

**Senate File 2357 - Introduced**

SENATE FILE 2357  
BY COMMITTEE ON JUDICIARY  
(SUCCESSOR TO SSB 1033)

**A BILL FOR**

1 An Act relating to prohibiting a person who is the subject of  
2 a no-contact order or a protective order or who has been  
3 convicted of a misdemeanor crime of domestic violence from  
4 possessing, transferring, or selling firearms and ammunition  
5 or offensive weapons and providing penalties.  
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 236.4, subsection 2, Code 2009, is  
2 amended to read as follows:

3 2. The court may enter any temporary order it deems  
4 necessary to protect the plaintiff from domestic abuse prior to  
5 the hearing, upon good cause shown in an ex parte proceeding.  
6 Present danger of domestic abuse to the plaintiff constitutes  
7 good cause for purposes of this subsection. A temporary order  
8 issued pursuant to this subsection shall specifically include a  
9 provision that the person shall be required to relinquish all  
10 firearms, offensive weapons, and ammunition upon the issuance  
11 of a permanent order pursuant to section 236.5.

12 Sec. 2. Section 236.5, subsection 1, paragraph b, Code  
13 Supplement 2009, is amended by adding the following new  
14 subparagraph:

15 NEW SUBPARAGRAPH. (02) That the defendant not knowingly  
16 possess, ship, transport, or receive firearms, offensive  
17 weapons, and ammunition in violation of sections 664A.9 and  
18 724.26.

19 Sec. 3. Section 664A.1, Code 2009, is amended by adding the  
20 following new subsection:

21 NEW SUBSECTION. 0A. "*Intimate partner*" means a person who  
22 is in a relationship as defined in section 236.2, subsection  
23 2, paragraphs "a" through "e".

24 Sec. 4. Section 664A.3, Code 2009, is amended by adding the  
25 following new subsection:

26 NEW SUBSECTION. 6. A no-contact order issued pursuant to  
27 this section shall specifically include a provision that the  
28 person shall be required to relinquish all firearms, offensive  
29 weapons, and ammunition upon the issuance of a permanent  
30 no-contact order pursuant to section 664A.5.

31 Sec. 5. Section 664A.7, subsection 1, Code 2009, is amended  
32 to read as follows:

33 1. Violation Except as provided in section 664A.9,  
34 subsection 5, violation of a no-contact order issued under  
35 this chapter or a protective order issued pursuant to chapter

1 232, 236, or 598, including a modified no-contact order, is  
2 punishable by summary contempt proceedings.

3 Sec. 6. NEW SECTION. **664A.9 Firearms, offensive weapons,**  
4 **and ammunition prohibition.**

5 1. A no-contact order issued under this chapter or a  
6 protective order issued pursuant to chapter 232, 236, or  
7 598, shall require the person who is subject to the order to  
8 relinquish all firearms, offensive weapons, and ammunition in  
9 the person's actual or constructive possession to the county  
10 sheriff or local law enforcement agency and shall restrict the  
11 person from knowingly possessing, shipping, transporting, or  
12 receiving any firearm, offensive weapon, or ammunition during  
13 the pendency of the no-contact order or protective order, if  
14 all of the following requirements are met:

15 a. The order was issued after a hearing of which the person  
16 was granted notice and an opportunity to be heard.

17 b. The order includes a finding that the person represents a  
18 credible threat to the physical safety of the intimate partner  
19 of the person or a child of such intimate partner or person or  
20 by its terms explicitly prohibits the use, attempted use, or  
21 threatened use of physical force against the intimate partner  
22 or a child of such intimate partner or person that would  
23 reasonably be expected to cause bodily injury.

24 c. The order restrains the person from harassing, stalking,  
25 or threatening an intimate partner of the person or a child  
26 of such intimate partner or person from engaging in any other  
27 conduct that would place the intimate partner or a child of  
28 such intimate partner or person in reasonable fear of bodily  
29 injury to the intimate partner or a child of the intimate  
30 partner or person.

31 2. Upon notice by a court to the person that a no-contact  
32 order or a protective order has been issued that requires the  
33 person to relinquish all firearms, offensive weapons, and  
34 ammunition to the county sheriff or local law enforcement  
35 agency as of a date certain, the court shall enter all of

1 the following information into the Iowa criminal justice  
2 information system:

3     *a.* The person's name, social security number, address, and  
4 telephone number.

5     *b.* The make, model, and serial number of the firearms,  
6 offensive weapons, and ammunition the person has been ordered  
7 to relinquish, if available.

