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## Judiciary Committee

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### HB 2791

**Title:** An act relating to firearms and domestic violence.

**Brief Description:** Providing for surrender of weapons by perpetrators of domestic violence.

**Sponsors:** Representatives Kagi, Jarrett, Cody, Tom, Hunter, Darneille, Clibborn, Moeller, Schual-Berke, Chase and Hudgins.

#### Brief Summary of Bill

- Creates new standards which a court is to use in determining whether to prohibit a party from possessing a firearm or other weapon as part of a protective order in a domestic violence case.
- Requires the surrender of weapons as part of a pretrial protective order in criminal prosecutions for domestic violence, and as part of an *ex parte* protective order in civil domestic violence cases; and
- Requires the surrender of weapons in some other civil cases if there has been an act of domestic violence, and unless it is shown by clear and convincing evidence that the person does not pose a threat to safety.

**Hearing Date:** 2/3/04

**Staff:** Bill Perry (786-7123).

#### Background:

Courts are required to consider the issue of weapons possession when they enter protection orders in the context of a variety of civil and criminal proceedings. These protection orders include:

- sentencing orders after criminal convictions for harassment;
- *ex parte* temporary civil anti-harassment orders;
- pre-trial and post arraignment release orders in criminal domestic violence prosecutions;
- permanent and temporary orders in marriage dissolution cases; and
- permanent and temporary orders in third party child custody cases;
- permanent and temporary orders in domestic violence cases;
- permanent and temporary orders in parentage actions.

How a court is required to respond to the issue of weapons possession depends on the level of proof presented regarding two factors:

- the use, display, or threatened use of a weapon in a felony; or
- commission of any offense that results in ineligibility to possess a firearm.

If either of these factors is shown by "clear and convincing" evidence, then the court must order the surrender and prohibit the possession of any firearm or any concealed pistol license.

If either of these factors is shown by a "preponderance" of the evidence, then the court may order the surrender and prohibit the possession of any firearm or license.

**Summary of Bill:**

New criteria are established for the surrender of firearms and concealed pistol licenses in domestic violence cases.

A person charged with a domestic violence crime must be ordered to surrender, and must be prohibited from possessing, any firearm or concealed pistol license. This requirement applies whether or not a restraining or protective order is or has been issued.

A person who is the subject of a domestic violence protection order must be ordered to surrender firearms if he or she has committed any act of domestic violence, unless he or she shows by clear and convincing evidence that he or she does not pose a threat to safety.

All law enforcement agencies are required to adopt rules for the acceptance, seizure and storage of weapons that are subject to a surrender order.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.