

HOUSE BILL NO. 6135

November 14, 2024, Introduced by Reps. O'Neal, Brixie, Andrews, Breen, Coffia, Hope, Weiss, Steckloff, Price, Rheingans, Conlin, Hood, Brabec, Byrnes, Morgan, Young and Tsernoglou and referred to the Committee on Labor.

A bill to provide procedures for the surrender of firearms by, or the seizure of the firearms from, individuals convicted of misdemeanors involving domestic violence; to provide for the powers and duties of state and local governmental officers and entities; to prescribe penalties for failure to obey court orders; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "domestic violence
2 firearm protection act".

3 Sec. 2. As used in this act:

1 (a) "C.J.I.S. policy council act" means the C.J.I.S. policy
2 council act, 1974 PA 163, MCL 28.211 to 28.215.

3 (b) "Control" includes, but is not limited to, constructive
4 possession by which the defendant has the right to control the
5 firearm or ammunition, even though the firearm or ammunition is in
6 a different location than the defendant.

7 (c) "Law enforcement agency" means any of the following:

8 (i) A sheriff's department.

9 (ii) The department of state police.

10 (iii) A police department of a township, village, or
11 incorporated city.

12 (iv) The public safety department of an institution of higher
13 education created under or described in article VIII of the state
14 constitution of 1963.

15 (v) The public safety department of a community or junior
16 college.

17 (vi) The public safety department or office of a private
18 college.

19 (d) "Law enforcement officer" means a law enforcement officer
20 as that term is defined in section 2 of the Michigan commission on
21 law enforcement standards act, 1965 PA 203, MCL 28.602.

22 (e) "Misdemeanor involving domestic violence" means that term
23 as defined in section 224f of the Michigan penal code, 1931 PA 328,
24 MCL 750.224f.

25 Sec. 3. At the sentencing of a defendant convicted in this
26 state of a misdemeanor involving domestic violence, the court shall
27 advise the defendant of all of the following:

28 (a) That the defendant is prohibited from possessing, using,
29 transporting, selling, purchasing, carrying, shipping, receiving,

1 or distributing a firearm or ammunition for the period specified in
2 section 224f(5) of the Michigan penal code, 1931 PA 328, MCL
3 750.224f.

4 (b) That if the defendant owns or controls a firearm or has a
5 concealed pistol license or license issued under section 2 of 1927
6 PA 372, MCL 28.422, at the time of the sentencing, the defendant
7 must surrender the firearm or license as required under section 4,
8 with the details of the requirements of section 4, including the
9 name and address of the law enforcement agency designated by the
10 court.

11 (c) That not later than 24 hours after the sentencing or, if
12 the defendant is sentenced to imprisonment, not later than 24 hours
13 after release from imprisonment, the defendant must file with the
14 clerk of the court a certificate under section 5 stating whether
15 the defendant owns or controls a firearm and if so whether the
16 defendant has surrendered the firearm as required.

17 (d) All of the following if the defendant owns or controls a
18 firearm or has a license described in subdivision (b) at the time
19 of the sentencing:

20 (i) The date, time, and place of the hearing scheduled under
21 section 6.

22 (ii) That unless the hearing is waived, the defendant must
23 attend the hearing, and that if the defendant does not attend, the
24 defendant may be found in contempt of court and subjected to
25 punishment.

26 (iii) That the hearing may be waived if proof of surrender is
27 filed with the clerk under subdivision (c).

28 (e) That if the defendant possesses, uses, transports, sells,
29 purchases, carries, ships, receives, or distributes a firearm or

1 ammunition within the period specified in section 224f of the
2 Michigan penal code, 1931 PA 328, MCL 750.224f, the defendant may
3 be convicted of a felony and subject to the penalties provided
4 under that section, specifically stating the penalties.

5 Sec. 4. (1) Not later than 24 hours after sentencing for a
6 conviction of a misdemeanor involving domestic violence or, if the
7 defendant is sentenced to imprisonment, not later than 24 hours
8 after release from imprisonment, the defendant shall surrender any
9 firearm that the defendant owns or controls and any concealed
10 pistol license or license issued under section 2 of 1927 PA 372,
11 MCL 28.422, that the defendant has as provided under subsection
12 (2).

13 (2) A defendant shall surrender a firearm or license described
14 in subsection (1) as required under this section to any of the
15 following:

16 (a) A law enforcement agency designated by the court.

17 (b) A licensed firearm dealer on the list prepared under
18 section 18 of the extreme risk protection order act, 2023 PA 38,
19 MCL 691.1818.

20 Sec. 5. (1) A law enforcement agency or licensed firearm
21 dealer to which a firearm is surrendered under section 4 shall
22 provide the individual who surrenders the firearm a receipt stating
23 the date and time of the surrender and a description of the firearm
24 surrendered. A law enforcement agency that provides a receipt shall
25 also provide a copy of the receipt for the individual.

26 (2) A law enforcement agency that receives a firearm under
27 this act shall retain and store the firearm.

28 (3) The defendant may reclaim a firearm surrendered to a law
29 enforcement agency under this section, or seized by a law

1 enforcement agency under section 8, when the period specified in
2 section 224f of the Michigan penal code, 1931 PA 328, MCL 750.224f,
3 expires, unless the defendant is prohibited for another reason from
4 owning or possessing a firearm. Before allowing the defendant to
5 reclaim a firearm under this subsection, and to determine whether
6 the defendant is prohibited from owning or possessing a firearm for
7 another reason, the law enforcement agency shall conduct a
8 verification under the law enforcement information network and the
9 national instant criminal background check system in the same
10 manner as required under section 5b(6) of 1927 PA 372, MCL 28.425b.