8     *c.* The date and time by which the issuing court has required  
9 the person to comply with the firearms, offensive weapons, and  
10 ammunition relinquishment order.

11     3. If the person does not comply with the relinquishment  
12 order by the date and time required, the county sheriff or the  
13 local law enforcement agency shall do all of the following:

14     *a.* Notify the issuing court of the violation of the  
15 relinquishment order immediately after the deadline.

16     *b.* Locate and arrest the person for a violation of the  
17 no-contact order or the protective order. If the person cannot  
18 be immediately located and arrested, the county sheriff or the  
19 local law enforcement agency shall seek an arrest warrant for  
20 the person for violation of the relinquishment order and shall  
21 seek a search warrant for the person's residence or any other  
22 location where there is probable cause to believe that the  
23 firearms, offensive weapons, and ammunition may be located.

24     4. Except as provided in section 809A.17, subsection 5,  
25 paragraph "b", a firearm, offensive weapon, or ammunition  
26 relinquished or seized under this section shall be disposed of  
27 in any of the following ways:

28     *a.* Held as evidence if used or intended to be used in any  
29 manner or part to facilitate conduct giving rise to a violation  
30 described in section 724.26, subsection 2.

31     *b.* Sold or transferred to the custody of a qualified person  
32 in this state, as determined by the court. The qualified  
33 person shall not reside in the home of a person found guilty  
34 of an offense under this section and must be able to lawfully  
35 possess a firearm, offensive weapon, or ammunition in this

1 state.

2 c. Stored by the county sheriff or local law enforcement  
3 agency. The court shall assess the person, in addition to  
4 any penalty, a fee of fifty dollars plus the cost of any  
5 other expenses for storing the firearm, offensive weapon, or  
6 ammunition, payable to the county sheriff's office or storing  
7 agency.

8 5. A person who violates a no-contact order or a protective  
9 order pursuant to this chapter by knowingly possessing,  
10 shipping, transporting, or receiving a firearm, offensive  
11 weapon, or ammunition commits a violation of section 724.26.

12 Sec. 7. NEW SECTION. **708.14 Firearms, offensive weapons,**  
13 **and ammunition — misdemeanor crime of domestic violence.**

14 1. A person convicted of a misdemeanor crime of domestic  
15 violence shall be ordered by the court to relinquish to the  
16 county sheriff or local law enforcement agency all firearms,  
17 offensive weapons, and ammunition within the person's actual  
18 or constructive possession in the manner provided in section  
19 664A.9.

20 2. For purposes of this section, "*misdemeanor crime of*  
21 *domestic violence*" means a misdemeanor offense which has as  
22 an element the use or attempted use of physical force or the  
23 threatened use of a deadly weapon by a current or former  
24 spouse, parent, or guardian of the victim, by a person with  
25 whom the victim shares a child in common, by a person who is  
26 cohabiting with or who has cohabited with the victim as a  
27 spouse, parent, or guardian, or by a person similarly situated  
28 to a spouse, parent, or guardian of the victim.

29 Sec. 8. Section 724.26, Code 2009, is amended to read as  
30 follows:

31 **724.26 Possession, receipt, transportation, or dominion and**  
32 **control of firearms and offensive weapons by felons and others.**

33 1. A person who is convicted of a felony in a state or  
34 federal court, or who is adjudicated delinquent on the basis  
35 of conduct that would constitute a felony if committed by an

1 adult, and who knowingly has under the person's dominion and  
2 control or possession, receives, or transports or causes to be  
3 transported a firearm or offensive weapon is guilty of a class  
4 "D" felony.

5 2. A person who is subject to a no-contact order issued  
6 under chapter 664A, or to a protective order issued pursuant  
7 to chapter 232, 236, or 598, or who has been convicted of a  
8 misdemeanor crime of domestic violence as defined in section  
9 708.14, and who knowingly possesses, ships, transports, or  
10 receives a firearm, offensive weapon, or ammunition is guilty  
11 of a class "D" felony. Such a person shall not be eligible  
12 to obtain a permit under this chapter and any permits issued  
13 to such a person are deemed revoked. Such a person shall  
14 relinquish all firearms, offensive weapons, and ammunition to  
15 the county sheriff or local law enforcement agency pursuant to  
16 section 664A.9.

