
Civil Rights & Judiciary Committee

HB 1225

Brief Description: Establishing policies and requirements regarding law enforcement response to domestic violence incidents to enhance the safety of domestic violence victims, families, and officers.

Sponsors: Representatives Jinkins, Peterson, Thai, Morgan, Macri, Senn, Appleton, Frame, Kloba, Doglio, Pollet, Hudgins, Valdez, Lovick, Lekanoff, Walen, Bergquist, Stanford, Slatter, Tarleton, Wylie, Tharinger, Fey, Gregerson and Goodman.

Brief Summary of Bill

- Establishes requirements for law enforcement officers when responding to domestic violence calls, including standards for the removal of firearms and ammunition when there is probable cause to believe a crime was committed, and protocols for making inquiries of the victim regarding the abuser's access to and past use of firearms.
- Provides that a firearm seized in connection with a domestic violence call may not be returned to the owner or person from whom it was obtained until five business days have elapsed since the firearm was obtained.

Hearing Date: 1/22/19

Staff: Edie Adams (786-7180).

Background:

Laws governing domestic violence offenses establish a number of requirements for law enforcement officers when they respond to a domestic violence call. Generally, a law enforcement officer is required to arrest a person 18 years of age or older if the officer has probable cause to believe that the person has assaulted a family or household member within the four hours preceding arrest. The officer is required to arrest the person whom the officer believes is the primary physical aggressor.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

A law enforcement officer responding to a domestic violence call must take a complete offense report, including the officer's disposition of the case, which gets forwarded to the appropriate prosecutor within 10 days after the report is made. Law enforcement agencies must make and maintain records of all incidents of domestic violence.

The officer must also advise victims of all reasonable means to prevent further abuse, including providing information about shelters or services in the community, and providing notice of the legal rights and remedies available. The notice of legal rights and remedies must include a statement that notifies victims of the ability to file a criminal complaint and file a petition in court for a civil protection order to restrain the abuser from further acts of abuse and other relief.

Law enforcement officers are authorized by statute to confiscate firearms under a number of circumstances, including if the firearm was used or threatened to be used in the commission of an offense. Confiscated firearms may only be surrendered to the prosecutor for use as evidence in legal proceedings, for disposition if the court orders forfeiture of the firearm, or to the owner if the proceedings are dismissed or the court orders return of the firearm.

Legislation enacted in 2015 established a process relating to the return of private firearms in the custody of a law enforcement agency. Law enforcement agencies must establish a notification protocol to allow a family or household member to use an incident or case number to request notification before the return of a privately owned firearm. A law enforcement agency may not return a private firearm until the agency determines the person is eligible to possess a firearm and at least 24 hours have elapsed from the time the firearm was obtained. If a family or household member has requested notification, the agency must hold the firearm in custody for 72 hours from the time the notification is provided.

Summary of Bill:

A law enforcement officer who responds to a domestic violence incident and has probable cause to believe a crime was committed must remove all firearms and ammunition the officer has reasonable grounds to believe were used or threatened to be used in the commission of the offense. In addition, as part of the officer's community caretaking function and to reduce the risk of harm, the officer must remove all firearms and ammunition to which the alleged abuser has access until a judicial officer has heard the matter.

The peace officer must inquire of the victim if there are firearms or ammunition in the home that are owned by either party, if the alleged abuser has access to any other firearms located off-site, and whether the alleged abuser has a concealed pistol license. The officer's inquiry must also cover other circumstances involving a firearm, such as whether the alleged abuser has kept a firearm in plain sight in a coercive manner or has threatened use of a firearm in the past.

The peace officer must document all information about firearms and concealed pistol licenses in the incident report, which must be coded to indicate the presence of or access to firearms so that personal recognizance screeners, prosecutors, and judicial officers are able to address the heightened risk to victim, family, and peace officer safety due to the alleged abuser's access to firearms.

The notice of legal rights that a law enforcement officer must give to a victim of domestic violence must include information on the ability to seek an order requiring the abuser to surrender any firearms and concealed pistol license and prohibiting the abuser from possessing or accessing firearms or a concealed pistol license for the duration of the order.

A law enforcement agency that has custody of firearms or ammunition taken from the scene of a domestic violence incident must comply with state law procedures for the return of firearms, including providing a family or household member with notification if requested and conducting a background check before return of the firearms or ammunition. A firearm seized in connection with a domestic violence incident may not be returned sooner than five business days from the time the firearm was obtained.

The statute addressing the responsibilities of law enforcement officers relating to domestic violence offenses is reorganized into three separate statutes addressing officer duties when responding to a domestic violence call, domestic violence training requirements for law enforcement officers, and requirements relating to records and reports of domestic violence incidents.

Appropriation: None.

Fiscal Note: Requested on January 18, 2019.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.