

REMOVING GUNS FROM DOMESTIC VIOLENCE OFFENDERS

**An Analysis of State Level Policies
to Prevent Future Abuse**



Center for Gun Policy and Research

Protecting Health, Saving Lives—*Millions at a Time*

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to Prevent Future Abuse**

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Introduction

Intimate partner violence (IPV) exists in communities throughout the United States. In one recent survey, 25% of women and 8% of men reported being victimized (raped, physically assaulted, and/or stalked) by an intimate partner at some point during their life (Tjaden & Thoennes). Intimate partner violence is a complex problem, with many causes and potential solutions. One approach to addressing IPV is to identify and interrupt risk factors associated with the most severe forms of abuse. IPV in its most serious form is fatal. In 2005, law enforcement reported 1,510 intimate homicides; more than half of those people were killed by guns (Fox & Zawitz). A gun in a violent home increases the likelihood that IPV incidents will result in death (Campbell; Saltzman).

Risk of death is one reason that IPV prevention efforts should target guns, however, guns are also involved in non-lethal IPV. In one national survey, more than 4% of female IPV victims and about 0.5% of male IPV victims reported being threatened or abused with a gun during their lifetime (Tjaden and Thoennes). Among a sample of women residing in domestic violence shelters in California, 65% of women who, prior to seeking shelter lived in homes with guns, reported their abuser had used a gun to scare, threaten or harm them (Sorenson & Wiebe).

Recognizing this risk, the federal government and some states have passed laws providing law enforcement and the courts with additional authority to separate those who commit intimate partner violence from their guns. At the federal level, the Violent Crime Control and Law Enforcement Act of 1994 prohibits individuals subject to certain restraining orders from purchasing or possessing a firearm (Violent Crime Control and Law Enforcement Act). In 1996 President Clinton signed into law the Lautenberg Amendment, making it illegal for individuals convicted of misdemeanor domestic violence assault to purchase or possess guns (Gun Ban for Individuals Convicted of a Misdemeanor Crime of Domestic Violence).

At the state level, two types of policies move beyond the prohibitions of federal law to actively engage law enforcement and the courts in removing guns from individuals who are violent at home. Policies that explicitly grant law enforcement the authority to remove guns when responding to a domestic violence incident, and policies that empower courts to order alleged batterers to surrender their firearms through civil protective orders provide the criminal justice system with tools to disarm batterers. If designed and implemented effectively, such laws have the potential to reduce the risks associated with armed batterers.

Content of this Report

Purpose

This report details the status of police gun removal laws and court-ordered removal laws in the 50 states and the District of Columbia, and summarizes select characteristics of those laws that we believe are important for effective implementation. The report is intended as a resource for advocates and policy makers. In addition to highlighting characteristics of the laws that may affect their implementation and impact, we conclude this report with a set of recommendations for advancing policy and practice to reduce the dangers associated with armed batterers.

Inclusion Criteria

For the purposes of this report, a state qualified as having a police gun removal law if we identified language in the state code that specified law enforcement's authority to remove guns when responding to a domestic violence complaint. A state qualified as having a court-ordered removal law if we identified language in the state code that detailed the court's ability to order respondents to a domestic violence protective order to surrender their guns, or order law enforcement to remove guns for the duration of the protective order. We did not include states with provisions granting law enforcement and the courts broad authority to act in the general interest of victim or public safety.

Language

While all states and the District offer protective orders as a relief option for IPV victims, the names given to this legal tool vary across jurisdictions. We use the term "protective order" to apply to these orders except when describing the terms of orders within a jurisdiction. When summarizing the characteristics of a particular state's order, we use the local term.

When referencing the alleged perpetrator we use the male pronoun. We recognize that both men and women commit IPV, however, because the majority of perpetrators are men we use "he" and "his."

Current through December 2008

To the best of our knowledge, the laws reported herein are current through December 2008. For some states, the laws are current through June 2009, and are noted by the 2009 dates in the legal citation associated with the description of each state's law.

Summary of State Laws

Our research revealed eighteen states with laws authorizing police to remove firearms when responding to a domestic violence incident. Twenty state codes and the District of Columbia included provisions allowing courts to order firearms removed when issuing a civil protective order. Eleven states had both laws; for 23 states we found no evidence of either type of law.

For those states with one or both of these laws, we noted substantial variation in the language of their laws. That variation is likely one factor that affects whether and how these laws are implemented and enforced. We've identified those characteristics that may be most important to successful implementation and enforcement of police and court-ordered gun removal laws, and detail those traits in the remainder of this section.

Police Gun Removal Laws (18 States)

Authority to Remove Firearms—"Shall" vs. "May" States

In nine of the eighteen police gun removal states, law enforcement officers must remove firearms when responding to a domestic violence incident ("shall remove" states), whereas in six other states, gun removal is at the discretion of law enforcement ("may remove" states). Three other states use both "shall" and "may" language. Law enforcement authority to remove firearms in these states is mandatory or discretionary depending on the circumstances surrounding the abuse incident. For example, in West Virginia law enforcement "shall" remove firearms involved in a domestic violence assault, and "may" remove other weapons in plain view or discovered pursuant to a consensual search as necessary for protection.

