



## **LEGISLATIVE BULLETIN**

### **Mandatory Temporary Seizures of Firearms at Domestic Violence Events Chapter 466 of 2025**

**Effective Date: In Effect** (October 16, 2025)

**Synopsis:** Chapter 466 alters police officer responsibilities when responding to reports of domestic violence. The legislation amends Criminal Procedure Law § 140.10(6) to require, rather than permit, the temporary seizure of firearms<sup>i</sup> under specified circumstances. This change represents a meaningful shift from discretionary decision-making to mandatory action and applies even in cases where no arrest is made.

Prior to enactment of Chapter 466, police officers responding to reports of domestic violence<sup>ii</sup> were authorized, but not required, to temporarily remove firearms from a location if they were found in plain sight or in the course of a lawful search. Additionally, the Criminal Procedure Law mandated that police officers remove such weapons that are in the possession of any person arrested for a domestic violence offense.

Chapter 466 amends the Criminal Procedure Law to now require that, when responding to a report of domestic violence, a police officer **must** temporarily seize any firearm found at a location in plain sight or in the course of a lawful search and the following circumstances are present:

1. The victim responds affirmatively to the suspect threat questions in the “Victim Interview” Section found on Page A of the New York State Domestic Incident Report (DIR)<sup>iii</sup>; or
2. The victim responds affirmatively to the lethality assessment questions (“Has Suspect ever...”) in the “Prior History” Section found on Page B of the DIR; or
3. The responding officer has a reasonable belief that it is necessary to remove the firearm to protect the victim or other persons present, or to prevent risk of further violence or threat.

Law enforcement agencies are authorized to retain custody of the firearm and license for a maximum period of five days (one hundred twenty hours). At the conclusion of this period, the firearm and license may be returned to the owner only if no legal impediment exists. Such impediments include, orders of protection, extreme risk protection orders (ERPO), pending criminal charge(s) or conviction(s) that would prohibit such possession,<sup>iv</sup> or any court order that prohibits possession of firearms.

**What You Need to Know:** The new law essentially eliminates the “option” of temporarily removing firearms found only in plain view or during a lawful search (i.e., a search conducted via consent or by warrant) at the scene of a domestic violence call/report; and **now requires** such removal (along with the owner’s license). This is mandatory, even if no arrest takes place.

While the new law does tie some of the conditions for firearm seizure to affirmative responses to questions found in the DIR, it does provide broad authorization for an officer to take possession where he/she reasonably believes it is necessary to protect the victim(s) and other persons present at a domestic violence scene from further violence or threat.

Law enforcement can only take custody of the firearm(s) for a maximum of five days. Prior to the new law’s enactment, a holding period of 48 hours was only permitted. This process, of course, only applies to licensed firearms. Law enforcement should be diligent in ensuring that an owner is not subject to an existing order of protection, ERPO, relevant pending charges, or any other court order prohibiting firearm possession before returning the firearm(s).

The new law does not alter existing authority and obligations concerning arrests for domestic violence offenses. The Criminal Procedure Law continues to require that police officers remove any firearms in the possession of a person arrested for a domestic violence offense. Firearms found on the person of the arrestee, or discovered through plain view, voluntary consent, or pursuant to a search warrant, must be seized. Additionally, under New York law, a person licensed to possess a firearm on a premise must produce their license upon request by a police officer.<sup>v</sup> All searches and seizures must comply with constitutional safeguards, and where uncertainty exists regarding the scope or legality of a search, consultation with counsel or the local prosecutor is strongly advised.

**Additional Impact:** The mandatory nature of firearm seizure under Chapter 466 has operational implications for police agencies across New York State. In the last year where data is available,<sup>vi</sup> there were over 52,600 victims of domestic violence in non-New York City counties, and over 160,000 calls to domestic violence hotlines across New York State. While not every call or incident may yield a firearm, public safety agencies should anticipate an increase in the number of firearms taken into temporary custody.

Public safety agencies should consider revising existing policies governing domestic violence response, firearm seizures, property handling and return procedures to explicitly reflect the mandatory nature of the new law, the five-day custody limitation, and required checks prior to firearm return.

Careful and thorough documentation of firearm seizures should be emphasized. Officers should document all seized firearms and licenses with precision and be able to articulate the basis for such seizure, particularly when relying on a reasonable belief that confiscation will avoid harm to the victim(s) and others present.

**\*\* Disclaimer:** *This advisory is provided for informational and awareness purposes only and is intended to summarize recent statutory changes. It does not constitute legal advice and is not intended to supersede or replace departmental policy, procedures, general orders, or training. Members must be guided by their agency’s policies, supervisory direction, and applicable collective bargaining agreements, and should consult their department’s legal counsel or the appropriate prosecutor’s office regarding questions of law, interpretation, or application.*

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<sup>i</sup> “Firearms” includes rifles, dart guns, stun guns, disguised guns, imitation weapons, shotguns, antique firearms, black powder rifles and shotguns, and muzzle-loading firearms.

<sup>ii</sup> For purposes of this memo, “domestic violence” or “domestic violence offense” are defined as family offenses found in Criminal Procedure Law Section 530.11.

<sup>iii</sup> A copy of the most recent version of the NYS Domestic Incident Report can be found here: <https://www.criminaljustice.ny.gov/ojis/documents/dir.pdf>.

<sup>iv</sup> In New York State, any felony conviction, many domestic violence misdemeanors, and certain misdemeanors involving violence or threats prevent firearm ownership. Members should verify pending charges or convictions prior to returning a firearm. *See* NY Penal Law § 400.00(1) & 265.00(17).

<sup>v</sup> *See* NY Penal Law § 400.00(8).

<sup>vi</sup> <https://www.criminaljustice.ny.gov/crimnet/ojsa/domesticviolence2023/index.htm>.