

HOUSE BILL 26-003

By Senator(s) Forbes
also Representative(s) Bowman, Mendoza

AN ACT**CONCERNING FIREARMS BY PROHIBITING
PURCHASE OR POSSESSION BY PERSONS W-
ITH A HISTORY OF DOMESTIC VIOLENCE OR
SUBJECT TO ACTIVE PROTECTION ORDERS.**

Be It Enacted by the General Assembly of the State of San Andreas:

SECTION 1. SHORT TITLE.

This bill shall be referred to as the “Domestic Violence Firearm Prevention Act”.

SECTION 2. LEGISLATIVE DECLARATION.

The general assembly hereby finds and declares that:

- (a) Domestic violence presents a serious and ongoing threat to the safety, health, and lives of residents of the state.
- (b) The presence of a firearm in situations involving domestic violence significantly increases the risk of serious bodily injury and death to victims, family members, and responding law enforcement officers.
- (c) Individuals who have demonstrated a pattern of violent or threatening behavior toward intimate partners or family members pose a heightened risk when permitted to access or possess firearms.
- (d) Courts issue civil and criminal protection orders based on specific findings of danger, credible threats, or acts of violence, and compliance with such orders is essential to their protective purpose.
- (e) It is the intent of the general assembly to prevent foreseeable harm by temporarily or permanently restricting access to firearms for individuals with a history of domestic violence or who are subject to active protection orders, consistent with constitutional requirements and public safety objectives.
- (f) The general assembly further finds that targeted firearm restrictions in domestic violence situations are intended to protect victims while respecting lawful firearm ownership by individuals not subject to protection orders or domestic violence convictions.

SECTION 3. DEFINITIONS.

As used in this section, unless the context otherwise requires:

- (a) “Interpersonal violence” means any act of physical force or harassment against a person with whom the actor has a current or former romantic or household relationship.

- (b) “Firearm” means any handgun, rifle, shotgun, or other weapon that will or is designed to expel a projectile by the action of an explosive.
- (c) “Protection order” means a temporary or permanent civil or criminal restraining order, protection order, or similar court order issued by a court of competent jurisdiction for the purpose of preventing acts of domestic violence, harassment, stalking, or credible threats of violence.
- (d) “Subject to an active protection order” means that a protection order is currently in effect and has not expired, been vacated, or otherwise terminated by the court of record.
- (e) “Firearm” shall not include an antique firearm as defined under federal law or a firearm rendered permanently inoperable. “Firearm” shall also not include any relic, curio, or collector’s item as defined by the bureau of alcohol, tobacco, firearms and explosives, provided such item is kept in a secure, display-only condition.

SECTION 4. PROHIBITION ON PURCHASE AND POSSESSION OF FIREARMS.

In the San Andreas Revised Statutes, Title 18, Article 12, add Section 312, to read:

- (a) A person shall not knowingly purchase, attempt to purchase, possess, or control a firearm if the person:
- (I) Has been convicted of a misdemeanor or felony offense involving domestic violence under the laws of this state, any other state, or the United States; or
 - (II) Is subject to an active protection order that includes a finding of credible threat or prohibits the use, attempted use, or threatened use of physical force against an intimate partner or family member.
- (b) Duration of Prohibition. The prohibition set forth in subsection (a)(i) of this section shall terminate automatically five years after the date of conviction if the person has not committed any subsequent acts of domestic violence during that period.
- (c) A person prohibited from possessing firearms under this section shall be notified in writing by the issuing court of the prohibition and the procedures for surrendering firearms in compliance with section 18-12-313.

SECTION 5. SURRENDER AND STORAGE OF FIREARMS.

In the San Andreas Revised Statutes, Title 18, Article 12, add Section 313, to read:

- (a) A person who becomes prohibited from possessing a firearm pursuant to this section shall, within twenty-four hours:
- (I) Surrender all firearms in the person’s possession or control to a local law enforcement agency; or
 - (II) Transfer all firearms to a federally licensed firearms dealer or other lawful third party who does not reside with the prohibited person and who is approved by the court, for storage for the duration of the prohibition.
- (b) Proof of surrender or transfer shall be provided to the issuing court in a manner prescribed by rule or court order.

- (c) Storage Fees. A law enforcement agency may charge the prohibited person a reasonable daily storage fee for any surrendered firearms. If fees remain unpaid for more than one year following the termination of the prohibition, the firearms shall be deemed abandoned and may be disposed of according to local policy.
- (d) A person subject to firearm surrender under this Act may request that surrendered firearms be transferred to a federally licensed firearms dealer for lawful sale during the period of prohibition.
- (e) Upon expiration or termination of the prohibition described in Section 4 of this Act, a person may apply to the law enforcement agency or third party for the return of surrendered firearms provided the person is otherwise legally eligible to possess firearms.
- (f) The court may issue a search warrant upon probable cause where there is reason to believe a prohibited person is in possession of firearms as required under this section.
- (g) At the time a protection order containing firearm restrictions is issued, the court shall inform the respondent of the firearm surrender requirements established under this Act and the deadline for compliance.
- (h) Law enforcement agencies serving a protection order that includes firearm restrictions shall request that the respondent immediately surrender any firearms in the respondent's immediate possession or control at the time the order is served.
- (h.5) Upon the service of a protection order, law enforcement officers shall provide the respondent with a written notice explaining the voluntary surrender process as determined by the department of public safety.
- (i) A respondent subject to firearm surrender under this Act shall file with the court a signed affidavit under penalty of perjury confirming compliance with the surrender or lawful transfer requirements. The statement must include the make, model, and serial number of each surrendered firearm. The court shall seal said statement, and it shall not be subject to public inspection except by law enforcement or upon a showing of good cause.
- (j) A court may schedule a compliance hearing to verify that a respondent has surrendered or transferred firearms in accordance with the requirements of this Act.
- (k) Firearms surrendered pursuant to this Act shall not be destroyed unless otherwise authorized by court order or unless the owner fails to petition for the return of the firearms within two years after the termination of the prohibition.
- (l) A court may authorize a respondent to transfer ownership of surrendered firearms to a lawful third party provided the court determines that the transfer will not allow the respondent continued access to or control of the firearms.

SECTION 6. PENALTIES.

- (a) A person who knowingly violates this section commits a Class B felony offense.
- (b) Each firearm unlawfully possessed constitutes a separate offense.
- (c) In determining the penalty under this section, courts may consider the number of firearms involved, the duration of unlawful possession, and any prior violations of protection orders.

(d) A person convicted under this section shall be prohibited from purchasing or possessing firearms for a period of five years following completion of any sentence imposed for the offense.

SECTION 7. RULEMAKING AUTHORITY.

(a) The Department of Public Safety, in consultation with the judicial branch and local law enforcement agencies, may promulgate rules as necessary to implement this section, including procedures for firearm surrender, storage, and verification of compliance.

(b) Rules adopted under this section shall include procedures for verifying compliance with firearm surrender requirements imposed by protection orders.

(c) The Department of Public Safety shall develop standardized accessible forms for documenting firearm surrender or transfer under this Act.

(d) The Department of Public Safety shall maintain anonymized aggregated data regarding firearms surrendered pursuant to this Act, including the number of protection orders requiring surrender and the number of firearms transferred or seized.

(e) Annual Report. The Department of Public Safety shall submit an anonymized summary report to the general assembly annually. The report shall be limited to the total number of surrendered firearms statewide and shall not disclose data by jurisdiction or specific case type.

(f) Training Materials. The Department of Public Safety shall develop training materials that emphasize the protection of second amendment rights during the surrender process and the prevention of law enforcement overreach in the execution of protection orders.