Shall Remove States: California, Illinois, Montana, New Hampshire, New Jersey, Ohio, Oklahoma, Pennsylvania, Utah

May Remove States: Alaska, Arizona, Connecticut, Hawaii, Indiana, Maryland

May and Shall Remove States: Nebraska, Tennessee, West Virginia

Conditions of Firearm Removal: Gun Used as an Instrument of Abuse

There is considerable variation among the states regarding whether a gun must have been used in the domestic violence incident to authorize removal of firearms. In six states the law authorizes firearm removal only when a firearm was used in the domestic violence incident; seven states do not impose this requirement. Five additional state laws vary the requirement depending on other circumstances surrounding the incident.

Gun Use Required: Illinois, Montana, Ohio, Oklahoma, Pennsylvania, Utah

Gun Use Not Required: Alaska, Arizona, California, Connecticut, Maryland, New Hampshire, New Jersey

Varies by Circumstance: Hawaii, Indiana, Nebraska, Tennessee, West Virginia

Conditions of Firearm Removal: Arrest

Five states authorize law enforcement to remove guns only if the alleged abuser is arrested. Most states (12) do not require an arrest. In one state, Tennessee, whether arrest is needed to remove guns varies. When guns are used in a domestic violence abuse incident, law enforcement officers must remove the guns and that authority to remove guns does not require arrest. Officers in Tennessee have the authority to remove guns even if guns are not used as part of the abuse if the guns pose a safety risk. Officers who remove guns because of safety concerns may only do so if they arrest the alleged abuser.

Arrest Required: Connecticut, Nebraska, Oklahoma, Pennsylvania, West Virginia

Arrest Not Required: Alaska, Arizona, California, Hawaii, Illinois, Indiana, Maryland, Montana, New Hampshire, New Jersey, Ohio, Utah

Varies by Circumstance: Tennessee

Conditions of Firearm Removal: Presence or Risk of Danger

Five state laws permit law enforcement to remove guns if removal is needed to protect the victim, other household members, or officers on scene. Most states (9) do not require that a gun-related risk exists to justify gun removal. In two states (Hawaii and Indiana) either risk of gun-related harm or gun use in the abuse incident is required for gun removal. Tennessee and West Virginia law enforcement officers must remove guns used in the abuse incident. When guns are not used as an instrument of abuse, law enforcement may remove guns for protection.

Danger Required: Alaska, Arizona, California, Nebraska, New Jersey

Danger not Required: Connecticut, Illinois, Maryland, Montana, New Hampshire, Ohio, Oklahoma, Pennsylvania, Utah

Varies by Circumstance: Hawaii, Indiana, Tennessee, West Virginia

Court-Ordered Removal Laws (20 States and the District of Columbia)**Authority to Order Firearms Removed—“Shall” vs. “May” States**

For most jurisdictions (10) with laws authorizing judges to order guns removed when issuing protective orders, this authority is at the discretion of judges (“may states”). However, seven states do mandate judges to order firearms removed when issuing protective orders (“shall states”), and four additional state codes specify the circumstances under which judges must order firearms removed and when this provision of orders is discretionary.

Shall Remove States: California, Hawaii, Illinois, Massachusetts, North Carolina, Tennessee, Wisconsin

May Remove States: Alaska, Arizona, Delaware, District of Columbia, Indiana, Maine, New Jersey, North Dakota, Pennsylvania, Rhode Island

Shall and May Remove States: Maryland, New Hampshire, New York, Washington

Type of Protective Orders: Temporary and/or Permanent

Although the language and details of domestic violence protective order laws vary among the states, all offer some form of immediate, temporary relief and some form of longer term, more permanent protection. States also vary as to whether judges can order guns removed only through permanent orders or through both temporary and permanent orders. Seven state laws limit gun removal to permanent protective orders, and fourteen extend this authority to both temporary and permanent orders. No state law restricted removal authority to temporary orders.

Permanent Orders Only: Alaska, Arizona, Illinois, Indiana, Rhode Island, Tennessee, Wisconsin

Temporary and Permanent Orders: California, Delaware, District of Columbia, Hawaii, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Pennsylvania, Washington

Condition of Firearm Removal: Gun Used as an Instrument of Abuse

Six states with court-ordered removal laws specify gun use or threat as a condition of ordering guns removed. Twelve laws do not restrict the court’s gun removal authority in this way. For three state laws, judges can order guns removed through a temporary order only when guns have been used as an instrument abuse; however, gun use is not necessary to order firearm removal through a permanent protective order.

Gun Use Required: Alaska, Illinois, New York, North Carolina, North Dakota, Washington

Gun Use Not Required: Arizona, California, Delaware, District of Columbia, Indiana, Massachusetts, New Hampshire, New Jersey, Pennsylvania, Rhode Island, Tennessee, Wisconsin

Gun Use Required for Temporary Orders, Not Required for Permanent Orders:

Hawaii, Maine, Maryland

Responsibility for Removing Guns

Most court-ordered gun removal laws (16) rely on the respondent to surrender his firearms in compliance with an order. Two state laws charge law enforcement with this responsibility, and three laws direct law enforcement or the respondent to remove guns based on different specifications in each law.

Respondent Responsible: Alaska, Arizona, Delaware, District of Columbia, Indiana, Maine, Maryland, New Hampshire, New York, North Carolina, North Dakota, Pennsylvania, Rhode Island, Tennessee, Washington, Wisconsin

Law Enforcement Responsible: Massachusetts, New Jersey

Respondent and/or Law Enforcement Responsible: California, Hawaii, Illinois

A Note on Licensing and Registration Policies

State laws that require gun owners to be licensed in order to purchase guns and guns to be registered by their owners establish information systems that house valuable data to assist law enforcement when implementing and enforcing the police gun removal and court-ordered gun removal laws. In some states where gun purchase licenses are needed to buy guns, court-ordered removal laws include surrender of gun licenses in addition to guns as a means of preventing people subject to a protective order from purchasing guns. Registration or less formal recording keeping systems of gun purchases can assist law enforcement and the courts with verifying victims' claims that batterers own guns, and when responding to batterers' who deny they possess guns. Licensing and registration requirements vary among the states, and there is no national requirement for gun owner licensing or gun registration.

