



HOUSE BILL 145: Property Protection Act/DVPO.

2021-2022 General Assembly

Committee: Senate Rules and Operations of the Senate	Date: June 29, 2021
Introduced by: Reps. Adams, Kidwell, McNeill, Turner	Prepared by: Robert Ryan*
Analysis of: Fourth Edition	Staff Attorney

OVERVIEW: *House Bill 145 would allow persons subject to a domestic violence protective order and an order to surrender firearms, to transfer storage of the firearms from the sheriff to a qualified licensed firearms dealer.*

CURRENT LAW: G.S. 50B-3.1 authorizes a court to require a defendant to surrender all firearms when issuing an emergency or ex parte domestic violence protective order if certain factors are found. The firearms are currently stored by the sheriff, who may charge a reasonable fee for the storage.

BILL ANALYSIS: House Bill 145 would amend the procedures for the surrender and retrieval of firearms, when ordered by the court pursuant to an emergency or ex parte domestic violence protective order to make the following changes:

- Allow defendants to transfer the storage of firearms and ammunition to a federally licensed firearm dealer (FFL).
 - The FFL must operate a commercial establishment that is open to the public.
 - The transfer is not authorized until the firearms have been in the sheriff's custody for 15 days.
 - An FFL that accepts firearms and ammunition would be prohibited from transferring the firearms to the defendant unless the motion for a protective order is dismissed or the order of surrender has expired, or transferring the firearms to any person the FFL knows or reasonably should know will allow the defendant access to the firearms. Violation would be a Class 2 misdemeanor.
 - If the firearms are transferred to an FFL, the sheriff may not charge a fee for the first 15 days of storage.
- Modify the procedure required for a defendant to retrieve the firearms upon expiration of the order or final disposition of any criminal charges.
 - Reduce the time allowed to request return of surrendered firearms to 30 days.
 - Allow the defendant to submit a written request to the sheriff or FFL holding the firearms, rather than requiring a court order in all cases.
 - The sheriff or FFL would be required to conduct a check of the defendant through the National Instant Criminal Background Check System (NICS).
 - If the NICS check indicates grounds that would prevent the defendant from receiving the firearms, the sheriff or FFL would file a motion with the court.

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- Upon receipt of the motion, the court would schedule a hearing, which would be conducted in the same manner as current law provides.
- Authorize the court to allow an FFL to dispose of by sale any surrendered firearms that are not claimed.

EFFECTIVE DATE: This act becomes effective December 1, 2021, and applies to orders issued on or after that date.

**Susan Sitze, Staff Attorney, substantially contributed to this summary.*