

# STATE OF NEW YORK

---

5026

2021-2022 Regular Sessions

## IN SENATE

February 22, 2021

---

Introduced by Sen. HARCKHAM -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to requiring police officers to take temporary custody of firearms when responding to reports of family violence

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraphs (a) and (c) of subdivision 6 of section 140.10  
2 of the criminal procedure law, as added by section 2 of part M of chap-  
3 ter 55 of the laws of 2020, are amended to read as follows:

4 (a) A police officer who responds to a report of a family offense as  
5 defined in section 530.11 of this chapter and section eight hundred  
6 twelve of the family court act [~~may~~] shall take temporary custody of any  
7 firearm, rifle, electronic dart gun, electronic stun gun, disguised gun,  
8 imitation weapon, shotgun, antique firearm, black powder rifle, black  
9 powder shotgun, or muzzle-loading firearm that is in plain sight or is  
10 discovered pursuant to a consensual or other lawful search, and shall  
11 take temporary custody of any such weapon that is in the possession of  
12 any person arrested for the commission of such family offense or  
13 suspected of its commission. An officer who takes custody of any weapon  
14 pursuant to this paragraph shall also take custody of any license to  
15 carry, possess, repair, and dispose of such weapon issued to the person  
16 arrested or suspected of such family offense. The officer shall deliver  
17 such weapon and/or license to the appropriate law enforcement officer as  
18 provided in subparagraph (f) of paragraph one of subdivision a of  
19 section 265.20 of the penal law.

20 (c) Not less than [~~forty-eight~~] one hundred twenty hours after effect-  
21 ing such seizure, and in the absence of (i) an order of protection, an  
22 extreme risk protection order, or other court order prohibiting the  
23 owner from possessing such a weapon and/or license, or (ii) a pending  
24 criminal charge or conviction which prohibits such owner from possessing

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[~~-~~] is old law to be omitted.

LBD07605-01-1

1 such a weapon and/or license, and upon a written finding that there is  
2 no legal impediment to the owner's possession of such a weapon and/or  
3 license, the court or, if no court is involved, licensing authority or  
4 custodian of the weapon shall direct return of a weapon not otherwise  
5 disposed of in accordance with subdivision one of section 400.05 of the  
6 penal law and/or such license taken into custody pursuant to this  
7 section.

8 § 2. This act shall take effect immediately.