17 EXPLANATION

18 This bill relates to prohibiting a person who is the subject  
19 of certain protective orders or no-contact orders or who has  
20 been convicted of a misdemeanor crime of domestic violence from  
21 possessing, shipping, transporting, or receiving a firearm,  
22 offensive weapon, or ammunition and provides penalties.

23 The bill provides that a no-contact order issued under Code  
24 chapter 664A (criminal no-contact orders and enforcement of  
25 civil protective orders) or a protective order issued pursuant  
26 to chapter 232 (juvenile justice), 236 (domestic abuse), or  
27 598 (dissolution of marriage and domestic relations), shall  
28 require the person who is subject to the order to relinquish  
29 all firearms, offensive weapons, and ammunition in the person's  
30 actual or constructive possession to the county sheriff or  
31 local law enforcement agency and shall restrict the person from  
32 knowingly possessing, shipping, transporting, or receiving any  
33 firearm, offensive weapon, or ammunition during the pendency  
34 of the no-contact order or protective order if the order was  
35 issued under certain conditions. The bill also provides that

1 temporary protective orders and temporary no-contact orders  
2 shall include a provision that the person who is the subject  
3 of the order shall be required to relinquish all firearms,  
4 offensive weapons, and ammunition upon the issuance of a  
5 permanent protective or no-contact order.

6 The bill requires that upon notice to the person that  
7 a no-contact order or a protective order has been issued  
8 requiring the person to relinquish all firearms, offensive  
9 weapons, and ammunition to the county sheriff or local law  
10 enforcement by a specific date, the court is required to enter  
11 certain identifying information about the person and the  
12 firearms, offensive weapons, and ammunition the person has  
13 been required to relinquish into the Iowa criminal justice  
14 information system. If the person who is the subject of the  
15 no-contact order or the protective order fails to comply with  
16 the relinquishment order by the date and time required to do  
17 so, the county sheriff or the local law enforcement agency is  
18 required to notify the issuing court of the violation of the  
19 relinquishment order immediately after the deadline and locate  
20 and arrest the person for a violation of the no-contact order  
21 or the protective order. If the person cannot be immediately  
22 located and arrested, the county sheriff or the local law  
23 enforcement agency is required to seek an arrest warrant for  
24 the person and is also required to seek a search warrant for  
25 the person's residence or any other location where there is  
26 probable cause to believe that the firearm, offensive weapon,  
27 and ammunition may be present.

28 The bill provides that unless a forfeiture proceeding has  
29 been initiated, a firearm, offensive weapon, or ammunition  
30 relinquished or seized under the bill shall be held as evidence  
31 if used or intended to be used in any manner or part to  
32 facilitate conduct giving rise to any of delineated violations,  
33 transferred to the custody of a qualified person in this state,  
34 as determined by the court, or stored by the county sheriff  
35 or local law enforcement agency. If stored, the court shall

1 assess the person, in addition to any penalty, a fee of \$50  
2 plus the cost of any other expenses for storing the firearms  
3 and ammunition, payable to the county sheriff's office or local  
4 law enforcement agency.

5 The bill further provides that a person convicted of a  
6 misdemeanor crime of domestic violence shall be ordered  
7 by the court to relinquish to the county sheriff or local  
8 law enforcement agency all firearms, offensive weapons,  
9 and ammunition within the person's actual or constructive  
10 possession in the manner provided under the bill.

11 For purposes of the bill, an "intimate partner" is defined  
12 as a person who is in a relationship under the requirements  
13 of Code section 236.2, subsection 2, paragraphs "a" through  
14 "e" and a "misdemeanor crime of domestic violence" is defined  
15 as a misdemeanor offense which has as an element the use or  
16 attempted use of physical force or the threatened use of a  
17 deadly weapon committed by a current or former spouse, parent,  
18 or guardian of the victim, by a person with whom the victim  
19 shares a child in common, by a person who is cohabiting with  
20 or who has cohabited with the victim as a spouse, parent,  
21 guardian, or by a person similarly situated to a spouse,  
22 parent, or guardian of the victim.

23 Under the bill, a person who is subject to a no-contact  
24 order or a protective order, or who has been convicted of a  
25 misdemeanor crime of domestic violence, and who knowingly  
26 possesses, ships, transports, or receives a firearm, offensive  
27 weapon, or ammunition, is guilty of a class "D" felony,  
28 punishable by confinement for no more than five years and a  
29 fine of at least \$750 but not more than \$7,500. Such a person  
30 shall not be eligible to obtain any weapons permit under Code  
31 chapter 724 and any permits issued to such a person are deemed  
32 revoked.