
The original instrument was prepared by Ashley Menou. The following digest, which does not constitute a part of the legislative instrument, was prepared by Nancy Vicknair.

SB 231 Reengrossed

DIGEST
2018 Regular Session

Morrell

Present law prohibits certain persons against whom a protective order is issued from possessing a firearm for the duration of the injunction or protective order.

Proposed law also prohibits certain persons against whom a protective order is issued from carrying a concealed weapon for the duration of the injunction or protective order and otherwise retains present law.

Proposed law clarifies present law by adding to the definition of the crime of violation of a protective order, the possession of a firearm, carrying of a concealed weapon, and the purchase or attempted purchase of a firearm by a person prohibited from possessing a firearm or carrying a concealed weapon pursuant to a protective order issued against him and in violation of certain domestic violence crimes.

Present law provides that when a person fraudulently purchases a firearm or ammunition he shall be fined not less than \$1,000 nor more than \$5,000, or imprisoned, with or without hard labor, for not less than one year nor more than five years, or both.

Proposed law retains present law but changes the imprisonment penalty for fraudulent purchase of a firearm or ammunition to imprisonment to not more than 20 years without the benefit of probation, parole, or suspension of sentence.

Proposed law provides that when a person is found guilty of attempting to fraudulently purchase a firearm or ammunition he shall be imprisoned at hard labor for not more than seven and one-half years and fined not less than \$500 nor more than \$2,500.

Proposed law provides that if a person is reported ineligible by a background check while attempting to purchase a firearm, the licensed dealer must report the attempted purchaser to the sheriff and to the Louisiana Automated Victim Notification System within 72 hours of the attempted purchase.

Proposed law requires a sheriff to notify state police if a person has a permanent injunction or protective order issued against him. Requires state police to flag such person as prohibited from possessing a firearm as provided in present law.

Proposed law also requires any law enforcement agency to report a licensed firearm dealer to all licensing agencies of the dealer if law enforcement learns that a dealer knew or should have known that a person was prohibited from possessing a firearm and the licensed dealer failed to notify the sheriff.

Present law provides the penalty for possession of a firearm or carrying of a concealed weapon by a person convicted of domestic abuse battery and certain offenses of battery of a dating partner is imprisonment, with or without hard labor, for not less than one year nor more than five years, and a fine of not less than \$500 nor more than \$1,000.

Proposed law provides that the penalties for possession of a firearm or carrying of a concealed weapon by a person convicted of domestic abuse battery and certain offenses of battery of a dating partner is imprisonment, with or without hard labor for not less than one year nor more than 20 years without the benefit of probation, parole, or suspension of sentence, and a fine of not less than \$1,000 nor more than \$5,000.

Proposed law provides the penalty for the attempted violation of possession of a firearm or carrying of a concealed weapon by a person convicted of domestic abuse battery and certain offenses of battery of a dating partner is imprisonment at hard labor for not more than seven and one-half years and a fine of not less than \$500 nor more than \$2,500.

Present law prohibits a person against whom a protective order or permanent injunction is issued from possessing a firearm.

Proposed law adds that such persons shall also be prohibited from carrying a concealed weapon and otherwise retains present law.

Proposed law provides that upon a conviction of certain domestic violence offenses or a permanent injunction or protective order issued against a person, the court shall suspend his concealed handgun permit and shall order the person to transfer all firearms in his possession.

Proposed law provides that the order to transfer firearms and suspend a concealed handgun permit is to be issued by the court at the time of conviction or at the same time the court issues a permanent injunction or protective order against a person.

Proposed law requires firearms to be transferred to the sheriff of the parish of the person's residence or the sheriff of the parish in which the order to transfer was issued no later than 48 hours after the order is issued. Proposed law provides if a person is incarcerated at the time the order is issued he must transfer his firearms no later than 48 hours after his release.

Proposed law requires the sheriff and the person transferring firearms to complete a proof of transfer form at the time a person transfers his firearms. Such form shall not contain the quantity of firearms transferred or any identifying information about such firearms. The sheriff must retain a copy and provide the person with a copy.

