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| <b>DOUGLAS COUNTY SHERIFF'S OFFICE</b>                      |  | <b>Policy &amp; Procedure</b> |
| <b>Specific Policies</b>                                    |  | <b>P&amp;P-B-162</b>          |
| <b>Senate Bill 13-197 Storing of Firearms or Ammunition</b> |  |                               |
| Effective Date: 07-10-13                                    | Approval: Sheriff                        | Number of Pages: 3            |
| References: CRS 13-14-102, 18-1-1001, 18-6-801, 13-14-105.5 | Reevaluation Date: Annually or as needed | Standards:                    |

## I. POLICY

This policy is to give guidance on Senate Bill 13-197 legislation, which is currently in effect. This policy outlines that the Sheriff's Office **has elected not to store** firearms or ammunition under this legislation. It additionally provides DCSO employees with other options that a defendant has, to comply with the law, such as transfer of the firearm or ammunition to a Federal Firearms Licensee (FFL), a transfer to a private party after a CBI check or after July 1, 2013 to an individual who qualifies under **18-12-112(6)(b)**. All of these processes occur outside of the control of the Sheriff's Office and defendants should obtain their own legal advice on these issues.

## II. BACKGROUND

Senate Bill 13-197, prevents persons who have committed domestic violence from possessing firearms. This includes civil or criminal protection orders and those who are convicted of crimes with an underlying factual basis of domestic violence. It requires a person upon issuance of an order to relinquish any firearm or ammunition in the person's immediate possession or control or subject to the person's immediate possession or control. This shall occur within:

- **Twenty-four** hours after being served with the order in open court.
- Not more than **forty-eight** hours after being served with the order outside of the court.
- Alternatively, the court may allow a respondent up to **seventy-two** hours to relinquish a firearm or up to five days for ammunition if the respondent demonstrates that he or she is unable to comply within the time frame set forth. A portion of this Bill allows a law enforcement agency to elect to store firearms.

The legislation is broken into four statutory areas. They are:

|             |                                    |
|-------------|------------------------------------|
| 13-14-102   | Civil Protection Orders            |
| 18-1-1001   | Protection Order Against Defendant |
| 18-6-801    | Domestic Violence Sentencing       |
| 13-14-105.5 | Civil Protection Orders            |

Under each of the four areas, the legislative reference to law enforcement involvement is the same. It is:

(B) ARRANGE FOR THE STORAGE OF THE FIREARM OR AMMUNITION BY A LAW ENFORCEMENT AGENCY; EXCEPT THAT THIS PROVISION **SHALL NOT BE INTERPRETED TO REQUIRE** ANY LAW ENFORCEMENT AGENCY TO PROVIDE STORAGE OF FIREARMS OR AMMUNITION FOR ANY PERSON; OR

(e) A LOCAL LAW ENFORCEMENT AGENCY **MAY ELECT** TO STORE FIREARMS OR AMMUNITION FOR PERSONS PURSUANT TO THIS SUBSECTION (22). IF AN AGENCY SO ELECTS:

(I) THE AGENCY **MAY** CHARGE A FEE FOR SUCH STORAGE, THE AMOUNT OF WHICH SHALL NOT EXCEED THE DIRECT AND INDIRECT COSTS INCURRED BY THE AGENCY IN PROVIDING SUCH STORAGE;

(II) THE AGENCY **MAY** ESTABLISH POLICIES FOR DISPOSAL OF ABANDONED OR STOLEN FIREARMS OR AMMUNITION; AND

(III) THE AGENCY **SHALL** ISSUE A RECEIPT TO EACH RESPONDENT AT THE TIME THE RESPONDENT RELINQUISHES POSSESSION OF A FIREARM OR AMMUNITION.

(f) IF A LOCAL LAW ENFORCEMENT AGENCY **ELECTS** TO STORE FIREARMS OR AMMUNITION FOR PERSONS PURSUANT TO THIS SUBSECTION (22), THE LAW ENFORCEMENT AGENCY SHALL NOT RETURN THE FIREARM OR AMMUNITION TO THE RESPONDENT UNLESS THE AGENCY:

(I) CONTACTS THE BUREAU TO REQUEST THAT A BACKGROUND CHECK OF THE RESPONDENT BE PERFORMED; AND

(II) OBTAINS APPROVAL OF THE TRANSFER FROM THE BUREAU AFTER THE PERFORMANCE OF THE BACKGROUND CHECK.

(g) (I) A LAW ENFORCEMENT AGENCY THAT **ELECTS** TO STORE A FIREARM OR AMMUNITION FOR A PERSON PURSUANT TO THIS SUBSECTION (22) **MAY ELECT TO CEASE STORING** THE FIREARM OR AMMUNITION. A LAW ENFORCEMENT AGENCY THAT ELECTS TO CEASE STORING A FIREARM OR AMMUNITION FOR A PERSON SHALL NOTIFY THE PERSON OF SUCH DECISION AND REQUEST THAT THE PERSON IMMEDIATELY MAKE ARRANGEMENTS FOR THE TRANSFER OF THE POSSESSION OF THE FIREARM OR AMMUNITION TO THE PERSON OR, IF THE PERSON IS PROHIBITED FROM POSSESSING A FIREARM, TO ANOTHER PERSON WHO IS LEGALLY PERMITTED TO POSSESS A FIREARM.

(II) IF A LAW ENFORCEMENT AGENCY **ELECTS TO CEASE STORING** A FIREARM OR AMMUNITION FOR A PERSON AND NOTIFIES THE PERSON AS DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (g), THE LAW ENFORCEMENT AGENCY MAY DISPOSE OF THE FIREARM OR AMMUNITION IF THE PERSON FAILS TO MAKE ARRANGEMENTS FOR THE TRANSFER OF THE FIREARM OR AMMUNITION AND COMPLETE SAID TRANSFER WITHIN **NINETY DAYS** OF RECEIVING SUCH NOTIFICATION.

### III. PROCEDURES

The Douglas County Sheriff's Office will **not be** electing to store firearms under this legislation.

This leaves three other options for the defendant. They are:

1. Sell or transfer possession of the firearm or ammunition to a Federally Licensed Firearms dealer (**This service is available in the private sector within our community**).
2. Sell or otherwise transfer the firearm or ammunition to a private party who may legally possess the firearm or ammunition. This includes the performance of a background check.
3. **As of July 1, 2013 a person may transfer a firearm to:**

*18-12-112 (6) (b) A TRANSFER THAT IS A BONA FIDE GIFT OR LOAN BETWEEN IMMEDIATE FAMILY MEMBERS, WHICH ARE LIMITED TO SPOUSES, PARENTS, CHILDREN, SIBLINGS, GRANDPARENTS, GRANDCHILDREN, NIECES, NEPHEWS, FIRST COUSINS, AUNTS, AND UNCLES;*

**\*\*TRANSFEREE MUST NOT BE PROHIBITED FROM POSSESSING FIREARMS**

Citizens should be made aware of all of the options and we do not recommend one over the other. As an Office we do not make recommendations of any particular vendor. The Courts are aware of the Sheriff's stance on this legislation.

**DCSO will not give any legal advice on this subject and will always recommend that the defendant obtain legal options from a licensed attorney.**