

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. Senate Bill 501

PRINTER NO. 1551

AMOUNT

See Fiscal Impact

FUND

General Fund
Local Government Funds

DATE INTRODUCED

March 28, 2017

PRIME SPONSOR

Senator Killion

DESCRIPTION

Senate Bill 501, Printer's Number 1551 amends Titles 18 (Crimes and Offenses) and 23 (Domestic Relations) to eliminate third-party safekeeping as an option for a defendant ordered by the court to relinquish firearms, other weapons, ammunition and firearm licenses under a Protection from Abuse Act (PFA) order or a conviction of misdemeanor crimes of domestic violence. Requires that all PFA defendants subject to a final PFA order or a misdemeanor crime of violence be ordered to relinquish firearms. Requires the relinquishment of firearms within 48 hours of conviction of a misdemeanor crime of domestic violence.

Specifically, this legislation does the following:

- Amends §6105 (Persons not to possess, use, manufacture, control, sell or transfer firearms) of Title 18 (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;

SENATE APPROPRIATIONS COMMITTEE

FISCAL NOTE

- 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 firearm 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, 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.
 - 4) Notice of noncompliance - In the event of non-compliance within 48 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.

SENATE APPROPRIATIONS COMMITTEE

FISCAL NOTE

- 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.
- 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, 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 Pennsylvania State Police 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.

SENATE APPROPRIATIONS COMMITTEE

FISCAL NOTE

- 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.
- Provides that an individual subject for the first time to the entry of a final protection from abuse order, who consented to the entry of the order by stipulation, shall, upon petition, be eligible for an order for limited access of the criminal history record information under §9122 (Order for limited access) under certain circumstances.
- 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.
- 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.

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.

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.

**SENATE APPROPRIATIONS COMMITTEE
FISCAL NOTE**

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