Proposed law provides that if a person prohibited from possessing a firearm or carrying a concealed weapon does not possess or own firearms he shall complete a declaration of nonpossession with the sheriff of the parish of his residence or the parish in which the order was issued.

Proposed law requires persons ordered to transfer firearms to file the proof of transfer form or

declaration of nonpossession with the clerk of court in the parish in which the order was issued within five days of a conviction or order issued against him.

Proposed law provides that the sheriff of each parish is responsible for oversight of firearm transfers in his parish and requires certain options be offered by the sheriff to the transferor of such firearms.

Proposed law requires the sheriff to prepare a receipt for each firearm transferred and to provide a copy to the person transferring the firearm. Proposed law further provides that the sheriff may require receipt be presented before returning a firearm.

Proposed law requires the sheriff to keep records of all firearms transferred to his office.

Proposed law provides that the sheriff shall exercise due care to preserve the quality and function of transferred firearms, but will not be responsible for damage except in cases of willful or wanton misconduct or gross negligence.

Proposed law provides that transferred firearms shall be returned upon dismissal of the protective order or a finding that a protective order not be issued upon a person's acquittal, when charges are dismissed, or if no charges are filed.

Proposed law provides that after a firearm is returned pursuant to proposed law, the sheriff is required to destroy the records pertaining to the returned firearm and notify the clerk of court of the parish that the transferred firearm has been returned and instruct the clerk of court to destroy the pertinent record.

Proposed law directs the sheriff, clerk of court, and district attorney of each parish, and state police bureau of criminal identification and information, to develop forms, policies, and procedures necessary to implement the provisions of proposed law no later than January 1, 2019.

Effective October 1, 2018.

(Amends R.S. 14:95.1.3(D), 95.10(B), and R.S. 46:2136.3(A)(intro para); adds R.S. 14:79(A)(4) and 95.1.3(E), R.S. 46:2136.3(C), and C.Cr.P. Arts. 1000-1003; repeals R.S. 46:2137)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary B to the original bill

1. Makes technical changes.
2. Changes "relinquishment" to "transfer" throughout proposed law.
3. Changes the method in which the sheriff may notify a protected person from the telephone number in the La. Protective Order Registry to any information in the La.

Protective Order Registry.

4. Removes the requirement that a person must request that his firearms be transferred to a third person and allows the sheriff to oversee the transfer of firearms to a third person without a prior request.
5. Changes the effective date to October 1, 2018.

Senate Floor Amendments to engrossed bill

1. Makes technical changes.
2. Provides that fraudulent firearm and ammunition purchases require imprisonment, with or without hard labor, for not more than 20 years.
3. Requires that if a person is declared ineligible to purchase a firearm by the NICS, such ineligibility must be reported to the Louisiana Automated Victim Notification System, in addition to the sheriff, and changes the time frame for reporting such ineligibility from 24 hours to 72 hours.
4. Removes the requirement that a sheriff perform certain duties within 24 hours of receiving a notice of denial pertaining to a person who has been deemed ineligible to purchase a firearm.
5. Requires a sheriff to notify state police if a person has a permanent injunction or protective order issued against him and requires state police to flag such person as prohibited from possessing a firearm as provided in present law.
6. Changes the imprisonment penalty for possession of a firearm or carrying of a concealed weapon by a person convicted of domestic abuse battery and certain offenses of battery of a dating partner from imprisonment at hard labor for not less than five nor more than 20 years to imprisonment, with or without hard labor for not less than one year nor more than 20 years without the benefit of probation, parole, or suspension of sentence.
7. Changes the fine for possession of a firearm or carrying of a concealed weapon by a person convicted of domestic abuse battery and certain offenses of battery of a dating partner from not less than \$500 nor more than \$1,000 to not less than \$1,000 nor more than \$5,000.
8. Requires that the proof of transfer form not contain the quantity of firearms transferred or any identifying information about such firearms.
9. Establishes oversight procedures for firearm transfers in each parish and provides that

certain options be provided by the sheriff to the transferor.

10. After a firearm is returned, requires that records pertaining to the returned firearm be destroyed by the sheriff and the clerk of court.
11. Adds a severability clause.