Laws Granting Police Authority to Remove Firearms When Responding to a Domestic Violence Call

Authority: Whether law enforcement officers are required [shall] or have discretionary authority [may] under the law to remove firearms when responding to a scene is noted in this column.

Arrest Required: Whether arrest is required, and any particular circumstances associated with this requirement are noted in this column.

Gun Use or Risk of Use Required: Whether gun use or perceived risk of gun use is required for law enforcement to remove guns is noted in this column.

Danger Required: Whether danger or risk of danger is required for law enforcement to remove guns is noted in this column.



Alabama

Research did not reveal any laws that explicitly grant law enforcement officers the authority to remove a firearm from a domestic violence scene.



Alaska

Alaska Stat. § 18-65-515(b)

A law enforcement officer investigating a domestic violence complaint may seize firearms in plain view when necessary to protect the victim, the victim’s family, or the investigating officers. If firearms were used in the domestic violence incident under investigation, the officer may seize all firearms owned or possessed by alleged batterers. If seized firearms are not part of the evidence used in a criminal prosecution that results from the investigation, the alleged batterer may reclaim his firearms.

Authority	Arrest Required	Gun Use or Risk of Use Required	Danger Required
May	No	No	Yes




Arizona

Ariz. Rev. Stat. § 13-3601(C)

When investigating a domestic violence complaint, a law enforcement officer may question people at the scene to determine if a firearm is present. An officer may seize firearms in plain view or those discovered during a consent search when the officer believes those firearms would place the victim or other family members at risk. The law enforcement agency involved must retain seized firearms for a minimum of 72 hours and a maximum of six months, and must notify the victim before releasing the firearm(s) to the alleged batterer.

Authority	Arrest Required	Gun Use or Risk of Use Required	Danger Required
May	No	No	Yes

- Police Authority
- Police and Court Authority
- Court Authority
- No Authority Granted

 **Arkansas**


Research did not reveal any laws that explicitly grant law enforcement officers the authority to remove a firearm from a domestic violence scene.

 **California**


Cal. Penal Code § 12028.5(b)

When at the scene of a domestic violence incident involving physical injury or death threats, a law enforcement officer shall seize firearms in plain view or discovered during a consent search as necessary to protect the investigating officer or others present. The law enforcement agency must retain seized firearms for a minimum of 48 hours. If the law enforcement agency believes that returning a firearm to an alleged batterer would endanger the victim, the agency shall initiate a court hearing to determine whether the firearms should be returned.

Authority	Arrest Required	Gun Use or Risk of Use Required	Danger Required
Shall	No	No	Yes

 **Colorado**

Research did not reveal any laws that explicitly grant law enforcement officers the authority to remove a firearm from a domestic violence scene.

 **Connecticut**


Conn. Gen. Stat. § 46b-38b

When a law enforcement officer determines that a domestic violence incident has occurred, the officer shall arrest the person suspected of committing the crime. The officer may seize all firearms possessed by the alleged batterer or in plain view. This law applies to violence between spouses and former spouses, but does not apply to people in a dating relationship. Firearms must be returned within seven days unless an owner is ineligible to possess firearms or the court orders otherwise.


Authority	Arrest Required	Gun Use or Risk of Use Required	Danger Required
May	Yes	No	No

 **Delaware**

Research did not reveal any laws that explicitly grant law enforcement officers the authority to remove a firearm from a domestic violence scene.

 **District of Columbia**

Research did not reveal any laws that explicitly grant law enforcement officers the authority to remove a firearm from a domestic violence scene.

 **Florida**

Research did not reveal any laws that explicitly grant law enforcement officers the authority to remove a firearm from a domestic violence scene.



Georgia

Research did not reveal any laws that explicitly grant law enforcement officers the authority to remove a firearm from a domestic violence scene.



Hawaii

Haw. Rev. Stat. § 134-7.5

A law enforcement officer may seize firearms and ammunition used or threatened to be used against a family or household member, and/or any firearms that are in plain view or discovered during a consent search in order to protect a household or family member, or the officer. Seized firearms must be made available to the owner within seven days unless the firearms will be used as evidence in a related assault case or the owner is prohibited from possessing firearms.

Authority	Arrest Required	Gun Use or Risk of Use Required	Danger Required
May	No	Gun Use or Danger	Gun Use or Danger



Idaho

Research did not reveal any laws that explicitly grant law enforcement officers the authority to remove a firearm from a domestic violence scene.



Illinois

725 Ill. Comp. Stat. 5/112A-30 and 750 Ill. Comp. Stat. 60/304

When a law enforcement officer has probable cause to believe that a person was abused, and if a firearm was used in the abuse incident, then the officer shall seize the firearms.

Authority	Arrest Required	Gun Use or Risk of Use Required	Danger Required
Shall	No	Yes	No



Indiana

Ind. Code § 35-33-1-1.5

A law enforcement officer may seize firearms observed on the scene if the officer believes that firearms pose an immediate risk of further harm or if a firearm was used in the abuse incident.

