
The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Ashley E. Menou.

SB 231 Engrossed

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.

Proposed law further clarifies present law by adding to the crime of violation of a protective order the statutes to be used for penalties when a person is convicted of violation of a protective order and the conviction is related to 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 or more than \$5,000, or imprisoned, with or without hard labor, for not less than one year or more than five years, or both.

Proposed law changes the penalty for fraudulent purchase of a firearm or ammunition to imprisonment at hard labor for not less than five nor more than 20 years without the benefit of probation, parole, or suspension of sentence and fined not less than \$1,000 nor more than \$5,000.

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's name, sex, race, and date of birth to the sheriff within 24 hours of the attempted purchase.

Proposed law provides that within 24 hours of receiving notification of the denial, the sheriff shall:

- (1) Search the Louisiana Protective Order Registry or any other database to determine if the person was denied because he is prohibited from possessing a firearm or carrying a concealed weapon.

- (2) Arrest the attempted purchaser if he is prohibited from possessing a firearm or carrying a concealed weapon.
- (3) Notify the protected person if the attempted purchaser has a permanent injunction or a protective order issued against him.

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 changes 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 to imprisonment at hard labor for not less than five 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 shall be 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 their 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. 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 the acceptance and storage of transferred firearms and allows the sheriff to charge a reasonable storage fee.

Proposed law allows the sheriff to contract with a storage facility for the storage of the firearms, allows a third party to receive and hold the firearms, accept an irrevocable donation, or oversee the legal sale of the 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 directs the sheriff, clerk of court, and district attorney of each parish 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 (C)(3), 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.