

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. House Bill 2060

PRINTER NO. 3820

AMOUNT

See Fiscal Impact

FUND

General Fund
Local Government Funds

DATE INTRODUCED

February 26, 2018

PRIME SPONSOR

Representative M. Quinn

DESCRIPTION

House Bill 2060 amends Titles 18 (Crimes and Offenses) and 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes 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 (PFA) order.

House Bill 2060 amends Section 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 Title 18 (the Crimes Code). Title 23 (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, a new Section 6108.6 (Order to seal record from public view) is added to Title 23.

Specifically, this legislation does the following:

Title 18 (Crimes and Offenses)

- Amends §6105 (Persons not to possess, use, manufacture, control, sell or transfer firearms), a provision of the Uniform Firearms Act, to remove existing language allowing a “reasonable period of time, not to exceed 60 days” for a defendant ordered by the court to relinquish firearms, other weapons, ammunition and firearm licenses pursuant to PFA orders and convictions for misdemeanor crimes of domestic violence. The bill retains the “reasonable period of time, not to exceed 60 days” for relinquishment of firearms after certain criminal convictions not relating to domestic violence (e.g., violent offenses, drug offenses, sexual offenses) and after certain other disqualifying events (e.g., defendant is a fugitive from justice or is involuntarily committed to a mental health facility);
- Requires relinquishment of firearms pursuant to convictions of misdemeanor crimes of domestic violence under a new §6105.2 (Relinquishment of firearms and firearm licenses by convicted persons) of Title 18 and relinquishment pursuant to PFA orders under existing §6108(a)(7) of Title 23;

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- Creates a new §6105.2 (Relinquishment of firearms and firearm licenses by convicted persons) of Title 18 prescribing the procedure for relinquishment of firearms for persons prohibited from possessing firearms pursuant to convictions of misdemeanor crimes of domestic violence. This new section provides for the following:
 - 1) Procedure – The court of conviction shall order the relinquishment and transmit the order to the appropriate law enforcement agency of the municipality and to the sheriff of the county of which the person is a resident. The order shall contain a list of any firearm ordered relinquished. The person shall inform the court in what manner the person will relinquish the firearms.
 - 2) Relinquishment to law enforcement agency - Requires the convicted offender to relinquish firearms to an appropriate law enforcement agency or a licensed firearms dealer within a period not longer than 48 hours following the conviction, unless a court extends the time period for cause shown.
 - 3) Relinquishment to dealer – In lieu of relinquishment to the local law enforcement agency, a convicted offender may relinquish firearms to a licensed dealer. The licensed dealer is permitted to charge the person a reasonable fee for accepting relinquishment. The person shall obtain an affidavit from the licensed dealer on a form prescribed by the Pennsylvania State Police (PSP).
 - 4) Notice of noncompliance - In the event of non-compliance within 24 hours, the law enforcement agency shall, at a minimum, provide immediate notice to the court, the victim, the prosecutor and the sheriff.
 - 5) Alternate relinquishment to dealer - If the person relinquishes firearms to the appropriate law enforcement agency, the person may request that the appropriate law enforcement agency make one transfer of any such firearm to a licensed dealer within six months of relinquishment. The law enforcement agency may charge the person for any costs associated with making the transfer.
 - 6) Recordkeeping – Any portion of an order or petition or other paper that includes a list of firearms ordered to be relinquished shall be kept in the court files as a permanent record and withheld from public inspection, except upon an order of the court granted upon cause shown, after redaction of information relating to the firearms, or as necessary.
 - 7) Relinquishment of licenses - A person described in this section shall also relinquish to the appropriate law enforcement agency any firearm license issued to them.
 - 8) Penalty – A person required to relinquish firearms or other weapons under this section commits a misdemeanor of the second degree if the person intentionally or knowingly fails to relinquish said firearms or other weapons.
 - 9) Definition – Defines the term “firearm” as “any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive or the frame or receiver of any such weapon.