Authority	Arrest Required	Gun Use or Risk of Use Required	Danger Required
May	No	Gun Use or Danger	Gun Use or Danger



Iowa


Research did not reveal any laws that explicitly grant law enforcement officers the authority to remove a firearm from a domestic violence scene.




Kansas

Research did not reveal any laws that explicitly grant law enforcement officers the authority to remove a firearm from a domestic violence scene.


- Police Authority
- Police and Court Authority
- Court Authority
- No Authority Granted

 **Kentucky**

Research did not reveal any laws that explicitly grant law enforcement officers the authority to remove a firearm from a domestic violence scene.

 **Louisiana**

Research did not reveal any laws that explicitly grant law enforcement officers the authority to remove a firearm from a domestic violence scene.

 **Maine**


Research did not reveal any laws that explicitly grant law enforcement officers the authority to remove a firearm from a domestic violence scene.

 **Maryland**

Md. Code Ann., Family Law § 4-511

A law enforcement officer may remove firearms from the scene of a domestic violence incident if the officer has probable cause to believe that abuse occurred and the officer observed the firearm on the scene.

Authority	Arrest Required	Gun Use or Risk of Use Required	Danger Required
May	No	No	No

 **Massachusetts**

Research did not reveal any laws that explicitly grant law enforcement officers the authority to remove a firearm from a domestic violence scene.

 **Michigan**


Research did not reveal any laws that explicitly grant law enforcement officers the authority to remove a firearm from a domestic violence scene.

 **Minnesota**

Research did not reveal any laws that explicitly grant law enforcement officers the authority to remove a firearm from a domestic violence scene.


 **Mississippi**

Research did not reveal any laws that explicitly grant law enforcement officers the authority to remove a firearm from a domestic violence scene.

 **Missouri**

Research did not reveal any laws that explicitly grant law enforcement officers the authority to remove a firearm from a domestic violence scene.


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 **Montana**

Mont. Code Ann. § 46-6-603

A law enforcement officer responding to a domestic violence complaint shall seize all firearms used or threatened to be used against the victim.


Authority	Arrest Required	Gun Use or Risk of Use Required	Danger Required
Shall	No	Yes	No

 **Nebraska**


Neb. Rev. Stat. § 29-440

A law enforcement officer responding to a domestic violence complaint shall seize firearms used or threatened to be used against the victim. The officer may also seize any firearms and ammunition in plain view or discovered during a consent search in order to protect the officer or others. Return of weapons seized under this provision is determined by court order.

Authority	Arrest Required	Gun Use or Risk of Use Required	Danger Required
May and Shall	Yes	No for May; Yes for Shall	Yes

 **Nevada**

Research did not reveal any laws that explicitly grant law enforcement officers the authority to remove a firearm from a domestic violence scene.

 **New Hampshire**

N.H. Rev. Stat. Ann. § 173 B:10

A law enforcement officer shall seize firearms and ammunition in the alleged abuser's possession as a means of preventing future abuse.

Authority	Arrest Required	Gun Use or Risk of Use Required	Danger Required
Shall	No	No	No


 **New Jersey**

N.J. Stat. Ann. § 2C:25-21


A law enforcement officer responding to a domestic violence complaint who believes that domestic violence has occurred shall question people on the scene about the presence of firearms. If the officer learns that firearms are present, the officer shall seize the firearms if they pose an injury risk to the victim. In addition, the officer shall also seize any state issued firearm purchaser identification card or permit to purchase a handgun. The local prosecutor has 45 days to request that the court prohibit the firearms from being returned to the alleged batterer or the firearms will be returned.

Authority	Arrest Required	Gun Use or Risk of Use Required	Danger Required
Shall	No	No	Yes


-  Police Authority
-  Police and Court Authority
-  Court Authority
-  No Authority Granted

 **New Mexico**

Research did not reveal any laws that explicitly grant law enforcement officers the authority to remove a firearm from a domestic violence scene.

 **New York**

Research did not reveal any laws that explicitly grant law enforcement officers the authority to remove a firearm from a domestic violence scene.

 **North Carolina**

Research did not reveal any laws that explicitly grant law enforcement officers the authority to remove a firearm from a domestic violence scene.

 **North Dakota**


Research did not reveal any laws that explicitly grant law enforcement officers the authority to remove a firearm from a domestic violence scene.

 **Ohio**

Ohio Rev. Code Ann. § 2935.03

If a law enforcement officer responds to a domestic violence complaint and determines that the incident involved the use or threatened use of a firearm, the officer shall seize the firearm.


Authority	Arrest Required	Gun Use or Risk of Use Required	Danger Required
Shall	No	Yes	No

 **Oklahoma**


Okla. Stat. tit. 22, § 60.8

If a law enforcement officer believes that a weapon was used during a domestic violence incident and if the alleged batterer is arrested, then the officer shall seize the weapon. Following a seizure under this law, the District Attorney has 10 days to file a forfeiture action or the seized weapons will be returned to the owner.

Authority	Arrest Required	Gun Use or Risk of Use Required	Danger Required
Shall	Yes	Yes	No

 **Oregon**


Research did not reveal any laws that explicitly grant law enforcement officers the authority to remove a firearm from a domestic violence scene.

 **Pennsylvania**


18 Pa. Cons. Stat. § 2711

A law enforcement officer shall seize all weapons used by the alleged batter in the domestic violence incident under investigation.


