

CHAPTER 190  
FORMERLY  
SENATE SUBSTITUTE NO. 1  
FOR  
SENATE BILL NO. 83

AN ACT TO AMEND TITLE 10 AND TITLE 11 OF THE DELAWARE CODE RELATING TO DOMESTIC VIOLENCE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 1045, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1045. Relief available; duration of orders, modification and termination.

(a) After consideration of a petition for a protective order, the Court may grant relief as follows:

(8) Order the respondent to temporarily relinquish ~~to the sheriff, constable or~~ to a police officer or a federally-licensed firearms dealer located in Delaware the respondent's firearms and to refrain from purchasing or receiving additional firearms for the duration of the order. The Court shall inform the respondent that he or she is prohibited from receiving, transporting, or possessing firearms for so long as the protective order is in effect;

(g) A protective order requiring a person to relinquish firearms in accordance with subsection (a)(8) of this section shall:

(1) State on its face that firearms shall be relinquished immediately to a police officer if requested by the police officer upon personal service of the protective order. If no request is made by a police officer, the relinquishment shall occur within 24 hours of personal service of the order at any staffed police station or a federally-licensed firearms dealer located in Delaware, unless the person is incarcerated at the time personal service is received, in which case the 24 hour relinquishment period shall commence at the time of release from incarceration.

(2) State on its face that the respondent is prohibited from purchasing, possessing, or controlling firearms, any other deadly weapons, or ammunition for a firearm under Delaware law.

(3) Require the respondent to file, within 48 hours of personal service or, if the Court will not be open within 48 hours from the time of personal service, within the first 3 hours the Court is thereafter open, one of the following documents:

a. A certification, under penalty of prosecution for false written statement under § 1233 of Title 11, that the respondent did not own, possess, or control any firearms at the time of the order and currently does not own, possess, or control any firearms.

b. A copy of a proof of transfer showing, for each firearm owned, possessed, or controlled by the respondent at the time of the order, that the firearm was relinquished to a police officer or a federally-licensed firearms dealer located in Delaware.

c. A certification, under penalty of prosecution for false written statement under § 1233 of Title 11, for each firearm owned, possessed, or controlled by the respondent at the time of the order, that the respondent is unable to obtain access to the firearm, specifying the location of the firearm and the reason why the respondent is unable to obtain access.

(h) The Court shall provide to the petitioner a copy of the documents the respondent files with the Court pursuant to subsection (g)(3) of this section within 48 hours of filing or, if the Court will not be open within 48 hours of the filing, within the first 3 hours the Court is thereafter open.

(i) A police officer or a federally-licensed firearms dealer located in Delaware taking possession of firearms relinquished by a respondent pursuant to a protective order under subsection (a) of this section shall issue a proof of transfer to the respondent and to the court issuing the order of protection. The proof of transfer shall list the name of the respondent; date of the transfer; and make, model, and serial number of each firearm relinquished. For purposes of this section, the term "police officer" shall be defined as in § 1911 of Title 11. The law enforcement agency or the federally-licensed firearms dealer located in Delaware shall dispose of the firearm or return the firearm to the respondent only subsequent to the expiration or termination of the protective order in accordance with

§ 2311 of Title 11.

(j) The forms for protective orders shall allow the petitioner to describe, under penalty of prosecution for false written statement under § 1233 of Title 11, the number, types, and locations of any firearms presently known by the petitioner to be owned, possessed, or controlled by the respondent.

(k) No records, data, information, or reports containing the name, address, other identifying data of either the respondent, petitioner, or recipient of the relinquished firearms or which contain the make, model, caliber, serial number, or other identifying data of any firearm which are required, authorized, or maintained pursuant to this section, shall be subject to disclosure or release pursuant to the Freedom of Information Act, Chapter 100 of Title 29.

Section 2. Amend § 1448, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1448. Possession and purchase of deadly weapons by persons prohibited; penalties.

(a) Except as otherwise provided herein, the following persons are prohibited from purchasing, owning, possessing or controlling a deadly weapon or ammunition for a firearm within the State:

(7) Any person who has been convicted in any court of any misdemeanor crime of domestic violence. For purposes of this paragraph, the term "misdemeanor crime of domestic violence" means any misdemeanor offense that:

a. Was committed by a member of the victim's family, as "family" is defined in § 901(12) of Title 10 (regardless, however, of the state of residence of the parties); by a former spouse of the victim; by a person who ~~cohabited~~ cohabited with the victim at the time of or within 3 years prior to the offense; ~~or~~ by a person with a child in common with the victim; or by a person with whom the victim had a substantive dating relationship, as defined in § 1041(2)b. of Title 10, at the time of or within 3 years prior to the offense; and

b. Is an offense as defined under § 601, § 602, § 603, § 611, § 614, § 621, § 625, § 628A, § 763, § 765, § 766, § 767, § 781, § 785 or § 791 of this title, or any similar offense when committed or prosecuted in another jurisdiction; or

Section 3. This Act takes effect on January 1, 2017.

Approved October 02, 2015