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Act No. 92 (H.422). Crimes and criminal procedures; firearms; domestic assault

An act relating to removal of firearms from a person arrested or cited for domestic assault

This act authorizes a law enforcement officer to remove a firearm from a person the officer arrests or cites for committing the crime of domestic assault if: (1) the firearm is obtained pursuant to a search warrant or to a judicially recognized exception to the warrant requirement; and (2) the removal is necessary for the protection of the officer, the alleged victim, the person being arrested or cited, or a family member of the alleged victim or of the person being arrested or cited. If the firearm is removed, the defendant must be arraigned in court on the next business day after the citation is issued except for good cause shown. At the arraignment, the court must return the firearm to the person from whom it was taken unless: (1) the firearm is being or may be used as evidence in a pending criminal or civil proceeding; (2) the court orders relinquishment of the firearm in connection with a relief from abuse or similar order; (3) the person is prohibited by law from possessing a firearm; or (4) the court imposes a condition of release requiring the defendant not to possess a firearm. If the court does order that the firearm be returned, the law enforcement agency in possession of it must make it available to the owner within three business days.

Effective Date: September 1, 2018