Authority	Arrest Required	Gun Use or Risk of Use Required	Danger Required
Shall	Yes	Yes	No

 **Rhode Island**


Research did not reveal any laws that explicitly grant law enforcement officers the authority to remove a firearm from a domestic violence scene.

 **South Carolina**

Research did not reveal any laws that explicitly grant law enforcement officers the authority to remove a firearm from a domestic violence scene.

 **South Dakota**

Research did not reveal any laws that explicitly grant law enforcement officers the authority to remove a firearm from a domestic violence scene.

 **Tennessee**


Tenn. Code Ann. § 36-3-620

If a law enforcement officer believes that domestic violence has occurred, the officer shall seize all firearms that were alleged to have been used or threatened to be used in the incident. Officers may also seize weapons in plain view or discovered during a consent search if necessary to protect the victim, the victim's family, or the officer.

Authority	Arrest Required	Gun Use or Risk of Use Required	Danger Required
May and Shall	Yes for May; No for Shall	No for May; Yes for Shall	Yes for May; No for Shall

 **Texas**

Research did not reveal any laws that explicitly grant law enforcement officers the authority to remove a firearm from a domestic violence scene.

 **Utah**

Utah Code Ann. § 77-36-2.1

A law enforcement officer shall confiscate all weapons involved in the alleged domestic violence incident if confiscation is a reasonable means of protecting the victim and preventing further violence.

Authority	Arrest Required	Gun Use or Risk of Use Required	Danger Required
Shall	No	Yes	No



Vermont

Research did not reveal any laws that explicitly grant law enforcement officers the authority to remove a firearm from a domestic violence scene.



Virginia

Research did not reveal any laws that explicitly grant law enforcement officers the authority to remove a firearm from a domestic violence scene.



Washington

Research did not reveal any laws that explicitly grant law enforcement officers the authority to remove a firearm from a domestic violence scene.



West Virginia

W. Va. Code § 48-27-1002

Upon arrest for a domestic violence crime, the arresting officer shall seize all firearms allegedly involved in the abuse. In addition, the arresting officer may seize a firearm in plain view or that was discovered during a consent search when such action is necessary for the protection of the officer or others.

Authority	Arrest Required	Gun Use or Risk of Use Required	Danger Required
May and Shall	Yes	No for May; Yes for Shall	Yes for May; No for Shall



Wisconsin

Research did not reveal any laws that explicitly grant law enforcement officers the authority to remove a firearm from a domestic violence scene.



Wyoming

Research did not reveal any laws that explicitly grant law enforcement officers the authority to remove a firearm from a domestic violence scene.

Laws Granting Court Authority to Order Respondents to Surrender Firearms through Protective Orders

Authority: Whether the court is required by law [shall] or has discretionary authority [may] under the law to order firearms removed is noted in this column.

Type of Protective Order: Whether the authority to order guns removed applies to temporary and/or permanent protective orders is noted in this column.

Gun Use or Risk of Use Required: Whether gun use, or perceived risk of gun use is required in order for the court to order firearms removed is noted in this column.

Surrender Responsibility: Whether responsibility for surrendering firearms ordered removed lies with the Respondent and/or law enforcement is noted in this column.



Alabama

Research did not reveal any laws that explicitly grant the court authority to order an accused batterer to surrender firearms through a protective order.



Alaska

Alaska Stat. § 18-66-100(b)(7)

The court *may* use the protective order to require a respondent to surrender his firearms if the respondent used a firearm during the domestic violence incident. When investigating a domestic violence crime, a law enforcement officer *shall* inform the victim, both orally and in writing, of the services available to victims of intimate partner violence and the right to petition the court for a protective order that may require the respondent to surrender his firearms.

Authority	Type of Protective Order	Gun Use or Risk of Use Required	Surrender Responsibility
May	Permanent	Yes	Respondent



Arizona

Ariz. Rev. Stat. § 13-3602(G)(4)

As part of an order of protection, the court *may* prohibit a respondent from possessing or purchasing firearms for the duration of the order if there is a credible threat to the physical safety of the petitioner. A respondent must surrender his firearms to law enforcement immediately upon service of the order, or within 24 hours.

Authority	Type of Protective Order	Gun Use or Risk of Use Required	Surrender Responsibility
May	Permanent	No	Respondent



Arkansas

Research did not reveal any laws that explicitly grant the court authority to order an accused batterer to surrender firearms through a protective order.

- Police Authority
- Police and Court Authority
- Court Authority
- No Authority Granted



California

Cal. Family Code § 6389

When issuing a restraining order, the court *shall* order the respondent to surrender his firearms to law enforcement or sell them to a licensed firearms dealer. The surrender must occur within 24 hours of service or upon request by a law enforcement officer, whichever happens first. The respondent must provide the court with proof of surrender within 48 hours of being served. This authority applies to both temporary restraining orders and orders after hearing.

By law, the restraining order application must include text that upon serving the order, the respondent will be ordered to surrender his firearms.

Authority	Type of Protective Order	Gun Use or Risk of Use Required	Surrender Responsibility
Shall	Temporary and Permanent	No	Respondent and Law Enforcement



Colorado

Research did not reveal any laws that explicitly grant the court authority to order an accused batterer to surrender firearms through a protective order.



Connecticut

Research did not reveal any laws that explicitly grant the court authority to order an accused batterer to surrender firearms through a protective order.



