



HB1224/SB1025

Domestic Violence and Firearm Dispossession

In the state of Tennessee, domestic violence misdemeanants, misdemeanor stalkers, and domestic abusers subject to permanent protective orders are legally prohibited from possessing firearms under state and federal law. If an offender possess firearms, they are required by law to dispossess them. Under state law, they may surrender their firearms to law enforcement, sell their firearms to licensed dealer, or they may transfer their firearms to a Third Party.

In 2017, the Tennessee General Assembly passed a law to require convicted domestic violence offenders to complete a form listing their firearms and how they dispossessed them.

However, there is currently no system in place to insure Third Party accountability. If an offender chooses to dispossess their firearms to a Third Party, they are not required to provide the name of the Third Party, nor is the Third Party required to submit any information to the court affirming that they are legally allowed to possess firearms and that they fully understand the responsibility they are undertaking.

The lack of Third Party accountability has been an ongoing concern of law enforcement, district attorneys, and domestic violence advocates.



Tennessee is 5th in the nation for women murdered by men, most often with a firearm and almost always by a man they know.

Women who have been previously threatened or assaulted with a firearm or other weapon are 20 times more likely than other women to be murdered by their abusers.

The presence of a gun in domestic violence situations increases the risk of homicide for woman by 500%.

HB1224/SB1025 would address the lack of Third Party accountability. It would require any Third Party taking possession of a domestic violence offender's firearms to complete an affidavit affirming that they are legally allowed to possess firearms and acknowledge receipt of the firearms from the offender.

HB1224/SB1025:

- **would be another important step in protecting abuse victims and their families from domestic violence offenders.**
- **would have no impact whatsoever on law-abiding gun owners.**
- **would still allow gun-owning domestic violence offenders to transfer their weapons to a Third Party.**
- **would create much needed accountability when it comes to keeping guns out of the hands of domestic abusers who are prohibited under state and federal law from possessing firearms.**
- **would not cost the state any money to implement.**



States that allow Third Party Dispossession

There are currently thirteen states, including Tennessee, that allow offenders to transfer their firearms to a third party. Of the thirteen states, Tennessee is the only one that neither requires the offender to provide any identifying information about the Third Party nor requires the Third Party to submit an affidavit to the Court.

Colorado - The Third Party must undergo an ID Services Background check to show that he or she is legally permitted to possess firearms. Both the offender and the Third Party must sign an affidavit in front of a notary.

Connecticut - The offender has two days from the event causing the ineligibility to possess firearms to sell or transfer their firearms. The person must obtain an authorization number for the sale or transfer from the Commissioner of Emergency Public Services and Public Protection and submit a sale or transfer to the Commissioner within two business days. However, pursuant to a 2016 law, anyone who becomes ineligible as a result of a domestic violence protective order must sell and firearms and ammunition only to a licensed dealer or surrender them to law enforcement.

Florida - The Third Party is required to submit a signed affidavit to the court.

Iowa - Iowa requires guns to be surrendered to law enforcement or to a Third Party, described as a "qualified person in this state, as determined by the state. If the court is unable to determine a qualified person, the firearms must be transferred to the county sheriff or local law enforcement.

North Carolina - Firearms must be immediately surrendered to law enforcement, but a Third Party can file a motion requesting the return of the offender's firearms to said Third Party.

Minnesota - The offender must file proof of transfer within two business days of the transfer. The proof of transfer must specify whether the firearms were permanently or temporarily transferred and include details of the transfer.

Oregon - The Third Party must sign and file an affidavit and, unless they are a family member, must appear before a licensed dealer and undergo a background check.

Pennsylvania - Third Party must accompany the defendant and report to the sheriff's office in the county where the order was issued. If the sheriff determines the Third Party is not prohibited from possessing firearms, and confirms the Third Party has executed the required affidavits, the sheriff will issue a safekeeping permit to the Third Party.

Tennessee - An offender is issued a form where they indicate whether or not they possess firearms. If they indicate they own or possess firearms, they check a box to specify whether they sold their guns or transferred them to a Third Party. The offender is not required to provide any information about the Third Party to law enforcement or to the court. The Third Party is not required to file an affidavit affirming that they can legally possess firearms and understand the responsibility they are undertaking.

Texas - The Third Party must sign an affidavit and the respondent is required to fax or email the affidavit and receipt from the Third Party facility within one day of receiving service of the ex parte order.

Washington - The defendant and Third Party must be present in court prior to any transfer, and oral and written warning are provided regarding directive not to permit possession of firearms by the prohibited person and criminal liability for doing so. The Third Party must undergo a full criminal background check. Victims are also provided with an opportunity to object to a Third Party transfer on safety grounds. Additionally, victims are notified Third Party transfers and to whom the firearms have been transferred.

West Virginia - The respondent must provide written proof of the firearms surrendered on a form required by the state. Written proof shall include a description of all firearms surrendered and the name and address of the Third Party who has taken possession of respondent's firearms of their legal duties under state and federal law.

Wisconsin - Both the respondent and Third Party must attend a Firearm Surrender Hearing. In some counties, firearms must first be surrendered to the sheriff. If the Third Party comes to court for the injunction of Firearm Surrender Hearing, and the court approves him/her, then the person may be able to pick up firearms from the sheriff. The victim has the option to object to the Third Party. Additionally, the Third Party is given notice of penalties for non-compliance.