

SENATE THIRD READING  
SB 320 (Eggman)  
As Amended August 30, 2021  
Majority vote

## SUMMARY

Codifies existing Rules of Court related to the relinquishment of a firearm by a person subject to a civil domestic violence restraining order; requires the court to notify law enforcement and the county prosecutor's office when there has been a violation of a firearm/ammunition relinquishment order, and clarifies that specified provisions of law pertaining to a relinquishment of a firearm also apply to ammunition.

### Major Provisions

- 1) Requires the court, when issuing a protective order, to provide information about relinquishing any firearms and ammunition that are still in the restrained party's possession, according to local procedures, and the process for submitting a receipt to the court showing proof of relinquishment.
- 2) Requires the court, when holding a hearing, to review the file to determine whether the receipt showing proof of relinquishment has been filed and inquire of the respondent whether they have complied with the requirement.
- 3) Requires the court to report violations of the firearms prohibition of a restraining order to the prosecuting attorney in the jurisdiction where the order has been issued within two business days of the court hearing unless the restrained party provides a receipt showing compliance at a subsequent hearing or by direct filing with the clerk of the court.
- 4) Requires every law enforcement agency in the state to develop, adopt, and implement written policies and standards for law enforcement officers who request immediate relinquishment of firearms or ammunition.
- 5) Codifies Rules of Court that pertain to the relinquishment of firearms in the context of family or juvenile law domestic violence protective orders.
- 6) Requires the court to consider whether a party is a restrained person in possession or control of a firearm or ammunition when making specified determinations related to child custody and visitation matters.
- 7) Requires the juvenile court, when issuing a Domestic Violence Restraining Order (DVRO), to make a determination as to whether the restrained person is in possession or control of a firearm or ammunition, and applies the procedures for firearm relinquishment.
- 8) Authorizes a person who is prohibited from owning, possessing, purchasing, or receiving a firearm or ammunition pursuant to a protective order to transfer or relinquish the firearm or ammunition for storage.
- 9) Exempts persons who are relinquishing a firearm pursuant a protective order from the specified offenses of concealed carry and openly carrying a firearm.

- 10) Exempts persons who are relinquishing ammunition pursuant to a protective order from the prohibition on selling more than 500 rounds in a 30-day period.

## COMMENTS

### According to the Author

"In California, 33% of women and 27% of men experience some form of domestic violence during their lifetimes. We know that the presence of a firearm in the home during an incident of domestic violence increases the risk of homicide by at least 500%. Although California has led the charge when it comes to comprehensive firearm legislation, recovering firearms from those who are mandated to relinquish them has proven to be more difficult.

"The Armed Prohibited Persons System (APPS) data show consistently that over 20,000 people in California are armed and prohibited – and that's only identifying those with firearms known to the state of California. California DOJ has consistently recommended that steps be taken at the local level to ensure relinquishment as close to the time of prohibition as possible.

"Under existing law, when a person is the subject of a domestic violence restraining order they automatically become a prohibited person. In 2014, the Judicial Council adopted Rule 5.495 laying out the procedures courts could take to ensure relinquishment and to coordinate with law enforcement where necessary. Because the rule is optional, it has been implemented inconsistently throughout California. Codifying Rule of Court 5.495, and strengthening requirements for courts to communicate with law enforcement when an order has been violated, demonstrates California's commitment to removing firearms from prohibited persons at the earliest point in time while also ensuring consistent and robust implementation of the policy across all 58 counties of our state.

"The inconsistency in implementation is especially concerning in the civil context because the only person with the ability to address the firearm prohibition as close to the time of prohibition as possible is the judge hearing the case. Unlike in the criminal context, there is no outside law enforcement, probation officer, or prosecutor present in the courtroom to address compliance or violations with the firearms relinquishment process.

"In civil domestic violence restraining order cases the burden is too often on the victim to know about the rule of court process and to request that the court conduct a hearing to ensure the restrained person is no longer armed. Making sure courts, litigants, and attorneys know how important it is to address the firearms prohibition at the earliest point possible will protect victims of domestic violence, their families and communities, and law enforcement."

### Arguments in Support

According to this bill's sponsor, *Gifford's*: "This bill would strengthen court processes for ensuring firearm relinquishment by people who, under current law, are no longer permitted to own, possess, or purchase firearms because they are subject to a domestic violence restraining order. When a protected party has provided information to the court about a restrained party having firearms, we know that matter involves greater risk of harm to the protected person, family and community members, and law enforcement. SB 320 would build on existing law that currently directs courts to review relevant records prior to a hearing on issuance of a protective order to determine whether the respondent failed to relinquish firearms. It also provides for

notification to law enforcement so that appropriate steps can be taken to reduce risk to protected persons, members of law enforcement, and the public generally."

### **Arguments in Opposition**

None on file.

## **FISCAL COMMENTS**

According to the Assembly Appropriations Committee:

- 1) One-time costs (General Fund) of approximately \$71,000 to the Department of Justice (DOJ) to modify the California Restraining and Protective Order System (CARPOS) to reflect notification to law enforcement.
- 2) No costs to the courts given this bill codifies an existing Rule of Court and other current court practices.

## **VOTES**

### **SENATE FLOOR: 39-0-1**

**YES:** Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk

**ABS, ABST OR NV:** Melendez

### **ASM PUBLIC SAFETY: 8-0-0**

**YES:** Jones-Sawyer, Lackey, Bauer-Kahan, Lee, Quirk, Santiago, Seyarto, Wicks

### **ASM JUDICIARY: 10-0-1**

**YES:** Stone, Gallagher, Chau, Chiu, Davies, Lorena Gonzalez, Holden, Kalra, Maienschein, Reyes

**ABS, ABST OR NV:** Kiley

### **ASM APPROPRIATIONS: 16-0-0**

**YES:** Lorena Gonzalez, Bigelow, Bryan, Calderon, Carrillo, Chau, Megan Dahle, Voepel, Fong, Mullin, Eduardo Garcia, Luz Rivas, Quirk, Kalra, Stone, McCarty

## **UPDATED**

VERSION: August 30, 2021

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