



This Bill Analysis reflects the contents of the bill as it was presented in committee.

HOUSE BILL 807: Modify Firearms Retrieval Process in DV Cases.

2023-2024 General Assembly

Committee:	House Judiciary 2. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	April 26, 2023
Introduced by:	Reps. Carson Smith, Ward	Prepared by:	Susan Sitze
Analysis of:	PCS to First Edition H807-CSSA-16		Staff Attorney

OVERVIEW: *The Proposed Committee Substitute (PCS) for House Bill 807 would modify and clarify provisions related to the retrieval of firearms, ammunition, and permits surrendered pursuant to an ex parte, emergency, or permanent domestic violence protective order and provide that 911 calls made by minors are not public record.*

CURRENT LAW:

G.S. 50B-3.1 authorizes a court issuing domestic violence protective order to order a defendant to surrender all firearms, machine guns, ammunition, permits to purchase firearms, and permits to carry concealed firearms that are in the care, custody, possession, ownership, or control of the defendant if the court finds the defendant has made certain types of threats of serious harm or has inflicted serious injuries upon the aggrieved party or minor child.

G.S. 132-1.4 provides that records of criminal investigations conducted by law enforcement agencies are generally not public record, but provides some exceptions for portions of those records. Current law provides that the contents of "911" calls are public record, except for content that may reveal information that may identify the caller, victim, or witness, and authorizes a written transcript or altered voice reproduction to be released in order to protect the identity of the complaining witness.

BILL ANALYSIS:

Section 1 of the PCS for House Bill 807 would amend G.S. 50B-3.1 as follows:

- Authorizes the sheriff to release surrendered firearms to the defendant without a court order if the defendant is not otherwise prohibited from having a firearm and one of the following occurs:
 - The court does not enter a protective order when the ex parte or emergency order expires.
 - The protective order is denied by the court following a hearing.
 - A protective order is issued without a requirement that the defendant surrender weapons to the sheriff.

Prior to releasing the firearms, the sheriff must conduct a criminal history check through the National Instant Criminal Background Check System (NICS) and determine the defendant is not prohibited by law from possessing a firearm.

- Allows third-party owners to file a motion requesting return of seized firearms at any time following seizure and prior to their disposal. Currently, third-party owners only have 30 days after seizure to file a motion.

Jeffrey Hudson
Director



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- Authorizes a sheriff to file a motion to dispose of seized firearms 90 days after the expiration of an order or final disposition of any pending criminal charges if no motion has been filed by the defendant or a third-party owner requesting return and clarify that notice must be provided to any known third-party owner in addition to the defendant.

These changes would be effective when the bill becomes law and apply (i) to firearms, ammunition, and permits surrendered on or after that date and (ii) beginning 60 days after this act becomes law, to firearms, ammunition, and permits surrendered before that date.

Section 2 of the PCS would amend G.S. 132-1.4 to provide that the contents of any "911" or other emergency telephone call where the caller is less than 18 years of age is not public record.

EFFECTIVE DATE: Except as otherwise provided above, this act is effective when it becomes law.