Delaware

Del. Code Ann. tit. 10 § 1045

The court *may* use an order of protection from abuse to require a respondent to surrender his firearms to law enforcement for the duration of the order. This authority applies to both temporary and permanent orders. The court may also issue an order authorizing law enforcement to search for and seize firearms from a respondent if the petitioner demonstrates that the respondent has firearms, can describe the firearm and its location, and is concerned about the firearm being used against her.

Authority	Type of Protective Order	Gun Use or Risk of Use Required	Surrender Responsibility
May	Temporary and Permanent	No	Respondent




District of Columbia

D.C. Code § 16-1005 and SCR-DV Rule 7A (2009)


The court *may* order a respondent to relinquish his firearms through a protection order.

Authority	Type of Protective Order	Gun Use or Risk of Use Required	Surrender Responsibility
May	Temporary and Permanent	No	Respondent

- Police Authority
- Police and Court Authority
- Court Authority
- No Authority Granted

 **Florida**

Research did not reveal any laws that explicitly grant the court authority to order an accused batterer to surrender firearms through a protective order.

 **Georgia**

Research did not reveal any laws that explicitly grant the court authority to order an accused batterer to surrender firearms through a protective order.

 **Hawaii**

Haw. Rev. Stat. § 134-7(f)

Hawaii law requires any respondent to an order of protection to surrender all firearms and ammunition to the police for the duration of the order, unless the order explicitly permits possession. If the court determines that a respondent possesses a firearm and may harm someone with those firearms, the court shall order law enforcement to remove all firearms and ammunition when serving a temporary order.

Authority	Type of Protective Order	Gun Use or Risk of Use Required	Surrender Responsibility
Shall	Temporary and Permanent	Yes for Temporary; No for Permanent	Respondent and Law Enforcement

 **Idaho**


Research did not reveal any laws that explicitly grant the court authority to order an accused batterer to surrender firearms through a protective order.

 **Illinois**

725 Ill. Comp. Stat. 5/112A-14 and 750 Ill. Comp. Stat. 60/214

When issuing an order of protection, the court *shall* order the respondent to surrender his firearms to law enforcement if the respondent has used, threatened to use, or is likely to use firearms against the petitioner. If the respondent fails to appear at the order of protection hearing or fails to surrender his firearms, the court shall issue an order directing law enforcement to seize the firearms.

Authority	Type of Protective Order	Gun Use or Risk of Use Required	Surrender Responsibility
Shall	Permanent	Yes	Respondent and Law Enforcement

 **Indiana**

Ind. Code § 34-26-5-9

Through an order of protection, the court *may* require a respondent to surrender his firearms to law enforcement for the duration of the order.

Authority	Type of Protective Order	Gun Use or Risk of Use Required	Surrender Responsibility
May	Permanent	No	Respondent

 Iowa


Research did not reveal any laws that explicitly grant the court authority to order an accused batterer to surrender firearms through a protective order.

 Kansas

Research did not reveal any laws that explicitly grant the court authority to order an accused batterer to surrender firearms through a protective order.

 Kentucky

Research did not reveal any laws that explicitly grant the court authority to order an accused batterer to surrender firearms through a protective order.

 Louisiana

Research did not reveal any laws that explicitly grant the court authority to order an accused batterer to surrender firearms through a protective order.

 Maine

**Me. Rev. Stat. Ann. tit. 19-A § 4006 2-A
and Me. Rev. Stat. Ann. tit. 19-A § 4007 1-A**

The court *may* require a respondent to surrender his firearms within 24 hours of service or earlier through a protection from abuse order. This authority applies to temporary and permanent protection orders. When applied to temporary orders, the petitioner must demonstrate that the abuse involved firearms or other weapons, or that a heightened risk of immediate abuse exists.


Authority	Type of Protective Order	Gun Use or Risk of Use Required	Surrender Responsibility
May	Temporary and Permanent	Yes for Temporary; No for Permanent	Respondent

 Maryland

Md. Code Ann., Family Law § 4-506 (2009)

The court *shall* require a respondent to surrender his firearms to a law enforcement agency through a final protective order. The court *may* require a respondent to surrender his firearms when issuing a temporary protective order if the abuse involved firearms, a threat to use firearms, serious bodily harm, or the threat of serious bodily harm.

Authority	Type of Protective Order	Gun Use or Risk of Use Required	Surrender Responsibility
May and Shall	Temporary and Permanent	Yes for Temporary; No for Permanent	Respondent

 **Massachusetts**


Mass. Gen. Laws ch. 209, § A 3 B

If the court determines there is substantial risk of immediate abuse, the court *shall* order the respondent to surrender his firearms to law enforcement. If the respondent possesses a license to carry firearms and/or a firearm identification card (which is needed to purchase firearms in the state), the court *shall* suspend those licenses and order their surrender. Upon service of such an order, law enforcement officials *shall* immediately take possession of the respondent’s license to carry firearms, his firearms identification card, and all his firearms. This authority applies to both temporary and full protective orders.


Authority	Type of Protective Order	Gun Use or Risk of Use Required	Surrender Responsibility
Shall	Temporary and Permanent	No	Law Enforcement

 **Michigan**


Research did not reveal any laws that explicitly grant the court authority to order an accused batterer to surrender firearms through a protective order.

 **Minnesota**


Research did not reveal any laws that explicitly grant the court authority to order an accused batterer to surrender firearms through a protective order.

 **Mississippi**


Research did not reveal any laws that explicitly grant the court authority to order an accused batterer to surrender firearms through a protective order.

