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MEMORANDUM

To: Chairman Barker and the Committee on Federal and State Affairs
From: Office of Revisor of Statutes
Date: March 26, 2021
RE: House Bill 2251

HB 2251 would require the court to issue an order requiring a defendant to relinquish all firearms in the defendant's custody, and any concealed carry license issued to the defendant, upon the court's issuance of a qualifying protection order against the defendant or the conviction of the defendant for domestic battery or any misdemeanor for a domestic violence offense in K.S.A. 21-6301.

The defendant would have to comply within 24 hours of the issuance of the order if they were physically present in court or the order would be personally served on them by a law enforcement officer. If the order was personally served on the defendant, the law enforcement officer serving the order would require that the defendant immediately surrender all firearms in the defendant's custody and any concealed carry license. A law enforcement officer who takes possession of a firearm or concealed carry license pursuant to this section would issue a proof of relinquishment or removal to the defendant that included:

- (1) The name of the defendant;
- (2) the date such firearm or concealed carry license was relinquished;
- (3) the identification number of any relinquished concealed carry license; and
- (4) the make, model and serial number of any relinquished firearm.

Within 48 hours after issuance of a relinquishment order, a defendant subject to such order would be required to file proof of relinquishment showing that all firearms previously in the defendant's custody, and any concealed carry license issued to the defendant, were relinquished to a law enforcement officer and attest to the court that the defendant did not have any firearms in the defendant's custody.

If the defendant fails to file any proofs of relinquishment after 48 hours from the issuance of a relinquishment order, the clerk of the court that issued the order would notify the sheriff of the county that the defendant had failed to make any such filings with the court. Upon receipt of such notification, the sheriff would make a good faith effort to determine whether there is evidence that the defendant has failed to relinquish any firearm in the defendant's custody.

A relinquishment order would be effective for either the duration of the qualifying protective order issued against the defendant, or for that period of time during which it is unlawful for the defendant to possess a firearm under K.S.A. 21-6301 or 21-6304.

Upon termination of a relinquishment order and at the request of the defendant, any items that were relinquished or removed by the sheriff would be returned to the defendant, provided the sheriff conducts a state and national criminal history records check, including an inquiry of the national instant criminal background check system and confirms that the defendant is not currently prohibited from possessing or receiving a firearm under state or federal law.

A sheriff could dispose of any firearms relinquished by a defendant pursuant to a relinquishment order only after the defendant is notified of the pending disposal of any such firearm and the proceeds from the disposal of any such firearm would be paid to the defendant.

Lastly, Section 1 provides definitions for "concealed carry license," "defendant," "intimate partner," "plaintiff," "qualifying protective order"

Section 2 of the bill would make it unlawful for a person to possess a firearm or concealed carry license issued to such person while there is a relinquishment order issued pursuant to section 1 in effect against such person. Violation of this section would be a severity level 8, nonperson felony. It would not a violation of this section if the person is possessing or transporting a firearm for the sole purpose of relinquishing such firearm or concealed carry license.

Section 3 of the bill would amend K.S.A. 22-3426 concerning information recorded by the court when judgment was rendered or a sentence of imprisonment is imposed. The court would be required to issue a relinquishment order against a defendant pursuant to section 1 for convictions of domestic battery and any misdemeanor for a domestic violence offense in K.S.A. 21-6301.

Section 4 would amend K.S.A. 60-3107 concerning protection from abuse orders to require the court to issue a relinquishment order pursuant to section 1 upon issuing a protection from abuse order.

Section 5 would amend K.S.A. 60-31a06 concerning protection from stalking orders to require the court to issue a relinquishment order pursuant to section 1 upon issuing a protection from stalking order.