11 (4) If a defendant fails to reclaim a firearm under subsection
12 (3) within 90 days after the period specified in section 224f of
13 the Michigan penal code, 1931 PA 328, MCL 750.224f, expires, the
14 law enforcement agency storing the firearm shall do 1 of the
15 following:

16 (a) Proceed as for a firearm subject to disposal under
17 sections 239 and 239a of the Michigan penal code, 1931 PA 328, MCL
18 750.239 and 750.239a.

19 (b) Follow the procedures for property under 1987 PA 273, MCL
20 434.21 to 434.29.

21 (5) A law enforcement agency that stores a firearm under this
22 section is not liable for damage to or a change in condition of the
23 firearm unless the damage or change in condition resulted from a
24 failure to exercise reasonable care in the storage of the firearm.

25 Sec. 6. (1) If a defendant convicted of a misdemeanor
26 involving domestic violence owns or controls a firearm or has a
27 concealed pistol license or a license issued under section 2 of
28 1927 PA 372, MCL 28.422, at the time of sentencing, the court shall
29 schedule a hearing not later than 5 days after the sentencing or,

1 if the defendant is sentenced to imprisonment, not later than 5
2 days after the defendant is released from imprisonment.

3 (2) At a hearing under this section, the court shall determine
4 whether the defendant has surrendered all firearms that the
5 defendant owns or controls and all licenses described in subsection
6 (1) that the defendant has as required under section 4.

7 (3) If the court determines that the defendant has not
8 surrendered all firearms and licenses as required under section 4,
9 the court shall issue a search warrant under 1966 PA 189, MCL
10 780.651 to 780.659, describing any firearm or license believed to
11 be owned or controlled by the defendant and authorizing a
12 designated law enforcement agency to search the location or
13 locations where the firearm or license is believed to be and to
14 seize any firearm, concealed pistol license, or license issued
15 under section 2 of 1927 PA 372, MCL 28.422, discovered by the
16 search.

17 (4) A hearing under this section may be waived if the
18 defendant files with the clerk of the court before the hearing a
19 certificate stating under penalty of perjury that the defendant has
20 surrendered all of the firearms owned or controlled by the
21 defendant as required.

22 (5) A defendant who fails to appear at a hearing under this
23 section is subject to the civil and criminal contempt powers of the
24 court. If found guilty of criminal contempt of court, the defendant
25 may be sentenced to imprisonment for not more than 93 days and a
26 fine of not more than \$500.00.

27 Sec. 7. (1) Not later than 24 hours after sentencing for a
28 conviction of a misdemeanor involving domestic violence or, if the
29 defendant is sentenced to imprisonment, not later than 24 hours

1 after release from imprisonment, the defendant shall file a
2 certificate with the court that discloses under penalty of perjury
3 whether the defendant, at the time of signing the certificate, owns
4 or controls a firearm, with a description of each firearm.

5 (2) If the certificate under this section discloses that the
6 defendant owns or controls a firearm, the defendant shall indicate
7 in the certificate whether the defendant has surrendered the
8 firearm as required under section 4.

9 Sec. 8. (1) A law enforcement agency ordered to seize a
10 firearm or license under a warrant issued under section 6 shall do
11 all of the following:

12 (a) Seize a firearm or license identified in the warrant from
13 any place or from any individual who has possession or control of
14 the firearm or license.

15 (b) Seize any other firearm, concealed pistol license, or
16 license issued under section 2 of 1927 PA 372, MCL 28.422,
17 discovered that is owned by or under the control of the defendant
18 or if allowed under other applicable law.

19 (2) A law enforcement officer who seizes a firearm or license
20 under this section shall give a tabulation of firearms seized as is
21 required under section 5 of 1966 PA 189, MCL 780.655, to the
22 individual from whom the firearms were taken. If no individual is
23 present at the time of seizure, the officer shall leave the
24 tabulation in the place where the officer found the firearms that
25 were seized.

26 (3) Section 5(2) to (5) applies to a firearm seized under this
27 section.

28 Sec. 9. (1) The clerk of a court that sentences a defendant
29 convicted of a misdemeanor involving domestic violence who owns or

1 controls a firearm or has a concealed pistol license or a license
2 issued under section 2 of 1927 PA 372, MCL 28.422, at the time of
3 sentencing shall notify the department of state police and the
4 clerk of the defendant's county of residence of the conviction for
5 purposes of performing their duties under 1927 PA 372, MCL 28.421
6 to 28.435.

7 (2) If a defendant sentenced for a conviction for a
8 misdemeanor involving domestic violence owns or controls a firearm
9 or has a concealed pistol license or a license issued under section
10 2 of 1927 PA 372, MCL 28.422, at the time of sentencing, the law
11 enforcement agency designated under section 4 or a local entering
12 authority shall enter the conviction into the law enforcement
13 information network maintained under the C.J.I.S. policy council
14 act.

15 (3) A law enforcement agency designated under section 4 shall
16 immediately provide notice of the conviction to the Criminal
17 Justice Information Services Division of the Federal Bureau of
18 Investigation for purposes of the national crime information
19 center.