storage for law enforcement and minimize any potential costs to the Commonwealth or local governments.

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House Appropriations Committee (R)

**DATE:** June 22, 2018

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*