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- Creates a new §6128 (Abandonment of firearms, weapons or ammunition) – Provides a general rule that firearms, weapons or ammunition which are itemized on a list and have been relinquished into or otherwise coming into custody of a police department, the PSP, coroner, medical examiner, district attorney, sheriff or licensed dealer shall be deemed abandoned when:
 - 1) No written request to return or otherwise dispose of the firearms, weapons or ammunition is made by the lawful owner or the lawful owner's attorney or representative after a period of one year from the date an order of relinquishment or seizure has expired.
 - 2) No owner can be determined after a documented search of the database of firearms sales maintained by the PSP is made at the time that the firearms come into the custody of the police department, coroner, medical examiner, district attorney, sheriff or licensed dealer and again one year from the date of the first documented search.
- Provides for certain methods of disposal, including arranging for the sale of such items to a federally licensed firearms dealer by sealed bid or arranging for the lawful and complete destruction of the firearms, weapons or ammunition;
- Provides that firearms, weapons or ammunition may not be disposed of without first notifying the person who relinquished the firearms, weapons or ammunition. The person who relinquished the firearms, weapons or ammunition must respond to the notice within 20 days, otherwise the custodian may proceed with the disposal;
- Provides that a custodian who sells or destroys seized firearms, weapons or ammunition with pending or unresolved evidentiary challenges to the legality of the seizure shall be liable to the lawful owner for the actual value of the items;
- Prohibits public inspection of a portion of an order or petition which includes a list of firearms or other weapons or ammunition in possession of a custodian except:
 - 1) Upon an order of a court granted upon cause shown;
 - 2) As necessary, by law enforcement and court personnel; or
 - 3) After redaction of information listing firearms, other weapons or ammunition.

Title 23 (Domestic Relations)

- Requires that all PFA petitions and temporary PFA orders be served by the sheriff or deputy sheriff unless the petitioner chooses an alternative means of personal service;
- Requires the court, by local rule, to adopt a procedure to immediately transmit the petition and order for service to the sheriff or, if the petitioner requests, to the petitioner;

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- Amends §6108 (Relief) to clarify the court may grant a PFA or approve any consent agreement to stop the abuse of the plaintiff or minor children and the order or agreement may require the prohibition of possessing and the surrendering of firearms for the duration of the order. This section is further amended to provide that a 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, other weapons or ammunition and firearms licenses. A subsection is added to allow for third parties to request the return of a firearm by providing proof of ownership and a sworn affidavit;
- Amends §6108.1 (Return of relinquished firearms, other weapons and ammunition and additional relief) to provide that the sheriff's or appropriate law enforcement agency's office shall maintain a weapons return form that the defendant may fill out and return once a temporary or final PFA order has been dismissed or expires. The following conditions must be satisfied prior to the firearms, other weapons or ammunition being returned to the defendant:
 - 1) The firearms, other weapons or ammunition relinquished must 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 defendant or owner must have been given a clearance by the PSP instant check system unit or the National Instant Criminal Background Check System (NICS). In addition, a subsection 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.
- Amends §6108.3 (Relinquishment to third party for safekeeping) by requiring that the executed affidavit by a third party who will be accepting possession of firearms, other weapons and ammunition also include the following:
 - 1) An acknowledgment that the third party and the defendant are not family or household members; and
 - 2) An acknowledgment that the third party is the defendant's attorney.
- Creates a new §6108.6 (Penalty for failure to secure firearms) to provide that a commercial armory which violates the provisions of this chapter regarding safekeeping shall forfeit all federal and state licenses related to firearms; and
- Creates a new §6108.7 (Order to seal record from public view) to establish provisions allowing individuals that have entered into a consent agreement approved by the court to petition the court for an order to seal the record of the individual from public view.

This act shall take effect in 180 days.

FISCAL IMPACT:

Enactment of this legislation will increase the number of firearms and other weapons relinquished to law enforcement agencies and licensed dealers, which may lead to increased workload and a need for additional storage space, expansion of current storage facilities or construction of new storage facilities.

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According to the Administrative Office of Pennsylvania Courts (AOPC), there were 38,764 protection from abuse temporary orders requested in 2016, resulting in 34,245 being granted.

Sources indicate that approximately 34.7% of Pennsylvanians are gun owners. Assuming gun ownership rates for persons subject to a PFA order are consistent with overall gun ownership rates of the general population, 11,883 protection from abuse orders are likely to result in the relinquishing of firearms to law enforcement agencies or licensed dealers. The following table shows the number of firearms that could be relinquished to law enforcement agencies for safekeeping at varying percentages, assuming the average individual owns three (3) firearms:

Percentage Relinquishing to Law Enforcement	Number of Firearms Relinquished to Law Enforcement
10%	3,565
25%	8,912
50%	17,825
75%	26,737