 **Missouri**

Research did not reveal any laws that explicitly grant the court authority to order an accused batterer to surrender firearms through a protective order.

 **Montana**

Research did not reveal any laws that explicitly grant the court authority to order an accused batterer to surrender firearms through a protective order.

 **Nebraska**

Research did not reveal any laws that explicitly grant the court authority to order an accused batterer to surrender firearms through a protective order.

 **Nevada**

Research did not reveal any laws that explicitly grant the court authority to order an accused batterer to surrender firearms through a protective order.



New Hampshire

N.H. Rev. Stat. Ann. § 173-B:4 and B:5

When issuing a temporary order, the court may direct the respondent to surrender all firearms and ammunition to law enforcement. The court shall order the respondent to surrender all firearms and ammunition to law enforcement under the terms of a permanent protective order.

Authority	Type of Protective Order	Gun Use or Risk of Use Required	Surrender Responsibility
May and Shall	Temporary and Permanent	No	Respondent



New Jersey

**N.J. Stat. Ann. § 2C:25-28
and N.J. Stat. Ann. § 2C:25-29**

The court *may* order law enforcement to search for and seize firearms possessed by a respondent through a restraining order, or through a temporary order in response to an immediate threat. As part of issuing a permanent restraining order, the court must bar the respondent from purchasing, owning, possessing or controlling a firearm; from possessing a firearm purchaser identification card or a permit to purchase a handgun. Whether the judge orders law enforcement to search for and seize those weapons and documents is discretionary.

Authority	Type of Protective Order	Gun Use or Risk of Use Required	Surrender Responsibility
May	Temporary and Permanent	No	Law Enforcement



New Mexico

Research did not reveal any laws that explicitly grant the court authority to order an accused batterer to surrender firearms through a protective order.

 **New York**


N.Y. Family Ct Law § 842.a1;a2;a5

Upon issuing a temporary order of protection, the court *shall* order the respondent to surrender his firearms immediately if 1) the respondent has a prior violent felony conviction; or 2) the respondent previously violated a protection order by abusing or threatening to abuse the defendant; or 3) the respondent was previously convicted of stalking. In addition, the court *may* order the respondent to surrender his firearms if the court finds there is a substantial risk that the respondent may use or threaten to use a firearm against the petitioner.

Upon issuing a permanent order of protection, the court *shall* order the respondent to immediately surrender his firearms if the abuse leading to the complaint involved serious physical injury, the threatened use of a deadly weapon, or any behavior that constitutes a felony offense. In addition, the court *may* order the respondent to surrender his firearms if the court finds there is a substantial risk that the respondent may use or threaten to use a firearm against the petitioner.

When the court orders a respondent to surrender his firearms, the order must include instructions with regard to where and when the firearms will be relinquished. The recipient of the surrendered firearms must notify the court upon receipt of the surrendered firearms.

Authority	Type of Protective Order	Gun Use or Risk of Use Required	Surrender Responsibility
May and Shall	Temporary and Permanent	Yes	Respondent

 **North Carolina**

N.C. Gen. Stat. § 50 B-3

The court *shall* order the respondent to surrender his firearms if the respondent 1) used or threatened to use a deadly weapon against the petitioner or petitioner’s children; 2) previously threatened a person with a firearm; 3) threatened to seriously injure or kill the petitioner or petitioner’s children; 4) threatened suicide; or 5) inflicted serious injuries on the petitioner or the petitioner’s children. This authority applies to both emergency orders and final domestic violence protective orders.

The court *shall* ask if the defendant has access to firearms and ammunition at both emergency and protective order hearings.


Authority	Type of Protective Order	Gun Use or Risk of Use Required	Surrender Responsibility
Shall	Temporary and Permanent	Yes	Respondent

 **North Dakota**


N.D. Cent. Code § 14-07.1-02.4.g; 14-07.1-03.2.d

The court *may* order a respondent to surrender his firearms to local law enforcement if there is reason to believe that the respondent may use or threaten to use a firearm in future acts of violence. This authority applies to both emergency orders and domestic violence protection orders.


Authority	Type of Protective Order	Gun Use or Risk of Use Required	Surrender Responsibility
May	Temporary and Permanent	Yes	Respondent

 **Ohio**


Research did not reveal any laws that explicitly grant the court authority to order an accused batterer to surrender firearms through a protective order.

 **Oklahoma**

Research did not reveal any laws that explicitly grant the court authority to order an accused batterer to surrender firearms through a protective order.

 **Oregon**


Research did not reveal any laws that explicitly grant the court authority to order an accused batterer to surrender firearms through a protective order.

 **Pennsylvania**

23 Pa. Cons. Stat. § 6108

The court may order a respondent to surrender to law enforcement a firearm license and all firearms as part of a temporary and/or final protection from abuse orders.


Authority	Type of Protective Order	Gun Use or Risk of Use Required	Surrender Responsibility
May	Temporary and Permanent	No	Respondent

 **Rhode Island**


R.I. Gen. Laws § 8-8.1-3
and R.I. Gen. Laws § 15-15-3

The court *may* order a respondent to surrender all firearms within 24 hours of issuing a restraining order when he is present at the hearing, or within 48 hours of being served when he is not at the hearing. The respondent must submit to the court a receipt of transfer for the firearms within 72 hours of receiving the order.


Authority	Type of Protective Order	Gun Use or Risk of Use Required	Surrender Responsibility
May	Permanent	No	Respondent

 **South Carolina**

Research did not reveal any laws that explicitly grant the court authority to order an accused batterer to surrender firearms through a protective order.

