2024 SESSION

24-2043
09/05

HOUSE BILL ***1337-FN***

AN ACT relative to the return of weapons and ammunition upon expiration of protective orders.

SPONSORS: Rep. T. Mannion, Hills. 1; Rep. Panek, Hills. 1; Rep. Reid, Hills. 27

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill changes the burden to the plaintiff to file a request for a hearing prior to the expiration of a protective order or else any and all firearms, ammunition, or specified deadly weapons will be returned to the defendant. This bill further removes the prohibition that law enforcement agencies shall not release firearms, ammunition, or specified deadly weapons without a court order, and removes the authorization for law enforcement agencies to charge the defendant a fee for the storage of the firearms, ammunition, and specified deadly weapons. This bill further removes the subsection providing law enforcement agencies release from liability for damage or deterioration to the firearms, ammunition, or specified deadly weapons stored.

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Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 1337-FN - AS INTRODUCED

24-2043
09/05

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Four

AN ACT relative to the return of weapons and ammunition upon expiration of protective orders.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Protection of Persons from Domestic Violence; Relief. Amend RSA 173-B:5, X to read as follows:

X.(a) Within 15 days prior to the expiration of the protective orders, the [~~defendant~~] ***plaintiff*** may request, by motion to the court, ***a hearing on*** the return of any and all firearms and ammunition and specified deadly weapons held by the law enforcement agency while the protective order was in effect. Upon receipt of such a motion, the court shall schedule a hearing no later than 15 days after the expiration of the order. The court shall provide written notice to the [~~plaintiff~~] ***defendant*** who shall have the right to appear and be heard, and to the law enforcement agency which has control of the firearms, ammunition, and specified deadly weapons. The scope of the hearing shall be limited to:

(1) Establishing whether the defendant is subject to any state or federal law or court order that precludes the defendant from owning or possessing a firearm; and

(2) Under circumstances where the plaintiff has requested an extension of the protective order, whether the plaintiff has established by a preponderance of the evidence that the defendant continues to represent a credible threat to the safety of the plaintiff.

(b) If the court finds that the defendant is not subject to any state or federal law or court order precluding the ownership or possession of firearms, [~~or~~] ***and*** if the court ***either*** denies the plaintiff's request to extend the protective order[~~,~~] ***or if no motion for a hearing is filed by the plaintiff,*** the court shall issue a written order directing the law enforcement agency to return the requested firearms, ammunition, or deadly weapon to the defendant.

(c) [~~Law enforcement agencies shall not release firearms and ammunition and specified deadly weapons without a court order granting such release. The law enforcement agency may charge the defendant a reasonable fee for the storage of any firearms and ammunition and specified deadly weapons taken pursuant to a protective order. The fee shall not exceed the actual cost incurred by the law enforcement agency for the storage of the firearms and ammunition and specified deadly weapons.~~] The defendant may make alternative arrangements with a federally licensed firearms dealer for the storage of firearms, at the defendant's own expense, upon approval of the court. Such firearms shall be turned over to the appropriate law enforcement agency for transfer to the storage facility. Retrieval of such firearms shall be through the law enforcement

agency responsible for their transfer to the storage facility pursuant to a court order as prescribed in this [~~paragraph~~] ***section***.

[~~(d) No law enforcement agency shall be held liable for alleged damage or deterioration due to storage or transportation to any firearms and ammunition and specified deadly weapons held by a law enforcement agency, so long as due care is used.~~]

2 Effective Date. This act shall take effect January 1, 2025.

LBA
24-2043
11/27/23

HB 1337-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to the return of weapons and ammunition upon expiration of protective orders.

FISCAL IMPACT: [X] State [X] County [X] Local [ ] None

Estimated State Impact - Increase / (Decrease)				
	FY 2024	**FY 2025**	**FY 2026**	**FY 2027**
Revenue	$0	$0	$0	$0
Revenue Fund(s)	None			
Expenditures	$0	Law Enforcement and Judicial Branch Costs - Indeterminable DOJ Position Cost - $101,000 in FY 2025, $132,000 in FY 2026, and $137,000 in FY 2027		
Funding Source(s)	General Fund			
Appropriations	$0	$0	$0	$0
Funding Source(s)	None			

- Does this bill provide sufficient funding to cover estimated expenditures? [X] No
- Does this bill authorize new positions to implement this bill? [X] No

Estimated Political Subdivision Impact - Increase / (Decrease)				
	FY 2024	**FY 2025**	**FY 2026**	**FY 2027**
County Revenue	$0	$0	$0	$0
County Expenditures	$0	Indeterminable		
Local Revenue	$0	$0	$0	$0
Local Expenditures	$0	Indeterminable		

METHODOLOGY:

This bill shifts the burden to a domestic violence plaintiff to file a request for a hearing prior to the expiration of a protective order, otherwise any firearm, ammunition or deadly weapons will be returned to the defendant. The bill repeals a prohibition that law enforcement shall not release firearms, ammunition or deadly weapons without a court order and prevents law enforcement from charging a reasonable fee for the storage costs of firearms, ammunition or deadly weapons. This bill also repeals law enforcement's release from liability for the damages to any firearm, ammunition or deadly weapons during the course of storage or transportation.

The Department of Safety states it is unable to estimate this bill's impact on law enforcement (state, county, and local), however has identified the following potential cost areas:

- Increased cost for storage fees of firearms, ammunition, and deadly weapons.
- Increased cost for potential damages to firearms, ammunition, and deadly weapons due to the repeal of the release of liability.
- Increased cost for training of law enforcement, updating policies and procedures and internal forms.

The Department of Justice states this bill would significantly increase obligations on victim/witness advocates employed by the Department. Although this bill does not contain express obligations on the part of advocates, practically, it would obligate advocates to keep track of all protective orders involving firearms and assist victims with filing motions relative to prohibiting a domestic violence protective order defendant from reacquiring firearms even where a protective order extension request is pending. The Department anticipates it would need to hire one (1) victim witness advocate, and with an assumed hire date of October 1, 2024, this position would have an estimated total cost of $101,000 in FY 2025, $132,000 in FY 2026, and $137,000 in FY 2027. This bill contains neither authority nor appropriation for new personnel.

The Judicial Branch states it is not possible for it to estimate how this change in law would impact the frequency and complexity of filings, and therefore is unable to estimate this bill's impact (if any) on its budget.

AGENCIES CONTACTED:

Department of Safety, Department of Justice, and Judicial Branch