 **South Dakota**

Research did not reveal any laws that explicitly grant the court authority to order an accused batterer to surrender firearms through a protective order.

 **Tennessee**


Tenn. Code Ann. § 36-3-625 (2009)

When issuing an order of protection, the order *shall* include a statement that the respondent is required to dispossess himself of all firearms in his possession. The surrender must occur within 48 hours of service. The court must explain this provision to the respondent and instruct him about how to accomplish the surrender. Tennessee law also requires respondents to complete and return to the court an “Affidavit of Firearm Dispossession” after relinquishing their firearms.


Authority	Type of Protective Order	Gun Use or Risk of Use Required	Surrender Responsibility
Shall	Permanent	No	Respondent

 **Texas**


Research did not reveal any laws that explicitly grant the court authority to order an accused batterer to surrender firearms through a protective order.

 **Utah**


Research did not reveal any laws that explicitly grant the court authority to order an accused batterer to surrender firearms through a protective order.

 **Vermont**

Research did not reveal any laws that explicitly grant the court authority to order an accused batterer to surrender firearms through a protective order.

 **Virginia**


Research did not reveal any laws that explicitly grant the court authority to order an accused batterer to surrender firearms through a protective order.

 **Washington**


Wash. Rev. Code § 9.41.800

The court *shall* require the respondent to surrender his firearms if there is clear and convincing evidence that he has used, displayed, or threatened to use a firearm or dangerous weapon. The court *may* require the respondent to surrender his firearms if there is a preponderance of evidence that he used firearms in the abuse. This authority applies to both *ex parte* orders and domestic violence orders for protection.

Authority	Type of Protective Order	Gun Use or Risk of Use Required	Surrender Responsibility
May and Shall	Temporary and Permanent	Yes	Respondent

 **West Virginia**


Research did not reveal any laws that explicitly grant the court authority to order an accused batterer to surrender firearms through a protective order.

 **Wisconsin**

Wis. Stat. § 813.12

The court *shall* order the respondent to surrender his firearms to local law enforcement or to a person the respondent designates and the court approves. This authority applies to final domestic abuse restraining orders.

Authority	Type of Protective Order	Gun Use or Risk of Use Required	Surrender Responsibility
Shall	Permanent	No	Respondent

 **Wyoming**

Research did not reveal any laws that explicitly grant the court authority to order an accused batterer to surrender firearms through a protective order.

Recommendations

States without Police Removal and/or Court-Ordered Removal Policies

Our review revealed that 23 states do not have a court-ordered removal law or a police gun removal law in place. Seventeen states and the District of Columbia have one of these two laws. Advocates and policy makers in these states should consider whether these policies would complement their state's current IPV prevention policy tools, and organize accordingly. For those interested in pursuing new policy initiatives to add police removal and/or court-ordered removal policies to their state codes, we encourage consideration of the characteristics of existing policies discussed in this report when developing new legislation.

States with Existing Police Removal and/or Court-Ordered Removal Policies

Twenty-seven states and the District of Columbia have policies to address the threat that armed batterers pose by authorizing law enforcement and/or the courts to remove guns from people who are violent toward their intimate partners. However, a state's ability to effectively implement such laws is likely influenced by the enforcement authority detailed in these policies. Based on our analysis of select characteristics of these laws, court-ordered removal and police gun removal laws with the following characteristics offer law enforcement clear authority to implement and enforce these laws.

- Mandatory “shall remove” laws are preferable to discretionary “may issue” laws. Shall issue laws limit discretion and facilitate consistent implementation.
- Requiring that guns have been used as an instrument of abuse limits the preventive potential of these laws to reduce the risk of severe and lethal abuse. Laws that condition gun removal on prior abuse with a gun require the abuse to escalate to a lethal threat level, and fail to intervene before the abuse turns potentially lethal. This requirement is a missed opportunity for prevention and is not recommended.
- Laws that condition gun removal on arrest of the alleged batterer impose a link between two IPV response options that need not be connected, and may needlessly complicate law enforcement officers' decisions about how and when to use arrest and gun removal to achieve maximum benefit.
- Laws that require the presence or potential risk of danger associated with the gun as a condition of police removal may be too subjective for consistent, effective implementation and therefore this requirement is not recommended.

- Court authority to remove guns from protective order respondents during both the temporary and permanent stages of the order are more comprehensive than laws that restrict court removal authority to the permanent order stage. Offering this protection when respondents first learn of the order is advisable given the heightened danger for the protected party at this time.
- Responsibility for removing surrendered guns should rest with law enforcement. Relying on respondents to comply with the court's order may result in decreased compliance with the law.

In general, laws that specify clear procedures for the mechanism, immediacy, and duration of gun removal, and provide funding to train law enforcement and the courts in implementing these laws will aid implementation and increase the likelihood that these laws will positively impact victim safety. Good laws require effective implementation and enforcement. Advocates and policy makers in states where these laws exist and are well written can assess how law enforcement and the courts are using these laws to increase available protections for IPV victims. Working with state and local officials to support efforts to assure that these laws are effectively used is important.

There is a need for research that informs how these laws are being implemented, and the impact of well-implemented laws on victim, law enforcement, and community safety.

Conclusion

Given the risks associated with gun ownership by batterers, there is an urgent need for progress. This compilation of laws can serve as a resource for policy makers and advocates interested in strengthening state laws and their implementation to better protect domestic violence victims.

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